

As Passed by the House

**126th General Assembly
Regular Session
2005-2006**

Am. Sub. H. B. No. 443

**Representatives Uecker, Aslanides, McGregor, J., Setzer, Book, Carmichael,
Combs, Flowers, Seitz**

—

A B I L L

To amend sections 123.04, 303.14, 307.37, 519.14, 1
1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 2
1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 3
1507.01, 1510.04, 1511.021, 1513.01, 1513.02, 4
1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 5
1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 6
1513.37, 1514.01, 1514.03, 1514.04, 1514.05, 7
1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 8
1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 9
1520.03, 1520.05, 1520.07, 1521.01, 1521.04, 10
1521.05, 1521.06, 1521.061, 1521.062, 1521.064, 11
1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 12
1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 13
1531.20, 1531.27, 1531.99, 1533.07, 1533.08, 14
1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 15
1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 16
1533.882, 1533.99, 1541.03, 1541.05, 1541.40, 17
1547.05, 1547.08, 1547.51, 1547.54, 1547.541, 18
1547.99, 1548.02, 1567.35, 4115.04, and 5749.02; 19
to enact sections 303.141, 519.141, 1501.45, 20
1513.075, 1513.081, 1513.171, 1513.182, 1513.371, 21
1514.011, 1514.051, 1514.40 to 1514.47, 1514.50, 22
1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 23
1565.01, 1567.01, 1571.011, 2305.041, 5577.081, 24

and 5749.11; and to repeal sections 1502.11, 25
1513.10, 1521.08, and 1533.78 of the Revised Code 26
to revise the statutes governing the Department of 27
Natural Resources; to make changes to the law 28
governing coal mining, including increasing the 29
severance tax on coal and revising the 30
distribution of revenue from that tax; to make 31
changes to the law governing the mining of 32
industrial minerals, including revising zoning 33
provisions related to such mining; and to make 34
other changes. 35

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 123.04, 303.14, 307.37, 519.14, 36
1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 37
1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 38
1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 39
1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 40
1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 41
1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 42
1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 43
1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 44
1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 45
1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 46
1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 47
1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 48
1547.541, 1547.99, 1548.02, 1567.35, 4115.04, and 5749.02 be 49
amended and sections 303.141, 519.141, 1501.45, 1513.075, 50
1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 1514.051, 51
1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 1514.46, 52
1514.47, 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 53

1565.01, 1567.01, 1571.011, 2305.041, 5577.081, and 5749.11 of the 54
Revised Code be enacted to read as follows: 55

Sec. 123.04. The director of administrative services shall be 56
appointed superintendent of public works and shall have the care 57
and control of the public works of the state ~~except as provided in~~ 58
~~section 1521.08 of the Revised Code~~ and shall protect, maintain, 59
and keep them in repair. 60

Subject to the approval of the governor, the director may 61
purchase on behalf of the state such real or personal property, 62
rights, or privileges as are necessary, in the director's 63
judgment, to acquire in the maintenance of the public works or 64
their improvement. 65

Any instrument by which the state or an agency of the state 66
acquires real property pursuant to this section shall identify the 67
agency of the state that has the use and benefit of the real 68
property as specified in section 5301.012 of the Revised Code. 69

Sec. 303.14. The county board of zoning appeals may: 70

(A) Hear and decide appeals where it is alleged there is 71
error in any order, requirement, decision, or determination made 72
by an administrative official in the enforcement of sections 73
303.01 to 303.25 of the Revised Code, or of any resolution adopted 74
pursuant thereto; 75

(B) Authorize upon appeal, in specific cases, such variance 76
from the terms of the zoning resolution as will not be contrary to 77
the public interest, where, owing to special conditions, a literal 78
enforcement of the resolution will result in unnecessary hardship, 79
and so that the spirit of the resolution shall be observed and 80
substantial justice done; 81

(C) Grant conditional zoning certificates for the use of 82

land, buildings, or other structures if such certificates for 83
specific uses are provided for in the zoning resolution~~+~~. If the 84
board considers conditional zoning certificates for activities 85
that are permitted and regulated under Chapter 1514. of the 86
Revised Code or activities that are related to making finished 87
aggregate products, the board shall proceed in accordance with 88
section 303.141. of the Revised Code. 89

(D) Revoke an authorized variance or conditional zoning 90
certificate granted for the extraction of minerals, if any 91
condition of the variance or certificate is violated. 92

The board shall notify the holder of the variance or 93
certificate by certified mail of its intent to revoke the variance 94
or certificate under division (D) of this section and of ~~his~~ the 95
holder's right to a hearing before the board within thirty days of 96
the mailing of the notice if ~~he~~ the holder so requests. If the 97
holder requests a hearing, the board shall set a time and place 98
for the hearing and notify the holder. At the hearing, the holder 99
may appear in person, by ~~his~~ attorney, or by other representative, 100
or ~~he~~ the holder may present ~~his~~ the holder's position in writing. 101
~~He~~ The holder may present evidence and examine witnesses appearing 102
for or against ~~him~~ the holder. If no hearing is requested, the 103
board may revoke the variance or certificate without a hearing. 104
The authority to revoke a variance or certificate is in addition 105
to any other means of zoning enforcement provided by law. 106

In exercising the above-mentioned powers, ~~such~~ the board may, 107
in conformity with such sections, reverse or affirm, wholly or 108
partly, or modify the order, requirement, decision, or 109
determination appealed from and may make such order, requirement, 110
decision, or determination as ought to be made, and to that end 111
has all powers of the officer from whom the appeal is taken. 112

Sec. 303.141. (A) If a county board of zoning appeals 113

considers conditional zoning certificates for activities that are 114
permitted and regulated under Chapter 1514. of the Revised Code or 115
activities that are related to making finished aggregate products, 116
the board shall not consider or base its determination on matters 117
that are regulated by any federal, state, or local agency. 118
However, the board may require as a condition of the approval of a 119
conditional zoning certificate for such an activity compliance 120
with any general standards contained in the zoning resolution that 121
apply to all conditional uses that are provided for in the zoning 122
resolution and, except as provided in division (C) of this 123
section, may require any specified measure, including, but not 124
limited to, one or more of the following: 125

(1) Inspections of nearby structures and water wells to 126
determine structural integrity and water levels; 127

(2) Compliance with applicable federal, state, and local laws 128
and regulations; 129

(3) Identification of specific roads in accordance with 130
division (B) of this section to be used as the primary means of 131
ingress to and egress from the proposed activity; 132

(4) Compliance with reasonable noise abatement measures; 133

(5) Compliance with reasonable dust abatement measures; 134

(6) Establishment of setbacks, berms, and buffers for the 135
proposed activity; 136

(7) Establishment of a complaint procedure; 137

(8) Any other measure reasonably related to public health and 138
safety. 139

(B)(1) For purposes of this section and section 519.141 of 140
the Revised Code, and prior to the submission of an application 141
for a conditional zoning certificate, an applicant shall send 142
written notice to the county engineer of the applicant's intent to 143

apply for a conditional zoning certificate. Not later than 144
fourteen days after receipt of the written notice, the county 145
engineer shall establish the time, date, and location of a meeting 146
with the applicant and send written notice of the time, date, and 147
location of the meeting to the applicant and to the fiscal officer 148
of each township in which the proposed activity is to be located 149
or expanded. At the meeting, the applicant shall explain the 150
proposed location of the activity or expansion of an existing 151
activity, the anticipated amount of aggregate material to be 152
shipped by truck from the activity, and the anticipated primary 153
market areas for the finished aggregate products leaving the 154
activity. 155

Not later than thirty days after the meeting with the 156
applicant, the county engineer shall submit a written 157
recommendation of specific roads to be used as the primary means 158
of ingress to and egress from the proposed activity to the board 159
of county commissioners. In making the recommendation, the county 160
engineer shall consider all of the following: 161

(a) The ability of each road to handle the anticipated 162
recurring loads resulting from trucks entering and leaving the 163
proposed activity; 164

(b) The present condition of each road; 165

(c) The amount of residential development that exists along 166
each road; 167

(d) The most direct route from the proposed activity to a 168
state highway unless another route is more capable of 169
accommodating the anticipated recurring loads and will result in 170
fewer conflicts with existing residential development. 171

(2) At the next regularly scheduled meeting of the board of 172
county commissioners after receipt of a written recommendation 173
under division (B)(1) of this section, the board shall adopt the 174

recommendation or adopt the recommendation with modifications. If 175
the board adopts the recommendation with modifications, the board 176
shall base the modifications only on the criteria established in 177
divisions (B)(1)(a) to (d) of this section. The board may adopt 178
the recommendation with modifications only by a unanimous vote. 179
The board shall send written notice of the adoption of the 180
recommendation or the recommendation with modifications to the 181
county board of zoning appeals. 182

(3) For purposes of this section and section 519.141 of the 183
Revised Code, a decision of a board of county commissioners under 184
division (B)(2) of this section is final ten days after the board 185
adopts the recommendation or the recommendation with modifications 186
unless the applicant or an affected board of township trustees 187
submits written notice of appeal within ten days after the board's 188
action. If the board of county commissioners receives a timely 189
written notice of appeal, the board shall conduct an appeal 190
hearing concerning its decision not later than fourteen days after 191
receipt of the notice. If the board of county commissioners 192
receives more than one timely written notice of appeal, the board 193
may conduct one appeal hearing concerning all of the notices of 194
appeal. 195

For purposes of an appeal hearing that is held under this 196
division, the applicant or a board of township trustees that 197
submitted written notice of appeal may present testimony for the 198
board of county commissioners to consider concerning its decision 199
under division (B)(2) of this section. At the hearing, the 200
applicant or the board of township trustees may be represented by 201
an attorney. A witness at the hearing shall testify under oath or 202
affirmation, which any member of the board of county commissioners 203
may administer. A witness at the hearing shall be subject to 204
cross-examination. 205

Not later than fourteen days after the hearing, the board of 206

county commissioners shall affirm its decision under division 207
(B)(2) of this section or, based on the testimony at the hearing, 208
modify its decision. The board shall send written notice of its 209
decision to the applicant, any board of township trustees that 210
submitted written notice of appeal, and the county board of zoning 211
appeals. 212

A decision of a board of county commissioners under this 213
division is final unless vacated or modified upon judicial review. 214

(4) An applicant or a board of township trustees that 215
submitted written notice of appeal under division (B)(3) of this 216
section may appeal a decision of a board of county commissioners 217
under that division to the court of common pleas of the county in 218
which the activity is proposed to be located or expanded pursuant 219
to section 2506.01 of the Revised Code. 220

(C) When granting a conditional zoning certificate, a county 221
board of zoning appeals shall not require the identification of 222
specific roads, as otherwise authorized in division (A)(3) of this 223
section, and the identification of specific roads in accordance 224
with division (B) of this section shall not apply, for any of the 225
following: 226

(1) The transfer of unfinished aggregate material between 227
facilities that are under the control of the same owner or 228
operator; 229

(2) The loading or unloading of finished aggregate product 230
within a ten-mile radius of a surface mining operation; 231

(3) The expansion of an existing surface mining operation 232
when the specific road that is used as the primary means of 233
ingress to and egress from the operation will be the same road 234
that is used for that purpose after the expansion of the facility. 235

(D) The identification of specific roads in accordance with 236

division (B) of this section to be used as the primary means of 237
ingress to and egress from a proposed activity becomes effective 238
only upon the granting of a conditional zoning certificate. 239

(E) As used in this section, "surface mining operation" has 240
the same meaning as in section 1514.01 of the Revised Code. 241

Sec. 307.37. (A) As used in division (B)(3) of this section, 242
"proposed new construction" means a proposal to erect, construct, 243
repair, alter, redevelop, or maintain a single-family, two-family, 244
or three-family dwelling or any structure that is regulated by the 245
Ohio building code. 246

(B)(1)(a) The board of county commissioners may adopt local 247
residential building regulations governing residential buildings 248
as defined in section 3781.06 of the Revised Code, to be enforced 249
within the unincorporated area of the county or within districts 250
the board establishes in any part of the unincorporated area. No 251
local residential building regulation shall differ from the state 252
residential building code the board of building standards 253
establishes pursuant to Chapter 3781. of the Revised Code unless 254
the regulation addresses subject matter not addressed by the state 255
residential building code or is adopted pursuant to section 256
3781.01 of the Revised Code. 257

(b) The board of county commissioners may, by resolution, 258
adopt, administer, and enforce within the unincorporated area of 259
the county, or within districts the board establishes in the 260
unincorporated area, an existing structures code pertaining to the 261
repair and continued maintenance of structures and the premises of 262
those structures provided that the existing structures code 263
governs subject matter not addressed by, and is not in conflict 264
with, the state residential building code adopted pursuant to 265
Chapter 3781. of the Revised Code. The board may adopt by 266
incorporation by reference a model or standard code prepared and 267

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 331
a building permit is filed or a review is requested unless the 332
applicant has agreed in writing to extend that time period or 333
postpone the meeting to a later time, in which case the review 334
shall be completed not later than two days after the date of the 335
meeting. A complete review shall include the issuance of any order 336
of the board of county commissioners regarding necessary 337
reasonable drainage mitigation and necessary reasonable 338
alterations to the proposed new construction to prevent or correct 339
any adverse effects on existing surface or subsurface drainage so 340
long as those alterations comply with the state residential and 341
nonresidential building codes adopted pursuant to section 3781.10 342
of the Revised Code. If the review is not completed within the 343
thirty-day period or an extended or postponed period that the 344
applicant has agreed to, the proposed new construction shall be 345
deemed to have no adverse effects on existing surface or 346
subsurface drainage, and those effects shall not be a valid basis 347
for the denial of a building permit. 348

(iv) A written statement, provided to the applicant at the 349
meeting or in an order for alterations to a proposed new 350
construction, informing the applicant of the right to seek 351
appellate review of the denial of a building permit under division 352
(B)(3)(b)(iii) of this section by filing a petition in accordance 353
with Chapter 2506. of the Revised Code. 354

(c) The regulations may authorize the board, after obtaining 355
the advice of the county engineer, to enter into an agreement with 356
the county engineer or another qualified person or entity to carry 357
out any necessary inspections and make evaluations about what, if 358
any, alterations are necessary to prevent or correct any adverse 359
effects that a proposed new construction may have on existing 360
surface or subsurface drainage. 361

(d) Regulations adopted pursuant to division (B)(3) of this 362

section shall not apply to any property that a platting authority 363
has approved under section 711.05, 711.09, or 711.10 of the 364
Revised Code and shall not govern the same subject matter as the 365
state residential or nonresidential building codes adopted 366
pursuant to section 3781.10 of the Revised Code. 367

(e) As used in division (B)(3) of this section, "subsurface 368
drainage" does not include a household sewage treatment system as 369
defined in section 3709.091 of the Revised Code. 370

(C)(1) Any regulation, code, or amendment may be adopted 371
under this section only after a public hearing at not fewer than 372
two regular or special sessions of the board. The board shall 373
cause notice of any public hearing to be published in a newspaper 374
of general circulation in the county once a week for the two 375
consecutive weeks immediately preceding the hearing, except that 376
if the board posts the hearing notice on the board's internet site 377
on the world wide web, the board need publish only one notice of 378
the hearing in a newspaper of general circulation if that 379
newspaper notice includes the board's internet site and a 380
statement that the notice is also posted on the internet site. Any 381
notice of a public hearing shall include the time, date, and place 382
of the hearing. 383

(2) Any proposed regulation, code, or amendment shall be made 384
available to the public at the board office. The regulations or 385
amendments shall take effect on the thirty-first day following the 386
date of their adoption. 387

(D)(1) No person shall violate any regulation, code, or 388
amendment the board adopts under sections 307.37 to 307.40 of the 389
Revised Code. 390

(2) Each day during which an illegal location, erection, 391
construction, floodproofing, repair, alteration, development, 392
redevelopment, or maintenance continues may be considered a 393

separate offense. 394

(E) Regulations or amendments the board adopts pursuant to 395
this section, with the exception of an existing structures code, 396
do not affect buildings or structures that exist or on which 397
construction has begun on or before the date the board adopts the 398
regulation or amendment. 399

(F)(1) The board may create a building department and employ 400
the personnel it determines necessary to administer and enforce 401
any local residential building regulations or existing structures 402
code the board adopts pursuant to this section. The building 403
department may enforce the state residential and nonresidential 404
building codes adopted pursuant to Chapter 3781. of the Revised 405
Code if the building department is certified pursuant to section 406
3781.10 of the Revised Code to enforce those codes. 407

(2) The board may direct the building department, upon 408
certification, to exercise enforcement authority and to accept and 409
approve plans pursuant to sections 3781.03 and 3791.04 of the 410
Revised Code for the class of building for which the department 411
and personnel are certified. 412

Sec. 519.14. The township board of zoning appeals may: 413

(A) Hear and decide appeals where it is alleged there is 414
error in any order, requirement, decision, or determination made 415
by an administrative official in the enforcement of sections 416
519.02 to 519.25 of the Revised Code, or of any resolution adopted 417
pursuant thereto; 418

(B) Authorize, upon appeal, in specific cases, such variance 419
from the terms of the zoning resolution as will not be contrary to 420
the public interest, where, owing to special conditions, a literal 421
enforcement of the resolution will result in unnecessary hardship, 422
and so that the spirit of the resolution shall be observed and 423

substantial justice done;

424

(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.

425

426

427

428

429

430

431

432

(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.

433

434

435

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.

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

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,

451

452

453

454

decision, or determination as ought to be made, and to that end 455
has all powers of the officer from whom the appeal is taken. 456

Sec. 519.141. (A) If a township board of zoning appeals 457
considers conditional zoning certificates for activities that are 458
permitted and regulated under Chapter 1514. of the Revised Code or 459
activities that are related to making finished aggregate products, 460
the board shall not consider or base its determination on matters 461
that are regulated by any federal, state, or local agency. 462
However, the board may require as a condition of the approval of a 463
conditional zoning certificate for such an activity compliance 464
with any general standards contained in the zoning resolution that 465
apply to all conditional uses that are provided for in the zoning 466
resolution and, except as provided in division (C) of this 467
section, may require any specified measure, including, but not 468
limited to, one or more of the following: 469

(1) Inspections of nearby structures and water wells to 470
determine structural integrity and water levels; 471

(2) Compliance with applicable federal, state, and local laws 472
and regulations; 473

(3) Identification of specific roads in accordance with 474
division (B) of section 303.141 of the Revised Code to be used as 475
the primary means of ingress to and egress from the proposed 476
activity; 477

(4) Compliance with reasonable noise abatement measures; 478

(5) Compliance with reasonable dust abatement measures; 479

(6) Establishment of setbacks, berms, and buffers for the 480
proposed activity; 481

(7) Establishment of a complaint procedure; 482

(8) Any other measure reasonably related to public health and 483
safety. 484

(B)(1) Prior to the submission of an application for a 485
conditional zoning certificate, an applicant, in accordance with 486
division (B) of section 303.141 of the Revised Code, shall send 487
written notice to the county engineer of the applicant's intent to 488
apply for a conditional zoning certificate. The county engineer 489
and the applicable board of county commissioners shall proceed in 490
accordance with divisions (B)(1) to (3) of section 303.141 of the 491
Revised Code. As provided in division (B)(3) of that section, the 492
applicant or an affected board of township trustees may submit 493
written notice of appeal regarding a decision of the board of 494
county commissioners under division (B)(2) of that section. 495

(2) An applicant or a board of township trustees that 496
submitted written notice of appeal under division (B)(3) of 497
section 303.141 of the Revised Code may appeal a decision of a 498
board of county commissioners under that division to the court of 499
common pleas of the county in which the activity is proposed to be 500
located or expanded pursuant to section 2506.01 of the Revised 501
Code. 502

(C) When granting a conditional zoning certificate, a 503
township board of zoning appeals shall not require the 504
identification of specific roads, as otherwise authorized in 505
division (A)(3) of section 303.141 of the Revised Code, and the 506
identification of specific roads in accordance with division (B) 507
of that section shall not apply, for any of the following: 508

(1) The transfer of unfinished aggregate material between 509
facilities that are under the control of the same owner or 510
operator; 511

(2) The loading or unloading of finished aggregate product 512
within a ten-mile radius of a surface mining operation; 513

(3) The expansion of an existing surface mining operation 514
when the specific road that is used as the primary means of 515

ingress to and egress from the operation will be the same road
that is used for that purpose after the expansion of the facility.

516
517

(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.

518
519
520
521
522

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

523
524

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.

525
526
527
528
529
530
531
532
533
534

(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

535
536
537
538
539
540
541
542
543
544
545
546

for capital improvements or the act to make general 547
appropriations, and ~~he~~ the director may also advertise in such 548
trade journals as will afford adequate information to the public 549
of the terms of the contract and the nature of the work to be 550
performed, together with the time of the letting and place and 551
manner of receiving proposals, and the places where plans and 552
specifications are on file. A proposal is invalid and shall not be 553
considered by the department unless the form for proposals 554
specified by the department is used without change, alteration, or 555
addition. 556

(C) Each bidder for a contract for the performance of labor, 557
the furnishing of materials, or the maintenance, construction, 558
demolition, alteration, repair, or reconstruction of an 559
improvement shall meet the requirements of section 153.54 of the 560
Revised Code. The director may require each bidder to furnish ~~him~~ 561
under oath, upon such printed forms as ~~he~~ the director may 562
prescribe, detailed information with respect to ~~his~~ the bidder's 563
financial resources, equipment, past performance record, 564
organization personnel, and experience, together with such other 565
information as the director considers necessary. 566

(D) The director shall award the contract to the lowest 567
responsive and responsible bidder in accordance with section 9.312 568
of the Revised Code. The award shall be made within a reasonable 569
time after the date on which the bids were opened, and the 570
successful bidder shall enter into a contract within ten days from 571
the date ~~he~~ the successful bidder is notified that ~~he~~ the contract 572
has been awarded ~~the contract~~, or within any longer period ~~which~~ 573
that the director considers necessary. ~~When an exigency occurs, or~~ 574
~~there is immediate danger of such occurrence, which would~~ 575
~~materially impair the construction or completion of any project,~~ 576
~~improvement, or building, the director may make necessary plan and~~ 577
~~specification change orders.~~ Nothing in this section shall 578

preclude the rejection of any bid the acceptance of which is not 579
in the best interests of the state. No contract shall be entered 580
into until the bureau of workers' compensation has certified that 581
the corporation, partnership, or person awarded the contract has 582
complied with Chapter 4123. of the Revised Code and until, if the 583
bidder awarded the contract is a foreign corporation, the 584
secretary of state has certified that ~~such~~ the corporation is 585
authorized to do business in this state, and until, if the bidder 586
so awarded the contract is a person or partnership nonresident of 587
this state, ~~such~~ the person or partnership has filed with the 588
secretary of state a power of attorney designating the secretary 589
of state as its agency for the purpose of accepting service of 590
process. 591

~~The director may enter~~ (E) With respect to the director's 592
entering into a contract without advertising for and receiving 593
~~bids~~ for the performance of labor, the furnishing of materials, or 594
the construction, repair, or maintenance of any projects, 595
improvements, or buildings on lands and waters under the control 596
of the department, both of the following apply: 597

(1) The director is not required to advertise for and receive 598
bids if the total estimated cost of ~~which~~ the contract is less 599
than ~~ten~~ twenty-five thousand dollars. 600

(2) The director is not required to advertise for bids, 601
regardless of the cost of the contract, if the contract involves 602
an exigency that concerns the public health, safety, or welfare or 603
addresses an emergency situation in which timeliness is crucial in 604
preventing the cost of the contract from increasing significantly. 605
Regarding such a contract, the director may solicit bids by 606
sending a letter to a minimum of three contractors in the region 607
where the contract is to be let or by any other means that the 608
director considers appropriate. 609

(F) The director may insert in any contract awarded under 610

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 contractor, 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~~ 643
~~specified in the contract, the department may employ upon take~~ 644
~~action to complete the work the additional force, or supply the~~ 645
~~special materials or such part of either as it considers proper,~~ 646
~~and may remove improper materials from the grounds through other~~ 647
~~means, up to and including termination of the contract.~~ 648

(H) When an exigency occurs or there is immediate danger of 649
an exigency that would materially impair the successful bidding, 650
construction, or completion of a project, improvement, or 651
building, the director may revise related plans and specifications 652
as necessary to address the exigency through the issuance of an 653
addendum prior to the opening of bids or, in accordance with 654
procedures established in section 153.62 of the Revised Code, 655
through the issuance of a change order after the contract has been 656
awarded. 657

Sec. 1501.02. The director of natural resources may enter 658
into cooperative or contractual arrangements with the United 659
States or any agency or department thereof, other states, other 660
departments and subdivisions of this state, or any other person or 661
body politic for the accomplishment of the purposes for which the 662
department of natural resources was created. The director shall 663
cooperate with, and not infringe upon the rights of, other state 664
departments, divisions, boards, commissions, and agencies, 665
political subdivisions, and other public officials and public and 666
private agencies in the conduct of conservation plans and other 667
matters in which the interests of the department of natural 668
resources and the other departments and agencies overlap. 669

The director, by mutual agreement, may utilize the facilities 670
and staffs of state-supported educational institutions in order to 671
promote the conservation and development of the natural resources 672
of the state. 673

All funds made available by the United States for the 674
exclusive use of any division shall be expended only by that 675
division and only for the purposes for which the funds were 676
appropriated. In accepting any such funds for the acquisition of 677
lands or interests in them to be used for open-space purposes 678
including park, recreational, historical, or scenic purposes, or 679
for conservation of land or other natural resources, the director 680
may agree on behalf of the state that lands or interests in them 681
acquired in part with those funds shall not be converted to other 682
uses except pursuant to further agreement between the director and 683
the United States. 684

The director shall adopt rules in accordance with Chapter 685
119. of the Revised Code establishing guidelines for entering into 686
and may enter into a cooperative or contractual arrangement with 687
any individual, agency, organization, or business entity to assist 688
the department in funding a program or project of the department, 689
its divisions, or its offices, through securing, without 690
limitation, donations, sponsorships, marketing, advertising, and 691
licensing arrangements. State moneys appropriated to the 692
department shall continue to be used as authorized and shall not 693
be redirected to any other purpose as a result of financial 694
savings resulting from the department's entering into the 695
cooperative or contractual arrangement. 696

The director may enter into a mutual aid compact with the 697
chief law enforcement officer of any federal agency, state agency, 698
county, township, municipal corporation, or other political 699
subdivision or with the superintendent of the state highway patrol 700
to enable forest officers, preserve officers, park officers, and 701
state watercraft officers and the law enforcement officers of the 702
respective federal or state agencies or political subdivisions or 703
the state highway patrol to assist each other in the provision of 704
police services within each other's jurisdiction. 705

Sec. 1501.07. The department of natural resources through the 706
division of parks and recreation may plan, supervise, acquire, 707
construct, enlarge, improve, erect, equip, and furnish public 708
service facilities such as inns, lodges, hotels, ~~cabins~~ cottages, 709
camping sites, scenic trails, picnic sites, restaurants, 710
commissaries, golf courses, boating and bathing facilities, and 711
other similar facilities in state parks reasonably necessary and 712
useful in promoting the public use of state parks under its 713
control and may purchase lands or interests in lands in the name 714
of the state necessary for ~~such~~ those purposes. 715

The chief of the division of parks and recreation shall 716
administer state parks, establish rules, fix fees and charges for 717
admission to parks and for the use of public service facilities 718
therein, establish rentals for the lease of lands or interests 719
therein within a state park the chief is authorized by law to 720
lease, and exercise all powers of the chief, in conformity with 721
all covenants of the director of natural resources in or with 722
respect to state park revenue bonds and trust agreements securing 723
such bonds and all terms, provisions, and conditions of such bonds 724
and trust agreements. In the administration of state parks with 725
respect to which state park revenue bonds are issued and 726
outstanding, or any part of the moneys received from fees and 727
charges for admission to or the use of facilities, from rentals 728
for the lease of lands or interests or facilities therein, or for 729
the lease of public service facilities are pledged for any such 730
bonds, the chief shall exercise the powers and perform the duties 731
of the chief subject to the control and approval of the director. 732
The acquisition of such lands or interests therein and facilities 733
shall be planned with regard to the needs of the people of the 734
state and with regard to the purposes and uses of such state parks 735
and, except for facilities constructed in consideration of a lease 736
under section 1501.012 of the Revised Code, shall be paid for from 737

the state park fund created in section 1541.22 of the Revised Code 738
or from the proceeds of the sale of bonds issued under sections 739
1501.12 to 1501.15 of the Revised Code. Sections 125.81 and 153.04 740
of the Revised Code, insofar as they require a certification by 741
the chief of the division of capital planning and improvement, do 742
not apply to the acquisition of lands or interests therein and 743
public service facilities to be paid for from the proceeds of 744
bonds issued under sections 1501.12 to 1501.15 of the Revised 745
Code. 746

As used in sections 1501.07 to 1501.14 of the Revised Code, 747
state parks are all of the following: 748

(A) State reservoirs described and identified in section 749
1541.06 of the Revised Code; 750

(B) All lands or interests therein ~~which~~ that are denominated 751
as state parks ~~in division (B) of section 1531.12 and~~ in section 752
1541.083 of the Revised Code; 753

(C) All lands or interests therein of the state identified as 754
administered by the division of parks and recreation in the 755
"inventory of state owned lands administered by department of 756
natural resources as of June 1, 1963," as recorded in the journal 757
of the director, which inventory was prepared by the real estate 758
section of the department and is supported by maps on file in the 759
division of real estate and land management; 760

(D) All lands or interests in lands of the state hereafter 761
designated as state parks in the journal of the director with the 762
approval of the recreation and resources council. 763

All such state parks shall be exclusively under the control 764
and administration of the division of parks and recreation. With 765
the approval of the council, the director by order may remove from 766
the classification as state parks any of the lands or interests 767
therein so classified by divisions (C) and (D) of this section, 768

subject to the limitations, provisions, and conditions in any 769
order authorizing state park revenue bonds or in any trust 770
agreement securing such bonds. Lands or interests therein so 771
removed shall be transferred to other divisions of the department 772
for administration or may be sold as provided by law. Proceeds of 773
any sale shall be used or transferred as provided in the order 774
authorizing state park revenue bonds or in the trust agreement 775
and, if no such provision is made, shall be transferred to the 776
state park fund. State parks do not include any lands or interest 777
in lands of the state administered jointly by two or more 778
divisions of the department. The designation of lands as state 779
parks under divisions (A) to (D) of this section shall be 780
conclusive, and those lands shall be under the control of and 781
administered by the division of parks and recreation. No order or 782
proceeding designating lands as state parks or park purchase areas 783
shall be subject to any appeal or review by any officer, board, 784
commission, or court. 785

Sec. 1501.23. The department of natural resources may utilize 786
the services of volunteers to implement clean-up and 787
beautification programs or any other programs that accomplish any 788
of the purposes of the department. The director of natural 789
resources shall approve all volunteer programs and may recruit, 790
train, and supervise the services of community volunteers or 791
volunteer groups for volunteer programs. In accordance with state 792
guidelines, the director may reimburse volunteers for necessary 793
and appropriate expenses, such as travel expenses, that they incur 794
in the course of their volunteer service to the department. The 795
director may designate volunteers in a volunteer program as state 796
employees for the purpose of motor vehicle accident liability 797
insurance under section 9.83 of the Revised Code, for the purpose 798
of immunity under section 9.86 of the Revised Code, and for the 799
purpose of indemnification from liability incurred in the 800

performance of their duties under section 9.87 of the Revised Code. 801
802

Sec. 1501.32. (A) No person shall divert more than one 803
hundred thousand gallons per day of any waters of the state out of 804
the Lake Erie or Ohio river drainage basins to another basin 805
without having a permit to do so issued by the director of natural 806
resources. An application for such a permit shall be filed with 807
the director upon such forms as ~~he~~ the director prescribes. The 808
application shall state the quantity of water to be diverted, the 809
purpose of the diversion, the life of the project for which the 810
water is to be diverted, and such other information as the 811
director may require by rule. Each application shall be 812
accompanied by a nonrefundable fee of one thousand dollars, which 813
shall be credited to the water management fund, which is hereby 814
created. 815

(B) The director shall not approve a permit application filed 816
under this section if ~~he~~ the director determines that any of the 817
following ~~apply~~ applies: 818

(1) During the life of the project for which the water is to 819
be diverted, some or all of the water to be diverted will be 820
needed for use within the basin~~+~~. 821

(2) The proposed diversion would endanger the public health, 822
safety, or welfare~~+~~. 823

(3) The applicant has not demonstrated that the proposed 824
diversion is a reasonable and beneficial use and is necessary to 825
serve the applicant's present and future needs~~+~~. 826

(4) The applicant has not demonstrated that reasonable 827
efforts have been made to develop and conserve water resources in 828
the importing basin and that further development of those 829
resources would engender overriding, adverse economic, social, or 830

environmental impacts+u 831

(5) The proposed diversion is inconsistent with regional or 832
state water resources plans+u 833

(6) The proposed diversion, alone or in combination with 834
other diversions and water losses, will have a significant adverse 835
impact on in-stream uses or on economic or ecological aspects of 836
water levels. 837

The director may hold public hearings upon any application 838
for a permit. 839

(C) Whenever the director receives an application under this 840
section to divert water out of the Lake Erie drainage basin, ~~he~~ 841
the director shall notify the governors and premiers of the other 842
great lakes states and provinces, the appropriate water management 843
agencies of those states and provinces, and, when appropriate, the 844
international joint commission and shall solicit their comments 845
and concerns regarding the application. In the event of an 846
objection to the proposed diversion, the director shall consult 847
with the affected great lakes states and provinces to consider the 848
issues involved and seek mutually agreeable recommendations. 849
Before rendering a decision on the permit application, the 850
director shall consider the concerns, comments, and 851
recommendations of the other great lakes states and provinces and 852
the international joint commission, and, in accordance with 853
section 1109 of the "Water Resources Development Act of 1986," 100 854
Stat. 4230, 42 U.S.C.A. 1962d-20, the director shall not approve a 855
permit application for any diversion to which that section 856
pertains unless that diversion is approved by the governor of each 857
great lakes state as defined in section 1109(c) of that act. 858

(D) The director shall determine the period for which each 859
permit approved under this section will be valid and specify the 860
expiration date, but in no case shall a permit be valid beyond the 861

life of the project as stated in the application. 862

The director shall establish rules providing for the transfer 863
of permits. A permit may be transferred on the conditions that the 864
quantity of water diverted not be increased and that the purpose 865
of the diversion not be changed. 866

(E)(1) Within a time established by rule, the director shall 867
do one of the following: 868

(a) Notify the applicant that an application ~~he~~ the applicant 869
filed under this section is approved or denied and, if denied, the 870
reason for denial; 871

(b) Notify the applicant of any modification necessary to 872
qualify the application for approval. 873

(2) Any person who receives notice of a denial or 874
modification under division (E)(1) of this section is entitled to 875
a hearing under Chapter 119. of the Revised Code if the person 876
sends a written request for a hearing to the director within 877
thirty days after the date on which the notice is mailed or 878
otherwise provided to the applicant. 879

(F) The director shall revoke a permit under this section 880
without a prior hearing if ~~he~~ the director determines that the 881
quantity of water being diverted exceeds the quantity stated in 882
the permit application. 883

The director may suspend a permit if ~~he~~ the director 884
determines that the continued diversion of water will endanger the 885
public health, safety, or welfare. Before suspending a permit, the 886
director shall make a reasonable attempt to notify the permittee 887
that ~~he~~ the director intends to suspend the permit. If the attempt 888
fails, notification shall be given as soon as practicable 889
following the suspension. Within five days after the suspension, 890
the director shall provide the permittee an opportunity to be 891

heard and to present evidence that the continued diversion of 892
water will not endanger the public health, safety, or welfare. 893

If the director determines before the expiration date of a 894
suspended permit that the diversion of water can be resumed 895
without danger to the public health, safety, or welfare, ~~he~~ the 896
director shall, upon request of the permittee, reinstate the 897
permit. 898

(G) Any six or more residents of this state may petition the 899
director for an investigation of a withdrawal of water resources 900
that they allege is in violation of a permit issued under this 901
section. 902

The petition shall identify the permittee and detail the 903
reasons why the petitioners believe that grounds exist for the 904
revocation or suspension of the permit under this section. 905

Upon receipt of the petition, the director shall send a copy 906
to the permittee and, within sixty days, make a determination 907
whether grounds exist for revocation or suspension of the permit 908
under this section. 909

(H) Each permittee shall submit to the director an annual 910
report containing such information as the director may require by 911
rule. 912

(I) The director shall issue a permit under division (A) of 913
this section to any person who lawfully diverted more than one 914
hundred thousand gallons per day of any waters of the state out of 915
the Ohio river drainage basin during the calendar year ending 916
October 14, 1984. A person who is eligible for a permit under this 917
division shall file an application under division (A) of this 918
section not later than one hundred eighty days after the effective 919
date of this amendment. 920

A person who applies for a permit under this division need 921
not pay the application fee that is otherwise required under 922

division (A) of this section. In addition, divisions (B) to (H) of 923
this section and rules adopted under section 1501.31 of the 924
Revised Code do not apply to an application that is filed or a 925
permit that is issued under this division. 926

Sec. 1501.45. (A) As used in this section: 927

(1) "Forfeiture laws" means provisions that are established 928
in Title XXIX of the Revised Code and that govern the forfeiture 929
and disposition of certain property that is seized pursuant to a 930
law enforcement investigation. 931

(2) "Law enforcement division" means the division of 932
forestry, the division of natural areas and preserves, the 933
division of wildlife, the division of parks and recreation, or the 934
division of watercraft in the department of natural resources. 935

(3) "Law enforcement fund" means a fund created in this 936
section. 937

(B) Except as otherwise provided in this section and 938
notwithstanding any provision of the Revised Code that is not in 939
Title XV of the Revised Code to the contrary, the forfeiture laws 940
apply to a law enforcement division that substantially conducts an 941
investigation that results in the ordered forfeiture of property 942
and also apply to the involved forfeiture of property, and the law 943
enforcement division shall comply with those forfeiture laws. 944
Accordingly, the portion of the forfeiture laws that authorizes 945
certain proceeds from forfeited property to be distributed to the 946
law enforcement agency that substantially conducted the 947
investigation that resulted in the seizure of the subsequently 948
forfeited property apply to the law enforcement divisions. If a 949
law enforcement division is eligible to receive such proceeds, the 950
proceeds shall be deposited into the state treasury to the credit 951
of the applicable law enforcement fund. 952

(C) There are hereby created in the state treasury the 953
division of forestry law enforcement fund, the division of natural 954
areas and preserves law enforcement fund, the division of wildlife 955
law enforcement fund, the division of parks and recreation law 956
enforcement fund, and the division of watercraft law enforcement 957
fund. The funds shall consist of proceeds from forfeited property 958
that are deposited in accordance with this section. The funds 959
shall be used by the applicable law enforcement division for law 960
enforcement purposes specified in the forfeiture laws; however, a 961
law enforcement division shall not use such funds to pay the 962
salaries of its employees or to provide for any other remuneration 963
of personnel. 964

(D) If the forfeiture laws conflict with any provisions that 965
govern forfeitures and that are established in another section of 966
Title XV of the Revised Code, the provisions established in the 967
other section of Title XV apply. 968

Sec. 1502.01. As used in this chapter: 969

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 970
cans, bottles, wire, paper, cartons, boxes, automobile parts, 971
furniture, glass, or anything else of an unsightly or unsanitary 972
nature thrown, dropped, discarded, placed, or deposited by a 973
person on public property, on private property not owned by the 974
person, or in or on waters of the state unless one of the 975
following applies: 976

(1) The person has been directed to do so by a public 977
official as part of a litter collection drive; 978

(2) The person has thrown, dropped, discarded, placed, or 979
deposited the material in a receptacle in a manner that prevented 980
its being carried away by the elements; 981

(3) The person has been issued a permit or license covering 982

the material pursuant to Chapter 3734. or 6111. of the Revised	983
Code.	984
(B) "Recycling" means the process of collecting, sorting,	985
cleansing, treating, and reconstituting waste or other discarded	986
materials for the purpose of recovering and reusing the materials.	987
(C) "Agency of the state" includes, but is not limited to, an	988
"agency" subject to Chapter 119. of the Revised Code and a "state	989
university or college" as defined in section 3345.12 of the	990
Revised Code.	991
(D) " Waste <u>Source</u> reduction" means activities that decrease	992
the initial production of waste materials at their point of	993
origin.	994
(E) "Enterprise" means a business with its principal place of	995
business in this state and that proposes to engage in research and	996
development or recycling in this state.	997
(F) "Research and development" means inquiry,	998
experimentation, or demonstration to advance basic scientific or	999
technical knowledge or the application, adaptation, or use of	1000
existing or newly discovered scientific or technical knowledge	1001
regarding recycling, waste <u>source</u> reduction, or litter prevention.	1002
(G) "Recyclables" means waste materials that are collected,	1003
separated, or processed and used as raw materials or products.	1004
(H) "Recycling market development" means activities that	1005
stimulate the demand for recycled products, provide for a	1006
consistent supply of recyclables to meet the needs of recycling	1007
industries, or both.	1008
(I) "Solid waste management districts" means solid waste	1009
management districts established under Chapter 343. of the Revised	1010
Code.	1011
(J) " <u>Synthetic rubber</u> " means produced or extended rubber and	1012

products made from a synthetic rubber base material originating 1013
from petrochemical feedstocks, including scrap tires, tire molds, 1014
automobile engine belts, brake pads and hoses, weather stripping, 1015
fittings, electrical insulation, and other molded objects and 1016
parts. 1017

Sec. 1502.03. (A) The chief of the division of recycling and 1018
litter prevention shall establish and implement statewide ~~waste~~ 1019
source reduction, recycling, recycling market development, and 1020
litter prevention programs that include all of the following: 1021

(1) The assessment of waste generation within the state and 1022
implementation of ~~waste~~ source reduction practices; 1023

(2) The implementation of recycling and recycling market 1024
development activities and projects, including all of the 1025
following: 1026

(a) Collection of recyclables; 1027

(b) Separation of recyclables; 1028

(c) Processing of recyclables; 1029

(d) Facilitation and encouragement of the use of recyclables 1030
and products made with recyclables; 1031

(e) Education and training concerning recycling and products 1032
manufactured with recyclables; 1033

(f) Public awareness campaigns to promote recycling; 1034

(g) Other activities and projects that promote recycling and 1035
recycling market development. 1036

(3) Litter prevention assistance to enforce antilitter laws, 1037
educate the public, and stimulate collection and containment of 1038
litter; 1039

(4) Research and development regarding ~~waste~~ source 1040

reduction, recycling, and litter prevention, including, without 1041
limitation, research and development regarding materials or 1042
products manufactured with recyclables. 1043

(B) The chief, with the approval of the director of natural 1044
resources, may enter into contracts or other agreements and may 1045
execute any instruments necessary or incidental to the discharge 1046
of the chief's responsibilities under this chapter. 1047

Sec. 1502.12. (A) There is hereby created in the state 1048
treasury the scrap tire grant fund, consisting of moneys 1049
transferred to the fund under section 3734.82 of the Revised Code. 1050
The chief of the division of recycling and litter prevention, with 1051
the approval of the director of natural resources, may make grants 1052
from the fund for the purpose of supporting market development 1053
activities for scrap tires and synthetic rubber from tire 1054
manufacturing processes and tire recycling processes. The grants 1055
may be awarded to individuals, businesses, and entities certified 1056
under division (A) of section 1502.04 of the Revised Code. 1057

(B) Projects and activities that are eligible for grants 1058
under this section shall be evaluated for funding using, at a 1059
minimum, the following criteria: 1060

(1) The degree to which a proposed project contributes to the 1061
increased use of scrap tires generated in this state; 1062

(2) The degree of local financial support for a proposed 1063
project; 1064

(3) The technical merit and quality of a proposed project. 1065

Sec. 1504.02. (A) The division of real estate and land 1066
management shall do all of the following: 1067

(1) Except as otherwise provided in the Revised Code, 1068
coordinate and conduct all real estate functions for the 1069

department of natural resources, including at least acquisitions 1070
by purchase, lease, gift, devise, bequest, appropriation, or 1071
otherwise; grants through sales, leases, exchanges, easements, and 1072
licenses; inventories of land; and other related general 1073
management duties; 1074

(2) Assist the department and its divisions by providing 1075
department-wide planning, including at least master planning, 1076
comprehensive planning, capital improvements planning, and special 1077
purpose planning such as trails coordination and planning under 1078
section 1519.03 of the Revised Code; 1079

(3) On behalf of the director of natural resources, 1080
administer the coastal management program established under 1081
sections 1506.01 to 1506.03 and 1506.05 to 1506.09 of the Revised 1082
Code and consult with and provide coordination among state 1083
agencies, political subdivisions, the United States and agencies 1084
of it, and interstate, regional, and areawide agencies to assist 1085
the director in executing the director's duties and 1086
responsibilities under that program and to assist the department 1087
as the lead agency for the development and implementation of the 1088
program; 1089

(4) On behalf of the director, administer sections 1506.10 1090
and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code; 1091

(5) Cooperate with the United States and agencies of it and 1092
with political subdivisions in administering federal recreation 1093
moneys under the "Land and Water Conservation Fund Act of 1965," 1094
78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and 1095
distribute the statewide comprehensive outdoor recreation plan; 1096
and administer the state recreational vehicle fund created in 1097
section 4519.11 of the Revised Code; 1098

(6)(a) Support the geographic information system needs for 1099
the department as requested by the director, which shall include, 1100

but not be limited to, all of the following: 1101

(i) Assisting in the training and education of department 1102
resource managers, administrators, and other staff in the 1103
application and use of geographic information system technology; 1104

(ii) Providing technical support to the department in the 1105
design, preparation of data, and use of appropriate geographic 1106
information system applications in order to help solve resource 1107
related problems and to improve the effectiveness and efficiency 1108
of department delivered services; 1109

(iii) Creating, maintaining, and documenting spatial digital 1110
data bases for the division and for other divisions as assigned by 1111
the director. 1112

(b) Provide information to and otherwise assist government 1113
officials, planners, and resource managers in understanding land 1114
use planning and resource management; 1115

(c) Provide continuing assistance to local government 1116
officials and others in natural resource digital data base 1117
development and in applying and utilizing the geographic 1118
information system for land use planning, current agricultural use 1119
value assessment, development reviews, coastal management, and 1120
other resource management activities; 1121

(d) Coordinate and administer the remote sensing needs of the 1122
department, including the collection and analysis of aerial 1123
photography, satellite data, and other data pertaining to land, 1124
water, and other resources of the state; 1125

(e) Prepare and publish maps and digital data relating to the 1126
state's land use and land cover over time on a local, regional, 1127
and statewide basis; 1128

(f) Locate and distribute hard copy maps, digital data, 1129
aerial photography, and other resource data and information to 1130

government agencies and the public. 1131

(7) Prepare special studies and execute any other duties, 1132
functions, and responsibilities requested by the director. 1133

(B) The division may do any of the following: 1134

(1) Coordinate such environmental matters concerning the 1135
department and the state as are necessary to comply with the 1136
"National Environmental Policy Act of 1969," 83 Stat. 852, 42 1137
U.S.C.A. 4321, as amended, the "Intergovernmental Cooperation Act 1138
of 1968," 82 Stat. 1098, 31 U.S.C.A. 6506, and the "Federal Water 1139
Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C.A. 1251, as 1140
amended, and regulations adopted under those acts; 1141

(2) ~~On behalf of the director, administer Chapter 1520. of~~ 1142
~~the Revised Code, except divisions (B) to (F) of section 1520.03~~ 1143
~~of the Revised Code, division (A) of section 1520.04 of the~~ 1144
~~Revised Code as it pertains to those divisions, and section~~ 1145
~~1520.05 of the Revised Code~~ With the approval of the director, 1146
coordinate and administer compensatory mitigation grant programs 1147
and other programs for streams and wetlands as approved in 1148
accordance with certifications and permits issued under sections 1149
401 and 404 of the "Federal Water Pollution Control Act", 91 Stat. 1150
1566(1977), 33 U.S.C.A. 1251, as amended, by the environmental 1151
protection agency and the United States army corps of engineers; 1152

(3) Administer any state or federally funded grant program 1153
that is related to natural resources and recreation as considered 1154
necessary by the director. 1155

Sec. 1506.04. (A) No later than ~~six months after the~~ 1156
~~effective date of this section~~ September 15, 1989, each county or 1157
municipal corporation within whose jurisdiction is a coastal flood 1158
hazard area shall either participate in and remain in compliance 1159
with the national flood insurance program ~~established in the~~ 1160

~~"Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A.~~ 1161
~~4002, as amended,~~ or shall adopt resolutions or ordinances 1162
governing the coastal flood hazard area that meet or exceed the 1163
standards required for participation in the regular phase of the 1164
national flood insurance program. 1165

(B) If the director of natural resources determines at any 1166
time that a county or municipal corporation that is participating 1167
in the national flood insurance program ~~as described in division~~ 1168
~~(A) of this section~~ or has adopted resolutions or ordinances under 1169
~~that~~ division (A) of this section is not in compliance with that 1170
program or those resolutions or ordinances, as applicable, ~~he~~ the 1171
director shall so notify the legislative authority of the county 1172
or municipal corporation and shall also notify the legislative 1173
authority that it may respond to ~~his~~ the determination in 1174
accordance with the procedure for doing so established by rules 1175
adopted under section 1506.02 of the Revised Code. If after 1176
considering the legislative authority's response the director 1177
determines that the county or municipal corporation is still not 1178
in compliance with the national flood insurance program or 1179
resolutions or ordinances adopted under division (A) of this 1180
section, as applicable, ~~he~~ the director may request the attorney 1181
general in writing to, and the attorney general shall, bring an 1182
action for appropriate relief in a court of competent jurisdiction 1183
against the county or municipal corporation. 1184

(C) The attorney general, upon the written request of the 1185
director, shall bring an action for appropriate relief in a court 1186
of competent jurisdiction against any development that meets both 1187
of the following criteria: 1188

(1) Is located in a county or municipal corporation that is 1189
not in compliance with division (A) of this section; 1190

(2) Is not in compliance with the standards of the national 1191
flood insurance program ~~established in the "Flood Disaster~~ 1192

~~Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as~~ 1193
~~amended.~~ 1194

~~As used in this division, "development" means any artificial~~ 1195
~~change to improved or unimproved real estate, including, without~~ 1196
~~limitation, the construction of buildings and other structures and~~ 1197
~~mining, dredging, filling, grading, paving, excavation, and~~ 1198
~~drilling operations.~~ 1199

(D) This section does not apply to any permits or approvals 1200
issued by any state agency prior to the effective date of rules 1201
adopted under section 1506.02 of the Revised Code for the 1202
implementation of this section. 1203

(E) As used in this section, "national flood insurance 1204
program" and "development" have the same meanings as in section 1205
1521.01 of the Revised Code. 1206

Sec. 1507.01. There is hereby created in the department of 1207
natural resources the division of engineering to be administered 1208
by the chief engineer of the department, who shall be a 1209
professional engineer registered under Chapter 4733. or a 1210
professional architect certified under Chapter 4703. of the 1211
Revised Code. The chief engineer shall do all of the following: 1212

(A) Administer this chapter; 1213

(B) Provide engineering, architectural, land surveying, and 1214
related administrative and maintenance support services to the 1215
other divisions in the department; 1216

(C) Upon request of the director of natural resources, 1217
implement the department's capital improvement program and 1218
facility maintenance projects, including all associated 1219
engineering, architectural, design, contracting, surveying, 1220
inspection, and management responsibilities and requirements; 1221

(D) With the approval of the director, act as contracting 1222

officer in departmental engineering, architectural, surveying, and 1223
construction matters regarding capital improvements except for 1224
those matters otherwise specifically provided for in law; 1225

(E) Provide engineering support for the coastal management 1226
program established under Chapter 1506. of the Revised Code; 1227

(F) Coordinate the department's roadway maintenance program 1228
with the department of transportation pursuant to section 5511.05 1229
of the Revised Code and maintain the roadway inventory of the 1230
department of natural resources; 1231

(G) Coordinate the department's projects, programs, policies, 1232
procedures, and activities with the United States army corps of 1233
engineers; 1234

(H) Subject to the approval of the director, employ 1235
professional and technical assistants and such other employees as 1236
are necessary for the performance of the activities required or 1237
authorized under this chapter, other work of the division, and any 1238
other work agreed to under working agreements or contractual 1239
arrangements; prescribe their duties; and fix their compensation 1240
in accordance with such schedules as are provided by law for the 1241
compensation of state employees. 1242

Sec. 1510.04. (A) Independent producers in this state may 1243
present the technical advisory council with a petition signed by 1244
the lesser of one hundred or ten per cent of all such producers 1245
requesting that the council hold a referendum in accordance with 1246
section 1510.05 of the Revised Code to establish a marketing 1247
program for oil and natural gas or to amend an existing program. 1248

(B) At the time of presentation of the petition to the 1249
council under division (A) of this section, the petitioners also 1250
shall present the proposed program or amendment, which shall 1251
include all of the following: 1252

(1) The rate of assessment to be made on the production of 1253
oil and natural gas in this state, which shall not exceed ~~one-cent~~ 1254
five cents per each gross barrel of oil and ~~one-tenth of~~ one cent 1255
per thousand cubic feet of natural gas; 1256

(2) Terms, conditions, limitations, and other qualifications 1257
for assessment; 1258

(3) Procedures to refund the assessment. 1259

(C) Before making a decision under this division to approve 1260
or disapprove a proposed program or amendment, the council shall 1261
publish in at least two appropriate periodicals designated by the 1262
council a notice that the program or amendment has been proposed 1263
and informing interested persons of the procedures for submitting 1264
comments regarding the proposal. After publishing the notice, the 1265
council shall provide interested persons with a copy of the 1266
proposed program or amendment and an opportunity to comment on the 1267
proposed program or amendment for thirty days after the 1268
publication of the notice. The petitioners may make changes to the 1269
proposed program or amendment based upon the comments received. 1270
The council may make technical changes to the proposal to ensure 1271
compliance with this chapter. Subsequent to any changes made by 1272
the petitioners or any technical changes made by the council to a 1273
proposed program or amendment, the council may approve or 1274
disapprove the proposed program or amendment. 1275

(D) If the council approves the proposed program or 1276
amendment, with any changes made under division (C) of this 1277
section, the council shall hold a referendum in accordance with 1278
section 1510.05 of the Revised Code to establish a marketing 1279
program for oil and natural gas or to amend an existing program. 1280

Sec. 1511.021. (A) Any person who owns or operates 1281
agricultural land or a concentrated animal feeding operation may 1282

develop and operate under an operation and management plan 1283
approved by the chief of the division of soil and water 1284
conservation under section 1511.02 of the Revised Code or by the 1285
supervisors of the local soil and water conservation district 1286
under section 1515.08 of the Revised Code. 1287

(B) Any person who wishes to make a complaint regarding 1288
nuisances involving agricultural pollution may do so ~~only orally~~ 1289
or by submitting a written, signed, and dated complaint to the 1290
chief or to the chief's designee. After receiving an oral 1291
complaint, the chief or the chief's designee may cause an 1292
investigation to be conducted to determine whether agricultural 1293
pollution has occurred or is imminent. After receiving a written, 1294
signed, and dated complaint, the chief or the chief's designee 1295
shall cause such an investigation to be conducted. 1296

(C) In a private civil action for nuisances involving 1297
agricultural pollution, it is an affirmative defense if the person 1298
owning, operating, or otherwise responsible for agricultural land 1299
or a concentrated animal feeding operation is operating under and 1300
in substantial compliance with an approved operation and 1301
management plan developed under division (A) of this section, with 1302
an operation and management plan developed by the chief under 1303
section 1511.02 of the Revised Code or by the supervisors of the 1304
local soil and water conservation district under section 1515.08 1305
of the Revised Code, or with an operation and management plan 1306
required by an order issued by the chief under division (G) of 1307
section 1511.02 of the Revised Code. Nothing in this section is in 1308
derogation of the authority granted to the chief in division (E) 1309
of section 1511.02 and in section 1511.07 of the Revised Code. 1310

Sec. 1513.01. As used in this chapter: 1311

(A) "Approximate original contour" means that surface 1312

configuration achieved by backfilling and grading of a mined area 1313
so that the reclaimed area, including any terracing or access 1314
roads, closely resembles the general surface configuration of the 1315
land prior to mining and blends into and complements the drainage 1316
pattern of the surrounding terrain, with all highwalls and spoil 1317
piles eliminated; water impoundments may be permitted where the 1318
chief of the division of mineral resources management determines 1319
that they are in compliance with division (A)(8) of section 1320
1513.16 of the Revised Code. 1321

(B) "Coal mining and reclamation operations" means coal 1322
mining operations and all activities necessary and incident to the 1323
reclamation of such operations. 1324

(C) "Degrees" means inclination from the horizontal. 1325

(D) "Deposition of sediment" means placing or causing to be 1326
placed in any waters of the state, in stream beds on or off the 1327
land described in an application for a coal mining permit, or upon 1328
other lands any organic or inorganic matter that settles or is 1329
capable of settling to the bottom of the waters and onto the beds 1330
or lands. 1331

(E) "Imminent danger to the health and safety of the public" 1332
means the existence of any condition or practice or violation of a 1333
permit or other requirement of this chapter or rule adopted 1334
thereunder in a coal mining and reclamation operation, which 1335
condition, practice, or violation could reasonably be expected to 1336
cause substantial physical harm to persons outside the permit area 1337
before the condition, practice, or violation can be abated. A 1338
reasonable expectation of death or serious injury before abatement 1339
exists if a rational person subjected to the same conditions or 1340
practices giving rise to the peril would not expose oneself to the 1341
danger during the time necessary for abatement. 1342

(F) "Lands eligible for remining" means those lands that 1343

otherwise would be eligible for expenditures under division (C)(1) 1344
of section 1513.37 of the Revised Code. 1345

(G) "Mountain top removal" means a coal mining operation that 1346
will remove an entire coal seam or seams running through the upper 1347
fraction of a mountain, ridge, or hill by removing all of the 1348
overburden and creating a level plateau with no highwalls 1349
remaining instead of restoring to approximate original contour, 1350
and is capable of supporting postmining uses in accordance with 1351
the requirements established by the chief. 1352

(H) "Operation" or "coal mining operation" means: 1353

(1) Activities conducted on the surface of lands in 1354
connection with a coal mine, the removal of coal from coal refuse 1355
piles, and surface impacts incident to an underground coal mine. 1356
Such activities include excavation for the purpose of obtaining 1357
coal, including such common methods as contour, strip, auger, 1358
mountaintop removal, box cut, open pit, and area mining; the use 1359
of explosives and blasting; in situ distillation or retorting; 1360
leaching or other chemical or physical processing; and the 1361
cleaning, concentrating, or other processing or preparation of 1362
coal. Such activities also include the loading of coal at or near 1363
the mine site. Such activities do not include any of the 1364
following: 1365

(a) The extraction of coal incidental to the extraction of 1366
other minerals if the weight of coal extracted is less than 1367
one-sixth the total weight of minerals removed, including coal; 1368

(b) The extraction of coal as an incidental part of federal, 1369
state, or local highway or other government-financed construction 1370
when approved by the chief; 1371

(c) Coal exploration subject to section 1513.072 of the 1372
Revised Code. 1373

(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. 1436

(T) "Unwarranted failure to comply" means the failure of a 1437
permittee to prevent the occurrence of any violation of any 1438
requirement of this chapter due to indifference, lack of 1439
diligence, or lack of reasonable care, or the failure to abate any 1440
violation of the permit or this chapter due to indifference, lack 1441
of diligence, or lack of reasonable care. 1442

(U) "Waters of the state" means all streams, lakes, ponds, 1443
marshes, watercourses, waterways, wells, springs, irrigation 1444
systems, drainage systems, and other bodies or accumulations of 1445
water, surface or underground, natural or artificial, regardless 1446
of the depth of the strata in which underground water is located, 1447
that are situated wholly or partly within, or border upon, this 1448
state, or are within its jurisdiction. 1449

(V) "Public roadway" means a road that is all of the 1450
following: 1451

(1) Designated as a public road in the jurisdiction within 1452
which it is located; 1453

(2) Constructed in a manner consistent with other public 1454
roads within the jurisdiction within which it is located; 1455

(3) Regularly maintained with public funds; 1456

(4) Subject to and available for substantial use by the 1457
public. 1458

(W) "Performance security" means a form of financial 1459
assurance, including, without limitation, a surety bond issued by 1460
a surety licensed to do business in this state; an annuity; cash; 1461
a negotiable certificate of deposit; an irrevocable letter of 1462
credit that automatically renews; a negotiable bond of the United 1463
States, this state, or a municipal corporation in this state; a 1464
trust fund of which the state is named a conditional beneficiary; 1465

or other form of financial guarantee or financial assurance that 1466
is acceptable to the chief. 1467

Sec. 1513.02. (A) The division of mineral resources 1468
management shall administer, enforce, and implement this chapter. 1469
The chief of the division of mineral resources management shall do 1470
all of the following: 1471

(1) Adopt, amend, and rescind rules: 1472

(a) To administer and enforce this chapter; 1473

(b) To implement the requirements of this chapter for the 1474
reclamation of lands affected by coal mining, including such rules 1475
governing mining practices and procedures, segregation and 1476
placement of soil and topsoil, backfilling, grading, terracing, 1477
resoiling, soil conditioning and reconditioning, planting, 1478
establishment of drainage patterns, construction of impoundments, 1479
and the construction, maintenance, and disposition of haul roads, 1480
ditches, and dikes, as may be necessary or desirable, under 1481
varying conditions of slope, drainage, physical and chemical 1482
characteristics of soil and overburden, erodability of materials, 1483
season, growth characteristics of plants, and other factors 1484
affecting coal mining and reclamation, to facilitate the return of 1485
the land to a condition required by this chapter; to prevent 1486
pollution or substantial diminution of waters of the state, 1487
substantial erosion, substantial deposition of sediment, 1488
landslides, accumulation and discharge of acid water, and 1489
flooding, both during mining and reclamation and thereafter; to 1490
restore the recharge capacity of the mined area to approximate 1491
premining conditions; and to ensure full compliance with all 1492
requirements of this chapter relating to reclamation, and the 1493
attainment of those objectives in the interest of the public 1494
health, safety, and welfare to which these reclamation 1495
requirements are directed; 1496

(c) To meet the requirements of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.	1497 1498
(2) Issue orders to enforce this chapter and rules adopted under it;	1499 1500
(3) Adopt rules for the internal management of the division that do not affect private rights;	1501 1502
(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) <u>(1)</u> (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.	1503 1504 1505 1506 1507 1508 1509 1510 1511 1512 1513 1514
(5) Adopt programs, rules, and procedures designed to ensure that reclamation is performed on operations for which the performance bond <u>security</u> has been forfeited pursuant to section 1513.16 of the Revised Code;	1515 1516 1517 1518
(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;	1519 1520 1521 1522
(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	1523 1524 1525 1526 1527

subject to all applicable performance standards and requirements 1528
established under this chapter and rules adopted under it, 1529
including, without limitation, standards and requirements 1530
established under section 1513.16 of the Revised Code and rules 1531
adopted pursuant to it. 1532

The beneficial use of coal combustion byproducts that is 1533
authorized at coal mining and reclamation operations and abandoned 1534
mine lands that are regulated under this chapter and rules adopted 1535
under it is not subject to the following provisions of Chapters 1536
3734. and 6111. of the Revised Code and rules adopted under those 1537
provisions: 1538

(i) Permit and license requirements for solid waste 1539
facilities established under sections 3734.02 and 3734.05 of the 1540
Revised Code; 1541

(ii) The prohibition against the open dumping of solid wastes 1542
established in section 3734.03 of the Revised Code; 1543

(iii) Solid waste generation and disposal fees established 1544
under sections 3734.57 to 3734.574 of the Revised Code; 1545

(iv) Permit to install and plan approval requirements 1546
established under sections 6111.03, 6111.44, and 6111.45 of the 1547
Revised Code. 1548

Nothing in division (A)(7) of this section shall be construed 1549
to limit any other requirements that are applicable to the 1550
beneficial use of coal combustion byproducts and that are 1551
established under Chapter 3704., 3714., 3734., or 6111. of the 1552
Revised Code or under local or federal laws, including, without 1553
limitation, requirements governing air pollution control permits, 1554
hazardous waste, national pollutant discharge elimination system 1555
permits, and section 401 water quality certifications. 1556

(b) As used in division (A)(7) of this section: 1557

(i) "Coal combustion byproducts" means fly ash, bottom ash, 1558
coal slag, flue gas desulphurization and fluidized bed combustion 1559
byproducts, air or water pollution control residues from the 1560
operation of a coal-fired electric or steam generation facility, 1561
and any material from a clean coal technology demonstration 1562
project or other innovative process at a coal-fired electric or 1563
steam generation facility. 1564

(ii) "Beneficial use" means the use of coal combustion 1565
byproducts in a manner that is not equivalent to the establishment 1566
of a disposal system or a solid waste disposal facility and that 1567
is unlikely to affect human health or safety or the environment 1568
adversely or to degrade the existing quality of the land, air, or 1569
water. "Beneficial use" includes, without limitation, land 1570
application uses for agronomic value; land reclamation uses; and 1571
discrete, controlled uses for structural fill, pavement aggregate, 1572
pipe bedding aggregate, mine sealing, alternative drainage or 1573
capping material, and pilot demonstration projects. 1574

(iii) "Structural fill" means the discrete, controlled use of 1575
a coal combustion byproduct as a substitute for a conventional 1576
aggregate, raw material, or soil under or immediately adjacent to 1577
a building or structure. "Structural fill" does not include uses 1578
that involve general filling or grading operations or valley 1579
fills. 1580

(iv) "Pavement aggregate" means the discrete, controlled use 1581
of a coal combustion byproduct as a subbase material or drainage 1582
layer under or immediately adjacent to a paved road or a paved 1583
parking lot where the coal combustion byproduct is a substitute 1584
for a conventional aggregate, raw material, or soil. 1585

(v) "Pipe bedding aggregate" means the discrete, controlled 1586
use of a coal combustion byproduct as a substitute for a 1587
conventional aggregate, raw material, or soil under, around, or 1588

immediately adjacent to a water, sewer, or other pipeline. 1589

(vi) "Coal-fired electric or steam generation facility" 1590
includes any boiler that is fired with coal or with coal in 1591
combination with petroleum coke, oil, natural gas, or any other 1592
fossil fuel. 1593

(vii) "Solid waste disposal facility" means a facility for 1594
the disposal of solid wastes as provided in Chapter 3734. of the 1595
Revised Code and rules adopted under it. 1596

(viii) "Disposal system" has the same meaning as in section 1597
6111.01 of the Revised Code. 1598

(8) Establish programs and adopt rules and procedures 1599
governing terms, limitations, and conditions for the use of diesel 1600
equipment in an underground coal mine. 1601

(B) The chief, by rule, may designate as unsuitable for coal 1602
mining natural areas maintained on the registry of natural areas 1603
of the department of natural resources pursuant to Chapter 1517. 1604
of the Revised Code, wild, scenic, or recreational river areas 1605
designated pursuant to that chapter, publicly owned or dedicated 1606
parks, and other areas of unique and irreplaceable natural beauty 1607
or condition, or areas within specified distances of a public 1608
road, occupied dwelling, public building, school, church, 1609
community, or institutional building, public park, or cemetery. 1610
Such a designation may include land adjacent to the perimeters of 1611
those areas that may be necessary to protect their integrity. 1612

(C)(1) The adoption, amendment, and rescission of rules under 1613
divisions (A)(1), (4), (5), and (8), (B), and (J) of this 1614
section are subject to Chapter 119. of the Revised Code. 1615

(2) The issuance of orders under division (A)(2) of this 1616
section and appeals therefrom are not governed by or subject to 1617
Chapter 119. of the Revised Code, but are governed by this 1618

chapter.

1619

(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.

1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1640
1641
1642
1643
1644
1645

(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

1646
1647
1648
1649
1650

expected to cause significant, imminent environmental harm to 1651
land, air, or water resources, the chief or the authorized 1652
representative shall issue a notice of violation to the person or 1653
the person's agent fixing a reasonable time for the abatement of 1654
the violation, provided that the time afforded a person to abate 1655
the violation shall not exceed the time limitations prescribed by 1656
the secretary of the interior in 30 C.F.R. Part 843 for an 1657
approvable state regulatory program under the "Surface Mining 1658
Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1659
1201. 1660

If, upon expiration of the period of time as originally fixed 1661
or subsequently extended for good cause shown and upon the written 1662
finding of the chief or the authorized representative, the chief 1663
or the authorized representative finds that the violation has not 1664
been abated, the chief or the authorized representative 1665
immediately shall order the cessation of coal mining and 1666
reclamation operations or the portion thereof relevant to the 1667
violation. The cessation order shall remain in effect until the 1668
chief or the authorized representative determines that the 1669
violation has been abated or until the order is modified, vacated, 1670
or terminated by the chief or the authorized representative 1671
pursuant to division (D)(4) of this section or by the reclamation 1672
commission pursuant to section 1513.13 of the Revised Code. In a 1673
cessation order issued under division (D)(2) of this section, the 1674
chief or the authorized representative shall prescribe the steps 1675
necessary to abate the violation in the most expeditious manner 1676
possible. 1677

(3) When in the judgment of the chief or an authorized 1678
representative of the chief a pattern of violations of any 1679
requirements of this chapter or any permit conditions required by 1680
this chapter exists or has existed and the violations are caused 1681
by the unwarranted failure of the permittee to comply with any 1682

requirements of this chapter or any permit conditions or are 1683
willfully caused by the permittee, the chief or the authorized 1684
representative immediately shall issue an order to the permittee 1685
to show cause why the permit should not be suspended or revoked. 1686
If a hearing is requested, the chief shall inform all interested 1687
parties of the time and place of the hearing and conduct the 1688
hearing pursuant to division (D) of section 1513.13 of the Revised 1689
Code. Upon the permittee's failure to show cause why the permit 1690
should not be suspended or revoked, the chief or the authorized 1691
representative immediately shall suspend or revoke the permit. 1692

(4) Notices of violation and orders issued pursuant to this 1693
section shall set forth with reasonable specificity the nature of 1694
the violation and the remedial action required, the period of time 1695
established for abatement, and a reasonable description of the 1696
portion of the coal mining and reclamation operation to which the 1697
notice or order applies. Each notice or order issued under this 1698
section shall be given promptly to the alleged violator or the 1699
agent of the alleged violator by the chief or an authorized 1700
representative of the chief who issues the notice or order. 1701
Notices and orders shall be in writing and shall be signed by the 1702
chief or the authorized representative and may be modified, 1703
vacated, or terminated by the chief or the authorized 1704
representative. Any notice or order issued pursuant to this 1705
section that requires cessation of mining by the operator shall 1706
expire within thirty days after actual notice to the operator 1707
unless a public hearing pursuant to section 1513.13 of the Revised 1708
Code is held at the site or within such reasonable proximity to 1709
the site that any viewings of the site can be conducted during the 1710
course of the public hearing. 1711

(E)(1) A person who violates a permit condition or any other 1712
provision of this chapter may be assessed a civil penalty by the 1713
chief, except that if the violation leads to the issuance of a 1714

cessation order under division (D) of this section, the civil 1715
penalty shall be assessed for each day until the person initiates 1716
the necessary corrective steps. The penalty shall not exceed five 1717
thousand dollars for each violation. Each day of continuing 1718
violation may be deemed a separate violation for purposes of 1719
penalty assessments. In determining the amount of the penalty, 1720
consideration shall be given to the person's history of previous 1721
violation at the particular coal mining operation; the seriousness 1722
of the violation, including any irreparable harm to the 1723
environment and any hazard to the health or safety of the public; 1724
whether the person was negligent; and the demonstrated diligence 1725
of the person charged in attempting to achieve rapid compliance 1726
after notification of the violation. 1727

(2) A civil penalty shall be assessed by the chief only after 1728
the person charged with a violation under division (E)(1) of this 1729
section has been given an opportunity for a public hearing. If a 1730
person charged with such a violation fails to avail oneself of the 1731
opportunity for a public hearing, a civil penalty shall be 1732
assessed by the chief after the chief has determined that a 1733
violation did occur, and the amount of the penalty that is 1734
warranted, and has issued an order requiring that the penalty be 1735
paid. 1736

(3) Upon the issuance of a notice or order charging that a 1737
violation of this chapter has occurred, the chief shall inform the 1738
operator within thirty days of the proposed amount of the penalty 1739
and provide opportunity for an adjudicatory hearing pursuant to 1740
section 1513.13 of the Revised Code. The person charged with the 1741
penalty then shall have thirty days to pay the proposed penalty in 1742
full or, if the person wishes to contest either the amount of the 1743
penalty or the fact of the violation, file a petition for review 1744
of the proposed assessment with the secretary of the reclamation 1745
commission pursuant to section 1513.13 of the Revised Code. If, 1746

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 1811
averaging the wage rate paid by all companies performing such 1812
reclamation work during the three years immediately preceding the 1813
determination. However, in making the initial determination under 1814
this division, the chief shall average the wage rate paid by all 1815
companies performing such reclamation work during the ten years 1816
immediately preceding October 29, 1995. 1817

(J) If this state becomes covered by a state programmatic 1818
general permit issued by the United States army corps of engineers 1819
for the discharge of dredged or fill material into the waters of 1820
the United States by operations that conduct surface and 1821
underground coal mining and reclamation operations and the 1822
restoration of abandoned mine lands, the chief may establish 1823
programs and adopt rules and procedures designed to implement the 1824
terms, limitations, and conditions of the permit. The purpose of 1825
the programs, rules, and procedures shall be to enable the state 1826
to reduce or eliminate duplicative state and federal project 1827
evaluation, simplify the regulatory approval process, provide 1828
environmental protection for aquatic resources that is equivalent 1829
to federal protection, and satisfy the requirements of the United 1830
States army corps of engineers regulatory program under which the 1831
permit is issued and that is established under section 404 of the 1832
"Federal Water Pollution Control Act," 86 Stat. 48 (1972), 33 1833
U.S.C. 1344, as amended by the "Clean Water Act of 1977," 91 Stat. 1834
1600, 33 U.S.C. 1344; section 10 of the "Rivers and Harbors Act of 1835
1899," 30 Stat. 1151, 33 U.S.C. 403; and section 103 of the 1836
"Marine Protection, Research, and Sanctuaries Act of 1972," 86 1837
Stat. 1055, 33 U.S.C. 1413. 1838

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 1839
operation without a permit for the operation issued by the chief 1840
of the division of mineral resources management. 1841

(2) All permits issued pursuant to this chapter shall be 1842
issued for a term not to exceed five years, except that, if the 1843
applicant demonstrates that a specified longer term is reasonably 1844
needed to allow the applicant to obtain necessary financing for 1845
equipment and the opening of the operation and if the application 1846
is full and complete for the specified longer term, the chief may 1847
grant a permit for the longer term. A successor in interest to a 1848
permittee who applies for a new permit within thirty days after 1849
succeeding to the interest and who is able to obtain the ~~bond~~ 1850
~~coverage~~ performance security of the original permittee may 1851
continue coal mining and reclamation operations according to the 1852
approved mining and reclamation plan of the original permittee 1853
until the successor's application is granted or denied. 1854

(3) A permit shall terminate if the permittee has not 1855
commenced the coal mining operations covered by the permit within 1856
three years after the issuance of the permit, except that the 1857
chief may grant reasonable extensions of the time upon a showing 1858
that the extensions are necessary by reason of litigation 1859
precluding the commencement or threatening substantial economic 1860
loss to the permittee or by reason of conditions beyond the 1861
control and without the fault or negligence of the permittee, and 1862
except that with respect to coal to be mined for use in a 1863
synthetic fuel facility or specified major electric generating 1864
facility, the permittee shall be deemed to have commenced coal 1865
mining operations at the time construction of the synthetic fuel 1866
or generating facility is initiated. 1867

(4)(a) Any permit issued pursuant to this chapter shall carry 1868
with it the right of successive renewal upon expiration with 1869
respect to areas within the boundaries of the permit. The holders 1870
of the permit may apply for renewal and the renewal shall be 1871
issued unless the chief determines by written findings, subsequent 1872
to fulfillment of the public notice requirements of this section 1873

and section 1513.071 of the Revised Code through demonstrations by 1874
opponents of renewal or otherwise, that one or more of the 1875
following circumstances exists: 1876

(i) The terms and conditions of the existing permit are not 1877
being satisfactorily met. 1878

(ii) The present coal mining and reclamation operation is not 1879
in compliance with the environmental protection standards of this 1880
chapter. 1881

(iii) The renewal requested substantially jeopardizes the 1882
operator's continuing responsibilities on existing permit areas. 1883

(iv) The applicant has not provided evidence that the 1884
performance ~~bond~~ security in effect for the operation will 1885
continue in effect for any renewal requested in the application. 1886

(v) Any additional, revised, or updated information required 1887
by the chief has not been provided. Prior to the approval of any 1888
renewal of a permit, the chief shall provide notice to the 1889
appropriate public authorities as prescribed by rule of the chief. 1890

(b) If an application for renewal of a valid permit includes 1891
a proposal to extend the mining operation beyond the boundaries 1892
authorized in the existing permit, the portion of the application 1893
for renewal of a valid permit that addresses any new land areas 1894
shall be subject to the full standards applicable to new 1895
applications under this chapter. 1896

(c) A permit renewal shall be for a term not to exceed the 1897
period of the original permit established by this chapter. 1898
Application for permit renewal shall be made at least one hundred 1899
twenty days prior to the expiration of the valid permit. 1900

(5) A permit issued pursuant to this chapter does not 1901
eliminate the requirements for obtaining a permit to install or 1902
modify a disposal system or any part thereof or to discharge 1903

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; 1933

(d) If the applicant is a partnership, corporation, 1934
association, or other business entity, the following where 1935
applicable: the names and addresses of every officer, partner, 1936
director, or person performing a function similar to a director, 1937
of the applicant, the name and address of any person owning, of 1938
record, ten per cent or more of any class of voting stock of the 1939
applicant, a list of all names under which the applicant, partner, 1940
or principal shareholder previously operated a coal mining 1941
operation within the United States within the five-year period 1942
preceding the date of submission of the application, and a list of 1943
the person or persons primarily responsible for ensuring that the 1944
applicant complies with the requirements of this chapter and rules 1945
adopted pursuant thereto while mining and reclaiming under the 1946
permit; 1947

(e) A statement of whether the applicant, any subsidiary, 1948
affiliate, or persons controlled by or under common control with 1949
the applicant, any partner if the applicant is a partnership, any 1950
officer, principal shareholder, or director if the applicant is a 1951
corporation, or any other person who has a right to control or in 1952
fact controls the management of the applicant or the selection of 1953
officers, directors, or managers of the applicant: 1954

(i) Has ever held a federal or state coal mining permit that 1955
in the five-year period prior to the date of submission of the 1956
application has been suspended or revoked or has had a coal mining 1957
bond, performance security, or similar security deposited in lieu 1958
of bond forfeited and, if so, a brief explanation of the facts 1959
involved; 1960

(ii) Has been an officer, partner, director, principal 1961
shareholder, or person having the right to control or has in fact 1962
controlled the management of or the selection of officers, 1963

directors, or managers of a business entity that has had a coal 1964
mining or surface mining permit that in the five-year period prior 1965
to the date of submission of the application has been suspended or 1966
revoked or has had a coal mining or surface mining bond, 1967
performance security, or similar security deposited in lieu of 1968
bond forfeited and, if so, a brief explanation of the facts 1969
involved. 1970

(f) A copy of the applicant's advertisement to be published 1971
in a newspaper of general circulation in the locality of the 1972
proposed site at least once a week for four successive weeks, 1973
which shall include the ownership of the proposed mine, a 1974
description of the exact location and boundaries of the proposed 1975
site sufficient to make the proposed operation readily 1976
identifiable by local residents, and the location where the 1977
application is available for public inspection; 1978

(g) A description of the type and method of coal mining 1979
operation that exists or is proposed, the engineering techniques 1980
proposed or used, and the equipment used or proposed to be used; 1981

(h) The anticipated or actual starting and termination dates 1982
of each phase of the mining operation and number of acres of land 1983
to be affected; 1984

(i) An accurate map or plan, to an appropriate scale, clearly 1985
showing the land to be affected and the land upon which the 1986
applicant has the legal right to enter and commence coal mining 1987
operations, copies of those documents upon which is based the 1988
applicant's legal right to enter and commence coal mining 1989
operations, and a statement whether that right is the subject of 1990
pending litigation. This chapter does not authorize the chief to 1991
adjudicate property title disputes. 1992

(j) The name of the watershed and location of the surface 1993
stream or tributary into which drainage from the operation will be 1994

discharged; 1995

(k) A determination of the probable hydrologic consequences 1996
of the mining and reclamation operations, both on and off the mine 1997
site, with respect to the hydrologic regime, providing information 1998
on the quantity and quality of water in surface and ground water 1999
systems including the dissolved and suspended solids under 2000
seasonal flow conditions and the collection of sufficient data for 2001
the mine site and surrounding areas so that an assessment can be 2002
made by the chief of the probable cumulative impacts of all 2003
anticipated mining in the area upon the hydrology of the area and 2004
particularly upon water availability, but this determination shall 2005
not be required until hydrologic information of the general area 2006
prior to mining is made available from an appropriate federal or 2007
state agency; however, the permit shall not be approved until the 2008
information is available and is incorporated into the application; 2009

(l) When requested by the chief, the climatological factors 2010
that are peculiar to the locality of the land to be affected, 2011
including the average seasonal precipitation, the average 2012
direction and velocity of prevailing winds, and the seasonal 2013
temperature ranges; 2014

(m) Accurate maps prepared by or under the direction of and 2015
certified by a qualified registered professional engineer, 2016
registered surveyor, or licensed landscape architect to an 2017
appropriate scale clearly showing all types of information set 2018
forth on topographical maps of the United States geological survey 2019
of a scale of not more than four hundred feet to the inch, 2020
including all artificial features and significant known 2021
archeological sites. The map, among other things specified by the 2022
chief, shall show all boundaries of the land to be affected, the 2023
boundary lines and names of present owners of record of all 2024
surface areas abutting the permit area, and the location of all 2025
buildings within one thousand feet of the permit area. 2026

(n)(i) Cross-section maps or plans of the land to be affected 2027
including the actual area to be mined, prepared by or under the 2028
direction of and certified by a qualified registered professional 2029
engineer or certified professional geologist with assistance from 2030
experts in related fields such as hydrology, hydrogeology, 2031
geology, and landscape architecture, showing pertinent elevations 2032
and locations of test borings or core samplings and depicting the 2033
following information: the nature and depth of the various strata 2034
of overburden; the nature and thickness of any coal or rider seam 2035
above the coal seam to be mined; the nature of the stratum 2036
immediately beneath the coal seam to be mined; all mineral crop 2037
lines and the strike and dip of the coal to be mined within the 2038
area to be affected; existing or previous coal mining limits; the 2039
location and extent of known workings of any underground mines, 2040
including mine openings to the surface; the location of spoil, 2041
waste, or refuse areas and topsoil preservation areas; the 2042
location of all impoundments for waste or erosion control; any 2043
settling or water treatment facility; constructed or natural 2044
drainways and the location of any discharges to any surface body 2045
of water on the land to be affected or adjacent thereto; profiles 2046
at appropriate cross sections of the anticipated final surface 2047
configuration that will be achieved pursuant to the operator's 2048
proposed reclamation plan; the location of subsurface water, if 2049
encountered; the location and quality of aquifers; and the 2050
estimated elevation of the water table. Registered surveyors shall 2051
be allowed to perform all plans, maps, and certifications under 2052
this chapter as they are authorized under Chapter 4733. of the 2053
Revised Code. 2054

(ii) A statement of the quality and locations of subsurface 2055
water. The chief shall provide by rule the number of locations to 2056
be sampled, frequency of collection, and parameters to be analyzed 2057
to obtain the statement required. 2058

(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~~r~~. 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 section 1513.075 of the Revised Code.

(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 2122
hundred thousand tons, the following activities, upon the written 2123
request of the operator in connection with a permit application, 2124
shall be performed by a qualified public or private laboratory or 2125
another public or private qualified entity designated by the 2126
chief, and the cost of the activities shall be assumed by the 2127
chief, provided that sufficient moneys for such assistance are 2128
available: 2129

(i) The determination of probable hydrologic consequences 2130
required under division (B)~~(2)~~(1)(k) of this section; 2131

(ii) The development of cross-section maps and plans required 2132
under division (B)~~(2)~~(1)(n)(i) of this section; 2133

(iii) The geologic drilling and statement of results of test 2134
borings and core samplings required under division (B)~~(2)~~(1)(o) of 2135
this section; 2136

(iv) The collection of archaeological information required 2137
under division (B)~~(2)~~(1)(m) of this section and any other 2138
archaeological and historical information required by the chief, 2139
and the preparation of plans necessitated thereby; 2140

(v) Pre-blast surveys required under division (E) of section 2141
1513.161 of the Revised Code; 2142

(vi) The collection of site-specific resource information and 2143
production of protection and enhancement plans for fish and 2144
wildlife habitats and other environmental values required by the 2145
chief under this chapter. 2146

(b) A coal operator that has received assistance under 2147
division (B)~~(4)~~(3)(a) of this section shall reimburse the chief 2148
for the cost of the services rendered if the chief finds that the 2149
operator's actual and attributed annual production of coal for all 2150
locations exceeds three hundred thousand tons during the twelve 2151
months immediately following the date on which the operator was 2152

issued a coal mining and reclamation permit. 2153

~~(5)~~(4) Each applicant for a permit shall submit to the chief 2154
as part of the permit application a reclamation plan that meets 2155
the requirements of this chapter. 2156

~~(6)~~(5) Each applicant for a coal mining and reclamation 2157
permit shall file a copy of the application for a permit, 2158
excluding that information pertaining to the coal seam itself, for 2159
public inspection with the county recorder or an appropriate 2160
public office approved by the chief in the county where the mining 2161
is proposed to occur. 2162

~~(7)~~(6) Each applicant for a coal mining and reclamation 2163
permit shall submit to the chief as part of the permit application 2164
a blasting plan that describes the procedures and standards by 2165
which the operator will comply with section 1513.161 of the 2166
Revised Code. 2167

(C) Each reclamation plan submitted as part of a permit 2168
application shall include, in the detail necessary to demonstrate 2169
that reclamation required by this chapter can be accomplished, a 2170
statement of: 2171

(1) The identification of the lands subject to coal mining 2172
operations over the estimated life of those operations and the 2173
size, sequence, and timing of the subareas for which it is 2174
anticipated that individual permits for mining will be sought; 2175

(2) The condition of the land to be covered by the permit 2176
prior to any mining including all of the following: 2177

(a) The uses existing at the time of the application and, if 2178
the land has a history of previous mining, the uses that preceded 2179
any mining; 2180

(b) The capability of the land prior to any mining to support 2181
a variety of uses, giving consideration to soil and foundation 2182

characteristics, topography, and vegetative cover and, if	2183
applicable, a soil survey prepared pursuant to division	2184
(B) (2) <u>(1)</u> (p) of this section;	2185
(c) The productivity of the land prior to mining, including	2186
appropriate classification as prime farmlands as well as the	2187
average yield of food, fiber, forage, or wood products obtained	2188
from the land under high levels of management.	2189
(3) The use that is proposed to be made of the land following	2190
reclamation, including information regarding the utility and	2191
capacity of the reclaimed land to support a variety of alternative	2192
uses, the relationship of the proposed use to existing land use	2193
policies and plans, and the comments of any owner of the land and	2194
state and local governments or agencies thereof that would have to	2195
initiate, implement, approve, or authorize the proposed use of the	2196
land following reclamation;	2197
(4) A detailed description of how the proposed postmining	2198
land use is to be achieved and the necessary support activities	2199
that may be needed to achieve the proposed land use;	2200
(5) The engineering techniques proposed to be used in mining	2201
and reclamation and a description of the major equipment; a plan	2202
for the control of surface water drainage and of water	2203
accumulation; a plan, where appropriate, for backfilling, soil	2204
stabilization, and compacting, grading, and appropriate	2205
revegetation; a plan for soil reconstruction, replacement, and	2206
stabilization, pursuant to the performance standards in section	2207
1513.16 of the Revised Code, for those food, forage, and forest	2208
lands identified in that section; and an estimate of the cost per	2209
acre of the reclamation, including a statement as to how the	2210
permittee plans to comply with each of the requirements set out in	2211
section 1513.16 of the Revised Code;	2212
(6) A description of the means by which the utilization and	2213

conservation of the solid fuel resource being recovered will be	2214
maximized so that re-affecting the land in the future can be	2215
minimized;	2216
(7) A detailed estimated timetable for the accomplishment of	2217
each major step in the reclamation plan;	2218
(8) A description of the degree to which the coal mining and	2219
reclamation operations are consistent with surface owner plans and	2220
applicable state and local land use plans and programs;	2221
(9) The steps to be taken to comply with applicable air and	2222
water quality laws and regulations and any applicable health and	2223
safety standards;	2224
(10) A description of the degree to which the reclamation	2225
plan is consistent with local physical, environmental, and	2226
climatological conditions;	2227
(11) A description of all lands, interests in lands, or	2228
options on such interests held by the applicant or pending bids on	2229
interests in lands by the applicant, which lands are contiguous to	2230
the area to be covered by the permit;	2231
(12) The results of test borings that the applicant has made	2232
at the area to be covered by the permit, or other equivalent	2233
information and data in a form satisfactory to the chief,	2234
including the location of subsurface water, and an analysis of the	2235
chemical properties, including acid forming properties of the	2236
mineral and overburden; except that information that pertains only	2237
to the analysis of the chemical and physical properties of the	2238
coal, excluding information regarding mineral or elemental	2239
contents that are potentially toxic in the environment, shall be	2240
kept confidential and not made a matter of public record;	2241
(13) A detailed description of the measures to be taken	2242
during the mining and reclamation process to ensure the protection	2243

of all of the following: 2244

(a) The quality of surface and ground water systems, both on- 2245
and off-site, from adverse effects of the mining and reclamation 2246
process; 2247

(b) The rights of present users to such water; 2248

(c) The quantity of surface and ground water systems, both 2249
on- and off-site, from adverse effects of the mining and 2250
reclamation process or, where such protection of quantity cannot 2251
be assured, provision of alternative sources of water. 2252

(14) Any other requirements the chief prescribes by rule. 2253

(D)(1) Any information required by division (C) of this 2254
section that is not on public file pursuant to this chapter shall 2255
be held in confidence by the chief. 2256

(2) With regard to requests for an exemption from the 2257
requirements of this chapter for coal extraction incidental to the 2258
extraction of other minerals, as described in division (H)(1)(a) 2259
of section 1513.01 of the Revised Code, confidential information 2260
includes and is limited to information concerning trade secrets or 2261
privileged commercial or financial information relating to the 2262
competitive rights of the persons intending to conduct the 2263
extraction of minerals. 2264

(E)(1) Upon the basis of a complete mining application and 2265
reclamation plan or a revision or renewal thereof, as required by 2266
this chapter, and information obtained as a result of public 2267
notification and public hearing, if any, as provided by section 2268
1513.071 of the Revised Code, the chief shall grant, require 2269
modification of, or deny the application for a permit in a 2270
reasonable time set by the chief and notify the applicant in 2271
writing. The applicant for a permit or revision of a permit has 2272
the burden of establishing that the application is in compliance 2273

with all the requirements of this chapter. Within ten days after 2274
the granting of a permit, the chief shall notify the boards of 2275
township trustees and county commissioners, the mayor, and the 2276
legislative authority in the township, county, and municipal 2277
corporation in which the area of land to be affected is located 2278
that a permit has been issued and shall describe the location of 2279
the land. However, failure of the chief to notify the local 2280
officials shall not affect the status of the permit. 2281

(2) No permit application or application for revision of an 2282
existing permit shall be approved unless the application 2283
affirmatively demonstrates and the chief finds in writing on the 2284
basis of the information set forth in the application or from 2285
information otherwise available, which shall be documented in the 2286
approval and made available to the applicant, all of the 2287
following: 2288

(a) The application is accurate and complete and all the 2289
requirements of this chapter have been complied with. 2290

(b) The applicant has demonstrated that the reclamation 2291
required by this chapter can be accomplished under the reclamation 2292
plan contained in the application. 2293

(c)(i) Assessment of the probable cumulative impact of all 2294
anticipated mining in the general and adjacent area on the 2295
hydrologic balance specified in division (B)~~(2)~~(1)(k) of this 2296
section has been made by the chief, and the proposed operation has 2297
been designed to prevent material damage to hydrologic balance 2298
outside the permit area. 2299

(ii) There shall be an ongoing process conducted by the chief 2300
in cooperation with other state and federal agencies to review all 2301
assessments of probable cumulative impact of coal mining in light 2302
of post-mining data and any other hydrologic information as it 2303
becomes available to determine if the assessments were realistic. 2304

The chief shall take appropriate action as indicated in the review process. 2305
2306

(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. 2307
2308
2309
2310
2311
2312
2313
2314
2315
2316
2317

(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: 2318
2319
2320

(i) The written consent of the surface owner to the extraction of coal by strip mining methods; 2321
2322

(ii) A conveyance that expressly grants or reserves the right to extract the coal by strip mining methods; 2323
2324

(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. 2325
2326
2327
2328
2329

(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 2330
2331
2332
2333
2334
2335

application. The schedule also shall indicate the final resolution 2336
of such a notice of violation. Upon receipt of an application, the 2337
chief shall provide a schedule listing all notices of violations 2338
of this chapter pertaining to air or water environmental 2339
protection incurred by the applicant during the three-year period 2340
prior to receipt of the application and the final resolution of 2341
all such notices of violation. The chief shall provide this 2342
schedule to the applicant for filing by the applicant with the 2343
application filed for public review, as required by division 2344
(B)~~(6)~~(5) of this section. When the schedule or other information 2345
available to the chief indicates that any coal mining operation 2346
owned or controlled by the applicant is currently in violation of 2347
such laws, the permit shall not be issued until the applicant 2348
submits proof that the violation has been corrected or is in the 2349
process of being corrected to the satisfaction of the regulatory 2350
authority, department, or agency that has jurisdiction over the 2351
violation and that any civil penalties owed to the state for a 2352
violation and not the subject of an appeal have been paid. No 2353
permit shall be issued to an applicant after a finding by the 2354
chief that the applicant or the operator specified in the 2355
application controls or has controlled mining operations with a 2356
demonstrated pattern of willful violations of this chapter of a 2357
nature and duration to result in irreparable damage to the 2358
environment as to indicate an intent not to comply with or a 2359
disregard of this chapter. 2360

(b) For the purposes of division (E)(3)(a) of this section, 2361
any violation resulting from an unanticipated event or condition 2362
at a surface coal mining operation on lands eligible for remining 2363
under a permit held by the person submitting an application for a 2364
coal mining permit under this section shall not prevent issuance 2365
of that permit. As used in this division, "unanticipated event or 2366
condition" means an event or condition encountered in a remining 2367

operation that was not contemplated by the applicable surface coal 2368
mining and reclamation permit. 2369

(4)(a) In addition to finding the application in compliance 2370
with division (E)(2) of this section, if the area proposed to be 2371
mined contains prime farmland as determined pursuant to division 2372
(B)~~(2)~~(1)(p) of this section, the chief, after consultation with 2373
the secretary of the United States department of agriculture and 2374
pursuant to regulations issued by the secretary of the interior 2375
with the concurrence of the secretary of agriculture, may grant a 2376
permit to mine on prime farmland if the chief finds in writing 2377
that the operator has the technological capability to restore the 2378
mined area, within a reasonable time, to equivalent or higher 2379
levels of yield as nonmined prime farmland in the surrounding area 2380
under equivalent levels of management and can meet the soil 2381
reconstruction standards in section 1513.16 of the Revised Code. 2382

(b) Division (E)(4)(a) of this section does not apply to a 2383
permit issued prior to August 3, 1977, or revisions or renewals 2384
thereof. 2385

(5) The chief shall issue an order denying a permit after 2386
finding that the applicant has misrepresented or omitted any 2387
material fact in the application for the permit. 2388

(6) The chief may issue an order denying a permit after 2389
finding that the applicant, any partner, if the applicant is a 2390
partnership, any officer, principal shareholder, or director, if 2391
the applicant is a corporation, or any other person who has a 2392
right to control or in fact controls the management of the 2393
applicant or the selection of officers, directors, or managers of 2394
the applicant has been a sole proprietor or partner, officer, 2395
director, principal shareholder, or person having the right to 2396
control or has in fact controlled the management of or the 2397
selection of officers, directors, or managers of a business entity 2398

that ever has had a coal mining license or permit issued by this 2399
or any other state or the United States suspended or revoked, ever 2400
has forfeited a coal or surface mining bond, performance security, 2401
or similar security deposited in lieu of bond in this or any other 2402
state or with the United States, or ever has substantially or 2403
materially failed to comply with this chapter. 2404

(7) When issuing a permit under this section, the chief may 2405
authorize an applicant to conduct coal mining and reclamation 2406
operations on areas to be covered by the permit that were affected 2407
by coal mining operations before August 3, 1977, that have 2408
resulted in continuing water pollution from or on the previously 2409
mined areas for the purpose of potentially reducing the pollution 2410
loadings of pH, iron, and manganese from discharges from or on the 2411
previously mined areas. Following the chief's authorization to 2412
conduct such operations on those areas, the areas shall be 2413
designated as pollution abatement areas for the purposes of this 2414
chapter. 2415

The chief shall not grant an authorization under division 2416
(E)(7) of this section to conduct coal mining and reclamation 2417
operations on any such previously mined areas unless the applicant 2418
demonstrates to the chief's satisfaction that all of the following 2419
conditions are met: 2420

(a) The applicant's pollution abatement plan for mining and 2421
reclaiming the previously mined areas represents the best 2422
available technology economically achievable. 2423

(b) Implementation of the plan will potentially reduce 2424
pollutant loadings of pH, iron, and manganese resulting from 2425
discharges of surface waters or ground water from or on the 2426
previously mined areas within the permit area. 2427

(c) Implementation of the plan will not cause any additional 2428
degradation of surface water quality off the permit area with 2429

respect to pH, iron, and manganese+ 2430

(d) Implementation of the plan will not cause any additional 2431
degradation of ground water+ 2432

(e) The plan meets the requirements governing mining and 2433
reclamation of such previously mined pollution abatement areas 2434
established by the chief in rules adopted under section 1513.02 of 2435
the Revised Code+ 2436

(f) Neither the applicant; any partner, if the applicant is a 2437
partnership; any officer, principal shareholder, or director, if 2438
the applicant is a corporation; any other person who has a right 2439
to control or in fact controls the management of the applicant or 2440
the selection of officers, directors, or managers of the 2441
applicant; nor any contractor or subcontractor of the applicant, 2442
has any of the following: 2443

(i) Responsibility or liability under this chapter or rules 2444
adopted under it as an operator for treating the discharges of 2445
water pollutants from or on the previously mined areas for which 2446
the authorization is sought; 2447

(ii) Any responsibility or liability under this chapter or 2448
rules adopted under it for reclaiming the previously mined areas 2449
for which the authorization is sought; 2450

(iii) During the eighteen months prior to submitting the 2451
permit application requesting an authorization under division 2452
(E)(7) of this section, had a coal mining and reclamation permit 2453
suspended or revoked under division (D)(3) of section 1513.02 of 2454
the Revised Code for violating this chapter or Chapter 6111. of 2455
the Revised Code or rules adopted under them with respect to water 2456
quality, effluent limitations, or surface or ground water 2457
monitoring; 2458

(iv) Ever forfeited a coal or surface mining bond 2459

performance security, or similar security deposited in lieu of a 2460
bond in this or any other state or with the United States. 2461

(8) In the case of the issuance of a permit that involves a 2462
conflict of results obtained under section 1513.075 of the Revised 2463
Code between the various methods of calculating potential acidity 2464
and neutralization potential for purposes of assessing the 2465
potential for acid mine drainage to occur at a mine site, the 2466
permit shall include provisions for monitoring and record keeping 2467
to identify the creation of unanticipated acid water at the mine 2468
site. If the monitoring detects the creation of acid water at the 2469
site, the permit shall impose on the permittee additional 2470
requirements regarding mining practices and site reclamation to 2471
prevent the discharge of acid mine drainage from the mine site. 2472

(F)(1) During the term of the permit, the permittee may 2473
submit an application for a revision of the permit, together with 2474
a revised reclamation plan, to the chief. 2475

(2) An application for a revision of a permit shall not be 2476
approved unless the chief finds that reclamation required by this 2477
chapter can be accomplished under the revised reclamation plan. 2478
The revision shall be approved or disapproved within ninety days 2479
after receipt of a complete revision application. The chief shall 2480
establish, by rule, criteria for determining the extent to which 2481
all permit application information requirements and procedures, 2482
including notice and hearings, shall apply to the revision 2483
request, except that any revisions that propose significant 2484
alterations in the reclamation plan, at a minimum, shall be 2485
subject to notice and hearing requirements. 2486

(3) Any extensions to the area covered by the permit except 2487
incidental boundary revisions shall be made by application for a 2488
permit. 2489

(G) No transfer, assignment, or sale of the rights granted 2490

under a permit issued pursuant to this chapter shall be made 2491
without the written approval of the chief. 2492

(H) The chief, within a time limit prescribed in the chief's 2493
rules, shall review outstanding permits and may require reasonable 2494
revision or modification of a permit. A revision or modification 2495
shall be based upon a written finding and subject to notice and 2496
hearing requirements established by rule of the chief. 2497

(I)(1) If an informal conference has been held pursuant to 2498
section 1513.071 of the Revised Code, the chief shall issue and 2499
furnish the applicant for a permit, persons who participated in 2500
the informal conference, and persons who filed written objections 2501
pursuant to division (B) of section 1513.071 of the Revised Code, 2502
with the written finding of the chief granting or denying the 2503
permit in whole or in part and stating the reasons therefor within 2504
sixty days of the conference. 2505

(2) If there has been no informal conference held pursuant to 2506
section 1513.071 of the Revised Code, the chief shall notify the 2507
applicant for a permit within a reasonable time as provided by 2508
rule of the chief, taking into account the time needed for proper 2509
investigation of the site, the complexity of the permit 2510
application, whether or not a written objection to the application 2511
has been filed, and whether the application has been approved or 2512
disapproved in whole or in part. 2513

(3) If the application is approved, the permit shall be 2514
issued. If the application is disapproved, specific reasons 2515
therefor shall be set forth in the notification. Within thirty 2516
days after the applicant is notified of the final decision of the 2517
chief on the permit application, the applicant or any person with 2518
an interest that is or may be adversely affected may appeal the 2519
decision to the reclamation commission pursuant to section 1513.13 2520
of the Revised Code. 2521

(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 2554
the same locations at which the mining application is available 2555
for inspection. 2556

(B) A person having an interest that is or may be adversely 2557
affected or the officer or head of any federal, state, or local 2558
governmental agency or authority may file written objections to 2559
the proposed initial or revised application for a coal mining and 2560
reclamation permit with the chief within thirty days after the 2561
last publication of the notice required by division (A) of this 2562
section. The objections shall immediately be transmitted to the 2563
applicant by the chief and shall be made available to the public. 2564
If written objections are filed and an informal conference 2565
requested, the chief or ~~his~~ the chief's representative shall then 2566
hold an informal conference on the application for a permit within 2567
a reasonable time in the county where the largest area of the area 2568
to be permitted is located. The date, time, and location of the 2569
informal conference shall be advertised by the chief in a 2570
newspaper of general circulation in the locality at least two 2571
weeks prior to the scheduled conference date. The chief may 2572
arrange with the applicant, upon request by any objecting party, 2573
access to the proposed mining area for the purpose of gathering 2574
information relevant to the proceeding. An electronic or 2575
stenographic record shall be made of the conference proceeding 2576
unless waived by all parties. The record shall be maintained and 2577
shall be accessible to the parties until final release of the 2578
applicant's performance ~~bond~~ security. If all parties requesting 2579
the informal conference stipulate agreement prior to the requested 2580
informal conference and withdraw their request, the informal 2581
conference need not be held. 2582

Sec. 1513.075. (A) As used in this section: 2583

(1) "Potential acidity" means a laboratory measurement of the 2584

amount of acidity that could be produced by material in a rock 2585
strata proposed to be disturbed by mining and that is expressed by 2586
a numeral indicating the number of tons of that acidity that would 2587
be present in one thousand tons of disturbed overburden. 2588

(2) "Neutralization potential" means a laboratory measurement 2589
of the alkalinity of a rock strata expressed as the amount of 2590
acidity that would be neutralized by material proposed to be 2591
disturbed by mining and that is expressed by a numeral indicating 2592
the number of tons of that alkalinity that would be present in one 2593
thousand tons of disturbed overburden. 2594

(3) "Test borings or core samplings" refer to test borings or 2595
core samplings performed on rock strata in an area proposed to be 2596
covered by a permit for a coal mining operation, the results of 2597
which must be stated in the permit application in accordance with 2598
division (B)(1)(o) of section 1513.07 of the Revised Code. 2599

(B) For purposes of the determination of the chief of the 2600
division of mineral resources management regarding whether to 2601
approve an application for a permit for a coal mining operation 2602
based on criteria established in divisions (E)(2)(a) and (c) of 2603
section 1513.07 of the Revised Code and related performance 2604
standards established in division (A)(10) of section 1513.16 of 2605
the Revised Code, the potential acidity and the neutralization 2606
potential of the rock strata that would be disturbed under the 2607
permit may be calculated in accordance with this section. 2608

(C) The measurement of potential acidity may be based on 2609
laboratory analyses of the sulfur content of the coal and 2610
overburden to be disturbed by mining. If the results of test 2611
borings or core samplings include laboratory analyses of the 2612
pyritic form of sulfur, the applicant may base the calculation of 2613
the potential acidity for the area on the pyritic sulfur content 2614
of the coal and overburden to be disturbed by mining rather than 2615

on the total sulfur content.

2616

(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.

2617

2618

2619

2620

2621

2622

(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:

2623

2624

2625

(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.

2626

2627

2628

2629

(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:

2630

2631

2632

2633

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

2634

2635

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

2636

2637

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~~

2638

2639

2640

2641

2642

2643

2644

2645

(B) Using the information contained in the permit 2646
application; the requirements contained in the approved permit and 2647
reclamation plan; and, after considering the topography, geology, 2648
hydrology, and revegetation potential of the area of the approved 2649
permit, the probable difficulty of reclamation; the chief shall be 2650
in the amount of twenty five hundred dollars times the number of 2651
acres of land upon which the operator states in the application 2652
for a permit the operator will initiate and conduct coal mining 2653
and determine the estimated cost of reclamation operations within 2654
under the initial term of the permit if the reclamation has to be 2655
performed by the division of mineral resources management in the 2656
event of forfeiture of the performance security by the applicant. 2657
The minimum amount of a bond shall be ten thousand dollars. The 2658
bond The chief shall send written notice of the amount of the 2659
estimated cost of reclamation by certified mail to the applicant. 2660
The applicant shall send written notice to the chief indicating 2661
the method by which the applicant will provide the performance 2662
security pursuant to division (C) of this section. 2663

(C) The applicant shall provide the performance security in 2664
an amount using one of the following: 2665

(1) If the applicant elects to provide performance security 2666
without reliance on the reclamation forfeiture fund created in 2667
section 1513.18 of the Revised Code, the amount of the estimated 2668
cost of reclamation as determined by the chief under division (B) 2669
of this section for the increments of land on which the operator 2670
will conduct a coal mining and reclamation operation under the 2671
initial term of the permit as indicated in the application; 2672

(2) If the applicant elects to provide performance security 2673
together with reliance on the reclamation forfeiture fund through 2674
payment of the additional tax on the severance of coal that is 2675
levied under division (A)(8) of section 5749.02 of the Revised 2676
Code, an amount of twenty-five hundred dollars per acre of land on 2677

which the operator will conduct coal mining and reclamation under 2678
the initial term of the permit as indicated in the application. 2679
However, in order to be eligible to provide performance security 2680
in accordance with division (C)(2) of this section, an applicant 2681
shall have held a permit issued under this chapter for any coal 2682
mining and reclamation operation for a period of not less than 2683
five years. In the event of forfeiture of performance security 2684
that was provided in accordance with division (C)(2) of this 2685
section, the difference between the amount of that performance 2686
security and the estimated cost of reclamation as determined by 2687
the chief under division (B) of this section shall be obtained 2688
from money in the reclamation forfeiture fund as needed to 2689
complete the reclamation. 2690

The performance security provided under division (C) of this 2691
section for the entire area to be mined under one permit issued 2692
under this chapter shall not be less than ten thousand dollars. 2693

The performance security shall cover areas of land affected 2694
by mining within or immediately adjacent to the permitted area, so 2695
long as the total number of acres does not exceed the number of 2696
acres ~~bonded~~ for which the performance security is provided. 2697
However, the authority for ~~bond~~ the performance security to cover 2698
areas of land immediately adjacent to the permitted area does not 2699
authorize a permittee to mine areas outside an approved permit 2700
area. As succeeding increments of coal mining and reclamation 2701
operations are to be initiated and conducted within the permit 2702
area, the permittee shall file with the chief ~~an additional bond~~ 2703
~~or bonds~~ performance security to cover the increments in 2704
accordance with this section. ~~In the event of forfeiture of a~~ 2705
~~bond, if the bond is insufficient to complete the reclamation, the~~ 2706
~~chief shall complete the reclamation in accordance with section~~ 2707
~~1513.18 of the Revised Code using funds from the reclamation~~ 2708
~~forfeiture fund created in that section~~ If a permittee intends to 2709

mine areas outside the approved permit area, the permittee shall 2710
provide additional performance security in accordance with this 2711
section to cover the areas to be mined. 2712

~~(B) Liability~~ An applicant shall provide performance security 2713
in accordance with division (C)(1) of this section in the full 2714
amount of the estimated cost of reclamation as determined by the 2715
chief for a permitted coal preparation plant or coal refuse 2716
disposal area that is not located within a permitted area of a 2717
mine. A permittee shall provide the performance security not later 2718
than one year after the effective date of this amendment for a 2719
permitted coal preparation plant or coal refuse disposal area that 2720
is in existence on the effective date of this amendment and that 2721
is not located within a permitted area of a mine. 2722

(D) A permittee's liability under the performance security 2723
shall be limited to the obligations established under the permit, 2724
which include completion of the reclamation plan in order to make 2725
the land capable of supporting the postmining land use that was 2726
approved in the permit. The period of liability under the ~~bond~~ 2727
performance security shall be for the duration of the coal mining 2728
and reclamation operation and for a period coincident with the 2729
operator's responsibility for revegetation requirements under 2730
section 1513.16 of the Revised Code. ~~The bond~~ 2731

(E) The amount of the estimated cost of reclamation 2732
determined under division (B) of this section and the amount of a 2733
permittee's performance security provided in accordance with 2734
division (C)(1) of this section may be adjusted by the chief as 2735
the land that is affected by mining increases or decreases or if 2736
the cost of reclamation increases or decreases. If the performance 2737
security was provided in accordance with division (C)(2) of this 2738
section and the chief has issued a cessation order under division 2739
(D)(2) of section 1513.02 of the Revised Code for failure to abate 2740
a violation of the contemporaneous reclamation requirement under 2741

division (A)(15) of section 1513.16 of the Revised Code, the chief 2742
may require the permittee to increase the amount of performance 2743
security from twenty-five hundred dollars per acre of land to five 2744
thousand dollars per acre of land. 2745

The chief shall notify the permittee, each surety, and any 2746
person who has a property interest in the performance security and 2747
who has requested to be notified of any proposed adjustment to the 2748
performance security. The permittee may request an informal 2749
conference with the chief concerning the proposed adjustment, and 2750
the chief shall provide such an informal conference. 2751

If the chief increases the amount of performance security 2752
under this division, the permittee shall provide additional 2753
performance security in an amount determined by the chief. If the 2754
chief decreases the amount of performance security under this 2755
division, the chief shall determine the amount of the reduction of 2756
the performance security and send written notice of the amount of 2757
reduction to the permittee. The permittee may reduce the amount of 2758
the performance security in the amount determined by the chief. 2759

(F) A permittee may request a reduction in the amount of the 2760
performance security by submitting to the chief documentation 2761
proving that the amount of the performance security provided by 2762
the permittee exceeds the estimated cost of reclamation if the 2763
reclamation would have to be performed by the division in the 2764
event of forfeiture of the performance security. The chief shall 2765
examine the documentation and determine whether the permittee's 2766
performance security exceeds the estimated cost of reclamation. If 2767
the chief determines that the performance security exceeds that 2768
estimated cost, the chief shall determine the amount of the 2769
reduction of the performance security and send written notice of 2770
the amount to the permittee. The permittee may reduce the amount 2771
of the performance security in the amount determined by the chief. 2772
Adjustments in the amount of performance security under this 2773

division shall not be considered release of performance security 2774
and are not subject to section 1513.16 of the Revised Code. 2775

(G) If the performance security is a bond, it shall be 2776
executed by the operator and a corporate surety licensed to do 2777
business in this state, ~~except that the operator may elect to~~ 2778
~~deposit. If the performance security is a cash, negotiable bonds~~ 2779
~~of the United States or this state, deposit~~ or negotiable 2780
certificates of deposit of ~~any~~ a bank or savings and loan 2781
association ~~organized or transacting business in the United~~ 2782
~~States, the bank or savings and loan association shall be licensed~~ 2783
and operating in this state. The cash deposit or market value of 2784
the securities shall be equal to or greater than the amount of the 2785
~~bond~~ performance security required ~~for the bonded area under this~~ 2786
section. The chief shall review any documents pertaining to the 2787
performance security and approve or disapprove the documents. The 2788
chief shall notify the applicant of the chief's determination. 2789

~~(C) The~~ (H) If the performance security is a bond, the chief 2790
may accept the bond of the applicant itself without separate 2791
surety when the applicant demonstrates to the satisfaction of the 2792
chief the existence of a suitable agent to receive service of 2793
process and a history of financial solvency and continuous 2794
operation sufficient for authorization to self-insure or bond the 2795
amount. 2796

~~(D) Cash or securities so deposited shall be deposited upon~~ 2797
~~the same terms as the terms upon which surety bonds may be~~ 2798
~~deposited. The securities shall be security for the repayment of~~ 2799
~~the negotiable certificate of deposit.~~ 2800

~~(E) The amount of the bond or deposit required and the terms~~ 2801
~~of each acceptance of the applicant's bond shall be adjusted by~~ 2802
~~the chief from time to time as affected land acreages are~~ 2803
~~increased or decreased~~ (I) Performance security provided under 2804

this section may be held in trust, provided that the state is the 2805
conditional beneficiary of the trust and the custodian of the 2806
performance security held in trust is a bank, trust company, or 2807
other financial institution that is licensed and operating in this 2808
state. The chief shall review the trust document and approve or 2809
disapprove the document. The chief shall notify the applicant of 2810
the chief's determination. 2811

(J) If a surety, bank, savings and loan association, trust 2812
company, or other financial institution that holds the performance 2813
security required under this section becomes insolvent, the 2814
permittee shall notify the chief of the insolvency, and the chief 2815
shall order the permittee to submit a plan for replacement 2816
performance security within thirty days after receipt of notice 2817
from the chief. If the permittee provided performance security in 2818
accordance with division (C)(1) of this section, the permittee 2819
shall provide the replacement performance security within ninety 2820
days after receipt of notice from the chief. If the permittee 2821
provided performance security in accordance with division (C)(2) 2822
of this section, the permittee shall provide the replacement 2823
performance security within one year after receipt of notice from 2824
the chief, and, for a period of one year after the permittee's 2825
receipt of notice from the chief or until the permittee provides 2826
the replacement performance security, whichever occurs first, 2827
money in the reclamation forfeiture fund shall be the permittee's 2828
replacement performance security in an amount not to exceed the 2829
estimated cost of reclamation as determined by the chief. 2830

(K) A permittee's responsibility for repairing material 2831
damage and replacement of water supply resulting from subsidence 2832
may be satisfied by liability insurance required under this 2833
chapter in lieu of the permittee's performance security if the 2834
liability insurance policy contains terms and conditions that 2835
specifically provide coverage for repairing material damage and 2836

replacement of water supply resulting from subsidence. 2837

(L) If the performance security provided in accordance with 2838
this section exceeds the estimated cost of reclamation, the chief 2839
may authorize the amount of the performance security that exceeds 2840
the estimated cost of reclamation together with any interest or 2841
other earnings on the performance security to be paid to the 2842
permittee. 2843

Sec. 1513.081. (A) If an operator becomes insolvent, the 2844
division of mineral resources management shall have a priority 2845
lien in front of all other interested creditors against the assets 2846
of that operator for the amount of any reclamation that is 2847
required as a result of the operator's mining activities. The 2848
chief of the division of mineral resources management shall file a 2849
statement in the office of the county recorder of each county in 2850
which the mined land lies of the estimated cost to reclaim the 2851
land. The estimated cost to reclaim the land shall include the 2852
direct and indirect costs of the development, design, 2853
construction, management, and administration of the reclamation. 2854
The statement shall constitute a lien on the assets of the 2855
operator as of the date of the filing. The lien shall continue in 2856
force so long as any portion of the lien remains unpaid or until 2857
the chief issues a certificate of release of the lien. If the 2858
chief issues a certificate of release of the lien, the chief shall 2859
file the certificate of release in the office of each applicable 2860
county recorder. 2861

(B) The chief promptly shall issue a certificate of release 2862
of a lien under any of the following circumstances: 2863

(1) Upon the repayment in full of the money that is necessary 2864
to complete the reclamation; 2865

(2) Upon the transfer of an existing permit that includes the 2866

areas of the operation for which reclamation was not completed to 2867
a different operator; 2868

(3) Any other circumstance that the chief determines to be in 2869
the best interests of the state. 2870

(C) The chief may modify the amount of a lien under this 2871
section. If the chief modifies a lien, the chief shall file a 2872
statement in the office of the county recorder of each applicable 2873
county of the new amount of the lien. 2874

(D) The chief may authorize an agent to hold a certificate of 2875
release in escrow for a period not to exceed one hundred eighty 2876
days for the purpose of facilitating the transfer of unreclaimed 2877
mine land. 2878

(E) All money from the collection of liens under this section 2879
shall be deposited in the state treasury to the credit of the 2880
reclamation forfeiture fund created in section 1513.18 of the 2881
Revised Code. 2882

Sec. 1513.13. (A)(1) Any person having an interest that is or 2883
may be adversely affected by a notice of violation, order, or 2884
decision of the chief of the division of mineral resources 2885
management, other than a show cause order or an order that adopts 2886
a rule, or by any modification, vacation, or termination of such a 2887
notice, order, or decision, may appeal by filing a notice of 2888
appeal with the reclamation commission for review of the notice, 2889
order, or decision within thirty days after the notice, order, or 2890
decision is served upon the person or within thirty days after its 2891
modification, vacation, or termination and by filing a copy of the 2892
notice of appeal with the chief within three days after filing the 2893
notice of appeal with the commission. The notice of appeal shall 2894
contain a copy of the notice of violation, order, or decision 2895
complained of and the grounds upon which the appeal is based. The 2896

commission has exclusive original jurisdiction to hear and decide 2897
such appeals. The filing of a notice of appeal under division 2898
(A)(1) of this section does not operate as a stay of any order, 2899
notice of violation, or decision of the chief. 2900

(2) The permittee, the chief, and other interested persons 2901
shall be given written notice of the time and place of the hearing 2902
at least five days prior thereto. The hearing shall be of record. 2903

(3) Any person authorized under this section to appeal to the 2904
commission may request an informal review by the chief or the 2905
chief's designee by filing a written request with the chief within 2906
thirty days after a notice, order, decision, modification, 2907
vacation, or termination is served upon the person. Filing of the 2908
written request shall toll the time for appeal before the 2909
commission, but shall not operate as a stay of any order, notice 2910
of violation, or decision of the chief. The chief's determination 2911
of an informal review is appealable to the commission under this 2912
section. 2913

(B) The commission shall affirm the notice of violation, 2914
order, or decision of the chief unless the commission determines 2915
that it is arbitrary, capricious, or otherwise inconsistent with 2916
law; in that case the commission may modify the notice of 2917
violation, order, or decision or vacate it and remand it to the 2918
chief for further proceedings that the commission may direct. 2919

The commission shall conduct hearings and render decisions in 2920
a timely fashion, except that all of the following apply: 2921

(1) When the appeal concerns an order for the cessation of 2922
coal mining and reclamation operations issued pursuant to division 2923
(D)(1) or (2) of section 1513.02 of the Revised Code, the 2924
commission shall issue its written decision within thirty days 2925
after the receipt of the appeal unless temporary relief has been 2926
granted by the chairperson pursuant to division (C) of this 2927

section. 2928

(2) When the appeal concerns an application for a permit 2929
under division (I) of section 1513.07 of the Revised Code, the 2930
commission shall hold a hearing within thirty days after receipt 2931
of the notice of appeal and issue its decision within thirty days 2932
after the hearing. 2933

(3) When the appeal concerns a decision of the chief 2934
regarding release of ~~bond~~ a performance security under division 2935
(F) of section 1513.16 of the Revised Code, the commission shall 2936
hold a hearing within thirty days after receipt of the notice of 2937
appeal and issue its decision within sixty days after the hearing. 2938

(4) When the appeal concerns a decision of the chief 2939
regarding the location of a well in a coal bearing township under 2940
section 1509.08 of the Revised Code, the commission shall hold a 2941
hearing and issue its decision within thirty days after receipt of 2942
the notice of appeal. 2943

(C) The chairperson of the commission, under conditions the 2944
chairperson prescribes, may grant temporary relief the chairperson 2945
considers appropriate pending final determination of an appeal if 2946
all of the following conditions are met: 2947

(1) All parties to the appeal have been notified and given an 2948
opportunity for a hearing to be held in the locality of the 2949
subject site on the request for temporary relief and the 2950
opportunity to be heard on the request. 2951

(2) The person requesting relief shows that there is a 2952
substantial likelihood that the person will prevail on the merits. 2953

(3) The relief will not adversely affect public health or 2954
safety or cause significant imminent environmental harm to land, 2955
air, or water resources. 2956

The chairperson shall issue a decision expeditiously, except 2957

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, 3053
on the basis of judicial review, considers proper. 3054

Sec. 1513.16. (A) Any permit issued under this chapter to 3055
conduct coal mining operations shall require that the operations 3056
meet all applicable performance standards of this chapter and such 3057
other requirements as the chief of the division of mineral 3058
resources management shall adopt by rule. General performance 3059
standards shall apply to all coal mining and reclamation 3060
operations and shall require the operator at a minimum to do all 3061
of the following: 3062

(1) Conduct coal mining operations so as to maximize the 3063
utilization and conservation of the solid fuel resource being 3064
recovered so that re-affecting the land in the future through coal 3065
mining can be minimized; 3066

(2) Restore the land affected to a condition capable of 3067
supporting the uses that it was capable of supporting prior to any 3068
mining, or higher or better uses of which there is reasonable 3069
likelihood, so long as the uses do not present any actual or 3070
probable hazard to public health or safety or pose any actual or 3071
probable threat of diminution or pollution of the waters of the 3072
state, and the permit applicants' declared proposed land uses 3073
following reclamation are not considered to be impractical or 3074
unreasonable, to be inconsistent with applicable land use policies 3075
and plans, to involve unreasonable delay in implementation, or to 3076
violate federal, state, or local law; 3077

(3) Except as provided in division (B) of this section, with 3078
respect to all coal mining operations, backfill, compact where 3079
advisable to ensure stability or to prevent leaching of toxic 3080
materials, and grade in order to restore the approximate original 3081
contour of the land with all highwalls, spoil piles, and 3082
depressions eliminated unless small depressions are needed in 3083

order to retain moisture to assist revegetation or as otherwise 3084
authorized pursuant to this chapter, provided that if the operator 3085
demonstrates that due to volumetric expansion the amount of 3086
overburden and the spoil and waste materials removed in the course 3087
of the mining operation are more than sufficient to restore the 3088
approximate original contour, the operator shall backfill, grade, 3089
and compact the excess overburden and other spoil and waste 3090
materials to attain the lowest grade, but not more than the angle 3091
of repose, and to cover all acid-forming and other toxic materials 3092
in order to achieve an ecologically sound land use compatible with 3093
the surrounding region in accordance with the approved mining 3094
plan. The overburden or spoil shall be shaped and graded in such a 3095
way as to prevent slides, erosion, and water pollution and shall 3096
be revegetated in accordance with this chapter. 3097

(4) Stabilize and protect all surface areas, including spoil 3098
piles affected by the coal mining and reclamation operation, to 3099
control erosion and attendant air and water pollution effectively; 3100

(5) Remove the topsoil from the land in a separate layer, 3101
replace it on the backfill area, or, if not utilized immediately, 3102
segregate it in a separate pile from the spoil, and when the 3103
topsoil is not replaced on a backfill area within a time short 3104
enough to avoid deterioration of the topsoil, maintain a 3105
successful cover by quick-growing plants or other means thereafter 3106
so that the topsoil is preserved from wind and water erosion, 3107
remains free of any contamination by acid or other toxic material, 3108
and is in a usable condition for sustaining vegetation when 3109
restored during reclamation. If the topsoil is of insufficient 3110
quantity or of poor quality for sustaining vegetation or if other 3111
strata can be shown to be more suitable for vegetation 3112
requirements, the operator shall remove, segregate, and preserve 3113
in a like manner such other strata as are best able to support 3114
vegetation. 3115

(6) Restore the topsoil or the best available subsoil that is 3116
best able to support vegetation; 3117

(7) For all prime farmlands as identified in division 3118
(B)~~(2)~~(1)(p) of section 1513.07 of the Revised Code to be mined 3119
and reclaimed, perform soil removal, storage, replacement, and 3120
reconstruction in accordance with specifications established by 3121
the secretary of the United States department of agriculture under 3122
the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 3123
445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be 3124
required to do all of the following: 3125

(a) Segregate the A horizon of the natural soil, except where 3126
it can be shown that other available soil materials will create a 3127
final soil having a greater productive capacity, and, if not 3128
utilized immediately, stockpile this material separately from the 3129
spoil and provide needed protection from wind and water erosion or 3130
contamination by acid or other toxic material; 3131

(b) Segregate the B horizon of the natural soil, or 3132
underlying C horizons or other strata, or a combination of such 3133
horizons or other strata that are shown to be both texturally and 3134
chemically suitable for plant growth and that can be shown to be 3135
equally or more favorable for plant growth than the B horizon, in 3136
sufficient quantities to create in the regraded final soil a root 3137
zone of comparable depth and quality to that which existed in the 3138
natural soil, and, if not utilized immediately, stockpile this 3139
material separately from the spoil and provide needed protection 3140
from wind and water erosion or contamination by acid or other 3141
toxic material; 3142

(c) Replace and regrade the root zone material described in 3143
division (A)(7)(b) of this section with proper compaction and 3144
uniform depth over the regraded spoil material; 3145

(d) Redistribute and grade in a uniform manner the surface 3146

soil horizon described in division (A)(7)(a) of this section. 3147

(8) Create, if authorized in the approved mining and 3148
reclamation plan and permit, permanent impoundments of water on 3149
mining sites as part of reclamation activities only when it is 3150
adequately demonstrated by the operator that all of the following 3151
conditions will be met: 3152

(a) The size of the impoundment is adequate for its intended 3153
purposes. 3154

(b) The impoundment dam construction will be so designed as 3155
to achieve necessary stability with an adequate margin of safety 3156
compatible with that of structures constructed under the 3157
"Watershed Protection and Flood Prevention Act," 68 Stat. 666 3158
(1954), 16 U.S.C. 1001, as amended. 3159

(c) The quality of impounded water will be suitable on a 3160
permanent basis for its intended use and discharges from the 3161
impoundment will not degrade the water quality below water quality 3162
standards established pursuant to applicable federal and state law 3163
in the receiving stream. 3164

(d) The level of water will be reasonably stable. 3165

(e) Final grading will provide adequate safety and access for 3166
proposed water users. 3167

(f) The water impoundments will not result in the diminution 3168
of the quality or quantity of water utilized by adjacent or 3169
surrounding landowners for agricultural, industrial, recreational, 3170
or domestic uses. 3171

(9) Conduct any augering operation associated with strip 3172
mining in a manner to maximize recoverability of mineral reserves 3173
remaining after the operation and reclamation are complete and 3174
seal all auger holes with an impervious and noncombustible 3175
material in order to prevent drainage, except where the chief 3176

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 3207
persons approved by the chief to be constructed as designed and as 3208
approved in the reclamation plan. 3209

(c) Cleaning out and removing temporary or large settling 3210
ponds or other siltation structures from drainways after disturbed 3211
areas are revegetated and stabilized, and depositing the silt and 3212
debris at a site and in a manner approved by the chief; 3213

(d) Restoring recharge capacity of the mined area to 3214
approximate premining conditions; 3215

(e) Avoiding channel deepening or enlargement in operations 3216
requiring the discharge of water from mines; 3217

(f) Such other actions as the chief may prescribe. 3218

(11) With respect to surface disposal of mine wastes, 3219
tailings, coal processing wastes, and other wastes in areas other 3220
than the mine working areas or excavations, stabilize all waste 3221
piles in designated areas through construction in compacted 3222
layers, including the use of noncombustible and impervious 3223
materials if necessary, and ensure that the final contour of the 3224
waste pile will be compatible with natural surroundings and that 3225
the site can and will be stabilized and revegetated according to 3226
this chapter; 3227

(12) Refrain from coal mining within five hundred feet of 3228
active and abandoned underground mines in order to prevent 3229
breakthroughs and to protect the health or safety of miners. The 3230
chief shall permit an operator to mine near, through, or partially 3231
through an abandoned underground mine or closer than five hundred 3232
feet to an active underground mine if both of the following 3233
conditions are met: 3234

(a) The nature, timing, and sequencing of the approximate 3235
coincidence of specific strip mine activities with specific 3236

underground mine activities are approved by the chief+1. 3237

(b) The operations will result in improved resource recovery, 3238
abatement of water pollution, or elimination of hazards to the 3239
health and safety of the public. 3240

(13) Design, locate, construct, operate, maintain, enlarge, 3241
modify, and remove or abandon, in accordance with the standards 3242
and criteria developed pursuant to rules adopted by the chief, all 3243
existing and new coal mine waste piles consisting of mine wastes, 3244
tailings, coal processing wastes, or other liquid and solid 3245
wastes, and used either temporarily or permanently as dams or 3246
embankments; 3247

(14) Ensure that all debris, acid-forming materials, toxic 3248
materials, or materials constituting a fire hazard are treated or 3249
buried and compacted or otherwise disposed of in a manner designed 3250
to prevent contamination of ground or surface waters and that 3251
contingency plans are developed to prevent sustained combustion; 3252

(15) Ensure that all reclamation efforts proceed in an 3253
environmentally sound manner and as contemporaneously as 3254
practicable with the coal mining operations, except that where the 3255
applicant proposes to combine strip mining operations with 3256
underground mining operations to ensure maximum practical recovery 3257
of the mineral resources, the chief may grant a variance for 3258
specific areas within the reclamation plan from the requirement 3259
that reclamation efforts proceed as contemporaneously as 3260
practicable to permit underground mining operations prior to 3261
reclamation if: 3262

(a) The chief finds in writing that: 3263

(i) The applicant has presented, as part of the permit 3264
application, specific, feasible plans for the proposed underground 3265
mining operations. 3266

(ii) The proposed underground mining operations are necessary 3267
or desirable to ensure maximum practical recovery of the mineral 3268
resource and will avoid multiple disturbance of the surface. 3269

(iii) The applicant has satisfactorily demonstrated that the 3270
plan for the underground mining operations conforms to 3271
requirements for underground mining in this state and that permits 3272
necessary for the underground mining operations have been issued 3273
by the appropriate authority. 3274

(iv) The areas proposed for the variance have been shown by 3275
the applicant to be necessary for the implementing of the proposed 3276
underground mining operations. 3277

(v) No substantial adverse environmental damage, either 3278
on-site or off-site, will result from the delay in completion of 3279
reclamation as required by this chapter. 3280

(vi) Provisions for the off-site storage of spoil will comply 3281
with division (A)(21) of this section. 3282

(b) The chief has adopted specific rules to govern the 3283
granting of such variances in accordance with this division and 3284
has imposed such additional requirements as the chief considers 3285
necessary. 3286

(c) Variances granted under this division shall be reviewed 3287
by the chief not more than three years from the date of issuance 3288
of the permit. 3289

(d) Liability under the ~~bond~~ performance security filed by 3290
the applicant with the chief pursuant to section 1513.08 of the 3291
Revised Code shall be for the duration of the underground mining 3292
operations and until the requirements of this section and section 3293
1513.08 of the Revised Code have been fully complied with. 3294

(16) Ensure that the construction, maintenance, and 3295
postmining conditions of access roads into and across the site of 3296

operations will control or prevent erosion and siltation, 3297
pollution of water, and damage to fish or wildlife or their 3298
habitat, or to public or private property; 3299

(17) Refrain from the construction of roads or other access 3300
ways up a stream bed or drainage channel or in such proximity to 3301
the channel as to seriously alter the normal flow of water; 3302

(18) Establish, on the regraded areas and all other lands 3303
affected, a diverse, effective, and permanent vegetative cover of 3304
the same seasonal variety native to the area of land to be 3305
affected and capable of self-regeneration and plant succession at 3306
least equal in extent of cover to the natural vegetation of the 3307
area, except that introduced species may be used in the 3308
revegetation process where desirable and necessary to achieve the 3309
approved postmining land use plan; 3310

(19)(a) Assume the responsibility for successful 3311
revegetation, as required by division (A)(18) of this section, for 3312
a period of five full years after the last year of augmented 3313
seeding, fertilizing, irrigation, or other work in order to ensure 3314
compliance with that division, except that when the chief approves 3315
a long-term intensive agricultural postmining land use, the 3316
applicable five-year period of responsibility for revegetation 3317
shall commence at the date of initial planting for that long-term 3318
intensive agricultural postmining land use, and except that when 3319
the chief issues a written finding approving a long-term intensive 3320
agricultural postmining land use as part of the mining and 3321
reclamation plan, the chief may grant an exception to division 3322
(A)(18) of this section; 3323

(b) On lands eligible for remining, assume the responsibility 3324
for successful revegetation, as required by division (A)(18) of 3325
this section, for a period of two full years after the last year 3326
of augmented seeding, fertilizing, irrigation, or other work in 3327

order to ensure compliance with that division. 3328

(20) Protect off-site areas from slides or damage occurring 3329
during the coal mining and reclamation operations and not deposit 3330
spoil material or locate any part of the operations or waste 3331
accumulations outside the permit area; 3332

(21) Place all excess spoil material resulting from coal 3333
mining and reclamation operations in such a manner that all of the 3334
following apply: 3335

(a) Spoil is transported and placed in a controlled manner in 3336
position for concurrent compaction and in such a way as to ensure 3337
mass stability and to prevent mass movement. 3338

(b) The areas of disposal are within the ~~banded~~ permit areas 3339
for which performance security has been provided. All organic 3340
matter shall be removed immediately prior to spoil placement 3341
except in the zoned concept method. 3342

(c) Appropriate surface and internal drainage systems and 3343
diversion ditches are used so as to prevent spoil erosion and mass 3344
movement. 3345

(d) The disposal area does not contain springs, natural 3346
watercourses, or wet weather seeps unless lateral drains are 3347
constructed from the wet areas to the main underdrains in such a 3348
manner that filtration of the water into the spoil pile will be 3349
prevented unless the zoned concept method is used. 3350

(e) If placed on a slope, the spoil is placed upon the most 3351
moderate slope among those slopes upon which, in the judgment of 3352
the chief, the spoil could be placed in compliance with all the 3353
requirements of this chapter and is placed, where possible, upon, 3354
or above, a natural terrace, bench, or berm if that placement 3355
provides additional stability and prevents mass movement. 3356

(f) Where the toe of the spoil rests on a downslope, a rock 3357

toe buttress of sufficient size to prevent mass movement is 3358
constructed. 3359

(g) The final configuration is compatible with the natural 3360
drainage pattern and surroundings and suitable for intended uses. 3361

(h) Design of the spoil disposal area is certified by a 3362
qualified registered professional engineer in conformance with 3363
professional standards. 3364

(i) All other provisions of this chapter are met. 3365

(22) Meet such other criteria as are necessary to achieve 3366
reclamation in accordance with the purpose of this chapter, taking 3367
into consideration the physical, climatological, and other 3368
characteristics of the site; 3369

(23) To the extent possible, using the best technology 3370
currently available, minimize disturbances and adverse impacts of 3371
the operation on fish, wildlife, and related environmental values, 3372
and achieve enhancement of such resources where practicable; 3373

(24) Provide for an undisturbed natural barrier beginning at 3374
the elevation of the lowest coal seam to be mined and extending 3375
from the outslope for such distance as the chief shall determine 3376
to be retained in place as a barrier to slides and erosion. 3377

(B)(1) The chief may permit mining operations for the 3378
purposes set forth in division (B)(3) of this section. 3379

(2) When an applicant meets the requirements of divisions 3380
(B)(3) and (4) of this section, a permit without regard to the 3381
requirement to restore to approximate original contour known as 3382
mountain top removal set forth in divisions (A)(3) or (C)(2) and 3383
(3) of this section may be granted for the mining of coal where 3384
the mining operation will remove an entire coal seam or seams 3385
running through the upper fraction of a mountain, ridge, or hill, 3386
except as provided in division (B)(4)(a) of this section, by 3387

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. 3418

(c) The proposed use is consistent with adjacent land uses 3419
and existing state and local land use plans and programs. 3420

(d) The chief provides the governing body of the unit of 3421
general-purpose local government in which the land is located, and 3422
any state or federal agency that the chief, in the chief's 3423
discretion, determines to have an interest in the proposed use, an 3424
opportunity of not more than sixty days to review and comment on 3425
the proposed use. 3426

(e) All other requirements of this chapter will be met. 3427

(4) In granting a permit pursuant to this division, the chief 3428
shall require that each of the following is met: 3429

(a) The toe of the lowest coal seam and the overburden 3430
associated with it are retained in place as a barrier to slides 3431
and erosion. 3432

(b) The reclaimed area is stable. 3433

(c) The resulting plateau or rolling contour drains inward 3434
from the outslopes except at specified points. 3435

(d) No damage will be done to natural watercourses. 3436

(e) Spoil will be placed on the mountaintop bench as is 3437
necessary to achieve the planned postmining land use, except that 3438
all excess spoil material not retained on the mountaintop bench 3439
shall be placed in accordance with division (A)(21) of this 3440
section. 3441

(f) Stability of the spoil retained on the mountaintop bench 3442
is ensured and the other requirements of this chapter are met. 3443

(5) The chief shall adopt specific rules to govern the 3444
granting of permits in accordance with divisions (B)(1) to (4) of 3445
this section and may impose such additional requirements as the 3446

chief considers necessary. 3447

(6) All permits granted under divisions (B)(1) to (4) of this 3448
section shall be reviewed not more than three years from the date 3449
of issuance of the permit unless the applicant affirmatively 3450
demonstrates that the proposed development is proceeding in 3451
accordance with the terms of the approved schedule and reclamation 3452
plan. 3453

(C) All of the following performance standards apply to 3454
steep-slope coal mining and are in addition to those general 3455
performance standards required by this section, except that this 3456
division does not apply to those situations in which an operator 3457
is mining on flat or gently rolling terrain on which an occasional 3458
steep slope is encountered through which the mining operation is 3459
to proceed, leaving a plain or predominantly flat area, or where 3460
an operator is in compliance with division (B) of this section: 3461

(1) The operator shall ensure that when performing coal 3462
mining on steep slopes, no debris, abandoned or disabled 3463
equipment, spoil material, or waste mineral matter is placed on 3464
the downslope below the bench or mining cut. Spoil material in 3465
excess of that required for the reconstruction of the approximate 3466
original contour under division (A)(3) or (C)(2) of this section 3467
shall be permanently stored pursuant to division (A)(21) of this 3468
section. 3469

(2) The operator shall complete backfilling with spoil 3470
material to cover completely the highwall and return the site to 3471
the approximate original contour, which material will maintain 3472
stability following mining and reclamation. 3473

(3) The operator shall not disturb land above the top of the 3474
highwall unless the chief finds that the disturbance will 3475
facilitate compliance with the environmental protection standards 3476
of this section, except that any such disturbance involving land 3477

above the highwall shall be limited to that amount of land 3478
necessary to facilitate compliance. 3479

(D)(1) The chief may permit variances for the purposes set 3480
forth in division (D)(3) of this section, provided that the 3481
watershed control of the area is improved and that complete 3482
backfilling with spoil material shall be required to cover 3483
completely the highwall, which material will maintain stability 3484
following mining and reclamation. 3485

(2) Where an applicant meets the requirements of divisions 3486
(D)(3) and (4) of this section, a variance from the requirement to 3487
restore to approximate original contour set forth in division 3488
(C)(2) of this section may be granted for the mining of coal when 3489
the owner of the surface knowingly requests in writing, as a part 3490
of the permit application, that such a variance be granted so as 3491
to render the land, after reclamation, suitable for an industrial, 3492
commercial, residential, or public use, including recreational 3493
facilities, in accordance with divisions (D)(3) and (4) of this 3494
section. 3495

(3) A variance pursuant to division (D)(2) of this section 3496
may be granted if: 3497

(a) After consultation with the appropriate land use planning 3498
agencies, if any, the potential use of the affected land is 3499
considered to constitute an equal or better economic or public 3500
use. 3501

(b) The postmining land condition is designed and certified 3502
by a registered professional engineer in conformity with 3503
professional standards established to ensure the stability, 3504
drainage, and configuration necessary for the intended use of the 3505
site. 3506

(c) After approval of the appropriate state environmental 3507
agencies, the watershed of the affected land is considered to be 3508

improved. 3509

(4) In granting a variance pursuant to division (D) of this 3510
section, the chief shall require that only such amount of spoil 3511
will be placed off the mine bench as is necessary to achieve the 3512
planned postmining land use, ensure stability of the spoil 3513
retained on the bench, and meet all other requirements of this 3514
chapter. All spoil placement off the mine bench shall comply with 3515
division (A)(21) of this section. 3516

(5) The chief shall adopt specific rules to govern the 3517
granting of variances under division (D) of this section and may 3518
impose such additional requirements as the chief considers 3519
necessary. 3520

(6) All variances granted under division (D) of this section 3521
shall be reviewed not more than three years from the date of 3522
issuance of the permit unless the permittee affirmatively 3523
demonstrates that the proposed development is proceeding in 3524
accordance with the terms of the reclamation plan. 3525

(E) The chief shall establish standards and criteria 3526
regulating the design, location, construction, operation, 3527
maintenance, enlargement, modification, removal, and abandonment 3528
of new and existing coal mine waste piles referred to in division 3529
(A)(13) of this section and division (A)(5) of section 1513.35 of 3530
the Revised Code. The standards and criteria shall conform to the 3531
standards and criteria used by the chief of the United States army 3532
corps of engineers to ensure that flood control structures are 3533
safe and effectively perform their intended function. In addition 3534
to engineering and other technical specifications, the standards 3535
and criteria developed pursuant to this division shall include 3536
provisions for review and approval of plans and specifications 3537
prior to construction, enlargement, modification, removal, or 3538
abandonment; performance of periodic inspections during 3539

construction; issuance of certificates of approval upon completion 3540
of construction; performance of periodic safety inspections; and 3541
issuance of notices for required remedial or maintenance work. 3542

(F)(1) The permittee may file a request with the chief for 3543
release of a part of a performance ~~bond or deposit~~ security under 3544
division (F)(3) of this section. Within thirty days after any 3545
request for ~~bond or deposit~~ performance security release under 3546
this section has been filed with the chief, the operator shall 3547
submit a copy of an advertisement placed at least once a week for 3548
four successive weeks in a newspaper of general circulation in the 3549
locality of the coal mining operation. The advertisement shall be 3550
considered part of any ~~bond~~ performance security release 3551
application and shall contain a notification of the precise 3552
location of the land affected, the number of acres, the permit 3553
number and the date approved, the amount of the ~~bond~~ performance 3554
security filed and the portion sought to be released, the type and 3555
appropriate dates of reclamation work performed, and a description 3556
of the results achieved as they relate to the operator's approved 3557
reclamation plan and, if applicable, the operator's pollution 3558
abatement plan. In addition, as part of any ~~bond~~ performance 3559
security release application, the applicant shall submit copies of 3560
the letters sent to adjoining property owners, local governmental 3561
bodies, planning agencies, and sewage and water treatment 3562
authorities or water companies in the locality in which the coal 3563
mining and reclamation activities took place, notifying them of 3564
the applicant's intention to seek release from the ~~bond~~ 3565
performance security. 3566

(2) Upon receipt of a copy of the advertisement and request 3567
for release of a ~~bond or deposit~~ performance security under 3568
division (F)(3)(c) of this section, the chief, within thirty days, 3569
shall conduct an inspection and evaluation of the reclamation work 3570
involved. The evaluation shall consider, among other things, the 3571

degree of difficulty to complete any remaining reclamation, 3572
whether pollution of surface and subsurface water is occurring, 3573
the probability of continuation or future occurrence of the 3574
pollution, and the estimated cost of abating the pollution. The 3575
chief shall notify the permittee in writing of the decision to 3576
release or not to release all or part of the performance ~~bond or~~ 3577
~~deposit~~ security within sixty days after the filing of the request 3578
if no public hearing is held pursuant to division (F)(6) of this 3579
section or, if there has been a public hearing held pursuant to 3580
division (F)(6) of this section, within thirty days thereafter. 3581

(3) The chief may release the ~~bond or deposit~~ performance 3582
security if the reclamation covered by the ~~bond or deposit~~ 3583
performance security or portion thereof has been accomplished as 3584
required by this chapter and rules adopted under it according to 3585
the following schedule: 3586

(a) When the operator completes the backfilling, regrading, 3587
and drainage control of a ~~bonded~~ an area for which performance 3588
security has been provided in accordance with the approved 3589
reclamation plan, and, if the area covered by the ~~bond or deposit~~ 3590
performance security is one for which an authorization was made 3591
under division (E)(7) of section 1513.07 of the Revised Code, the 3592
operator has complied with the approved pollution abatement plan 3593
and all additional requirements established by the chief in rules 3594
adopted under section 1513.02 of the Revised Code governing coal 3595
mining and reclamation operations on pollution abatement areas, 3596
the chief shall grant a release of fifty per cent of the ~~bond or~~ 3597
~~deposit~~ performance security for the applicable permit area. 3598

(b) After resoiling and revegetation have been established on 3599
the regraded mined lands in accordance with the approved 3600
reclamation plan, the chief shall grant a release in an amount not 3601
exceeding thirty-five per cent of the original ~~bond or deposit~~ 3602
performance security for all or part of the affected area under 3603

the permit. When determining the amount of ~~bond~~ performance 3604
security to be released after successful revegetation has been 3605
established, the chief shall retain that amount of ~~bond~~ 3606
performance security for the revegetated area that would be 3607
sufficient for a third party to cover the cost of reestablishing 3608
revegetation for the period specified for operator responsibility 3609
in this section for reestablishing revegetation. No part of the 3610
~~bond or deposit~~ performance security shall be released under this 3611
division so long as the lands to which the release would be 3612
applicable are contributing suspended solids to streamflow or 3613
runoff outside the permit area in excess of the requirements of 3614
this section or until soil productivity for prime farmlands has 3615
returned to equivalent levels of yield as nonmined land of the 3616
same soil type in the surrounding area under equivalent management 3617
practices as determined from the soil survey performed pursuant to 3618
section 1513.07 of the Revised Code. If the area covered by the 3619
~~bond or deposit~~ performance security is one for which an 3620
authorization was made under division (E)(7) of section 1513.07 of 3621
the Revised Code, no part of the ~~bond or deposit~~ performance 3622
security shall be released under this division until the operator 3623
has complied with the approved pollution abatement plan and all 3624
additional requirements established by the chief in rules adopted 3625
under section 1513.02 of the Revised Code governing coal mining 3626
and reclamation operations on pollution abatement areas. Where a 3627
silt dam is to be retained as a permanent impoundment pursuant to 3628
division (A)(10) of this section, the portion of ~~bond~~ performance 3629
security may be released under this division so long as provisions 3630
for sound future maintenance by the operator or the landowner have 3631
been made with the chief. 3632

(c) When the operator has completed successfully all coal 3633
mining and reclamation activities, including, if applicable, all 3634
additional requirements established in the pollution abatement 3635
plan approved under division (E)(7) of section 1513.07 of the 3636

Revised Code and all additional requirements established by the 3637
chief in rules adopted under section 1513.02 of the Revised Code 3638
governing coal mining and reclamation operations on pollution 3639
abatement areas, the chief shall release all or any of the 3640
remaining portion of the ~~bond or deposit~~ performance security for 3641
all or part of the affected area under a permit, but not before 3642
the expiration of the period specified for operator responsibility 3643
in this section, except that the chief may adopt rules for a 3644
variance to the operator period of responsibility considering 3645
vegetation success and probability of continued growth and consent 3646
of the landowner, provided that no ~~bond~~ performance security shall 3647
be fully released until all reclamation requirements of this 3648
chapter are fully met. 3649

(4) If the chief disapproves the application for release of 3650
the ~~bond or deposit~~ performance security or portion thereof, the 3651
chief shall notify the permittee, in writing, stating the reasons 3652
for disapproval and recommending corrective actions necessary to 3653
secure the release, and allowing the opportunity for a public 3654
adjudicatory hearing. 3655

(5) When any application for total or partial ~~bond~~ 3656
performance security release is filed with the chief under this 3657
section, the chief shall notify the municipal corporation in which 3658
the coal mining operation is located by certified mail at least 3659
thirty days prior to the release of all or a portion of the ~~bond~~ 3660
performance security. 3661

(6) A person with a valid legal interest that might be 3662
adversely affected by release of a ~~bond~~ performance security under 3663
this section or the responsible officer or head of any federal, 3664
state, or local government agency that has jurisdiction by law or 3665
special expertise with respect to any environmental, social, or 3666
economic impact involved in the operation or is authorized to 3667
develop and enforce environmental standards with respect to such 3668

operations may file written objections to the proposed release 3669
from the ~~bond~~ performance security with the chief within thirty 3670
days after the last publication of the notice required by division 3671
(F)(1) of this section. If written objections are filed and an 3672
informal conference is requested, the chief shall inform all 3673
interested parties of the time and place of the conference. The 3674
date, time, and location of the informal conference shall be 3675
advertised by the chief in a newspaper of general circulation in 3676
the locality of the coal mining operation proposed for ~~bond~~ 3677
performance security release for at least once a week for two 3678
consecutive weeks. The informal conference shall be held in the 3679
locality of the coal mining operation proposed for ~~bond~~ 3680
performance security release or in Franklin county, at the option 3681
of the objector, within thirty days after the request for the 3682
conference. An electronic or stenographic record shall be made of 3683
the conference proceeding unless waived by all parties. The record 3684
shall be maintained and shall be accessible to the parties until 3685
final release of the performance ~~bond~~ security at issue. In the 3686
event all parties requesting the informal conference stipulate 3687
agreement prior to the requested informal conference and withdraw 3688
their request, the informal conference need not be held. 3689

(7) If an informal conference has been held pursuant to 3690
division (F)(6) of this section, the chief shall issue and furnish 3691
the applicant and persons who participated in the conference with 3692
the written decision regarding the release within sixty days after 3693
the conference. Within thirty days after notification of the final 3694
decision of the chief regarding the ~~bond~~ performance security 3695
release, the applicant or any person with an interest that is or 3696
may be adversely affected by the decision may appeal the decision 3697
to the reclamation commission pursuant to section 1513.13 of the 3698
Revised Code. 3699

(8)(a) Except as provided in division (F)(8)(c) of this 3700

section, if the chief determines that a permittee is responsible 3701
for mine drainage that requires water treatment after reclamation 3702
is completed under the terms of the permit or that a permittee 3703
must provide an alternative water supply after reclamation is 3704
completed under the terms of the permit, the permittee shall 3705
provide alternative financial security in an amount determined by 3706
the chief prior to the release of the remaining portion of 3707
performance security under division (F)(3)(c) of this section. The 3708
alternative financial security shall be in an amount that is equal 3709
to or greater than the present value of the estimated cost over 3710
time to develop and implement mine drainage plans and provide 3711
water treatment or in an amount that is necessary to provide and 3712
maintain an alternative water supply, as applicable. The 3713
alternative financial security shall include a contract, trust, or 3714
other agreement or mechanism that is enforceable under law to 3715
provide long-term water treatment or a long-term alternative water 3716
supply, or both. 3717

(b) The chief shall adopt rules in accordance with Chapter 3718
119. of the Revised Code that are necessary for the administration 3719
of division (F)(8)(a) of this section. 3720

(c) Division (F)(8)(a) of this section does not apply while 3721
the chief's determination of a permittee's responsibility under 3722
that division is the subject of a good faith administrative or 3723
judicial appeal contesting the validity of the determination. If 3724
after completion of the appeal there is an enforceable 3725
administrative or judicial decision affirming or modifying the 3726
chief's determination, the permittee shall provide the alternative 3727
financial security in an amount established in the administrative 3728
or judicial decision. 3729

(9) Final release of the performance security in accordance 3730
with division (F)(3)(c) of this section terminates the 3731
jurisdiction of the chief under this chapter over the reclaimed 3732

site of a surface coal mining and reclamation operation or 3733
applicable portion of an operation. However, the chief shall 3734
reassert jurisdiction over such a site if the release was based on 3735
fraud, collusion, or misrepresentation of a material fact and the 3736
chief, in writing, demonstrates evidence of the fraud, collusion, 3737
or misrepresentation. Any person with an interest that is or may 3738
be adversely affected by the chief's determination may appeal the 3739
determination to the reclamation commission in accordance with 3740
section 1513.13 of the Revised Code. 3741

(G) The chief shall adopt rules governing the criteria for 3742
forfeiture of ~~bond~~ performance security, the method of determining 3743
the forfeited amount, and the procedures to be followed in the 3744
event of forfeiture. Cash received as the result of such 3745
forfeiture is the property of the state. 3746

Sec. 1513.17. (A) No person shall: 3747

(1) Engage in coal mining or conduct a coal mining operation 3748
without a permit issued by the chief of the division of mineral 3749
resources management; 3750

(2) Knowingly violate a condition or exceed the limits of a 3751
permit; 3752

(3) Knowingly fail to comply with an order of the chief 3753
issued under this chapter; 3754

(4) Knowingly violate any provision of this chapter not 3755
specifically mentioned in this section; 3756

(5) Knowingly make any false statement, representation, or 3757
certification or knowingly fail to make any statement, 3758
representation, or certification in any application, record, 3759
report, plan, or other document filed or required to be maintained 3760
under this chapter or under a final order or decision issued by 3761
the chief; 3762

(6) Knowingly prevent, hinder, delay, or otherwise obstruct 3763
the operator from completing backfilling, grading, resoiling, 3764
establishing successful vegetation, and meeting all other 3765
reclamation requirements of this chapter prior to the final 3766
release of the operator's ~~bond~~ performance security. 3767

(B) Division (A)(1) of this section imposes strict criminal 3768
liability. 3769

Sec. 1513.171. (A) For the purpose of claiming a credit under 3770
section 5749.11 of the Revised Code, an operator with a valid 3771
permit issued under section 1513.07 of the Revised Code may submit 3772
an application to the chief of the division of mineral resources 3773
management to perform reclamation on land or water resources that 3774
are not within the area of the applicant's permit and that have 3775
been adversely affected by past coal mining for which the 3776
performance security was forfeited. The chief shall provide the 3777
application form. The application shall include all of the 3778
following: 3779

(1) The operator's name, address, and telephone number; 3780

(2) The valid permit number of the operator; 3781

(3) An identification of the area or areas to be reclaimed; 3782

(4) An identification of the owner of the land; 3783

(5) A reclamation plan that describes the work to be done to 3784
reclaim the land or water resources. The plan shall include a 3785
description of how the plan is consistent with local physical, 3786
environmental, and climatological conditions and the measures to 3787
be taken during the reclamation to ensure the protection of water 3788
systems. 3789

(6) An estimate of the total cost of the reclamation; 3790

(7) An estimate of the timetables for accomplishing the 3791

reclamation; 3792

(8) Any other requirements that the chief prescribes by rule. 3793

The chief shall approve, disapprove, or approve with 3794
modifications the application concerning the proposed reclamation 3795
work. If the chief approves the application, the applicant may 3796
commence reclamation in accordance with the timetables included in 3797
the application. Upon the completion of the reclamation to the 3798
satisfaction of the chief, the chief shall issue a numbered 3799
reclamation tax credit certificate showing the amount of the 3800
credit and the identity of the recipient. Prior to the close of 3801
the fiscal quarter in which the tax credit certificate is issued, 3802
the chief shall certify to the tax commissioner the amount of the 3803
credit and the identity of the recipient. 3804

(B) The chief shall determine the amount of the credit in 3805
accordance with this section and rules adopted under it. The 3806
amount of the credit shall be equal to the cost that the division 3807
of mineral resources management would have expended from the 3808
reclamation forfeiture fund created in section 1513.18 of the 3809
Revised Code to complete the reclamation. 3810

(C) The chief shall adopt rules in accordance with Chapter 3811
119. of the Revised Code that are necessary to administer this 3812
section. The rules shall establish all of the following: 3813

(1) A procedure that the chief shall use to determine the 3814
amount of the credit issued under this section; 3815

(2) A procedure by which the chief may obtain consent of the 3816
owners of land or water resources to allow reclamation work for 3817
purposes of this section; 3818

(3) A procedure for delivery of notice to the owners of land 3819
or water resources on which the reclamation work is to be 3820
performed. The rules shall require the notice to include the date 3821

on which the reclamation work is scheduled to begin.

3822

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.

3823

3824

3825

3826

3827

3828

3829

3830

(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, finer 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.~~

3831

3832

3833

3834

3835

3836

3837

3838

3839

3840

3841

3842

3843

3844

3845

3846

3847

3848

3849

3850

3851

3852

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.

3917
3918

(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.

3919
3920
3921
3922
3923
3924
3925
3926
3927
3928
3929
3930
3931
3932
3933
3934
3935
3936
3937

(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.

3938
3939
3940
3941
3942
3943
3944
3945

(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,

3946
3947
3948

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 3980
the coal mining administration and reclamation reserve fund. The 3981
fund shall be used for the administration and enforcement of this 3982
chapter. The chief of the division of mineral resources management 3983
may transfer not more than one million dollars annually from the 3984
fund to the reclamation forfeiture fund created in section 1513.18 3985
of the Revised Code to complete reclamation of lands affected by 3986
coal mining under a permit issued under this chapter, ~~or by~~ 3987
~~surface mining under a surface mining permit issued under Chapter~~ 3988
~~1514. of the Revised Code,~~ that the operator failed to reclaim and 3989
for which the operator's ~~bond~~ performance security is insufficient 3990
to complete the reclamation. Within ten days before or after the 3991
beginning of each calendar quarter, the chief may certify to the 3992
director of budget and management the amount of money needed to 3993
perform such reclamation during the quarter for transfer from the 3994
coal mining administration and reclamation reserve fund to the 3995
reclamation forfeiture fund. 3996

~~Fines collected under division (E) of section 1513.02 and 3997
section 1513.99 of the Revised Code, and fines collected for a 3998
violation of section 2921.31 of the Revised Code that, prior to 3999
July 1, 1996, would have been a violation of division (G) of 4000
section 1513.17 of the Revised Code as it existed prior to that 4001
date, shall be paid into the coal mining administration and 4002
reclamation reserve fund.~~ 4003

If the director of natural resources determines it to be 4004
necessary, the director may request the controlling board to 4005
transfer an amount of money from the coal mining administration 4006
and reclamation reserve fund to the unreclaimed lands fund created 4007
in section 1513.30 of the Revised Code. 4008

Sec. 1513.182. (A) There is hereby created the reclamation 4009

forfeiture fund advisory board consisting of the director of 4010
natural resources, the director of insurance, and seven members 4011
appointed by the governor with the advice and consent of the 4012
senate. Of the governor's appointments, one shall be a certified 4013
public accountant, one shall be a registered professional engineer 4014
with experience in reclamation of mined land, two shall represent 4015
agriculture, agronomy, or forestry, one shall be a representative 4016
of operators of coal mining operations that have valid permits 4017
issued under this chapter and that have provided performance 4018
security under division (C)(1) of section 1513.08 of the Revised 4019
Code, one shall be a representative of operators of coal mining 4020
operations that have valid permits issued under this chapter and 4021
that have provided performance security under division (C)(2) of 4022
section 1513.08 of the Revised Code, and one shall be a 4023
representative of the public. 4024

Of the original members appointed by the governor, two shall 4025
serve an initial term of two years, three an initial term of three 4026
years, and two an initial term of four years. Thereafter, terms of 4027
appointed members shall be for four years, with each term ending 4028
on the same date as the original date of appointment. An appointed 4029
member shall hold office from the date of appointment until the 4030
end of the term for which the member was appointed. Vacancies 4031
shall be filled in the same manner as original appointments. A 4032
member appointed to fill a vacancy occurring prior to the 4033
expiration of the term for which the member's predecessor was 4034
appointed shall hold office for the remainder of that term. A 4035
member shall continue in office subsequent to the expiration date 4036
of the member's term until the member's successor takes office or 4037
until a period of sixty days has elapsed, whichever occurs first. 4038
The governor may remove an appointed member of the board for 4039
misfeasance, nonfeasance, or malfeasance. 4040

The directors of natural resources and insurance shall not 4041

receive compensation for serving on the board, but shall be 4042
reimbursed for the actual and necessary expenses incurred in the 4043
performance of their duties as members of the board. The members 4044
appointed by the governor shall receive per diem compensation 4045
fixed pursuant to division (J) of section 124.15 of the Revised 4046
Code and reimbursement for the actual and necessary expenses 4047
incurred in the performance of their duties. 4048

(B) The board annually shall elect from among its members a 4049
chairperson, a vice-chairperson, and a secretary to record the 4050
board's meetings. 4051

(C) The board shall hold meetings as often as necessary as 4052
the chairperson or a majority of the members determines. 4053

(D) The board shall establish procedures for conducting 4054
meetings and for the election of its chairperson, 4055
vice-chairperson, and secretary. 4056

(E) The board shall do all of the following: 4057

(1) Review the deposits into and expenditures from the 4058
reclamation forfeiture fund created in section 1513.18 of the 4059
Revised Code; 4060

(2) Retain periodically a qualified actuary to perform an 4061
actuarial study of the reclamation forfeiture fund; 4062

(3) Based on an actuarial study and as determined necessary 4063
by the board, adopt rules in accordance with Chapter 119. of the 4064
Revised Code to adjust the rate of the tax levied under division 4065
(A)(8) of section 5749.02 of the Revised Code and the balance of 4066
the reclamation forfeiture fund that pertains to that rate; 4067

(4) Evaluate any rules, procedures, and methods for 4068
estimating the cost of reclamation for purposes of determining the 4069
amount of performance security that is required under section 4070
1513.08 of the Revised Code; the collection of forfeited 4071

performance security; payments to the reclamation forfeiture fund; 4072
reclamation of sites for which operators have forfeited the 4073
performance security; and the compliance of operators with their 4074
reclamation plans; 4075

(5) Provide a forum for discussion of issues related to the 4076
reclamation forfeiture fund and the performance security that is 4077
required under section 1513.08 of the Revised Code; 4078

(6) Submit a report biennially to the governor that describes 4079
the financial status of the reclamation forfeiture fund and the 4080
adequacy of the amount of money in the fund to accomplish the 4081
purposes of the fund and that may discuss any matter related to 4082
the performance security that is required under section 1513.08 of 4083
the Revised Code; 4084

(7) Make recommendations to the governor, if necessary, of 4085
alternative methods of providing money for or using money in the 4086
reclamation forfeiture fund and issues related to the reclamation 4087
of land or water resources that have been adversely affected by 4088
past coal mining for which the performance security was forfeited; 4089

(8) Adopt rules in accordance with Chapter 119. of the 4090
Revised Code that are necessary to administer this section. 4091

Sec. 1513.29. There is hereby created the council on 4092
unreclaimed strip mined lands. Its members are the chief of the 4093
division of mineral resources management, four persons appointed 4094
by the director of natural resources, two members of the house of 4095
representatives appointed by the speaker of the house of 4096
representatives, one member of the house of representatives 4097
appointed by the minority leader of the house of representatives, 4098
two members of the senate appointed by the president of the 4099
senate, and one member of the senate appointed by the minority 4100
leader of the senate. 4101

Members who are members of the general assembly shall serve 4102
terms of four years or until their legislative terms end, 4103
whichever is sooner. Members appointed by the director shall serve 4104
terms of four years, except that the terms of the first four 4105
members shall be for two and four years, as designated by the 4106
director. Any vacancy in the office of a member of the council 4107
shall be filled by the appointing authority for the unexpired term 4108
of the member whose office will be vacant. The appointing 4109
authority may at any time remove a member of the council for 4110
misfeasance, nonfeasance, malfeasance, or conflict of interest in 4111
office. 4112

The council shall hold ~~at least four regular quarterly~~ 4113
~~meetings each year. Special meetings may be held as necessary~~ at 4114
the call of the chairperson or a majority of the members. The 4115
council shall annually elect from among its members a chairperson, 4116
a vice-chairperson, and a secretary to keep a record of its 4117
proceedings. 4118

The council shall gather information, study, and make 4119
recommendations concerning the number of acres, location, 4120
ownership, condition, environmental damage resulting from the 4121
condition, cost of acquiring, reclaiming, and possible future uses 4122
and value of eroded lands within the state, including land 4123
affected by strip mining for which no cash is held in the ~~strip~~ 4124
~~mining~~ reclamation forfeiture fund created in section 1513.18 of 4125
the Revised Code. 4126

The council may employ such staff and hire such consultants 4127
as necessary to perform its duties. Members appointed by the 4128
director and, notwithstanding section 101.26 of the Revised Code, 4129
members who are members of the general assembly, when engaged in 4130
their official duties as members of the council, shall be 4131
compensated on a per diem basis in accordance with division (J) of 4132
section 124.15 of the Revised Code. Members shall be reimbursed 4133

for their necessary expenses. Expenses incurred by the council and 4134
compensation provided under this section shall be paid by the 4135
chief ~~of the division of mineral resources management~~ from the 4136
unreclaimed lands fund created in section 1513.30 of the Revised 4137
Code. 4138

The council shall report its findings and recommendations to 4139
the governor and the general assembly not later than January 1, 4140
1974, and biennially thereafter. 4141

Sec. 1513.30. There is hereby created in the state treasury 4142
the unreclaimed lands fund, to be administered by the chief of the 4143
division of mineral resources management and used for the purpose 4144
of reclaiming land, public or private, affected by mining, or 4145
controlling mine drainage, for which no cash is held in the 4146
reclamation forfeiture fund created in section 1513.18 of the 4147
Revised Code or the surface mining fund created in section 1514.06 4148
of the Revised Code and also for the purpose of paying the 4149
expenses and compensation of the council on unreclaimed strip 4150
mined lands as required by section 1513.29 of the Revised Code. 4151

In order to direct expenditures from the unreclaimed lands 4152
fund toward reclamation projects that fulfill priority needs and 4153
provide the greatest public benefits, the chief periodically shall 4154
submit to the council project proposals to be financed from the 4155
unreclaimed lands fund, together with benefit and cost data and 4156
other pertinent information. For the purpose of selecting project 4157
areas and determining the boundaries of project areas, the council 4158
shall consider the feasibility, cost, and public benefits of 4159
reclaiming the areas, their potential for being mined, the 4160
availability of federal or other financial assistance for 4161
reclamation, and the geographic distribution of project areas to 4162
ensure fair distribution among affected areas. 4163

The council shall give priority to areas where there is 4164

little or no likelihood of mining within the foreseeable future, 4165
reclamation is feasible at reasonable cost with available funds, 4166
and either of the following applies: 4167

(A) The pollution of the waters of the state and damage to 4168
adjacent property are most severe and widespread. 4169

(B) Reclamation will make possible public uses for soil, 4170
water, forest, or wildlife conservation or public recreation 4171
purposes, will facilitate orderly commercial or industrial site 4172
development, or will facilitate the use or improve the enjoyment 4173
of nearby public conservation or recreation lands. 4174

~~At least two weeks before any meeting of the council on 4175
unreclaimed strip mined lands at which the chief will submit a 4176
project proposal, a project area will be selected, or the 4177
boundaries of a project area will be determined, the chief shall 4178
mail notice by first class mail to the board of county 4179
commissioners of the county and the board of township trustees of 4180
the township in which the proposed project lies and the chief 4181
executive and the legislative authority of each municipal 4182
corporation within the proposed project area. The chief also shall 4183
give reasonable notice to the news media in the county where the 4184
proposed project lies. 4185~~

Expenditures from the unreclaimed lands fund for reclamation 4186
projects may be made only for projects that are within the 4187
boundaries of project areas approved by the council, and 4188
expenditures for a particular project may not exceed any 4189
applicable limits set by the council. Expenditures from the 4190
unreclaimed lands fund shall be made by the chief, with the 4191
approval of the director of natural resources. 4192

~~The controlling board may transfer excess funds from the oil 4193
and gas well fund created in section 1509.02 of the Revised Code, 4194
after recommendation by the council on unreclaimed strip mined 4195~~

~~lands, to meet deficiencies in the unreclaimed lands fund.~~ 4196

The chief may expend an amount not to exceed twenty per cent 4197
of the moneys credited annually by the treasurer of state to the 4198
unreclaimed lands fund for the purpose of administering the fund. 4199

The chief may engage in cooperative projects under this 4200
section with any agency of the United States, appropriate state 4201
agencies, or state universities or colleges as defined in section 4202
3345.27 of the Revised Code and may transfer money from the fund, 4203
with the approval of the council, to other appropriate state 4204
agencies or to state universities or colleges in order to carry 4205
out the reclamation activities authorized by this section. 4206

If the director of natural resources determines it to be 4207
necessary, the director may request the controlling board to 4208
transfer an amount of money from the fund to the coal mining 4209
administration and reclamation reserve fund created in section 4210
1513.181 of the Revised Code. 4211

Sec. 1513.37. (A) There is hereby created in the state 4212
treasury the abandoned mine reclamation fund, which shall be 4213
administered by the chief of the division of mineral resources 4214
management. The fund shall consist of grants from the secretary of 4215
the interior from the federal abandoned mine reclamation fund 4216
established by Title IV of the "Surface Mining Control and 4217
Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, 4218
regulations adopted under it, and amendments to the act and 4219
regulations. Expenditures from the abandoned mine reclamation fund 4220
shall be made by the chief for the following purposes: 4221

(1) Reclamation and restoration of land and water resources 4222
adversely affected by past coal mining, including, but not limited 4223
to, reclamation and restoration of abandoned strip mine areas, 4224
abandoned coal processing areas, and abandoned coal refuse 4225

disposal areas; sealing and filling of abandoned deep mine entries	4226
and voids; planting of land adversely affected by past coal	4227
mining; prevention of erosion and sedimentation; prevention,	4228
abatement, treatment, and control of water pollution created by	4229
coal mine drainage, including restoration of streambeds and	4230
construction and operation of water treatment plants; prevention,	4231
abatement, and control of burning coal refuse disposal areas and	4232
burning coal in situ; and prevention, abatement, and control of	4233
coal mine subsidence;	4234
(2) Acquisition and filling of voids and sealing of tunnels,	4235
shafts, and entryways of noncoal lands;	4236
(3) Acquisition of land as provided for in this section;	4237
(4) Administrative expenses incurred in accomplishing the	4238
purposes of this section;	4239
(5) All other necessary expenses to accomplish the purposes	4240
of this section.	4241
(B) Expenditures of moneys from the fund on land and water	4242
eligible pursuant to division (C) of this section shall reflect	4243
the following priorities in the order stated:	4244
(1) The protection of public health, safety, general welfare,	4245
and property from extreme danger of adverse effects of coal mining	4246
practices;	4247
(2) The protection of public health, safety, and general	4248
welfare from adverse effects of coal mining practices;	4249
(3) The restoration of land and water resources and the	4250
environment previously degraded by adverse effects of coal mining	4251
practices, including measures for the conservation and development	4252
of soil and water (excluding channelization), woodland, fish and	4253
wildlife, recreation resources, and agricultural productivity;	4254
(4) Research and demonstration projects relating to the	4255

development of coal mining reclamation and water quality control	4256
program methods and techniques;	4257
(5) The protection, repair, replacement, construction, or	4258
enhancement of public facilities such as utilities, roads,	4259
recreation facilities, and conservation facilities adversely	4260
affected by coal mining practices;	4261
(6) The development of publicly owned land adversely affected	4262
by coal mining practices, including land acquired as provided in	4263
this section for recreation and historic purposes, conservation	4264
and reclamation purposes, and open space benefits.	4265
(C)(1) Lands and water eligible for reclamation or drainage	4266
abatement expenditures under this section are those that were	4267
mined for coal or were affected by such mining, wastebanks, coal	4268
processing, or other coal mining processes and that meet one of	4269
the following criteria:	4270
(a) Are lands that were abandoned or left in an inadequate	4271
reclamation status prior to August 3, 1977, and for which there is	4272
no continuing reclamation responsibility under state or federal	4273
laws;	4274
(b) Are lands for which the chief finds that surface coal	4275
mining operations occurred at any time between August 4, 1977, and	4276
August 16, 1982, and that any moneys for reclamation or abatement	4277
that are available pursuant to a bond, <u>performance security</u> , or	4278
other form of financial guarantee or from any other source are not	4279
sufficient to provide for adequate reclamation or abatement at the	4280
site;	4281
(c) Are lands for which the chief finds that surface coal	4282
mining operations occurred at any time between August 4, 1977, and	4283
November 5, 1990, that the surety of the mining operator became	4284
insolvent during that time, and that, as of November 5, 1990, any	4285
moneys immediately available from proceedings relating to that	4286

insolvency or from any financial guarantee or other source are not 4287
sufficient to provide for adequate reclamation or abatement at the 4288
site. 4289

(2) In determining which sites to reclaim pursuant to 4290
divisions (C)(1)(b) and (c) of this section, the chief shall 4291
follow the priorities stated in divisions (B)(1) and (2) of this 4292
section and shall ensure that priority is given to those sites 4293
that are in the immediate vicinity of a residential area or that 4294
have an adverse economic impact on a local community. 4295

(3) Surface coal mining operations on lands eligible for 4296
remining shall not affect the eligibility of those lands for 4297
reclamation and restoration under this section after the release 4298
of the bond, performance security, or other form of financial 4299
guarantee for any such operation as provided under division (F) of 4300
section 1513.16 of the Revised Code. If the bond, performance 4301
security, or other form of financial guarantee for a surface coal 4302
mining operation on lands eligible for remaining is forfeited, 4303
moneys available under this section may be used if the amount of 4304
the bond, performance security, or other form of financial 4305
guarantee is not sufficient to provide for adequate reclamation or 4306
abatement, except that if conditions warrant, the chief 4307
immediately shall exercise the authority granted under division 4308
(L) of this section. 4309

(D) The chief may submit to the secretary of the interior a 4310
state reclamation plan and annual projects to carry out the 4311
purposes of this section. 4312

(1) The reclamation plan generally shall identify the areas 4313
to be reclaimed, the purposes for which the reclamation is 4314
proposed, the relationship of the lands to be reclaimed and the 4315
proposed reclamation to surrounding areas, the specific criteria 4316
for ranking and identifying projects to be funded, and the legal 4317

authority and programmatic capability to perform the work in 4318
accordance with this section. 4319

(2) On an annual basis, the chief may submit to the secretary 4320
an application for support of the abandoned mine reclamation fund 4321
and implementation of specific reclamation projects. The annual 4322
requests shall include such information as may be requested by the 4323
secretary. 4324

Before submitting an annual application to the secretary, the 4325
chief first shall submit it to the council on unreclaimed strip 4326
mined lands for review and approval by the council. The chief 4327
shall not submit such an application to the secretary until it has 4328
been approved by the council. The chief shall submit applications 4329
for administrative costs, imminent hazards, or emergency projects 4330
to the council for review. 4331

(3) The costs for each proposed project under this section 4332
shall include actual construction costs, actual operation and 4333
maintenance costs of permanent facilities, planning and 4334
engineering costs, construction inspection costs, and other 4335
necessary administrative expenses. 4336

(4) Before making any expenditure of funds from the fund to 4337
implement any specific reclamation project under this section, the 4338
chief first shall submit to the council a project proposal and any 4339
other pertinent information regarding the project requested by the 4340
council for review and approval of the specific project by the 4341
council. 4342

(5) The chief may submit annual and other reports required by 4343
the secretary when funds are provided by the secretary under Title 4344
IV of the "Surface Mining Control and Reclamation Act of 1977," 91 4345
Stat. 445, 30 U.S.C.A. 1201, regulations adopted under it, and 4346
amendments to the act and regulations. 4347

(E)(1) There is hereby created in the state treasury the acid 4348

mine drainage abatement and treatment fund, which shall be 4349
administered by the chief. The fund shall consist of grants from 4350
the secretary of the interior from the federal abandoned mine 4351
reclamation fund pursuant to section 402(g)(6) of Title IV of the 4352
"Surface Mining Control and Reclamation Act of 1977," 91 Stat. 4353
445, 30 U.S.C.A. 1201. All investment earnings of the fund shall 4354
be credited to the fund. 4355

(2) The chief shall make expenditures from the fund, in 4356
consultation with the United States department of agriculture, 4357
soil conservation service, to implement acid mine drainage 4358
abatement and treatment plans approved by the secretary. The plans 4359
shall provide for the comprehensive abatement of the causes and 4360
treatment of the effects of acid mine drainage within qualified 4361
hydrologic units affected by coal mining practices and shall 4362
include at least all of the following: 4363

(a) An identification of the qualified hydrologic unit. As 4364
used in division (E) of this section, "qualified hydrologic unit" 4365
means a hydrologic unit that meets all of the following criteria: 4366

(i) The water quality in the unit has been significantly 4367
affected by acid mine drainage from coal mining practices in a 4368
manner that has an adverse impact on biological resources. 4369

(ii) The unit contains lands and waters that meet the 4370
eligibility requirements established under division (C) of this 4371
section and any of the priorities established in divisions (B)(1) 4372
to (3) of this section. 4373

(iii) The unit contains lands and waters that are proposed to 4374
be the subject of expenditures from the reclamation forfeiture 4375
fund created in section 1513.18 of the Revised Code or the 4376
unreclaimed lands fund created in section 1513.30 of the Revised 4377
Code. 4378

(b) The extent to which acid mine drainage is affecting the 4379

water quality and biological resources within the hydrologic unit;	4380
(c) An identification of the sources of acid mine drainage within the hydrologic unit;	4381
(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;	4382
(e) The cost of undertaking the proposed abatement and treatment measures;	4383
(f) An identification of existing and proposed sources of funding for those measures;	4384
(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.	4385
(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:	4386
(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:	4387
(i) Identify a watershed as a qualified hydrologic unit;	4388
(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.	4389
(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.	4390
A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to the	4391
	4392
	4393
	4394
	4395
	4396
	4397
	4398
	4399
	4400
	4401
	4402
	4403
	4404
	4405
	4406
	4407
	4408

chief on forms provided by the division of mineral resources 4409
management, together with detailed estimates and timetables for 4410
accomplishing the stated goals of the project and any other 4411
information that the chief requires. 4412

For the purposes of establishing priorities for awarding 4413
grants under division (E)(3) of this section, the chief shall 4414
consider each project's feasibility, cost-effectiveness, and 4415
environmental benefit, together with the availability of matching 4416
funding, including in-kind services, for the project. 4417

The chief shall enter into a contract for funding with each 4418
applicant awarded a grant to ensure that the moneys granted are 4419
used for the purposes of this section and that the work that the 4420
project involves is done properly. The contract is not subject to 4421
division (B) of section 127.16 of the Revised Code. The final 4422
payment of grant moneys shall not be made until the chief inspects 4423
and approves the completed project. 4424

The chief shall require each applicant awarded a grant under 4425
this section who conducts a project involving construction work to 4426
pay workers at the greater of their regular rate of pay, as 4427
established by contract, agreement, or prior custom or practice, 4428
or the average wage rate paid in this state for the same or 4429
similar work performed in the same or a similar locality by 4430
private companies doing similar work on similar projects. 4431

As used in division (E)(3) of this section, "watershed group" 4432
means a charitable organization as defined in section 1716.01 of 4433
the Revised Code that has been established for the purpose of 4434
conducting reclamation of land and waters adversely affected by 4435
coal mining practices and specifically for conducting acid mine 4436
drainage abatement. 4437

(F)(1) If the chief makes a finding of fact that land or 4438
water resources have been adversely affected by past coal mining 4439

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 4472
such adverse effects. The entry shall be construed as an exercise 4473
of the police power for the protection of the public health, 4474
safety, and general welfare and shall not be construed as an act 4475
of condemnation of property nor trespass on it. 4476

(3) The chief may acquire any land by purchase, donation, or 4477
condemnation that is adversely affected by past coal mining 4478
practices if the chief determines that acquisition of the land is 4479
necessary to successful reclamation and that all of the following 4480
apply: 4481

(a) The acquired land, after restoration, reclamation, 4482
abatement, control, or prevention of the adverse effects of past 4483
coal mining practices, will serve recreation and historic 4484
purposes, serve conservation and reclamation purposes, or provide 4485
open space benefits. 4486

(b) Permanent facilities such as a treatment plant or a 4487
relocated stream channel will be constructed on the land for the 4488
restoration, reclamation, abatement, control, or prevention of the 4489
adverse effects of past coal mining practices. 4490

(c) Acquisition of coal refuse disposal sites and all coal 4491
refuse thereon will serve the purposes of this section or public 4492
ownership is desirable to meet emergency situations and prevent 4493
recurrences of the adverse effects of past coal mining practices. 4494

(4)(a) Title to all lands acquired pursuant to this section 4495
shall be in the name of the state. The price paid for land 4496
acquired under this section shall reflect the market value of the 4497
land as adversely affected by past coal mining practices. 4498

(b) The chief may receive grants on a matching basis from the 4499
secretary of the interior for the purpose of carrying out this 4500
section. 4501

(5)(a) Where land acquired pursuant to this section is 4502
considered to be suitable for industrial, commercial, residential, 4503
or recreational development, the chief may sell the land by public 4504
sale under a system of competitive bidding at not less than fair 4505
market value and under other requirements imposed by rule to 4506
ensure that the lands are put to proper use consistent with local 4507
and state land use plans, if any, as determined by the chief. 4508

(b) The chief, when requested, and after appropriate public 4509
notice, shall hold a public meeting in the county, counties, or 4510
other appropriate political subdivisions of the state in which 4511
lands acquired pursuant to this section are located. The meetings 4512
shall be held at a time that shall afford local citizens and 4513
governments the maximum opportunity to participate in the decision 4514
concerning the use or disposition of the lands after restoration, 4515
reclamation, abatement, control, or prevention of the adverse 4516
effects of past coal mining practices. 4517

(6) In addition to the authority to acquire land under 4518
division (F)(3) of this section, the chief may use money in the 4519
fund to acquire land by purchase, donation, or condemnation, and 4520
to reclaim and transfer acquired land to a political subdivision, 4521
or to any person, if the chief determines that it is an integral 4522
and necessary element of an economically feasible plan for the 4523
construction or rehabilitation of housing for persons disabled as 4524
the result of employment in the mines or work incidental to that 4525
employment, persons displaced by acquisition of land pursuant to 4526
this section, persons dislocated as the result of adverse effects 4527
of coal mining practices that constitute an emergency as provided 4528
in the "Surface Mining Control and Reclamation Act of 1977," 91 4529
Stat. 466, 30 U.S.C.A. 1240, or amendments to it, or persons 4530
dislocated as the result of natural disasters or catastrophic 4531
failures from any cause. Such activities shall be accomplished 4532
under such terms and conditions as the chief requires, which may 4533

include transfers of land with or without monetary consideration, 4534
except that to the extent that the consideration is below the fair 4535
market value of the land transferred, no portion of the difference 4536
between the fair market value and the consideration shall accrue 4537
as a profit to those persons. No part of the funds provided under 4538
this section may be used to pay the actual construction costs of 4539
housing. The chief may carry out the purposes of division (F)(6) 4540
of this section directly or by making grants and commitments for 4541
grants and may advance money under such terms and conditions as 4542
the chief may require to any agency or instrumentality of the 4543
state or any public body or nonprofit organization designated by 4544
the chief. 4545

(G)(1) Within six months after the completion of projects to 4546
restore, reclaim, abate, control, or prevent adverse effects of 4547
past coal mining practices on privately owned land, the chief 4548
shall itemize the moneys so expended and may file a statement of 4549
the expenditures in the office of the county recorder of the 4550
county in which the land lies, together with a notarized appraisal 4551
by an independent appraiser of the value of the land before the 4552
restoration, reclamation, abatement, control, or prevention of 4553
adverse effects of past coal mining practices if the moneys so 4554
expended result in a significant increase in property value. The 4555
statement shall constitute a lien upon the land as of the date of 4556
the expenditures of the moneys and shall have priority as a lien 4557
second only to the lien of real property taxes imposed upon the 4558
land. The lien shall not exceed the amount determined by the 4559
appraisal to be the increase in the fair market value of the land 4560
as a result of the restoration, reclamation, abatement, control, 4561
or prevention of the adverse effects of past coal mining 4562
practices. No lien shall be filed under division (G) of this 4563
section against the property of any person who owned the surface 4564
prior to May 2, 1977, and did not consent to, participate in, or 4565

exercise control over the mining operation that necessitated the 4566
reclamation performed. 4567

(2) The landowner may petition, within sixty days after the 4568
filing of the lien, to determine the increase in the fair market 4569
value of the land as a result of the restoration, reclamation, 4570
abatement, control, or prevention of the adverse effects of past 4571
coal mining practices. The amount reported to be the increase in 4572
value of the premises shall constitute the amount of the lien and 4573
shall be recorded with the statement provided in this section. Any 4574
party aggrieved by the decision may appeal as provided by state 4575
law. 4576

(3) The lien provided in division (G) of this section shall 4577
be recorded and indexed, under the name of the state and the 4578
landowner, in a lien index in the office of the county recorder of 4579
the county in which the land lies. The county recorder shall 4580
impose no charge for the recording or indexing of the lien. If the 4581
land is registered, the county recorder shall make a notation and 4582
enter a memorial of the lien upon the page of the register in 4583
which the last certificate of title to the land is registered, 4584
stating the name of the claimant, amount claimed, volume and page 4585
of the record where recorded, and exact time the memorial was 4586
entered. 4587

(4) The lien shall continue in force so long as any portion 4588
of the amount of the lien remains unpaid. If the lien remains 4589
unpaid at the time of conveyance of the land on which the lien was 4590
placed, the conveyance may be set aside. Upon repayment in full of 4591
the moneys expended under this section, the chief promptly shall 4592
issue a certificate of release of the lien. Upon presentation of 4593
the certificate of release, the county recorder of the county in 4594
which the lien is recorded shall record the lien as having been 4595
discharged. 4596

(5) A lien imposed under this section shall be foreclosed 4597
upon the substantial failure of a landowner to pay any portion of 4598
the amount of the lien. Before foreclosing any lien under this 4599
section, the chief shall make a written demand upon the landowner 4600
for payment. If the landowner does not pay the amount due within 4601
sixty days, the chief shall refer the matter to the attorney 4602
general, who shall institute a civil action to foreclose the lien. 4603

(H)(1) The chief may fill voids, seal abandoned tunnels, 4604
shafts, and entryways, and reclaim surface impacts of underground 4605
or strip mines that the chief determines could endanger life and 4606
property, constitute a hazard to the public health and safety, or 4607
degrade the environment. 4608

(2) In those instances where mine waste piles are being 4609
reworked for conservation purposes, the incremental costs of 4610
disposing of the wastes from those operations by filling voids and 4611
sealing tunnels may be eligible for funding, provided that the 4612
disposal of these wastes meets the purposes of this section. 4613

(3) The chief may acquire by purchase, donation, easement, or 4614
otherwise such interest in land as the chief determines necessary 4615
to carry out division (H) of this section. 4616

(I) The chief shall report annually to the secretary of the 4617
interior on operations under the fund and include recommendations 4618
as to its future uses. 4619

(J)(1) The chief may engage in any work and do all things 4620
necessary or expedient, including the adoption of rules, to 4621
implement and administer this section. 4622

(2) The chief may engage in cooperative projects under this 4623
section with any agency of the United States, any other state, or 4624
their governmental agencies or with any state university or 4625
college as defined in section 3345.27 of the Revised Code. The 4626
cooperative projects are not subject to division (B) of section 4627

127.16 of the Revised Code. 4628

(3) The chief may request the attorney general to initiate in 4629
any court of competent jurisdiction an action in equity for an 4630
injunction to restrain any interference with the exercise of the 4631
right to enter or to conduct any work provided in this section, 4632
which remedy is in addition to any other remedy available under 4633
this section. 4634

(4) The chief may construct or operate a plant or plants for 4635
the control and treatment of water pollution resulting from mine 4636
drainage. The extent of this control and treatment may be 4637
dependent upon the ultimate use of the water. Division (J)(4) of 4638
this section does not repeal or supersede any portion of the 4639
"Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 4640
U.S.C.A. 1151, as amended, and no control or treatment under 4641
division (J)(4) of this section, in any way, shall be less than 4642
that required by that act. The construction of a plant or plants 4643
may include major interceptors and other facilities appurtenant to 4644
the plant. 4645

(5) The chief may transfer money from the abandoned mine 4646
reclamation fund and the acid mine drainage abatement and 4647
treatment fund to other appropriate state agencies or to state 4648
universities or colleges in order to carry out the reclamation 4649
activities authorized by this section. 4650

(K) The chief may contract for any part of work to be 4651
performed under this section, with or without advertising for 4652
bids, if the chief determines that a condition exists that could 4653
reasonably be expected to cause substantial physical harm to 4654
persons, property, or the environment and to which persons or 4655
improvements on real property are currently exposed. 4656

The chief shall require every contractor performing 4657
reclamation work under this section to pay its workers at the 4658

greater of their regular rate of pay, as established by contract, 4659
agreement, or prior custom or practice, or the average wage rate 4660
paid in this state for the same or similar work as determined by 4661
the chief under section 1513.02 of the Revised Code. 4662

(L)(1) The chief may contract for the emergency restoration, 4663
reclamation, abatement, control, or prevention of adverse effects 4664
of mining practices on eligible lands if the chief determines that 4665
an emergency exists constituting a danger to the public health, 4666
safety, or welfare and that no other person or agency will act 4667
expeditiously to restore, reclaim, abate, control, or prevent 4668
those adverse effects. The chief may enter into a contract for 4669
emergency work under division (L) of this section without 4670
advertising for bids. Any such contract or any purchase of 4671
materials for emergency work under division (L) of this section is 4672
not subject to division (B) of section 127.16 of the Revised Code. 4673

(2) The chief or the chief's agents, employees, or 4674
contractors may enter on any land where such an emergency exists, 4675
and on other land in order to have access to that land, in order 4676
to restore, reclaim, abate, control, or prevent the adverse 4677
effects of mining practices and to do all things necessary or 4678
expedient to protect the public health, safety, or welfare. Such 4679
an entry shall be construed as an exercise of the police power and 4680
shall not be construed as an act of condemnation of property or of 4681
trespass. The moneys expended for the work and the benefits 4682
accruing to any premises so entered upon shall be chargeable 4683
against the land and shall mitigate or offset any claim in or any 4684
action brought by any owner of any interest in the premises for 4685
any alleged damages by virtue of the entry. This provision is not 4686
intended to create new rights of action or eliminate existing 4687
immunities. 4688

Sec. 1513.371. There is hereby created in the state treasury 4689

the mined land set aside fund consisting of grants made by the 4690
United States secretary of the interior from the federal abandoned 4691
mine reclamation fund pursuant to section 402 of the "Surface 4692
Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 4693
U.S.C. 1232. The chief of the division of mineral resources 4694
management shall administer the fund. Money in the fund shall be 4695
used solely for the purposes specified in divisions (B)(1) to (4) 4696
of section 1513.37 of the Revised Code. All investment earnings of 4697
the fund shall be credited to the fund. 4698

Sec. 1514.01. As used in this chapter: 4699

(A) "Surface mining" means all or any part of a process 4700
followed in the production of minerals from the earth or from the 4701
surface of the land by surface excavation methods, such as open 4702
pit mining, dredging, placering, or quarrying, and includes the 4703
removal of overburden for the purpose of determining the location, 4704
quantity, or quality of mineral deposits, and the incidental 4705
removal of coal at a rate less than one-sixth the total weight of 4706
minerals and coal removed during the year, but does not include: 4707
test or exploration boring; mining operations carried out beneath 4708
the surface by means of shafts, tunnels, or similar mine openings; 4709
the extraction of minerals, other than coal, by a landowner for 4710
the landowner's own noncommercial use where such material is 4711
extracted and used in an unprocessed form on the same tract of 4712
land; the extraction of minerals, other than coal, from borrow 4713
pits for highway construction purposes, provided that the 4714
extraction is performed under a bond, a contract, and 4715
specifications that substantially provide for and require 4716
reclamation practices consistent with the requirements of this 4717
chapter; the removal of minerals incidental to construction work, 4718
provided that the owner or person having control of the land upon 4719
which the construction occurs, the contractor, or the construction 4720

firm possesses a valid building permit; the removal of minerals to 4721
a depth of not more than five feet, measured from the highest 4722
original surface elevation of the area to be excavated, where not 4723
more than one acre of land is excavated during twelve successive 4724
calendar months; routine dredging of a watercourse for purely 4725
navigational or flood control purposes during which materials are 4726
removed for noncommercial purposes; or the extraction or movement 4727
of soil or minerals within a solid waste facility, as defined in 4728
section 3734.01 of the Revised Code, that is a sanitary landfill 4729
when the soil or minerals are used exclusively for the 4730
construction, operation, closure, and post-closure care of the 4731
facility or for maintenance activities at the facility. 4732

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 4733
halite, limestone, dolomite, sandstone, other stone, metalliferous 4734
or nonmetalliferous ore, or other material or substance of 4735
commercial value excavated in a solid state from natural deposits 4736
on or in the earth, but does not include coal or peat. 4737

(C) "Overburden" means all of the earth and other materials 4738
that cover a natural deposit of minerals and also means such earth 4739
and other materials after removal from their natural state in the 4740
process of surface mining. 4741

(D) "Spoil bank" means a pile of removed overburden. 4742

(E) "Area of land affected" means the area of land that has 4743
been excavated, or upon which a spoil bank exists, or both. 4744

(F)(1) "Operation" or "surface mining operation" means all of 4745
the premises, facilities, and equipment used in the process of 4746
removing minerals, or minerals and incidental coal, by surface 4747
mining from a mining area in the creation of which mining area 4748
overburden or minerals, or minerals and incidental coal, are 4749
disturbed or removed, such surface mining area being located upon 4750
a single tract of land or upon two or more contiguous tracts of 4751

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 4782
terrestrial vegetation; the presence of litter and debris; or 4783
other appropriate means that consider the characteristics of the 4784
surrounding area. 4785

(M) "In-stream mining" means all or any part of a process 4786
followed in the production of minerals from the bottom of the 4787
channel of a watercourse that drains a surface area of more than 4788
one hundred square miles. "In-stream mining" may be accomplished 4789
by using any technique or by using surface excavation methods, 4790
such as open pit mining, dredging, placering, or quarrying, and 4791
includes the removal of overburden for the purpose of determining 4792
the location, quantity, or quality of mineral deposits. "In-stream 4793
mining" does not include either of the following: 4794

(1) Routine dredging for purely navigational or flood control 4795
purposes during which materials are removed for noncommercial 4796
purposes; 4797

(2) The extraction of minerals, other than coal, by a 4798
landowner for the landowner's own noncommercial use when the 4799
material is extracted and used in an unprocessed form on the same 4800
tract of land. 4801

For purposes of division (M) of this section, the number of 4802
square miles of surface area that a watercourse drains shall be 4803
determined by consulting the "gazetteer of Ohio streams," which is 4804
a portion of the Ohio water plan inventory published in 1960 by 4805
the division of water in the department of natural resources, or 4806
its successor, if any. 4807

(N) In provisions concerning in-stream mining, when the 4808
context is appropriate, "land" is deemed to include an area of a 4809
watercourse. 4810

(O) "Watercourse" means any naturally occurring perennial or 4811
intermittent stream, river, or creek flowing within a defined 4812

stream bed and banks.

4813

(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.

4814

4815

4816

4817

4818

4819

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.

4820

4821

4822

4823

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.

4825

4826

4827

4828

4829

4830

4831

4832

4833

4834

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

4835

4836

4837

4838

4839

4840

4841

4842

4843

or surveyor registered under Chapter 4733. of the Revised Code. 4844
However, the chief may require that an annual progress map or a 4845
final map be prepared by a registered professional engineer or 4846
registered surveyor if the chief has reason to believe that the 4847
operator exceeded the boundaries of the permit area or, if the 4848
operator filed the map required under division (A)(11) of section 4849
1514.02 of the Revised Code, that the operator extracted ten 4850
thousand tons or more of minerals during the period covered by the 4851
report. 4852

Each annual report for an in-stream mining operation shall 4853
include a statement of the total tonnage removed by in-stream 4854
mining for each month and of the surface acreage and depth of 4855
material removed by in-stream mining and shall include a map that 4856
identifies the area affected by the in-stream mining, soundings 4857
that depict the cross-sectional views of the channel bottom of the 4858
watercourse, and water elevations for the watercourse. 4859

Each annual report shall be accompanied by a filing fee in 4860
the amount of five hundred dollars, except in the case of an 4861
annual report filed by a small operator or an in-stream mining 4862
operator. A small operator, which is a surface mine operator who 4863
intends to extract fewer than ten thousand tons of minerals and no 4864
coal during the next year of operation under the permit, or an 4865
in-stream mining operator shall include a filing fee in the amount 4866
of two hundred fifty dollars with each annual report. The annual 4867
report of any operator also shall be accompanied by an acreage fee 4868
in the amount of seventy-five dollars multiplied by the number of 4869
acres estimated in the report to be affected during the next year 4870
of operation under the permit. The acreage fee shall be adjusted 4871
by subtracting a credit of seventy-five dollars per excess acre 4872
paid for the preceding year if the acreage paid for the preceding 4873
year exceeds the acreage actually affected or by adding an 4874
additional amount of seventy-five dollars per excess acre affected 4875

if the acreage actually affected exceeds the acreage paid for the 4876
preceding year. 4877

With each annual report the operator shall file a performance 4878
bond in the amount, unless otherwise provided by rule, of ~~one~~ 4879
~~thousand~~ five hundred dollars multiplied by the number of acres 4880
estimated to be affected during the next year of operation under 4881
the permit for which no performance bond previously was filed. 4882
Unless otherwise provided by rule, the bond shall be adjusted by 4883
subtracting a credit of ~~one thousand~~ five hundred dollars per 4884
excess acre for which bond was filed for the preceding year if the 4885
acreage for which the bond was filed for the preceding year 4886
exceeds the acreage actually affected, or by adding an amount of 4887
~~one thousand~~ five hundred dollars per excess acre affected if the 4888
acreage actually affected exceeds the acreage for which bond was 4889
filed for the preceding year. 4890

Within thirty days after the expiration of the surface or 4891
in-stream mining permit, or completion or abandonment of the 4892
operation, whichever occurs earlier, the operator shall submit a 4893
final report containing the same information required in an annual 4894
report, but covering the time from the last annual report to the 4895
expiration of the permit, or completion or abandonment of the 4896
operation, whichever occurs earlier. 4897

Each final report shall include a map indicating the location 4898
of the area of land affected during the period of the report and 4899
the location of the total area of land affected under the permit. 4900
The map shall be prepared in accordance with division (A)(11) or 4901
(12) of section 1514.02 of the Revised Code, as appropriate. 4902

In the case of a final report for an in-stream mining 4903
operation, the map also shall include the information required 4904
under division (A)(18) of section 1514.02 of the Revised Code. 4905

If the final report and certified map, as verified by the 4906

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 4939
amounts. 4940

Sec. 1514.04. (A) Upon receipt of notification from the chief 4941
of the division of mineral resources management of the chief's 4942
intent to issue an order granting a surface or in-stream mining 4943
permit to the applicant, the applicant shall file a surety bond, 4944
cash, an irrevocable letter of credit, or certificates of deposit 4945
in the amount, unless otherwise provided by rule, of ten thousand 4946
dollars ~~plus one thousand~~. If the amount of land to be affected is 4947
more than twenty acres, the applicant also shall file a surety 4948
bond, cash, an irrevocable letter of credit, or certificates of 4949
deposit in the amount of five hundred dollars per acre of land to 4950
be affected that exceeds twenty acres. Upon receipt of 4951
notification from the chief of the chief's intent to issue an 4952
order granting an amendment to a surface or in-stream mining 4953
permit, the applicant shall file a surety bond, cash, an 4954
irrevocable letter of credit, or certificates of deposit in the 4955
amount, ~~unless otherwise provided by rule, of one thousand dollars~~ 4956
~~per acre of land to be affected~~ required in this division. 4957

In the case of a surface mining permit, the bond shall be 4958
filed ~~for~~ based on the number of acres estimated to be affected 4959
during the first year of operation under the permit. In the case 4960
of an amendment to a surface mining permit, the bond shall be 4961
filed ~~for~~ based on the number of acres estimated to be affected 4962
during the balance of the period until the next anniversary date 4963
of the permit. 4964

In the case of an in-stream mining permit, the bond shall be 4965
filed ~~for~~ based on the number of acres of land within the limits 4966
of the in-stream mining permit for the entire permit period. In 4967
the case of an amendment to an in-stream mining permit, the bond 4968
shall be filed ~~for~~ based on the number of any additional acres of 4969

land to be affected within the limits of the in-stream mining 4970
permit. 4971

(B) A surety bond filed pursuant to this section and sections 4972
1514.02 and 1514.03 of the Revised Code shall be upon the form 4973
that the chief prescribes and provides and shall be signed by the 4974
operator as principal and by a surety company authorized to 4975
transact business in the state as surety. The bond shall be 4976
payable to the state and shall be conditioned upon the faithful 4977
performance by the operator of all things to be done and performed 4978
by the operator as provided in this chapter and the rules and 4979
orders of the chief adopted or issued pursuant thereto. 4980

The operator may deposit with the chief, in lieu of a surety 4981
bond, cash in an amount equal to the surety bond as prescribed in 4982
this section, an irrevocable letter of credit or negotiable 4983
certificates of deposit issued by any bank organized or 4984
transacting business in this state, or an irrevocable letter of 4985
credit or certificates of deposit issued by any savings and loan 4986
association as defined in section 1151.01 of the Revised Code, 4987
having a cash value equal to or greater than the amount of the 4988
surety bond as prescribed in this section. Cash or certificates of 4989
deposit shall be deposited upon the same terms as the terms upon 4990
which surety bonds may be deposited. If one or more certificates 4991
of deposit are deposited with the chief in lieu of a surety bond, 4992
the chief shall require the bank or savings and loan association 4993
that issued any such certificate to pledge securities of a cash 4994
value equal to the amount of the certificate, or certificates, 4995
that is in excess of the amount insured by the federal deposit 4996
insurance corporation. The securities shall be security for the 4997
repayment of the certificate of deposit. 4998

(C) Immediately upon a deposit of cash, a letter of credit, 4999
or certificates with the chief, the chief shall deliver it to the 5000
treasurer of state who shall hold it in trust for the purposes for 5001

which it has been deposited. The treasurer of state shall be 5002
responsible for the safekeeping of such deposits. An operator 5003
making a deposit of cash, a letter of credit, or certificates of 5004
deposit may withdraw and receive from the treasurer of state, on 5005
the written order of the chief, all or any part of the cash, 5006
letter of credit, or certificates in the possession of the 5007
treasurer of state, upon depositing with the treasurer of state 5008
cash, an irrevocable letter of credit, or negotiable certificates 5009
of deposit issued by any bank organized or transacting business in 5010
this state, or an irrevocable letter of credit or certificates of 5011
deposit issued by any savings and loan association, equal in value 5012
to the value of the cash, letter of credit, or certificates 5013
withdrawn. An operator may demand and receive from the treasurer 5014
of state all interest or other income from any certificates as it 5015
becomes due. If certificates deposited with and in the possession 5016
of the treasurer of state mature or are called for payment by the 5017
issuer thereof, the treasurer of state, at the request of the 5018
operator who deposited them, shall convert the proceeds of the 5019
redemption or payment of the certificates into such other 5020
negotiable certificates of deposit issued by any bank organized or 5021
transacting business in this state, such other certificates of 5022
deposit issued by any savings and loan association, or cash, as 5023
may be designated by the operator. 5024

(D) A governmental agency, as defined in division (A) of 5025
section 1514.022 of the Revised Code, or a board or commission 5026
that derives its authority from a governmental agency shall not 5027
require a surface or in-stream mining operator to file a surety 5028
bond or any other form of financial assurance for the reclamation 5029
of land to be affected by a surface or in-stream mining operation 5030
authorized under this chapter. 5031

Sec. 1514.05. (A) At any time within the period allowed an 5032
operator by section 1514.02 of the Revised Code to reclaim an area 5033

of land affected by surface or in-stream mining, the operator may 5034
file a request, on a form provided by the chief of the division of 5035
mineral resources management, for inspection of the area of land 5036
upon which ~~a phase of the reclamation, other than any required~~ 5037
~~planting,~~ is completed. ~~For purposes of inspections and subsequent~~ 5038
~~releases of performance bonds or cash, irrevocable letters of~~ 5039
~~credit, or certificates of deposit deposited in lieu of bonds~~ 5040
~~under this section, reclamation shall be considered to occur in~~ 5041
~~two phases. The first phase involves grading, contouring,~~ 5042
~~terracing, resoiling, and initial planting. The second phase~~ 5043
~~involves the establishment of vegetative cover together with the~~ 5044
~~maintenance and the completion of all reclamation required under~~ 5045
~~this chapter or rules adopted under it. The~~ 5046

~~A request for inspection at the completion of a phase of~~ 5047
~~reclamation~~ shall include all of the following: 5048

(1) The location of the area and number of acres; 5049

(2) The permit number; 5050

~~(3) The amount of performance bond on deposit at the time of~~ 5051
~~the request to ensure reclamation of the area;~~ 5052

~~(4)~~ A map showing the location of the acres reclaimed, 5053
prepared and certified in accordance with division (A)(11) or (12) 5054
of section 1514.02 of the Revised Code, as appropriate. In the 5055
case of an in-stream mining operation, the map also shall include 5056
the information required under division (A)(18) of section 1514.02 5057
of the Revised Code. 5058

~~In addition, a request for inspection of the second phase of~~ 5059
~~reclamation shall include a description of the type and date of~~ 5060
~~any required planting and a statement regarding the degree of~~ 5061
~~success of the growth.~~ 5062

~~(B)~~ The chief shall make an inspection and evaluation of the 5063

reclamation of the area of land for which a the request was 5064
submitted within ninety days after receipt of the request or, if 5065
the operator fails to complete the reclamation or file the request 5066
as required, as soon as the chief learns of the default. 5067
Thereupon, if the chief approves ~~the first phase of the~~ 5068
reclamation, other than any required planting, as meeting the 5069
requirements of this chapter, rules adopted thereunder, any orders 5070
issued during the mining or reclamation, and the specifications of 5071
the plan for mining and reclaiming, the chief shall issue an order 5072
to the operator and the operator's surety releasing them from 5073
liability for ~~the applicable percentage specified in this division~~ 5074
one-half of the total amount of their surety bond on deposit to 5075
ensure reclamation for the area upon which reclamation is 5076
completed. If ~~the chief approves the second phase of the~~ 5077
~~reclamation, the chief shall order release of the remaining~~ 5078
~~performance bond, after completing the inspection and evaluation,~~ 5079
~~in the same manner as in the case of approval of the first phase~~ 5080
~~of reclamation, and the treasurer of state shall proceed as in~~ 5081
~~that case.~~ 5082

~~On approval of the first phase of reclamation, the chief~~ 5083
~~shall release seventy five per cent of the amount of the surety~~ 5084
~~bond on deposit. On approval of the second phase of reclamation,~~ 5085
~~the chief shall release the remaining amount of the surety bond~~ 5086
~~that originally was on deposit.~~ 5087

~~If~~ the operator has deposited cash, an irrevocable letter of 5088
credit, or certificates of deposit in lieu of a surety bond to 5089
ensure reclamation, the chief shall issue an order to the operator 5090
releasing one-half of the amount so held ~~in the same manner and in~~ 5091
~~the same percentages that apply to the release of a surety bond~~ 5092
and promptly shall transmit a certified copy of the order to the 5093
treasurer of state. Upon presentation of the order to the 5094
treasurer of state by the operator to whom it was issued, or by 5095

the operator's authorized agent, the treasurer of state shall 5096
deliver to the operator or the operator's authorized agent the 5097
cash, irrevocable letter of credit, or certificates of deposit 5098
designated in the order. 5099

~~(C)~~ If the chief does not approve ~~a phase of~~ the reclamation, 5100
other than any required planting, the chief shall notify the 5101
operator by certified mail. The notice shall be an order stating 5102
the reasons for unacceptability, ordering further actions to be 5103
taken, and setting a time limit for compliance. If the operator 5104
does not comply with the order within the time limit specified, 5105
the chief may order an extension of time for compliance after 5106
determining that the operator's noncompliance is for good cause, 5107
resulting from developments partially or wholly beyond the 5108
operator's control. If the operator complies within the time limit 5109
or the extension of time granted for compliance, the chief shall 5110
order release of the performance bond in the same manner as in the 5111
case of approval of reclamation, other than any required planting, 5112
by the chief, and the treasurer of state shall proceed as in that 5113
case. If the operator does not comply within the time limit and 5114
the chief does not order an extension, or if the chief orders an 5115
extension of time and the operator does not comply within the 5116
extension of time granted for compliance, the chief shall issue 5117
another order declaring that the operator has failed to reclaim 5118
and, if the operator's permit has not already expired or been 5119
revoked, revoking the operator's permit. The chief shall thereupon 5120
proceed under division ~~(D)~~(C) of this section. 5121

~~(D)~~(B) At any time within the period allowed an operator by 5122
section 1514.02 of the Revised Code to reclaim an area affected by 5123
surface mining, the operator may file a request, on a form 5124
provided by the chief, for inspection of the area of land on which 5125
all reclamation, including the successful establishment of any 5126
required planting, is completed. The request shall include all of 5127

the following: 5128

(1) The location of the area and number of acres; 5129

(2) The permit number; 5130

(3) The type and date of any required planting of vegetative cover and the degree of success of growth; 5131
5132

(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. 5133
5134
5135
5136
5137
5138

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. 5139
5140
5141
5142
5143
5144
5145
5146
5147
5148
5149
5150
5151
5152
5153

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 5154
5155
5156
5157
5158

unacceptability, ordering further actions to be taken, and setting 5159
a time limit for compliance. If the operator does not comply with 5160
the order within the time limit specified, the chief may order an 5161
extension of time for compliance after determining that the 5162
operator's noncompliance is for good cause, resulting from 5163
developments partially or wholly beyond the operator's control. If 5164
the operator complies within the time limit or the extension of 5165
time granted for compliance, the chief shall order release of the 5166
remaining performance bond in the same manner as in the case of 5167
approval of reclamation by the chief, and the treasurer of state 5168
shall proceed as in that case. If the operator does not comply 5169
within the time limit and the chief does not order an extension, 5170
or if the chief orders an extension of time and the operator does 5171
not comply within the extension of time granted for compliance, 5172
the chief shall issue another order declaring that the operator 5173
has failed to reclaim and, if the operator's permit has not 5174
already expired or been revoked, revoking the operator's permit. 5175
The chief then shall proceed under division (C) of this section. 5176

(C) Upon issuing an order under division ~~(C)~~(A) or (B) of 5177
this section declaring that the operator has failed to reclaim, 5178
the chief shall ~~retain all or part of the performance bond on~~ 5179
~~deposit for reclamation of the affected surface or in-stream mine~~ 5180
~~site. The~~ make a finding as to the number and location of the 5181
acres of land that the operator has failed to reclaim in the 5182
manner required by this chapter. The chief shall order the release 5183
of the performance bond in the amount of five hundred dollars per 5184
acre for those acres that the chief finds to have been reclaimed 5185
in the manner required by this chapter. The release shall be 5186
ordered in the same manner as in the case of other approval of 5187
reclamation by the chief, and the treasurer of state shall proceed 5188
as in that case. If the operator has on deposit cash, an 5189
irrevocable letter of credit, or certificates of deposit to ensure 5190

reclamation of the area of the land affected, the chief at the 5191
same time shall issue an order declaring that the remaining cash, 5192
irrevocable letter of credit, or certificates of deposit, ~~if any,~~ 5193
are the property of the state and are available for use by the 5194
chief in performing reclamation of the area and shall proceed in 5195
accordance with section 1514.06 of the Revised Code. 5196

If the operator has on deposit a surety bond to ensure 5197
reclamation of the area of land affected, the chief shall notify 5198
the surety in writing of the operator's default and shall request 5199
the surety to perform the surety's obligation and that of the 5200
operator. The surety, within ten days after receipt of the notice, 5201
shall notify the chief as to whether it intends to perform those 5202
obligations. 5203

If the surety chooses to perform, it shall arrange for work 5204
to begin within thirty days of the day on which it notifies the 5205
chief of its decision. If the surety completes the work as 5206
required by this chapter, the chief shall issue an order to the 5207
surety releasing the surety from liability under the bond in the 5208
same manner as if the surety were an operator proceeding under 5209
this section. If, after the surety begins the work, the chief 5210
determines that the surety is not carrying the work forward with 5211
reasonable progress, or that it is improperly performing the work, 5212
or that it has abandoned the work or otherwise failed to perform 5213
its obligation and that of the operator, the chief shall issue an 5214
order terminating the right of the surety to perform the work and 5215
demanding payment of the amount due as required by this chapter. 5216

If the surety chooses not to perform and so notifies the 5217
chief, does not respond to the chief's notice within ten days of 5218
receipt thereof, or fails to begin work within thirty days of the 5219
day it timely notifies the chief of its decision to perform its 5220
obligation and that of the operator, the chief shall issue an 5221
order terminating the right of the surety to perform the work and 5222

demanding payment of the amount due, as required by this chapter. 5223

Upon receipt of an order of the chief demanding payment of 5224
the amount due, the surety immediately shall deposit with the 5225
chief cash in the full amount due under the order for deposit with 5226
the treasurer of state. If the surety fails to make an immediate 5227
deposit, the chief shall certify it to the attorney general for 5228
collection. When the chief has issued an order terminating the 5229
right of the surety and has the cash on deposit, the cash is the 5230
property of the state and is available for use by the chief, who 5231
shall proceed in accordance with section 1514.06 of the Revised 5232
Code. 5233

Sec. 1514.051. (A) If an operator or a partner or officer of 5234
the operator forfeits a performance bond, the division of mineral 5235
resources management shall have a priority lien in front of all 5236
other interested creditors against the assets of that operator for 5237
the amount that is needed to perform any reclamation that is 5238
required as a result of the operator's mining activities. The 5239
chief of the division of mineral resources management shall file a 5240
statement in the office of the county recorder of each county in 5241
which the mined land lies of the estimated costs to reclaim the 5242
land. Estimated costs shall include direct and indirect costs of 5243
the development, design, construction, management, and 5244
administration of the reclamation. The statement shall constitute 5245
a lien on the assets of the operator as of the date of the filing. 5246
The lien shall continue in force so long as any portion of the 5247
lien remains unpaid or until the chief issues a certificate of 5248
release of the lien. If the chief issues a certificate of release 5249
of the lien, the chief shall file a certificate of release in the 5250
office of each applicable county recorder. 5251

(B) The chief promptly shall issue a certificate of release 5252
under any of the following circumstances: 5253

(1) Upon the repayment in full of the money that is necessary 5254
to complete the reclamation; 5255

(2) Upon the transfer of an existing permit that includes the 5256
areas of the surface mine for which reclamation was not completed 5257
from the operator that forfeited the performance bond to a new 5258
operator; 5259

(3) Any other circumstance that the chief determines to be in 5260
the best interests of the state. 5261

(C) The chief may modify the amount of a lien under this 5262
section. If the chief modifies a lien, the chief shall file a 5263
statement in the office of the county recorder of each applicable 5264
county of the new amount of the lien. 5265

(D) The chief may authorize a closing agent to hold a 5266
certificate of release in escrow for a period not to exceed one 5267
hundred eighty days for the purpose of facilitating the transfer 5268
of unreclaimed mine land. 5269

(E) All money from the collection of liens under this section 5270
shall be deposited in the state treasury to the credit of the 5271
surface mining fund created in section 1514.06 of the Revised 5272
Code. 5273

Sec. 1514.06. (A) There is hereby created in the state 5274
treasury the surface mining fund. ~~All cash~~ consisting of all money 5275
that becomes the property of the state pursuant to ~~section~~ 5276
sections 1514.05 and 1514.051 of the Revised Code ~~shall be~~ 5277
deposited in the fund, and expenditures, money credited to the 5278
fund under divisions (C)(1) and (2) of section 1514.071, and other 5279
money specified in section 1514.11 of the Revised Code. All 5280
investment earnings of the fund shall be credited to the fund. 5281
Expenditures from the fund shall be made by the chief of the 5282
division of mineral resources management ~~only~~ for the purpose of 5283

reclaiming areas of land affected by surface or in-stream mining 5284
~~operations on which an~~ under a permit issued under this chapter 5285
~~that the operator has defaulted~~ failed to reclaim and for other 5286
purposes specified in section 1514.11 of the Revised Code. 5287

(B) Expenditures of moneys from the fund, except as otherwise 5288
provided by this section, shall be made pursuant to contracts 5289
entered into by the chief with persons who agree to furnish all of 5290
the materials, equipment, work, and labor, as specified and 5291
provided in the contracts, for the prices stipulated therein. With 5292
the approval of the director of natural resources, the chief may 5293
reclaim the land in the same manner as the chief required of the 5294
operator who ~~defaulted~~ failed to reclaim the land. Each contract 5295
awarded by the chief shall be awarded to the lowest responsive and 5296
responsible bidder, in accordance with section 9.312 of the 5297
Revised Code, after sealed bids are received, opened, and 5298
published at the time and place fixed by the chief. The chief 5299
shall publish notice of the time and place at which bids will be 5300
received, opened, and published, at least once at least ten days 5301
before the date of the opening of the bids, in a newspaper of 5302
general circulation in the county in which the area of land to be 5303
reclaimed under the contract is located. If, after so advertising 5304
for bids, no bids are received by the chief at the time and place 5305
fixed for receiving them, the chief may advertise again for bids, 5306
or, if the chief considers the public interest will be best 5307
served, the chief may enter into a contract for the reclamation of 5308
the area of land without further advertisement for bids. The chief 5309
may reject any or all bids received and again publish notice of 5310
the time and place at which bids for contracts will be received, 5311
opened, and published. 5312

(C) With the approval of the director, the chief, without 5313
advertising for bids, may enter into a contract with the 5314
landowner, a surface or in-stream mine operator or coal mine 5315

operator mining under a current, valid permit issued under this 5316
chapter or Chapter 1513. of the Revised Code, or a contractor 5317
hired by a surety to complete reclamation, to carry out 5318
reclamation on land affected by surface or in-stream mining 5319
operations ~~on which~~ that an operator has ~~defaulted~~ failed to 5320
reclaim. 5321

(D) With the approval of the director, the chief may carry 5322
out all or part of the reclamation work on land affected by 5323
surface or in-stream mining operations ~~on which~~ that the operator 5324
has ~~defaulted~~ failed to reclaim using the employees and equipment 5325
of any division of the department of natural resources. 5326

(E) The chief shall require every contractor performing 5327
reclamation work under this section to pay workers at the greater 5328
of their regular rate of pay, as established by contract, 5329
agreement, or prior custom or practice, or the average wage rate 5330
paid in this state for the same or similar work, as determined by 5331
the chief under section 1513.02 of the Revised Code. 5332

(F) Each contract entered into by the chief under this 5333
section shall provide only for the reclamation of land affected by 5334
the surface or in-stream mining operation or operations of one 5335
operator and not reclaimed by the operator as required by this 5336
chapter. If there is money in the fund derived from the 5337
performance bond deposited with the chief by one operator to 5338
ensure the reclamation of two or more areas of land affected by 5339
the surface or in-stream mining operation or operations of one 5340
operator and not reclaimed by the operator as required by this 5341
chapter, the chief may award a single contract for the reclamation 5342
of all such areas of land. 5343

(G) The cost of the reclamation work done under this section 5344
on each area of land affected by surface or in-stream mining 5345
operations ~~on which~~ that an operator has ~~defaulted~~ failed to 5346

reclaim shall be paid out of the money in the fund derived from 5347
the performance bond that was deposited with the chief to ensure 5348
the reclamation of that area of land. If the amount of money is 5349
not sufficient to pay the cost of doing all of the reclamation 5350
work on the area of land that the operator should have done, but 5351
failed to do, the chief may expend from the reclamation forfeiture 5352
fund created in section 1513.18 of the Revised Code or the surface 5353
mining fund created in this section the amount of money needed to 5354
complete reclamation to the standards required by this chapter. 5355
The operator is liable for that expense in addition to any other 5356
liabilities imposed by law. At the request of the chief, the 5357
attorney general shall bring an action against the operator for 5358
the amount of the expenditures from either fund. Moneys so 5359
recovered shall be deposited in the state treasury to the 5360
appropriate credit of the fund from which the expenditures were 5361
made. 5362

(H) If any part of the money in the surface mining fund 5363
remains in the fund after the chief has caused the area of land to 5364
be reclaimed and has paid all the reclamation costs and expenses, 5365
or if any money remains because the area of land has been 5366
repermitted under this chapter or reclaimed by a person other than 5367
the chief, the chief may expend the remaining money to complete 5368
other reclamation work performed under this section. The chief 5369
shall prepare an annual report that summarizes the money credited 5370
to the fund and expenditures made from the fund and post the 5371
report on the division of mineral resources management's web site. 5372

Sec. 1514.09. The reclamation commission established pursuant 5373
to section 1513.05 of the Revised Code shall serve as the 5374
reclamation commission pursuant to this chapter. However, whenever 5375
the commission is considering any appeal pertaining to surface or 5376
in-stream mining, as distinguished from coal strip mining, the 5377
member representing the coal strip mine operators shall be 5378

replaced by a person who, by reason of the person's previous 5379
vocation, employment, or affiliations, can be classed as a 5380
representative of surface or in-stream mine operators, as 5381
applicable. The appointment of that person shall be made in 5382
accordance with section 1513.05 of the Revised Code, and the 5383
person's term shall be concurrent with that of the representative 5384
of the coal strip mine operators. 5385

No party to an appeal brought under this section shall be 5386
eligible for an award of attorney's fees, costs, or expenses from 5387
the commission or any court. 5388

Notwithstanding section 1513.13 of the Revised Code, an 5389
operator may appeal the determination of the chief of the division 5390
of mineral resources management that is made under division (D) of 5391
section 1514.43 of the Revised Code within ten days after the 5392
operator receives a copy of the determination. 5393

Notwithstanding section 1513.14 of the Revised Code, appeals 5394
from an order of the commission pertaining to surface or in-stream 5395
mining may be taken to the court of common pleas of the county in 5396
which the operation is located, or to the court of common pleas of 5397
Franklin county. 5398

Sec. 1514.11. In addition to the purposes authorized in 5399
section 1514.06 of the Revised Code, the chief of the division of 5400
mineral resources management may use moneys in the surface mining 5401
fund created under that section for the administration and 5402
enforcement of this chapter, for the reclamation of land affected 5403
by surface or in-stream mining under a permit issued under this 5404
chapter that the operator failed to reclaim and for which the 5405
performance bond filed by the operator is insufficient to complete 5406
the reclamation, and for the reclamation of land affected by 5407
surface or in-stream mining that was abandoned and left 5408
unreclaimed and for which no permit was issued or bond filed under 5409

this chapter. Also, the chief may use the portion of the surface 5410
mining fund that consists of moneys collected from the severance 5411
taxes levied under section 5749.02 of the Revised Code for ~~the~~ 5412
mine safety and first aid ~~classes provided under division (C) of~~ 5413
~~section 1561.26 of the Revised Code~~ training. For purposes of this 5414
section, the chief shall expend moneys in the fund in accordance 5415
with the procedures and requirements established in section 5416
1514.06 of the Revised Code and may enter into contracts and 5417
perform work in accordance with that section. 5418

Fees collected under sections 1514.02 and 1514.03 of the 5419
Revised Code, one-half of the moneys collected from the severance 5420
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 5421
the Revised Code, and all of the moneys collected from the 5422
severance tax levied under division (A)(7) of section 5749.02 of 5423
the Revised Code shall be credited to the fund in accordance with 5424
those sections. Notwithstanding any section of the Revised Code 5425
relating to the distribution or crediting of fines for violations 5426
of the Revised Code, all fines imposed under section 1514.99 of 5427
the Revised Code shall be credited to the fund. 5428

Sec. 1514.40. In accordance with Chapter 119. of the Revised 5429
Code, the chief of the division of mineral resources management, 5430
in consultation with a statewide association that represents the 5431
surface mining industry, shall adopt rules that do all of the 5432
following: 5433

(A) For the purpose of establishing safety standards 5434
governing surface mining operations, incorporate by reference 30 5435
C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended; 5436

(B) Establish criteria, standards, and procedures governing 5437
safety performance evaluations conducted under section 1514.45 of 5438
the Revised Code, including requirements for the notification of 5439
operators and the identification of authorized representatives of 5440

miners at surface mining operations for purposes of inspections 5441
conducted under sections 1541.41 to 1541.47 of the Revised Code; 5442

(C) Establish requirements governing the reporting and 5443
investigation of accidents at surface mining operations. In 5444
adopting the rules, the chief shall establish requirements that 5445
minimize duplication with any reporting and investigations of 5446
accidents that are conducted by the mine safety and health 5447
administration in the United States department of labor. 5448

(D) Establish the time, place, and frequency of mine safety 5449
training conducted under section 1514.06 of the Revised Code and a 5450
fee, if any, for the purpose of that section. The amount of the 5451
fee shall not exceed the costs of conducting the training that is 5452
required under that section. 5453

(E) Establish the minimum qualifications necessary to take 5454
the examination that is required for certification of certified 5455
mine forepersons under division (B) of section 1514.47 of the 5456
Revised Code and requirements, fees, and procedures governing the 5457
taking of the examination; 5458

(F) Establish requirements and fees governing the renewal of 5459
certificates under division (C) of that section; 5460

(G) Establish requirements and procedures for the approval of 5461
training plans submitted under division (E) of that section for 5462
the use of qualified persons to conduct examinations of surface 5463
mining operations in lieu of certified mine forepersons and 5464
minimum qualifications of those persons. The rules shall include 5465
requirements governing training frequency and curriculum that must 5466
be provided for qualified persons under such plans and shall 5467
establish related reporting and record keeping requirements. 5468

As used in sections 1514.41 to 1514.47 of the Revised Code, 5469
"rule" means a rule adopted under this section unless the context 5470
indicates otherwise. 5471

Sec. 1514.41. (A) If a surface mining operation is not 5472
inspected by the mine safety and health administration in the 5473
United States department of labor, the chief of the division of 5474
mineral resources management annually shall conduct a minimum of 5475
two inspections of the operation. 5476

(B) If a surface mining operation is identified through a 5477
safety performance evaluation conducted under section 1514.45 of 5478
the Revised Code and rules as having lost-time accidents in an 5479
amount greater than the national average, the chief shall conduct 5480
a minimum of two inspections of the operation for one year 5481
following the identification. 5482

(C) If a fatality of a miner occurs at a surface mining 5483
operation as a result of an unsafe condition or a practice at the 5484
operation, the chief shall conduct a minimum of one inspection 5485
every three months at the operation for two years following the 5486
fatality. 5487

(D) If a life-threatening injury of a miner occurs at a 5488
surface mining operation as a result of an unsafe condition or a 5489
practice at the operation, the chief shall conduct a minimum of 5490
one inspection every three months at the operation for one year 5491
following the injury. 5492

Sec. 1514.42. The chief of the division of mineral resources 5493
management shall conduct a safety audit at a surface mining 5494
operation if the operator of the operation has requested the 5495
division of mineral resources management to conduct mine safety 5496
training. The chief shall conduct additional safety audits at any 5497
surface mining operation if requested by the operator of the 5498
operation. If the chief conducts a safety audit, the operator 5499
shall ensure that the chief has a copy of the training plan that 5500
is required by 30 C.F.R. part 46, as amended, at the time of the 5501

audit. 5502

After completion of an audit, the chief shall prepare a 5503
report that describes the general conditions of the surface mining 5504
operation, lists any hazardous conditions at the operation, lists 5505
any violations of the safety standards established in rules, and 5506
describes the nature and extent of any hazardous condition or 5507
violation found and the corresponding remedy for each hazardous 5508
condition or violation. The chief shall provide two copies of the 5509
report to the operator of the operation. The operator shall post 5510
one copy of the report at the operation for review by the 5511
employees of the operation. 5512

Sec. 1514.43. (A) The chief of the division of mineral 5513
resources management shall enforce the safety standards 5514
established in rules when conducting inspections under section 5515
1514.41 of the Revised Code. 5516

(B) Except as otherwise provided in section 1514.44 of the 5517
Revised Code or pursuant to a safety audit conducted under section 5518
1514.42 of the Revised Code, if during an inspection the chief 5519
finds a violation of a safety standard, the chief shall require 5520
the operator to comply with the standard that is being violated 5521
within a reasonable period of time. If the chief finds a violation 5522
of a safety standard, the chief shall return to the surface mining 5523
operation after a reasonable period of time to determine if the 5524
operator has complied with the standard that was being violated. 5525
If the operator has failed to comply with the standard, the chief 5526
shall take appropriate action to obtain compliance if necessary. 5527

(C) Except as otherwise provided in section 1514.44 of the 5528
Revised Code or pursuant to a safety audit conducted under section 5529
1514.42 of the Revised Code, after completion of an inspection of 5530
a surface mining operation, the chief shall prepare a report that 5531

describes the general conditions of the surface mining operation, 5532
lists any hazardous conditions at the operation, lists any 5533
violations of the safety standards established in rules, and 5534
describes the nature and extent of any hazardous condition or 5535
violation found and the corresponding remedy for each hazardous 5536
condition or violation. The chief shall provide two copies of the 5537
report to the operator of the operation. The operator shall post 5538
one copy of the report at the operation for review by the 5539
employees of the operation. 5540

(D) Except pursuant to a safety audit conducted under section 5541
1514.42 of the Revised Code, not later than ten days after receipt 5542
of a report under this section, the operator may submit a written 5543
request to the chief for a meeting with the chief to review the 5544
findings contained in the report. Upon receipt of a request, the 5545
chief shall review the report and schedule a meeting with the 5546
operator. Within a reasonable period of time after the meeting, 5547
the chief shall make a written determination concerning the 5548
findings contained in the report and provide one copy of the 5549
determination to the operator of the surface mining operation and 5550
one copy of the determination to an authorized representative of 5551
the miners at the operation. If the chief makes a determination 5552
that affirms the findings contained in the report, the chief's 5553
determination constitutes an order for purposes of this chapter 5554
and rules adopted under it. 5555

(E) An operator shall not appeal the contents of a report 5556
prepared under division (C) of this section. However, an operator 5557
may appeal a determination of the chief made under division (D) of 5558
this section. 5559

(F) No operator shall violate or fail to comply with an order 5560
issued pursuant to this section. 5561

Sec. 1514.44. If during an inspection conducted under section 5562

1514.41 of the Revised Code or a safety audit conducted under 5563
section 1514.42 of the Revised Code, the chief of the division of 5564
mineral resources management finds a condition or practice at a 5565
surface mining operation that could reasonably be expected to 5566
cause the death of or imminent serious physical harm to an 5567
employee of the operation, the chief immediately shall issue 5568
orders to safeguard the employees, notify the operator of the 5569
condition or practice, and require the operator to abate the 5570
condition or practice within a reasonable period of time. In all 5571
such situations, the chief may require the operation to cease in 5572
the area in which the condition or practice is occurring or may 5573
require the entire operation to cease, if necessary, until the 5574
condition or practice that could reasonably be expected to cause 5575
death or serious physical harm is eliminated. 5576

The chief shall complete a report that describes the 5577
condition or practice and the action taken to eliminate it. The 5578
chief shall provide two copies of the report to the operator of 5579
the operation. The operator shall post one copy of the report at 5580
the operation for review by the employees of the operation. 5581

Sec. 1514.45. The chief of the division of mineral resources 5582
management annually shall conduct a safety performance evaluation 5583
of all surface mining operations in the state in accordance with 5584
rules. The operator of a surface mining operation shall provide to 5585
the chief a copy of the notification of legal identity required 5586
under 30 C.F.R. part 41, as amended, at the same time that the 5587
notice is filed with the mine safety and health administration in 5588
the United States department of labor. 5589

Sec. 1514.46. If the operator of a surface mining operation 5590
requests the division of mineral resources management to conduct 5591
mine safety training, the chief of the division of mineral 5592

resources management shall conduct mine safety training for the 5593
employees of that operator. For persons who are not employed by a 5594
holder of a surface mining permit issued under this chapter and 5595
who seek the training, the chief may charge a fee in an amount 5596
established in rules for conducting it. The safety training shall 5597
be conducted in accordance with rules and shall emphasize the 5598
standards adopted in rules and include any other content that the 5599
chief determines is beneficial. Any fees collected under this 5600
section shall be deposited in the state treasury to the credit of 5601
the surface mining fund created in section 1514.06 of the Revised 5602
Code. 5603

Sec. 1514.47. (A) The operator of a surface mining operation 5604
shall employ a certified mine foreperson or a person who is 5605
qualified in accordance with this section and rules to conduct 5606
examinations of surface mining operations for purposes of 30 5607
C.F.R. part 56, as amended. 5608

(B) The chief of the division of mineral resources management 5609
shall conduct examinations for the position of certified mine 5610
foreperson in accordance with rules. In order to be eligible for 5611
examination as a certified mine foreperson, an applicant shall 5612
file with the chief an affidavit establishing the applicant's 5613
qualifications to take the examination. The chief shall grade 5614
examinations and issue certificates. 5615

(C) A certificate issued under this section shall expire five 5616
years after the date of issuance. A certificate may be renewed, 5617
provided that the applicant verifies that all required training 5618
pursuant to 30 C.F.R. part 46, as amended, has been completed and 5619
any other requirements for renewal have been satisfied. 5620

(D) If a certificate issued under this section is suspended, 5621
the certificate shall not be renewed until the suspension period 5622

expires and the person whose certificate is suspended successfully 5623
completes all actions required by the chief. If an applicant's 5624
license, certificate, or similar authority that is issued by 5625
another state to perform specified mining duties is suspended or 5626
revoked by that state, the applicant shall be ineligible for 5627
examination for or renewal of a certificate in this state during 5628
that period of suspension or revocation. A certificate that has 5629
been revoked shall not be renewed. 5630

If a person who has been certified by the chief under this 5631
section purposely violates this chapter, the chief may suspend or 5632
revoke the certificate after an investigation and hearing 5633
conducted in accordance with Chapter 119. of the Revised Code are 5634
completed. 5635

(E) In lieu of employing a certified mine foreperson, the 5636
operator of a surface mining operation may submit to the chief a 5637
detailed training plan under which persons who qualify under the 5638
plan may conduct and document examinations at the surface mining 5639
operation for purposes of 30 C.F.R. part 56, as amended. The chief 5640
shall review the plan and determine if the plan complies with the 5641
requirements established in rules. The chief shall approve or deny 5642
the plan and notify in writing the operator who submitted the plan 5643
of the chief's decision. 5644

Sec. 1514.50. (A) The chief of the division of mineral 5645
resources management or an authorized employee of the division of 5646
mineral resources management may enter on lands to make 5647
inspections in accordance with this chapter and rules adopted 5648
under it when necessary in the discharge of the duties specified 5649
in this chapter and the rules. No person shall prevent or hinder 5650
the chief or an authorized employee of the division in the 5651
performance of those duties. 5652

(B) For purposes of performing reclamation of land affected 5653

by surface mining operations on which the holder of a permit 5654
issued under this chapter has defaulted or otherwise failed to 5655
timely conduct the reclamation required by section 1514.05 of the 5656
Revised Code, the chief may enter on the land and perform 5657
reclamation that the chief determines is necessary to protect 5658
public health or safety or the environment. In order to perform 5659
the reclamation, the chief may enter on adjoining land or other 5660
land that is necessary to access the land on which the surface 5661
mining occurred and on which the reclamation is to be performed. 5662
The chief shall provide reasonable advance notice to the owner of 5663
any land to be entered for the purpose of access for reclamation 5664
under this chapter. The division shall return the land that was 5665
used to access the former surface mining operation to the same or 5666
an improved grade, topography, and condition that existed prior to 5667
its use by the division. 5668

(C) When conducting investigations pursuant to section 5669
1514.13 of the Revised Code, the chief or an authorized employee 5670
of the division may enter on lands to conduct water supply 5671
surveys, measure ground water levels and collect data when 5672
necessary to define the cone of depression, or perform other 5673
duties for the purposes of that section. 5674

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 5675
section 1514.10 of the Revised Code may be fined not more than 5676
five thousand dollars plus not more than one thousand dollars per 5677
acre of land affected, and is responsible for achieving 5678
reclamation of the land as required pursuant to this chapter. 5679

(B) Whoever violates division (B) of section 1514.10 of the 5680
Revised Code may be fined not more than one thousand dollars per 5681
acre of land affected that is not under permit, and is responsible 5682
for achieving reclamation of the land as required pursuant to this 5683
chapter. 5684

(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. 5716
5717
5718
5719
5720
5721
5722
5723

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. 5724
5725
5726
5727
5728
5729

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~~ 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. 5730
5731
5732
5733
5734
5735
5736
5737
5738
5739
5740
5741

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 5742
5743
5744
5745

improvement. In preparing the schedule, the board or its designee 5746
shall use information concerning the proposed improvement that 5747
must be submitted to the board by the supervisors of a soil and 5748
water conservation district. The information includes plans for 5749
the proposed improvement, including surveys, maps, and 5750
specifications, together with schedules of damages, cost 5751
estimates, and any related reports that the supervisors or their 5752
designee prepared. 5753

The schedule of estimated assessments that must be prepared 5754
shall include the name and address of each owner of land believed 5755
to be benefited by the proposed improvement together with a 5756
description of the land. The names and descriptions shall be 5757
obtained from the tax duplicates of the county. The board or its 5758
designee shall enter in the schedule the amount of each estimated 5759
assessment, which shall be determined using considerations 5760
established in section 1515.24 of the Revised Code. In no case 5761
shall an assessment be less than twenty-five dollars for each 5762
parcel of land, except in the case of a multi-parcel lot, in which 5763
case the board may charge a minimum of twenty-five dollars with 5764
respect to all of the parcels comprising the multi-parcel lot. In 5765
addition, the board may charge an assessment of less than 5766
twenty-five dollars if the board determines that a lower amount is 5767
appropriate, provided that the lower amount includes the cost of 5768
preparing and mailing the notice required under division (D)(1) of 5769
section 1515.24 of the Revised Code. The total of the estimated 5770
assessments, including the total estimated assessments allocated 5771
to public corporations and the state, shall equal the estimated 5772
cost of the proposed improvement. The board shall use the schedule 5773
of estimated assessments for purposes of levying final assessments 5774
under section 1515.24 of the Revised Code. 5775

(B) As used in this section, "multi-parcel lot" means a site 5776
on which a dwelling is located and that comprises two or more 5777

contiguous parcels of land.

5778

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.

5779
5780
5781
5782
5783
5784
5785

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.

5786
5787
5788
5789
5790
5791
5792
5793
5794
5795

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.

5796
5797
5798
5799
5800

The chief shall do the following:

5801

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

5802
5803

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

5804
5805

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

5806
5807

(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;	5839
(I) Establish an appropriate system for marking nature	5840
preserves;	5841
(J) Publish and submit to the governor and the general	5842
assembly a biennial report of the status and condition of each	5843
nature preserve, activities conducted within each preserve, and	5844
plans and recommendations for natural area preservation.	5845
Sec. 1517.10. (A) As used in this section, "felony" has the	5846
same meaning as in section 109.511 of the Revised Code.	5847
(B)(1) Any person selected by the chief of the division of	5848
natural areas and preserves for custodial or patrol service on the	5849
lands and waters operated or administered by the division shall be	5850
employed in conformity with the law applicable to the classified	5851
civil service of the state. Subject to division (C) of this	5852
section, the chief may designate that person as a preserve	5853
officer. A preserve officer, in any nature preserve, in any	5854
natural area owned or managed through easement, license, or lease	5855
by the department of natural resources and administered by the	5856
division, and on lands owned or managed through easement, license,	5857
or lease by the department and administered by the division that	5858
are within or adjacent to any wild, scenic, or recreational river	5859
area established under this chapter and along any trail	5860
established under Chapter 1519. of the Revised Code, has the	5861
authority specified under section 2935.03 of the Revised Code for	5862
peace officers of the department of natural resources to keep the	5863
peace, to enforce all laws and rules governing those lands and	5864
waters, and to make arrests for violation of those laws and rules,	5865
provided that the authority shall be exercised on lands or waters	5866
administered by another division of the department only pursuant	5867
to an agreement with the chief of that division or to a request	5868
for assistance by an enforcement officer of that division in an	5869

emergency. A preserve officer, in or along any watercourse within, 5870
abutting, or upstream from the boundary of any area administered 5871
by the department, has the authority to enforce section 3767.32 of 5872
the Revised Code and any other laws prohibiting the dumping of 5873
refuse into or along waters and to make arrests for violation of 5874
those laws. The jurisdiction of a preserve officer shall be 5875
concurrent with that of the peace officers of the county, 5876
township, or municipal corporation in which the violation occurs. 5877

The governor, upon the recommendation of the chief, shall 5878
issue to each preserve officer a commission indicating authority 5879
to make arrests as provided in this section. 5880

The chief shall furnish a suitable badge to each commissioned 5881
preserve officer as evidence of the preserve officer's authority. 5882

(2) If any person employed under this section is designated 5883
by the chief to act as an agent of the state in the collection of 5884
money resulting from the sale of licenses, fees of any nature, or 5885
other money belonging to the state, the chief shall require a 5886
surety bond from the person in an amount not less than one 5887
thousand dollars. 5888

(3) A preserve officer may render assistance to a state or 5889
local law enforcement officer at the request of the officer or in 5890
the event of an emergency. Preserve officers serving outside the 5891
division of natural areas and preserves under this section or 5892
serving under the terms of a mutual aid compact authorized under 5893
section 1501.02 of the Revised Code shall be considered as 5894
performing services within their regular employment for the 5895
purposes of compensation, pension or indemnity fund rights, 5896
workers' compensation, and other rights or benefits to which they 5897
may be entitled as incidents of their regular employment. 5898

Preserve officers serving outside the division of natural 5899
areas and preserves under this section or under the terms of a 5900

mutual aid compact retain personal immunity from civil liability 5901
as specified in section 9.86 of the Revised Code and shall not be 5902
considered an employee of a political subdivision for purposes of 5903
Chapter 2744. of the Revised Code. A political subdivision that 5904
uses preserve officers under this section or under the terms of a 5905
mutual aid compact authorized under section 1501.02 of the Revised 5906
Code is not subject to civil liability under Chapter 2744. of the 5907
Revised Code as a result of any action or omission of any preserve 5908
officer acting under this section or under a mutual aid compact. 5909

(C)(1) The chief of the division of natural areas and 5910
preserves shall not designate a person as a preserve officer 5911
pursuant to division (B)(1) of this section on a permanent basis, 5912
on a temporary basis, for a probationary term, or on other than a 5913
permanent basis if the person previously has been convicted of or 5914
has pleaded guilty to a felony. 5915

(2)(a) The chief of the division of natural areas and 5916
preserves shall terminate the employment as a preserve officer of 5917
a person designated as a preserve officer under division (B)(1) of 5918
this section if that person does either of the following: 5919

(i) Pleads guilty to a felony; 5920

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 5921
plea agreement as provided in division (D) of section 2929.43 of 5922
the Revised Code in which the preserve officer agrees to surrender 5923
the certificate awarded to the preserve officer under section 5924
109.77 of the Revised Code. 5925

(b) The chief shall suspend from employment as a preserve 5926
officer a person designated as a preserve officer under division 5927
(B)(1) of this section if that person is convicted, after trial, 5928
of a felony. If the preserve officer files an appeal from that 5929
conviction and the conviction is upheld by the highest court to 5930
which the appeal is taken or if the preserve officer does not file 5931

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, 5962
and wild, scenic, and recreational river areas; 5963

(C) Special projects, including, but not limited to, 5964
biological inventories, research grants, and the production of 5965
interpretive material related to natural areas, nature preserves, 5966
and wild, scenic, and recreational river areas; 5967

(D) Routine maintenance for health and safety purposes. 5968

Moneys appropriated from the fund shall not be used to fund 5969
salaries of permanent employees, or administrative costs, ~~or~~ 5970
~~routine maintenance.~~ 5971

All investment earnings of the fund shall be credited to the 5972
fund. 5973

Sec. 1520.02. (A) The director of natural resources has 5974
exclusive authority to administer, manage, and establish policies 5975
governing canal lands. 5976

(B)(1) ~~Except as provided in division (C) of this section,~~ 5977
~~the~~ The director may sell, lease, exchange, give, or grant all or 5978
part of the state's interest in any canal lands in accordance with 5979
section 1501.01 of the Revised Code. The director may stipulate 5980
that an appraisal or survey need not be conducted for, and may 5981
establish any terms or conditions that the director determines 5982
appropriate for, any such conveyance. 5983

(2) With regard to canal lands, the chief of the division of 5984
water, with the approval of the director, may sell, lease, or 5985
transfer minerals or mineral rights when the chief ~~and, with the~~ 5986
approval of the director ~~determine,~~ determines that the sale, 5987
lease, or transfer is in the best interest of the state. 5988
Consideration for minerals and mineral rights shall be by rental 5989
or on a royalty basis as prescribed by the chief, with the 5990
approval of the director, and payable as prescribed by contract. 5991

Moneys collected under division (B)(2) of this section shall be 5992
paid into the state treasury to the credit of the canal lands fund 5993
created in section 1520.05 of the Revised Code. 5994

~~(C)(1) Not later than one year after July 1, 1989, the 5995
director of transportation and the director of the Ohio historical 5996
society shall identify all canal lands that are or may be of use 5997
to any program operated by the department of transportation or the 5998
Ohio historical society, respectively, and shall notify the 5999
director of natural resources of those lands. The director of 6000
natural resources may transfer any canal lands so identified to 6001
the exclusive care, custody, and control of the department of 6002
transportation or the Ohio historical society, as applicable, by 6003
means of a departmental transfer not later than six months after 6004
receiving notification under division (C)(1) of this section. 6005~~

~~(2) The director of natural resources may transfer to the 6006
Ohio historical society any equipment, maps, and records used on 6007
or related to canal lands that are of historical interest and that 6008
are not needed by the director to administer this chapter. 6009~~

(D) If the director of natural resources determines that any 6010
canal lands are a necessary part of a county's drainage or ditch 6011
system and are not needed for any purpose of the department of 6012
natural resources, the director may sell, grant, or otherwise 6013
convey those canal lands to that county in accordance with 6014
division (B) of this section. The board of county commissioners 6015
shall accept the transfer of canal lands. 6016

(E) Notwithstanding any other section of the Revised Code, 6017
the county auditor shall transfer any canal lands conveyed under 6018
this section, and the county recorder shall record the deed for 6019
those lands in accordance with section 317.12 of the Revised Code. 6020
~~This division does not apply to canal lands transferred under 6021
division (C)(1) of this section. 6022~~

Sec. 1520.03. (A) The director of natural resources may 6023
appropriate real property in accordance with Chapter 163. of the 6024
Revised Code for the purpose of administering this chapter. 6025

(B)(1) The director shall operate and maintain all canals and 6026
canal reservoirs owned by the state except those canals that are 6027
operated by the Ohio historical society on July 1, 1989. 6028

(2) On behalf of the director, the division of water shall 6029
have the care and control of all canals and canal reservoirs owned 6030
by the state, the water in them, and canal lands and shall 6031
protect, operate, and maintain them and keep them in repair. The 6032
chief of the division of water may remove obstructions from or on 6033
them and shall make any alterations or changes in or to them and 6034
construct any feeders, dikes, reservoirs, dams, locks, or other 6035
works, devices, or improvements in or on them that are necessary 6036
in the discharge of the chief's duties. 6037

In accordance with Chapter 119. of the Revised Code, the 6038
chief may adopt, amend, and rescind rules that are necessary for 6039
the administration of this division. 6040

(C) The director may sell or lease water from any canal or 6041
canal reservoir that the director operates and maintains only to 6042
the extent that the water is in excess of the quantity that is 6043
required for navigation, recreation, and wildlife purposes. The 6044
director may adopt, amend, and rescind rules in accordance with 6045
Chapter 119. of the Revised Code necessary to administer this 6046
division. 6047

The withdrawal of water from any canal or canal reservoir for 6048
domestic use is exempt from this division. However, the director 6049
may require water conservation measures for water that is 6050
withdrawn from any canal or canal reservoir for domestic use 6051
during drought conditions or other emergencies declared by the 6052

governor.

6053

(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.

6054

6055

6056

(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.

6057

6058

6059

6060

6061

6062

6063

6064

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.

6065

6066

6067

6068

6069

6070

6071

6072

6073

6074

6075

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.

6076

6077

6078

(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.

6079

6080

6081

6082

Sec. 1520.05. There is hereby created in the state treasury 6083
the canal lands fund, which shall be composed of all moneys 6084
received by the director of natural resources under sections 6085
1520.02 and 1520.03 of the Revised Code, all civil penalties 6086
assessed under section 1520.03 of the Revised Code, and any moneys 6087
appropriated to it. The fund shall be administered by the 6088
director, who shall spend moneys in the fund for the purposes of 6089
administering and enforcing this chapter ~~and section 1521.08 of~~ 6090
~~the Revised Code.~~ The director may spend any surplus moneys in the 6091
fund, as determined by ~~him~~ the director, for any other programs 6092
operated by the department of natural resources. 6093

Sec. 1520.07. (A) The director of natural resources may give 6094
away or sell timber that has fallen on or been removed for 6095
maintenance reasons from canal lands. 6096

(B) The director may give away or sell the spoils of a 6097
dredging operation conducted by the department of natural 6098
resources in waters under the control and management of the 6099
~~division of water~~ department. Prior to giving away or selling any 6100
spoils under this division, the director shall notify the director 6101
of environmental protection of ~~his~~ that intent so that the 6102
director of environmental protection may determine whether the 6103
spoils constitute solid wastes or hazardous waste, as those terms 6104
are defined in section 3734.01 of the Revised Code, that shall be 6105
disposed of in accordance with Chapter 3734. of the Revised Code. 6106
If the director of environmental protection does not notify the 6107
director of natural resources within thirty days after receiving 6108
notice of the gift or sale that the spoils shall be disposed of in 6109
accordance with Chapter 3734. of the Revised Code, the director of 6110
natural resources may proceed with the gift or sale. 6111

(C) Proceeds from the sale of timber or dredge spoils under 6112

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.

6172

(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:

6173

6174

6175

6176

6177

6178

6179

6180

(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;

6181

6182

6183

6184

6185

(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.

6186

6187

6188

6189

(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.

6190

6191

6192

6193

6194

6195

6196

6197

6198

(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

6199

6200

6201

6202

occurred. 6203

(O) "National flood insurance program" means the national 6204
flood insurance program established in the "National Flood 6205
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as amended, 6206
and regulations adopted under it. 6207

(R) "Conservancy district" means a conservancy district 6208
established under Chapter 6101. of the Revised Code. 6209

~~(Q)~~(S) "Park board" means the board of park commissioners of 6210
a park district created under Chapter 1545. of the Revised Code. 6211

~~(R)~~(T) "Erosion control structure" means anything that is 6212
designed primarily to reduce or control erosion of the shore along 6213
or near lake erie, including, but not limited to, revetments, 6214
seawalls, bulkheads, certain breakwaters designated by the chief, 6215
and similar structures. "Erosion control structure" does not 6216
include wharves, piers, docks, marinas, boat ramps, and other 6217
similar structures. 6218

Sec. 1521.04. The chief of the division of water, with the 6219
approval of the director of natural resources, may make loans and 6220
grants from the water management fund created in section 1501.32 6221
of the Revised Code to governmental agencies for water management, 6222
water supply improvements, and planning and may administer grants 6223
from the federal government and from other public or private 6224
sources for carrying out those functions and for the performance 6225
of any acts that may be required by the United States or by any 6226
agency or department thereof as a condition for the participation 6227
by any governmental agency in any federal financial or technical 6228
assistance program. Direct and indirect costs of administration 6229
may be paid from the ~~water management~~ fund. 6230

The chief may use the water management fund for the purposes 6231
of administering the water diversion and consumptive use permit 6232

programs established in sections 1501.30 to 1501.35 of the Revised 6233
Code; to perform watershed and water resources studies for the 6234
purposes of water management planning; and to acquire, construct, 6235
reconstruct, improve, equip, maintain, operate, and dispose of 6236
water management improvements. The chief may fix, alter, charge, 6237
and collect rates, fees, rentals, and other charges to be paid 6238
into the ~~water management~~ fund by governmental agencies and 6239
persons who are supplied with water by facilities constructed or 6240
operated by the department of natural resources in order to 6241
amortize and defray the cost of the construction, maintenance, and 6242
operation of those facilities. 6243

Sec. 1521.05. (A) As used in this section: 6244

(1) "Construct" or "construction" includes drilling, boring, 6245
digging, deepening, altering, and logging. 6246

(2) "Altering" means changing the configuration of a well, 6247
including, without limitation, deepening a well, extending or 6248
replacing any portion of the inside or outside casing or wall of a 6249
well that extends below ground level, plugging a portion of a well 6250
back to a certain depth, and reaming out a well to enlarge its 6251
original diameter. 6252

(3) "Logging" means describing the lithology, grain size, 6253
color, and texture of the formations encountered during the 6254
drilling, boring, digging, deepening, or altering of a well. 6255

(4) "Grouting" means neat cement; bentonite products in 6256
slurry, granular, or pelletized form, excluding drilling mud or 6257
fluids; or any combination of neat cement and bentonite products 6258
that is placed within a well to seal the annular space or to seal 6259
an abandoned well and that is impervious to and capable of 6260
preventing the movement of water. 6261

(5) "Abandoned well" means a well whose use has been 6262

permanently discontinued and that poses potential health and 6263
safety hazards or that has the potential to transmit surface 6264
contaminants into the aquifer in which the well has been 6265
constructed. 6266

(6) "Sealing" means the complete filling of an abandoned well 6267
with grouting or other approved materials in order to permanently 6268
prevent the vertical movement of water in the well and thus 6269
prevent the contamination of ground water or the intermixing of 6270
water between aquifers. 6271

(B) Any person that constructs a well shall keep a careful 6272
and accurate log of the construction of the well. The log shall 6273
show all of the following: 6274

(1) The character, including, without limitation, the 6275
lithology, color, texture, and grain size, the name, if known, and 6276
the depth of all formations passed through or encountered; 6277

(2) The depths at which water is encountered; 6278

(3) The static water level of the completed well; 6279

(4) A copy of the record of all pumping tests and analyses 6280
related to those tests, if any; 6281

(5) Construction details, including lengths, diameters, and 6282
thicknesses of casing and screening and the volume, type of 6283
material, and method of introducing gravel packing and grouting 6284
into the well; 6285

(6) The type of pumping equipment installed, if any; 6286

(7) The name of the owner of the well, the address of the 6287
location where the well was constructed, and ~~a description of the~~ 6288
~~location of either the property where~~ state plane coordinates or 6289
the latitude and longitude of the well ~~was constructed;~~ 6290

(8) The signature of the individual who constructed the well 6291
and filed the well log; 6292

(9) Any other information required by the chief of the 6293
division of water. 6294

The log shall be furnished to the division of water within 6295
thirty days after the completion of construction of the well on 6296
forms prescribed and prepared by the division. The log shall be 6297
kept on file by the division. 6298

(C) Any person that seals a well shall keep a careful and 6299
accurate report of the sealing of the well. The sealing report 6300
shall show all of the following: 6301

(1) The name of the owner of the well, the address of the 6302
location where the well was constructed, and either the state 6303
plane coordinates or the latitude and longitude of the well; 6304

(2) The depth of the well, the size and length of its casing, 6305
and the static water level of the well; 6306

(3) The sealing procedures, including the volume and type of 6307
sealing material or materials and the method and depth of 6308
placement of each material; 6309

(4) The date on which the sealing was performed; 6310

(5) The signature of the individual who sealed the well and 6311
filed the sealing report; 6312

(6) Any other information required by the chief. 6313

The sealing report shall be furnished to the division within 6314
thirty days after the completion of the sealing of the well on 6315
forms prescribed and prepared by the division. 6316

(D) In accordance with Chapter 119. of the Revised Code, the 6317
chief may adopt, amend, and rescind rules requiring other persons 6318
that are involved in the construction or subsequent development of 6319
a well to submit well logs under ~~this~~ division (B) of this section 6320
containing any or all of the information specified in divisions 6321
(B)(1) to (9) of this section and ~~requiring any person that seals~~ 6322

an abandoned well to submit a well sealing report under this 6323
division containing any or all of the information specified in 6324
those divisions and any specifying additional information 6325
specified in the rules to be included in sealing reports required 6326
under division (C) of this section. 6327

~~(C)~~(E)(1) No person shall fail to keep and submit a well log 6328
or a sealing report as required by this section. 6329

(2) No person shall make a false statement in any well log or 6330
sealing report required to be kept and submitted under this 6331
section. Violation of division ~~(C)~~(E)(2) of this section is 6332
falsification under section 2921.13 of the Revised Code. 6333

~~(D)~~(F) For the purposes of prosecution of a violation of 6334
division ~~(C)~~(E)(1) of this section, a prima-facie case is 6335
established when the division obtains either of the following: 6336

(1) A certified copy of a permit for a private water system 6337
issued in accordance with rules adopted under section 3701.344 of 6338
the Revised Code, or a certified copy of the invoice or a canceled 6339
check from the owner of a well indicating the construction or 6340
sealing services performed; 6341

(2) A certified copy of any permit issued under Chapter 3734. 6342
or 6111. of the Revised Code or plan approval granted under 6343
Chapter 6109. of the Revised Code for any activity that includes 6344
the construction or sealing of a well as applicable. 6345

Sec. 1521.06. (A) No dam may be constructed for the purpose 6346
of storing, conserving, or retarding water, or for any other 6347
purpose, nor shall any ~~dike or~~ levee be constructed for the 6348
purpose of diverting or retaining flood water, unless the person 6349
or governmental agency desiring the construction has a 6350
construction permit for the dam, ~~dike,~~ or levee issued by the 6351
chief of the division of water. 6352

A construction permit is not required under this section for: 6353

(1) A dam that is or will be less than ten feet in height and 6354
that has or will have a storage capacity of not more than fifty 6355
acre-feet at the elevation of the top of the dam, as determined by 6356
the chief. For the purposes of this section, the height of a dam 6357
shall be measured from the natural stream bed or lowest ground 6358
elevation at the downstream or outside limit of the dam to the 6359
elevation of the top of the dam. 6360

(2) A dam, regardless of height, that has or will have a 6361
storage capacity of not more than fifteen acre-feet at the 6362
elevation of the top of the dam, as determined by the chief; 6363

(3) A dam, regardless of storage capacity, that is or will be 6364
six feet or less in height, as determined by the chief; 6365

(4) A dam, ~~dike~~, or levee that belongs to a class exempted by 6366
the chief; 6367

(5) The repair, maintenance, improvement, alteration, or 6368
removal of a dam, ~~dike~~, or levee that is subject to section 6369
1521.062 of the Revised Code, unless the construction constitutes 6370
an enlargement or reconstruction of the structure as determined by 6371
the chief; 6372

(6) A dam or impoundment constructed under Chapter 1513. of 6373
the Revised Code. 6374

(B) Before a construction permit may be issued, three copies 6375
of the plans and specifications, including a detailed cost 6376
estimate, for the proposed construction, prepared by a registered 6377
professional engineer, together with the filing fee specified by 6378
this section and the bond or other security required by section 6379
1521.061 of the Revised Code, shall be filed with the chief. The 6380
detailed estimate of the cost shall include all costs associated 6381
with the construction of the dam, ~~dike~~, or levee, including 6382

supervision and inspection of the construction by a registered 6383
professional engineer. The filing fee shall be based on the 6384
detailed cost estimate for the proposed construction as filed with 6385
and approved by the chief, and shall be determined by the 6386
following schedule unless otherwise provided by rules adopted 6387
under this section: 6388

(1) For the first one hundred thousand dollars of estimated 6389
cost, a fee of four per cent; 6390

(2) For the next four hundred thousand dollars of estimated 6391
cost, a fee of three per cent; 6392

(3) For the next five hundred thousand dollars of estimated 6393
cost, a fee of two per cent; 6394

(4) For all costs in excess of one million dollars, a fee of 6395
one-half of one per cent. 6396

In no case shall the filing fee be less than one thousand 6397
dollars or more than one hundred thousand dollars. If the actual 6398
cost exceeds the estimated cost by more than fifteen per cent, an 6399
additional filing fee shall be required equal to the fee 6400
determined by the preceding schedule less the original filing fee. 6401
All fees collected pursuant to this section, and all fines 6402
collected pursuant to section 1521.99 of the Revised Code, shall 6403
be deposited in the state treasury to the credit of the dam safety 6404
fund, which is hereby created. Expenditures from the fund shall be 6405
made by the chief for the purpose of administering this section 6406
and sections 1521.061 and 1521.062 of the Revised Code. 6407

(C) The chief shall, within thirty days from the date of the 6408
receipt of the application, fee, and bond or other security, issue 6409
or deny a construction permit for the construction or may issue a 6410
construction permit conditioned upon the making of such changes in 6411
the plans and specifications for the construction as the chief 6412
considers advisable if the chief determines that the construction 6413

of the proposed dam,~~dike~~, or levee, in accordance with the plans 6414
and specifications filed, would endanger life, health, or 6415
property. 6416

(D) The chief may deny a construction permit after finding 6417
that a dam,~~dike~~, or levee built in accordance with the plans and 6418
specifications would endanger life, health, or property, because 6419
of improper or inadequate design, or for such other reasons as the 6420
chief may determine. 6421

In the event the chief denies a permit for the construction 6422
of the dam,~~dike~~, or levee, or issues a permit conditioned upon a 6423
making of changes in the plans or specifications for the 6424
construction, the chief shall state the reasons therefor and so 6425
notify, in writing, the person or governmental agency making the 6426
application for a permit. If the permit is denied, the chief shall 6427
return the bond or other security to the person or governmental 6428
agency making application for the permit. 6429

The decision of the chief conditioning or denying a 6430
construction permit is subject to appeal as provided in Chapter 6431
119. of the Revised Code. A dam,~~dike~~, or levee built 6432
substantially at variance from the plans and specifications upon 6433
which a construction permit was issued is in violation of this 6434
section. The chief may at any time inspect any dam,~~dike~~, or 6435
levee, or site upon which any dam,~~dike~~, or levee is to be 6436
constructed, in order to determine whether it complies with this 6437
section. 6438

(E) A registered professional engineer shall inspect the 6439
construction for which the permit was issued during all phases of 6440
construction and shall furnish to the chief such regular reports 6441
of the engineer's inspections as the chief may require. When the 6442
chief finds that construction has been fully completed in 6443
accordance with the terms of the permit and the plans and 6444

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~~,
~~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. 6477
of the Revised Code, for the design and construction of dams, 6478
~~dikes~~, and levees for which a construction permit is required by 6479
this section or for which periodic inspection is required by 6480
section 1521.062 of the Revised Code, for establishing a filing 6481
fee schedule in lieu of the schedule established under division 6482
(B) of this section, for deposit and forfeiture of bonds and other 6483
securities required by section 1521.061 of the Revised Code, for 6484
the periodic inspection, operation, repair, improvement, 6485
alteration, or removal of all dams, ~~dikes~~, and levees, as 6486
specified in section 1521.062 of the Revised Code, and for 6487
establishing classes of dams, ~~dikes~~, or levees that are exempt 6488
from the requirements of ~~sections 1521.06~~ this section and section 6489
1521.062 of the Revised Code as being of a size, purpose, or 6490
situation that does not present a substantial hazard to life, 6491
health, or property. The chief may, by rule, limit the period 6492
during which a construction permit issued under this section is 6493
valid. The rules may allow for the extension of the period during 6494
which a permit is valid upon written request, provided that the 6495
written request includes a revised construction cost estimate, and 6496
may require the payment of an additional filing fee for the 6497
requested extension. If a construction permit expires without an 6498
extension before construction is completed, the person or agency 6499
shall apply for a new permit, and shall not continue construction 6500
until the new permit is issued. 6501

Sec. 1521.061. Except as otherwise provided in this section, 6502
a construction permit shall not be issued under section 1521.06 of 6503
the Revised Code unless the person or governmental agency applying 6504
for the permit executes and files a surety bond conditioned on 6505
completion of the dam, ~~dike~~, or levee in accordance with the terms 6506
of the permit and the plans and specifications approved by the 6507
chief of the division of water, in an amount equal to fifty per 6508

cent of the estimated cost of the project. 6509

If a permittee requests an extension of the time period 6510
during which a construction permit is valid in accordance with 6511
rules adopted under section 1521.06 of the Revised Code, the chief 6512
shall determine whether the revised construction cost estimate 6513
provided with the request exceeds the original construction cost 6514
estimate that was filed with the chief by more than twenty-five 6515
per cent. If the revised construction cost estimate exceeds the 6516
original construction cost estimate by more than twenty-five per 6517
cent, the chief may require an additional surety bond to be filed 6518
so that the total amount of the surety bonds equals at least fifty 6519
per cent of the revised construction cost estimate. 6520

The chief shall not approve any bond until it is personally 6521
signed and acknowledged by both principal and surety, or as to 6522
either by ~~his~~ the attorney in fact thereof, with a certified copy 6523
of the power of attorney attached. The chief shall not approve the 6524
bond unless there is attached a certificate of the superintendent 6525
of insurance that the company is authorized to transact a fidelity 6526
and surety business in this state. 6527

All bonds shall be given in a form prescribed by the chief 6528
and shall run to the state as obligee. 6529

The applicant may deposit, in lieu of a bond, cash in an 6530
amount equal to the amount of the bond or United States government 6531
securities or negotiable certificates of deposit issued by any 6532
bank organized or transacting business in this state having a par 6533
value equal to or greater than the amount of the bond. Such cash 6534
or securities shall be deposited upon the same terms as bonds. If 6535
one or more certificates of deposit are deposited in lieu of a 6536
bond, the chief shall require the bank ~~which~~ that issued any such 6537
certificate to pledge securities of the aggregate market value 6538
equal to the amount of the certificate ~~which~~ that is in excess of 6539
the amount insured by the federal deposit insurance corporation. 6540

The securities to be pledged shall be those designated as eligible 6541
under section 135.18 of the Revised Code. The securities shall be 6542
security for the repayment of the certificate of deposit. 6543

Immediately upon a deposit of cash, securities, or 6544
certificates of deposit, the chief shall deliver them to the 6545
treasurer of state, who shall hold them in trust for the purposes 6546
for which they have been deposited. The treasurer of state is 6547
responsible for the safekeeping of such deposits. An applicant 6548
making a deposit of cash, securities, or certificates of deposit 6549
may withdraw and receive from the treasurer of state, on the 6550
written order of the chief, all or any portion of the cash, 6551
securities, or certificates of deposit, upon depositing with the 6552
treasurer of state cash, other United States government 6553
securities, or negotiable certificates of deposit issued by any 6554
bank organized or transacting business in this state equal in par 6555
value to the par value of the cash, securities, or certificates of 6556
deposit withdrawn. An applicant may demand and receive from the 6557
treasurer of state all interest or other income from any such 6558
securities or certificates as it becomes due. If securities so 6559
deposited with and in the possession of the treasurer of state 6560
mature or are called for payment by the issuer thereof, the 6561
treasurer of state, at the request of the applicant who deposited 6562
them, shall convert the proceeds of the redemption or payment of 6563
the securities into such other United States government 6564
securities, negotiable certificates of deposit issued by any bank 6565
organized or transacting business in this state, or cash as the 6566
applicant designates. 6567

When the chief finds that a person or governmental agency has 6568
failed to comply with the conditions of ~~his~~ the person's or 6569
agency's bond, ~~he~~ the chief shall make a finding of that fact and 6570
declare the bond, cash, securities, or certificates of deposit 6571
forfeited in the amount set by rule of the chief. The chief shall 6572

thereupon certify the total forfeiture to the attorney general, 6573
who shall proceed to collect that amount. 6574

In lieu of total forfeiture, the surety, at its option, may 6575
cause the dam, ~~dike~~, or levee to be completed as required by 6576
section 1521.06 of the Revised Code and rules of the chief, or 6577
otherwise rendered nonhazardous, or pay to the treasurer of state 6578
the cost thereof. 6579

All moneys collected on account of forfeitures of bonds, 6580
cash, securities, and certificates of deposit under this section 6581
shall be credited to the dam safety fund created in section 6582
1521.06 of the Revised Code. The chief shall make expenditures 6583
from the fund to complete dams, ~~dikes~~, and levees for which bonds 6584
have been forfeited or to otherwise render them nonhazardous. 6585

Expenditures from the fund for those purposes shall be made 6586
pursuant to contracts entered into by the chief with persons who 6587
agree to furnish all of the materials, equipment, work, and labor 6588
as specified and provided in the contract. 6589

A surety bond shall not be required for a permit for a dam, ~~dike~~, 6590
~~dike~~, or levee that is to be designed and constructed by an agency 6591
of the United States government, if the agency files with the 6592
chief written assurance of the agency's financial responsibility 6593
for the structure during the one-year period following the chief's 6594
approval of the completed construction provided for under division 6595
(E) of section 1521.06 of the Revised Code. 6596

Sec. 1521.062. (A) All dams, ~~dikes~~, and levees constructed in 6597
this state and not exempted by this section or by the chief of the 6598
division of water under section 1521.06 of the Revised Code shall 6599
be inspected periodically by the chief, except for classes of dams 6600
that, in accordance with rules adopted under this section, are 6601
required to be inspected by registered professional engineers who 6602
have been approved for that purpose by the chief. The inspection 6603

shall ensure that continued operation and use of the dam,~~dike,~~ or 6604
levee does not constitute a hazard to life, health, or property. 6605
Periodic inspections shall not be required of the following 6606
structures: 6607

(1) A dam that is less than ten feet in height and has a 6608
storage capacity of not more than fifty acre-feet at the elevation 6609
of the top of the dam, as determined by the chief. For the 6610
purposes of this section, the height of a dam shall be measured 6611
from the natural stream bed or lowest ground elevation at the 6612
downstream or outside limit of the dam to the elevation of the top 6613
of the dam. 6614

(2) A dam, regardless of height, that has a storage capacity 6615
of not more than fifteen acre-feet at the elevation of the top of 6616
the dam, as determined by the chief; 6617

(3) A dam, regardless of storage capacity, that is six feet 6618
or less in height, as determined by the chief; 6619

(4) A dam,~~dike,~~ or levee belonging to a class exempted by 6620
the chief; 6621

(5) A dam,~~dike,~~ or levee that has been exempted in 6622
accordance with rules adopted under section 1521.064 of the 6623
Revised Code. 6624

(B) In accordance with rules adopted under this section, the 6625
owner of a dam that is in a class of dams that is designated in 6626
the rules for inspection by registered professional engineers 6627
shall obtain the services of a registered professional engineer 6628
who has been approved by the chief to conduct the periodic 6629
inspection of dams pursuant to schedules and other standards and 6630
procedures established in the rules. The registered professional 6631
engineer shall prepare a report of the inspection in accordance 6632
with the rules and provide the inspection report to the dam owner 6633
who shall submit it to the chief. A dam that is designated under 6634

the rules for inspection by a registered professional engineer, 6635
but that is not inspected within a five-year period may be 6636
inspected by the chief at the owner's expense. 6637

(C) Intervals between periodic inspections shall be 6638
determined by the chief, but shall not exceed five years. 6639

(D) In the case of a dam, ~~dike~~, or levee that the chief 6640
inspects, the chief shall furnish a report of the inspection to 6641
the owner of the dam, ~~dike~~, or levee. With regard to a dam, ~~dike~~, 6642
or levee that has been inspected, either by the chief or by a 6643
registered professional engineer, and that is the subject of an 6644
inspection report prepared or received by the chief, the chief 6645
shall inform the owner of any required repairs, maintenance, 6646
investigations, and other remedial and operational measures. The 6647
chief shall order the owner to perform such repairs, maintenance, 6648
investigations, or other remedial or operational measures as the 6649
chief considers necessary to safeguard life, health, or property. 6650
The order shall permit the owner a reasonable time in which to 6651
perform the needed repairs, maintenance, investigations, or other 6652
remedial measures, and the cost thereof shall be borne by the 6653
owner. All orders of the chief are subject to appeal as provided 6654
in Chapter 119. of the Revised Code. The attorney general, upon 6655
written request of the chief, may bring an action for an 6656
injunction against any person who violates this section or to 6657
enforce an order of the chief made pursuant to this section. 6658

(E) The owner of a dam, ~~dike~~, or levee shall monitor, 6659
maintain, and operate the structure and its appurtenances safely 6660
in accordance with state rules, terms and conditions of permits, 6661
orders, and other requirements issued pursuant to this section or 6662
section 1521.06 of the Revised Code. The owner shall fully and 6663
promptly notify the division of water and other responsible 6664
authorities of any condition that threatens the safety of the 6665
structure and shall take all necessary actions to safeguard life, 6666

health, and property. 6667

(F) Before commencing the repair, improvement, alteration, or 6668
removal of a dam,~~dike~~, or levee, the owner shall file an 6669
application including plans, specifications, and other required 6670
information with the division and shall secure written approval of 6671
the application by the chief. Emergency actions by the owner 6672
required to safeguard life, health, or property are exempt from 6673
this requirement. The chief may, by rule, define maintenance, 6674
repairs, or other remedial measures of a routine nature that are 6675
exempt from this requirement. 6676

(G) The chief may remove or correct, at the expense of the 6677
owner, any unsafe structures found to be constructed or maintained 6678
in violation of this section or section 1521.06 of the Revised 6679
Code. In the case of an owner other than a governmental agency, 6680
the cost of removal or correction of any unsafe structure, 6681
together with a description of the property on which the unsafe 6682
structure is located, shall be certified by the chief to the 6683
county auditor and placed by the county auditor upon the tax 6684
duplicate. This cost is a lien upon the lands from the date of 6685
entry and shall be collected as other taxes and returned to the 6686
division. In the case of an owner that is a governmental agency, 6687
the cost of removal or correction of any unsafe structure shall be 6688
recoverable from the owner by appropriate action in a court of 6689
competent jurisdiction. 6690

(H) If the condition of any dam,~~dike~~, or levee is found, in 6691
the judgment of the chief, to be so dangerous to the safety of 6692
life, health, or property as not to permit time for the issuance 6693
and enforcement of an order relative to repair, maintenance, or 6694
operation, the chief shall employ any of the following remedial 6695
means necessary to protect life, health, and property: 6696

(1) Lower the water level of the lake or reservoir by 6697
releasing water; 6698

(2) Completely drain the lake or reservoir; 6699

(3) Take such other measures or actions as the chief 6700
considers necessary to safeguard life, health, and property. 6701

The chief shall continue in full charge and control of the 6702
dam, ~~dike~~, or levee until the structure is rendered safe. The cost 6703
of the remedy shall be recoverable from the owner of the structure 6704
by appropriate action in a court of competent jurisdiction. 6705

(I) The chief may accept and expend gifts, bequests, and 6706
grants from the United States government or from any other public 6707
or private source and may contract with the United States 6708
government or any other agency or entity for the purpose of 6709
carrying out the dam safety functions set forth in this section 6710
and section 1521.06 of the Revised Code. 6711

(J) In accordance with Chapter 119. of the Revised Code, the 6712
chief ~~shall~~ may adopt, and may amend or rescind, rules that do all 6713
of the following: 6714

(1) Designate classes of dams for which dam owners must 6715
obtain the services of a registered professional engineer to 6716
periodically inspect the dams and to prepare reports of the 6717
inspections for submittal to the chief; 6718

(2) Establish standards in accordance with which the chief 6719
must approve or disapprove registered professional engineers to 6720
inspect dams together with procedures governing the approval 6721
process; 6722

(3) Establish schedules, standards, and procedures governing 6723
periodic inspections and standards and procedures governing the 6724
preparation and submittal of inspection reports; 6725

(4) Establish provisions regarding the enforcement of this 6726
section and rules adopted under it. 6727

(K) The owner of a dam or levee shall notify the chief in 6728

writing of a change in ownership of the dam or levee prior to the 6729
exchange of the property. 6730

Sec. 1521.064. The chief of the division of water, in 6731
accordance with Chapter 119. of the Revised Code, shall adopt, and 6732
may amend and rescind, rules establishing a program under which 6733
dams, ~~dikes,~~ and levees may be exempted from inspections under 6734
section 1521.062 of the Revised Code if the continued operation 6735
and use of, and any rupturing of or other structural damage to, 6736
the dams, ~~dikes,~~ and levees will not constitute a hazard to life, 6737
health, or property. The rules shall establish, without 6738
limitation, all of the following: 6739

(A) A procedure by which the owner of such a dam, ~~dike,~~ or 6740
levee may apply for an exemption under this section; 6741

(B) The standards that a dam, ~~dike,~~ or levee shall meet in 6742
order to be exempted under this section; 6743

(C) A procedure by which the chief shall periodically review 6744
the status of a dam, ~~dike,~~ or levee that has been exempted under 6745
this section to determine if the exemption should be rescinded; 6746

(D) A requirement that the owner of any dam, ~~dike,~~ or levee 6747
exempted under this section shall agree, in writing, to accept 6748
liability for any injury, death, or loss to persons or property 6749
caused by the rupturing of or other structural damage to the dam, 6750
~~dike,~~ or levee. 6751

Sec. 1521.13. (A) Development in one-hundred-year floodplain 6752
areas shall be protected to at least the one-hundred-year flood 6753
level, and flood water conveyance shall be maintained, at a 6754
minimum, in accordance with standards established under the 6755
national flood insurance program. This division does not preclude 6756
a state agency or political subdivision from establishing flood 6757
protection standards that are more restrictive than this division. 6758

(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 6852
awareness of and knowledge about flood hazards. 6853

(D)(1) Development that is funded, financed, undertaken, or 6854
preempted by state agencies shall comply with division (A) of this 6855
section and with rules adopted under division (C)(9) of this 6856
section. 6857

(2) State agencies shall apply floodproofing measures in 6858
order to reduce potential additional flood damage of existing 6859
publicly owned facilities that have suffered flood damage. 6860

(3) Before awarding funding or financing or granting a 6861
license, permit, or other authorization for a development that is 6862
or is to be located within a one-hundred-year floodplain, a state 6863
agency shall require the applicant to demonstrate to the 6864
satisfaction of the agency that the development will comply with 6865
division (A) of this section, rules adopted under division (C)(9) 6866
of this section, and any applicable local floodplain management 6867
resolution or ordinance. 6868

(4) Prior to the disbursement of any state disaster 6869
assistance money in connection with any incident of flooding to or 6870
within a county or municipal corporation that is not listed by the 6871
chief as being in compliance under division (D)(1) of section 6872
1521.18 of the Revised Code, a state agency that has authority to 6873
disburse such money shall require the county or municipal 6874
corporation to establish or reestablish compliance as provided in 6875
that division. 6876

(E)(1) Subject to section 1521.18 of the Revised Code, a 6877
county or a municipal corporation may do all of the following: 6878

(a) Adopt floodplain maps that reflect the best available 6879
data and that indicate the areas to be regulated under a 6880
floodplain management resolution or ordinance, as applicable; 6881

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable; 6882
6883

(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program. 6884
6885
6886

(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. 6887
6888
6889
6890

(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. 6891
6892
6893
6894
6895
6896
6897
6898
6899

(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. 6900
6901
6902
6903
6904
6905
6906

~~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~~ 6907
6908
6909
6910
6911

~~shall furnish such information as the division may reasonably 6912
require in order to avoid the uneconomic, hazardous, or 6913
unnecessary use of floodplains in connection with such facilities. 6914~~

~~(B) With respect to existing publicly owned facilities that 6915
have suffered flood damage or that may be subject to flood damage, 6916
the chief of the division of water may conspicuously mark past and 6917
probable flood heights so as to assist in creating public 6918
awareness of and knowledge about flood hazards. Wherever 6919
economically feasible, state agencies and political subdivisions 6920
responsible for existing publicly owned facilities shall apply 6921
floodproofing measures in order to reduce potential flood damage. 6922~~

~~(C)(1) Any state agency that funds or finances developments 6923
or that has regulatory jurisdiction that preempts the authority of 6924
political subdivisions to regulate development as necessary to 6925
establish participation in the national flood insurance program 6926
under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 6927
U.S.C.A. 4001, as amended, before awarding funding or financing or 6928
granting a license, permit, or other authorization for a 6929
development that is or is to be located within a one hundred year 6930
floodplain, shall require the applicant therefor to demonstrate to 6931
the satisfaction of the agency that the development will comply 6932
with the flood damage reduction standards established in rules 6933
adopted under division (A)(10) of section 1521.13 of the Revised 6934
Code. 6935~~

~~(2) Any state agency that undertakes any development that is 6936
or is to be located within a one hundred year floodplain shall 6937
ensure that the development complies with the minimum flood damage 6938
reduction standards established in rules adopted under division 6939
(A)(11) of section 1521.13 of the Revised Code. 6940~~

~~(3) Prior to the disbursement of any state disaster 6941
assistance funds in connection with any incident of flooding to or 6942
within a municipal corporation or county that is not listed by the 6943~~

~~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.~~ 6944
6945
6946
6947
6948

~~(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:~~ 6949
6950
6951
6952
6953
6954
6955
6956
6957
6958
6959
6960
6961
6962
6963
6964
6965

~~(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;~~ 6966
6967
6968
6969

~~(B) Funded, financed, undertaken, or preempted by a state agency.~~ 6970
6971

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 6972
6973
6974

Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 6975
amended. 6976

(B) Each municipal corporation or county that has within its 6977
boundaries a one_hundred_year floodplain and that adopts a 6978
floodplain management ordinance or resolution or any amendments to 6979
such an ordinance or resolution on or after April 11, 1991, after 6980
adopting the ordinance, resolution, or amendments and before 6981
submitting the ordinance, resolution, or amendments to the federal 6982
emergency management agency for final approval for compliance with 6983
applicable standards adopted under the "National Flood Insurance 6984
Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall 6985
submit the ordinance, resolution, or amendments to the chief of 6986
the division of water for ~~his~~ the chief's review for compliance 6987
with those standards. Within forty-five days after receiving any 6988
such ordinance, resolution, or amendments, the chief shall 6989
complete ~~his~~ the review and notify the municipal corporation or 6990
county as to whether the ordinance, resolution, or amendments 6991
comply with those standards. If the chief finds that the 6992
ordinance, resolution, or amendments comply with those standards, 6993
~~he~~ the chief shall forward it or them to the federal emergency 6994
management agency for final approval. 6995

(C)(1) If the chief determines that a county or municipal 6996
corporation that has adopted a floodplain management resolution or 6997
ordinance fails to administer or enforce the resolution or 6998
ordinance, the chief shall send a written notice by certified mail 6999
to the board of county commissioners of the county or the chief 7000
executive officer of the municipal corporation stating the nature 7001
of the noncompliance. 7002

(2) In order to maintain its compliance status in accordance 7003
with division (D) of this section, a county or municipal 7004
corporation that has received a notice of noncompliance under 7005
division (C)(1) of this section may submit information to the 7006

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 7038
of the list to the general assembly and all state agencies 7039
annually and shall notify the general assembly and the agencies of 7040
any changes at least quarterly. 7041

(E) Any county or municipal corporation that is adversely 7042
affected by any determination of the chief under this section may 7043
appeal it in accordance with Chapter 119. of the Revised Code not 7044
later than thirty days after the final determination. 7045

Sec. 1521.19. (A) There is hereby created the Ohio water 7046
resources council consisting of the directors of agriculture, 7047
development, environmental protection, health, natural resources, 7048
transportation, and the Ohio public works commission, the 7049
chairperson of the public utilities commission of Ohio, the 7050
executive ~~directors~~ director of ~~the state and local government~~ 7051
~~commission of Ohio and~~ the Ohio water development authority, and 7052
an executive assistant in the office of the governor appointed by 7053
the governor. The governor shall appoint one of the members of the 7054
council to serve as its chairperson. The council may adopt bylaws 7055
that are necessary for the implementation of this section. The 7056
council shall provide a forum for policy development, 7057
collaboration and coordination among state agencies, and strategic 7058
direction with respect to state water resource programs. The 7059
council shall be assisted in its functions by a state agency 7060
coordinating group and an advisory group as provided in this 7061
section. 7062

(B) The state agency coordinating group shall consist of the 7063
executive director of the Ohio Lake Erie commission and a member 7064
or members from each state agency, commission, and authority 7065
represented on the council, to be appointed by the applicable 7066
director, chairperson, or executive director. However, the 7067
environmental protection agency shall be represented on the group 7068

by the chiefs of the divisions within that agency having 7069
responsibility for surface water programs and drinking and ground 7070
water programs, and the department of natural resources shall be 7071
represented on the group by the chief of the division of water and 7072
the chief of the division of soil and water conservation. The 7073
chairperson of the council shall appoint a leader of the state 7074
agency coordinating group. The group shall provide assistance to 7075
and perform duties on behalf of the council as directed by the 7076
council. 7077

(C) The advisory group shall consist of not more than ~~twenty~~ 7078
twenty-four members, each representing an organization or entity 7079
with an interest in water resource issues. The council shall 7080
appoint the members of the advisory group. Of the initial 7081
appointments, not more than ten members shall be appointed for 7082
one-year terms, and not more than ten members shall be appointed 7083
for two-year terms. Of the four initial appointments made after 7084
the effective date of this amendment, two of the members shall be 7085
appointed for one-year terms, and two of the members shall be 7086
appointed for two-year terms. Thereafter, all advisory group 7087
members shall serve two-year terms. Members may be reappointed. 7088
Each member shall hold office from the date of the member's 7089
appointment until the end of the member's term. A member shall 7090
continue in office subsequent to the expiration date of the 7091
member's term until the member's successor takes office or until a 7092
period of sixty days has elapsed, whichever occurs first. The 7093
council may remove a member for misfeasance, nonfeasance, or 7094
malfeasance in office. The council shall appoint members to fill 7095
any vacancies on the group. A member appointed to fill a vacancy 7096
shall hold office for the remainder of the term for which that 7097
member was appointed. 7098

The chairperson of the council shall appoint a chairperson of 7099
the advisory group. The advisory group shall advise the council on 7100

water resources issues addressed by the council.

7101

(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.

7102
7103
7104
7105
7106
7107
7108
7109
7110
7111
7112
7113
7114
7115
7116
7117

(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.

7118
7119
7120
7121
7122
7123
7124
7125
7126

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.

7127
7128
7129

(B) Whoever violates section 1521.06 or 1521.062 of the Revised Code shall be fined not less than one hundred dollars nor

7130
7131

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. 7162

(G) "Take or taking" includes pursuing, shooting, hunting, 7163
killing, trapping, angling, fishing with a trotline, or netting 7164
any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, 7165
wild bird, or wild quadruped, and any lesser act, such as 7166
wounding, or placing, setting, drawing, or using any other device 7167
for killing or capturing any wild animal, whether it results in 7168
killing or capturing the animal or not. "Take or taking" includes 7169
every attempt to kill or capture and every act of assistance to 7170
any other person in killing or capturing or attempting to kill or 7171
capture a wild animal. 7172

(H) "Possession" means both actual and constructive 7173
possession and any control of things referred to. 7174

(I) "Bag limit" means the number, measurement, or weight of 7175
any kind of crayfish, aquatic insects, fish, frogs, turtles, wild 7176
birds, and wild quadrupeds permitted to be taken. 7177

(J) "Transport and transportation" means carrying or moving 7178
or causing to be carried or moved. 7179

(K) "Sell and sale" means barter, exchange, or offer or 7180
expose for sale. 7181

(L) "Whole to include part" means that every provision 7182
relating to any wild animal protected by this chapter and Chapter 7183
1533. of the Revised Code applies to any part of the wild animal 7184
with the same effect as it applies to the whole. 7185

(M) "Angling" means fishing with not more than two hand 7186
lines, not more than two units of rod and line, or a combination 7187
of not more than one hand line and one rod and line, either in 7188
hand or under control at any time while fishing. The hand line or 7189
rod and line shall have attached to it not more than three baited 7190
hooks, not more than three artificial fly rod lures, or one 7191

artificial bait casting lure equipped with not more than three	7192
sets of three hooks each.	7193
(N) "Trotline" means a device for catching fish that consists	7194
of a line having suspended from it, at frequent intervals,	7195
vertical lines with hooks attached.	7196
(O) "Fish" means a cold-blooded vertebrate having fins.	7197
(P) "Measurement of fish" means length from the end of the	7198
nose to the longest tip or end of the tail.	7199
(Q) "Wild birds" includes game birds and nongame birds.	7200
(R) "Game" includes game birds, game quadrupeds, and	7201
fur-bearing animals.	7202
(S) "Game birds" includes mourning doves, ringneck pheasants,	7203
bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated	7204
grouse, wild turkey, Hungarian partridge, Chukar partridge,	7205
woodcocks, black-breasted plover, golden plover, Wilson's snipe or	7206
jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules,	7207
duck, geese, brant, and crows.	7208
(T) "Nongame birds" includes all other wild birds not	7209
included and defined as game birds <u>or migratory game birds</u> .	7210
(U) "Wild quadrupeds" includes game quadrupeds and	7211
fur-bearing animals.	7212
(V) "Game quadrupeds" includes cottontail rabbits, gray	7213
squirrels, black squirrels, fox squirrels, red squirrels, flying	7214
squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer,	7215
wild boar, and black bears.	7216
(W) "Fur-bearing animals" includes minks, weasels, raccoons,	7217
skunks, opossums, muskrats, fox, beavers, badgers, otters,	7218
coyotes, and bobcats.	7219
(X) "Wild animals" includes mollusks, crustaceans, aquatic	7220

insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, 7221
and all other wild mammals, but does not include domestic deer. 7222

(Y) "Hunting" means pursuing, shooting, killing, following 7223
after or on the trail of, lying in wait for, shooting at, or 7224
wounding wild birds or wild quadrupeds while employing any device 7225
commonly used to kill or wound wild birds or wild quadrupeds 7226
whether or not the acts result in killing or wounding. "Hunting" 7227
includes every attempt to kill or wound and every act of 7228
assistance to any other person in killing or wounding or 7229
attempting to kill or wound wild birds or wild quadrupeds. 7230

(Z) "Trapping" means securing or attempting to secure 7231
possession of a wild bird or wild quadruped by means of setting, 7232
placing, drawing, or using any device that is designed to close 7233
upon, hold fast, confine, or otherwise capture a wild bird or wild 7234
quadruped whether or not the means results in capture. "Trapping" 7235
includes every act of assistance to any other person in capturing 7236
wild birds or wild quadrupeds by means of the device whether or 7237
not the means results in capture. 7238

(AA) "Muskrat spear" means any device used in spearing 7239
muskrats. 7240

(BB) "Channels and passages" means those narrow bodies of 7241
water lying between islands or between an island and the mainland 7242
in Lake Erie. 7243

(CC) "Island" means a rock or land elevation above the waters 7244
of Lake Erie having an area of five or more acres above water. 7245

(DD) "Reef" means an elevation of rock, either broken or in 7246
place, or gravel shown by the latest United States chart to be 7247
above the common level of the surrounding bottom of the lake, 7248
other than the rock bottom, or in place forming the base or 7249
foundation rock of an island or mainland and sloping from the 7250
shore of it. "Reef" also means all elevations shown by that chart 7251

to be above the common level of the sloping base or foundation 7252
rock of an island or mainland, whether running from the shore of 7253
an island or parallel with the contour of the shore of an island 7254
or in any other way and whether formed by rock, broken or in 7255
place, or from gravel. 7256

(EE) "Fur farm" means any area used exclusively for raising 7257
fur-bearing animals or in addition thereto used for hunting game, 7258
the boundaries of which are plainly marked as such. 7259

(FF) "Waters" includes any lake, pond, reservoir, stream, 7260
channel, lagoon, or other body of water, or any part thereof, 7261
whether natural or artificial. 7262

(GG) "Crib" or "car" refers to that particular compartment of 7263
the net from which the fish are taken when the net is lifted. 7264

(HH) "Commercial fish" means those species of fish permitted 7265
to be taken, possessed, bought, or sold unless otherwise 7266
restricted by the Revised Code or division rule and are alewife 7267
(*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin 7268
(*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), 7269
smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus* 7270
cyprinellus), black bullhead (*Ictalurus melas*), yellow bullhead 7271
(*Ictalurus natalis*), brown bullhead (*Ictalurus nebulosus*), channel 7272
catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis* 7273
olivaris), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), 7274
freshwater drum or sheepshead (*Aplodinotus grunniens*), gar 7275
(*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish 7276
(*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye 7277
(*Hiodon tergisus*), quillback (*Carpiodes cyprinus*), smelt 7278
(*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* 7279
sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other 7280
than buffalo and quillback (*Carpiodes* sp., *Catostomus* sp., 7281
Hypentelium sp., *Minytrema* sp., *Moxostoma* sp.), white bass (*Morone* 7282

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 7313
seines, except minnow seines and minnow dip nets. 7314

(QQ) "Commercial fishing gear" means seines, trap nets, fyke 7315
nets, dip nets, carp aprons, trotlines, other similar gear, and 7316
any boat used in conjunction with that gear, but does not include 7317
gill nets. 7318

(RR) "Native wildlife" means any species of the animal 7319
kingdom indigenous to this state. 7320

(SS) "Gill net" means a single section of fabric or netting 7321
seamed to a float line at the top and a lead line at the bottom, 7322
which is designed to entangle fish in the net openings as they 7323
swim into it. 7324

(TT) "Tag fishing tournament" means a contest in which a 7325
participant pays a fee, or gives other valuable consideration, for 7326
a chance to win a prize by virtue of catching a tagged or 7327
otherwise specifically marked fish within a limited period of 7328
time. 7329

(UU) "Tenant" means an individual who resides on land for 7330
which the individual pays rent and whose annual income is 7331
primarily derived from agricultural production conducted on that 7332
land, as "agricultural production" is defined in section 929.01 of 7333
the Revised Code. 7334

(VV) "Nonnative wildlife" means any wild animal not 7335
indigenous to this state, but does not include domestic deer. 7336

(WW) "Reptiles" includes common musk turtle (*sternotherus* 7337
odoratus), common snapping turtle (*Chelydra serpentina* 7338
serpentina), spotted turtle (*Clemmys guttata*), eastern box turtle 7339
(*Terrapene carolina carolina*), Blanding's turtle (*Emydoidea* 7340
blandingii), common map turtle (*Graptemys geographica*), ouachita 7341
map turtle (*Graptemys pseudogeographica ouachitensis*), midland 7342

painted turtle (<i>Chrysemys picta marginata</i>), red-eared slider	7343
(<i>Trachemys scripta elegans</i>), eastern spiny softshell turtle	7344
(<i>Apalone spinifera spinifera</i>), midland smooth softshell turtle	7345
(<i>Apalone mutica mutica</i>), northern fence lizard (<i>Sceloporus</i>	7346
<i>undulatus hyacinthinus</i>), ground skink (<i>Scincella lateralis</i>),	7347
five-lined skink (<i>Eumeces fasciatus</i>), broadhead skink (<i>Eumeces</i>	7348
<i>laticeps</i>), northern coal skink (<i>Eumeces anthracinus anthracinus</i>),	7349
European wall lizard (<i>Podarcis muralis</i>), queen snake (<i>Regina</i>	7350
<i>septemvittata</i>), Kirtland's snake (<i>Clonophis kirtlandii</i>), northern	7351
water snake (<i>Nerodia sipedon sipedon</i>), Lake Erie watersnake	7352
(<i>Nerodia sipedon insularum</i>), copperbelly water snake (<i>Nerodia</i>	7353
<i>erythrogaster neglecta</i>), northern brown snake (<i>Storeria dekayi</i>	7354
<i>dekayi</i>), midland brown snake (<i>Storeria dekayi wrightorum</i>),	7355
northern redbelly snake (<i>Storeria occipitomaculata</i>	7356
<i>occipitomaculata</i>), eastern garter snake (<i>Thamnophis sirtalis</i>	7357
<i>sirtalis</i>), eastern plains garter snake (<i>Thamnophis radix radix</i>),	7358
Butler's garter snake (<i>Thamnophis butleri</i>), shorthead garter snake	7359
(<i>Thamnophis brachystoma</i>), eastern ribbon snake (<i>Thamnophis</i>	7360
<i>sauritus sauritus</i>), northern ribbon snake (<i>Thamnophis sauritus</i>	7361
<i>septentrionalis</i>), eastern hognose snake (<i>Heterodon platirhinos</i>),	7362
eastern smooth earth snake (<i>Virginia valeriae valeriae</i>), northern	7363
ringneck snake (<i>Diadophis punctatus edwardsii</i>), midwest worm snake	7364
(<i>Carphophis amoenus helenae</i>), eastern worm snake (<i>Carphophis</i>	7365
<i>amoenus amoenus</i>), black racer (<i>Coluber constrictor constrictor</i>),	7366
blue racer (<i>Coluber constrictor foxii</i>), rough green snake	7367
(<i>opheodrys aestivus</i>), smooth green snake (<i>opheodrys vernalis</i>	7368
<i>vernalis</i>), black rat snake (<i>Elaphe obsoleta obsoleta</i>), eastern fox	7369
snake (<i>Elaphe vulpina gloydi</i>), black kingsnake (<i>Lampropeltis</i>	7370
<i>getula nigra</i>), eastern milk snake (<i>Lampropeltis triangulum</i>	7371
<i>triangulum</i>), northern copperhead (<i>Agkistrodon contortrix mokasen</i>),	7372
eastern massasauga (<i>Sistrurus catenatus catenatus</i>), and timber	7373
rattlesnake (<i>Crotalus horridus horridus</i>).	7374

(XX) "Amphibians" includes eastern hellbender (<i>Cryptobranchus</i>	7375
<i>alleganiensis alleganiensis</i>), mudpuppy (<i>Necturus maculosus</i>	7376
<i>maculosus</i>), red-spotted newt (<i>Notophthalmus viridescens</i>	7377
<i>viridescens</i>), Jefferson salamander (<i>Ambystoma jeffersonianum</i>),	7378
spotted salamander (<i>Ambystoma maculatum</i>), blue-spotted salamander	7379
(<i>Ambystoma laterale</i>), smallmouth salamander (<i>Ambystoma texanum</i>),	7380
streamside salamander (<i>Ambystoma barbouri</i>), marbled salamander	7381
(<i>Ambystoma opacum</i>), eastern tiger salamander (<i>Ambystoma tigrinum</i>	7382
<i>tigrinum</i>), northern dusky salamander (<i>Desmognathus fuscus fuscus</i>),	7383
mountain dusky salamander (<i>Desmognathus ochrophaeus</i>), redback	7384
salamander (<i>Plethodon cinereus</i>), ravine salamander (<i>Plethodon</i>	7385
<i>richmondi</i>), northern slimy salamander (<i>Plethodon glutinosus</i>),	7386
Wehrle's salamander (<i>Plethodon wehrlei</i>), four-toed salamander	7387
(<i>Hemidactylium scutatum</i>), Kentucky spring salamander (<i>Gyrinophilus</i>	7388
<i>porphyriticus duryi</i>), northern spring salamander (<i>Gyrinophilus</i>	7389
<i>porphyriticus porphyriticus</i>), mud salamander (<i>Pseudotriton</i>	7390
<i>montanus</i>), northern red salamander (<i>Pseudotriton ruber ruber</i>),	7391
green salamander (<i>Aneides aeneus</i>), northern two-lined salamander	7392
(<i>Eurycea bislineata</i>), longtail salamander (<i>Eurycea longicauda</i>	7393
<i>longicauda</i>), cave salamander (<i>Eurycea lucifuga</i>), southern	7394
two-lined salamander (<i>Eurycea cirrigera</i>), Fowler's toad (<i>Bufo</i>	7395
<i>woodhousii fowleri</i>), American toad (<i>Bufo americanus</i>), eastern	7396
spadefoot (<i>Scaphiopus holbrookii</i>), Blanchard's cricket frog (<i>Acris</i>	7397
<i>crepitans blanchardi</i>), northern spring peeper (<i>Pseudacris crucifer</i>	7398
<i>crucifer</i>), gray treefrog (<i>Hyla versicolor</i>), Cope's gray treefrog	7399
(<i>Hyla chrysoscelis</i>), western chorus frog (<i>Pseudacris triseriata</i>	7400
<i>triseriata</i>), mountain chorus frog (<i>Pseudacris brachyphona</i>),	7401
bullfrog (<i>Rana catesbeiana</i>), green frog (<i>Rana clamitans melanota</i>),	7402
northern leopard frog (<i>Rana pipiens</i>), pickerel frog (<i>Rana</i>	7403
<i>palustris</i>), southern leopard frog (<i>Rana utricularia</i>), and wood	7404
frog (<i>Rana sylvatica</i>).	7405
(YY) "Deer" means white-tailed deer (<i>Odocoileus</i>	7406

virginianus). 7407

(ZZ) "Domestic deer" means nonnative deer that have been 7408
legally acquired or their offspring and that are held in private 7409
ownership for primarily agricultural purposes. 7410

(AAA) "Migratory game bird" includes waterfowl (Anatidae); 7411
doves (Columbidae); cranes (Gruidae); cormorants 7412
(Phalacrocoracidea); rails, coots, and gallinules (Rallidae); and 7413
woodcock and snipe (Scolopacidae). 7414

(BBB) "Accompany" means to go along with another person while 7415
staying within a distance from the person that enables 7416
uninterrupted, unaided visual and auditory communication. 7417

Sec. 1531.02. The ownership of and the title to all wild 7418
animals in this state, not legally confined or held by private 7419
ownership legally acquired, is in the state, which holds such 7420
title in trust for the benefit of all the people. Individual 7421
possession shall be obtained only in accordance with the Revised 7422
Code or division rules. No person at any time of the year shall 7423
take in any manner or possess any number or quantity of wild 7424
animals, except wild animals that the Revised Code or division 7425
rules permit to be taken, hunted, killed, or had in possession, 7426
and only at the time and place and in the manner that the Revised 7427
Code or division rules prescribe. No person shall buy, sell, or 7428
offer any part of wild animals for sale, or transport any part of 7429
wild animals, except as permitted by the Revised Code or division 7430
rules. No person shall possess or transport a wild animal that has 7431
been taken or possessed unlawfully outside the state. 7432

A person doing anything prohibited or neglecting to do 7433
anything required by this chapter or Chapter 1533. of the Revised 7434
Code or contrary to any division rule violates this section. A 7435
person who counsels, aids, shields, or harbors an offender under 7436

~~such those~~ chapters or any division rule, or who knowingly shares 7437
in the proceeds of such a violation, or receives or possesses any 7438
wild animal in violation of the Revised Code or division rule, 7439
violates this section. ~~No person shall use a rifle, at any time,~~ 7440
~~in taking migratory game birds.~~ 7441

Sec. 1531.04. The division of wildlife, at the direction of 7442
the chief of the division, shall do all of the following: 7443

(A) Plan, develop, and institute programs and policies based 7444
on the best available information, including biological 7445
information derived from professionally accepted practices in 7446
wildlife and fisheries management, with the approval of the 7447
director of natural resources; 7448

(B) Have and take the general care, protection, and 7449
supervision of the wildlife in the state parks known as Lake St. 7450
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, 7451
Guilford Lake, such part of Pymatuning reservoir as lies in this 7452
state, and all other state parks and lands owned by the state or 7453
in which it is interested or may acquire or become interested, 7454
except lands and lakes the care and supervision of which are 7455
vested in some other officer, body, board, association, or 7456
organization; 7457

(C) Enforce by proper legal action or proceeding the laws of 7458
the state and division rules for the protection, preservation, 7459
propagation, and management of wild animals and sanctuaries and 7460
refuges for the propagation of those wild animals, and adopt and 7461
carry into effect such measures as it considers necessary in the 7462
performance of its duties; 7463

(D) Promote, educate, and inform the citizens of the state 7464
about conservation and the values of fishing, hunting, and 7465
trapping, with the approval of the director. 7466

Sec. 1531.06. (A) The chief of the division of wildlife, with 7467
the approval of the director of natural resources, may acquire by 7468
gift, lease, purchase, or otherwise lands or surface rights upon 7469
lands and waters or surface rights upon waters for wild animals, 7470
fish or game management, preservation, propagation, and 7471
protection, outdoor and nature activities, public fishing and 7472
hunting grounds, and flora and fauna preservation. The chief, with 7473
the approval of the director, may receive by grant, devise, 7474
bequest, donation, or assignment evidences of indebtedness, the 7475
proceeds of which are to be used for the purchase of such lands or 7476
surface rights upon lands and waters or surface rights upon 7477
waters. 7478

(B)(1) The chief shall adopt rules for the protection of 7479
state-owned or leased lands and waters and property under the 7480
~~division's~~ control of the division of wildlife against wrongful 7481
use or occupancy that will ensure the carrying out of the intent 7482
of this section, protect those lands, waters, and property from 7483
depredations, and preserve them from molestation, spoilation, 7484
destruction, or any improper use or occupancy thereof, including 7485
rules with respect to recreational activities and for the 7486
government and use of such lands, waters, and property. 7487

(2) The chief may adopt rules benefiting wild animals, fish 7488
or game management, preservation, propagation, and protection, 7489
outdoor and nature activities, public fishing and hunting grounds, 7490
and flora and fauna preservation, and regulating the taking and 7491
possession of wild animals on any lands or waters owned or leased 7492
or under the division's supervision and control and, for a 7493
specified period of years, may prohibit or recall the taking and 7494
possession of any wild animal on any portion of such lands or 7495
waters. The division clearly shall define and mark the boundaries 7496
of the lands and waters owned or leased or under its supervision 7497

and control upon which the taking of any wild animal is 7498
prohibited. 7499

(C) The chief, with the approval of the director, may acquire 7500
by gift, lease, or purchase land for the purpose of establishing 7501
state fish hatcheries and game farms and may erect on it buildings 7502
or structures that are necessary. 7503

The title to or lease of such lands and waters shall be taken 7504
by the chief in the name of the state. The lease or purchase price 7505
of all such lands and waters may be paid from hunting and trapping 7506
and fishing licenses and any other funds. 7507

(D) To provide more public recreation, stream and lake 7508
agreements for public fishing only may be obtained under rules 7509
adopted by the chief. 7510

(E) The chief, with the approval of the director, may 7511
establish user fees for the use of special public facilities or 7512
participation in special activities on lands and waters 7513
administered by the division. The special facilities and 7514
activities may include hunting or fishing on special designated 7515
public lands and waters intensively managed or stocked with 7516
artificially propagated game birds or fish, field trial 7517
facilities, wildlife nature centers, firearm ranges, boat mooring 7518
facilities, camping sites, and other similar special facilities 7519
and activities. The chief shall determine whether the user fees 7520
are refundable and shall ensure that that information is provided 7521
at the time the user fees are paid. 7522

(F) The chief, with the approval of the director, may enter 7523
into lease agreements for rental of concessions or other special 7524
projects situated on state-owned or leased lands or waters or 7525
other property under the division's control. The chief shall set 7526
and collect the fees for concession rentals or other special 7527
projects; regulate through contracts between the division and 7528

concessionaires the sale of tangible objects at concessions or 7529
other special projects; and keep a record of all such fee payments 7530
showing the amount received, from whom received, and for what 7531
purpose the fee was collected. 7532

(G) The chief may sell or donate conservation-related items 7533
or items that promote wildlife conservation, including, but not 7534
limited to, stamps, pins, badges, books, bulletins, maps, 7535
publications, calendars, and any other educational article or 7536
artifact pertaining to wild animals; sell confiscated or forfeited 7537
items; and sell surplus structures and equipment, and timber or 7538
crops from lands owned, administered, leased, or controlled by the 7539
division. 7540

(H) The chief may sell, lease, or transfer minerals or 7541
mineral rights, with the approval of the director, when the chief 7542
and the director determine it to be in the best interest of the 7543
state. Upon approval of the director, the chief may make, execute, 7544
and deliver contracts, including leases, to mine, drill, or 7545
excavate iron ore, stone, coal, petroleum, gas, salt, and other 7546
minerals upon and under lands owned by the state and administered 7547
by the division to any person who complies with the terms of such 7548
a contract. No such contract shall be valid for more than fifty 7549
years from its effective date. Consideration for minerals and 7550
mineral rights shall be by rental or royalty basis as prescribed 7551
by the chief and payable as prescribed by contract. Moneys 7552
collected under this division shall be paid into the state 7553
treasury to the credit of the wildlife habitat fund created in 7554
section 1531.33 of the Revised Code. Contracts entered into under 7555
this division also may provide for consideration for minerals or 7556
mineral rights in the form of acquisition of lands as provided 7557
under divisions (A) and (C) of this section. 7558

(I) All moneys received under divisions (E), (F), and (G) of 7559
this section shall be paid into the state treasury to the credit 7560

of a fund that shall be used for the purposes outlined in section 7561
1533.15 of the Revised Code and for the management of other wild 7562
animals for their ecological and nonconsumptive recreational value 7563
or benefit. 7564

(J) The chief, with the approval of the director, may barter 7565
or sell wild animals to other states, state or federal agencies, 7566
and conservation or zoological organizations. Moneys received from 7567
the sale of wild animals shall be deposited into the wild animal 7568
fund created in section 1531.34 of the Revised Code. 7569

(K) The chief shall adopt rules establishing standards and 7570
guidelines for the administration of contraceptive chemicals to 7571
noncaptive wild animals. The rules may specify chemical delivery 7572
methods and devices and monitoring requirements. 7573

The chief shall establish criteria for the issuance of and 7574
shall issue permits for the administration of contraceptive 7575
chemicals to noncaptive wild animals. No person shall administer 7576
contraceptive chemicals to noncaptive wild animals without a 7577
permit issued by the chief. 7578

(L) All fees set by the chief under this section shall be 7579
approved by the wildlife council. 7580

(M) Information contained in the wildlife diversity database 7581
that is established pursuant to division (B)(2) of this section 7582
and section 1531.25 of the Revised Code may be made available to 7583
any individual or public or private agency for research, 7584
educational, environmental, land management, or other similar 7585
purposes that are not detrimental to the conservation of a species 7586
or feature. Information regarding sensitive site locations of 7587
species that are listed pursuant to section 1531.25 of the Revised 7588
Code and of features that are included in the wildlife diversity 7589
database is not subject to section 149.43 of the Revised Code if 7590
the chief determines that the release of the information could be 7591

detrimental to the conservation of a species or feature.

7592

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.

7593
7594
7595
7596
7597
7598
7599
7600
7601
7602
7603
7604
7605

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.

7606
7607
7608
7609
7610
7611
7612
7613
7614
7615
7616
7617
7618
7619

An action for the forfeiture of any such property shall be ~~commenced~~ initiated by the filing of an affidavit describing the

7620
7621

property seized and stating the unlawful use made of it, the time 7622
and place of seizure, and the name of the person owning or using 7623
it at the time of seizure. If the name is unknown, that fact shall 7624
be stated. Upon the filing of the affidavit, the court shall issue 7625
a summons setting forth the facts stated in the affidavit and 7626
fixing a time and place for the hearing of the complaint. A copy 7627
of the summons shall be served on the owner or person using the 7628
property at the time of its seizure, if the owner or user is 7629
known, or by leaving a copy thereof at the owner's or user's usual 7630
residence or place of business in the county, at least three days 7631
before the time fixed for the hearing of the complaint. If the 7632
owner or user is unknown or a nonresident of the county or cannot 7633
be found therein, a copy of the summons shall be posted at a 7634
suitable place nearest the place of seizure, but if the owner's or 7635
user's address is known, a copy of the summons shall be mailed to 7636
the owner or user at least three days before the time fixed for 7637
the hearing of the complaint. On the date fixed for the hearing, 7638
the officer making the service shall make a return of the time and 7639
manner of making the service. Upon the proper cause shown, the 7640
court may postpone the hearing. 7641

If A proceeding for the forfeiture of seized property that is 7642
initiated under this section shall not progress to actual 7643
forfeiture of the seized property unless so ordered by the court. 7644
The court may order the actual forfeiture of the seized property 7645
as part of the sentence that it imposes if the owner or person 7646
unlawfully using the property at the time of its seizure is 7647
arrested convicted, pleads guilty, and or confesses that the 7648
property at the time of its seizure was being used by the owner or 7649
user in violation of law or division rule, ~~no proceeding of~~ 7650
~~forfeiture shall be instituted, but the court in imposing sentence~~ 7651
~~shall order the.~~ Forfeited property ~~so seized forfeited to~~ shall 7652
be the property of the state, to be disposed of ~~thereafter~~ as the 7653
chief of the division of wildlife directs. 7654

~~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 7685
first offense; on each subsequent offense, that person is guilty 7686
of a misdemeanor of the first degree. 7687

(C) Whoever violates section 1531.25 of the Revised Code is 7688
guilty of a misdemeanor of the first degree. 7689

(D) Whoever violates section 1531.02 of the Revised Code 7690
concerning the buying, selling, or offering for sale of any wild 7691
animals or parts of wild animals, the minimum value of which 7692
animals or parts, in the aggregate, is ~~more than~~ one thousand 7693
dollars or more as established under section 1531.201 of the 7694
Revised Code, is guilty of a felony of the fifth degree. 7695

(E) A court that imposes sentence for a violation of any 7696
section of this chapter governing the holding, taking, buying, 7697
selling, or possession of wild animals, including, without 7698
limitation, section 1531.11 of the Revised Code, shall require the 7699
person who is convicted of or pleads guilty to the offense, in 7700
addition to any fine, term of imprisonment, seizure, and 7701
forfeiture imposed, to make restitution for the minimum value of 7702
the wild animal illegally held, taken, bought, sold, or possessed 7703
as established under section 1531.201 of the Revised Code. An 7704
officer who collects moneys paid as restitution under this section 7705
shall pay those moneys to the treasurer of state who shall deposit 7706
them in the state treasury to the credit of the wildlife fund 7707
established under section 1531.17 of the Revised Code. 7708

Sec. 1533.07. No person shall catch, kill, injure, pursue, or 7709
have in the person's possession, either dead or alive, or 7710
purchase, expose for sale, transport, or ship to a point within or 7711
without the state, or receive or deliver for transportation any 7712
bird other than a game bird, or have in the person's possession 7713
any part of the plumage, skin, or body of any bird other than a 7714
game bird, except as permitted in Chapter 1531. and this chapter 7715

of the Revised Code, or disturb or destroy the eggs, nest, or 7716
young of such a bird. 7717

This section does not prohibit the lawful taking, killing, 7718
pursuing, or possession of any game bird during the open season 7719
for the bird. ~~Hawks or owls causing damage to domestic animals or~~ 7720
~~fowl may be killed by the owner of the domestic animal or fowl~~ 7721
~~while the damage is occurring.~~ Bald or golden eagles and ospreys 7722
shall not be killed or possessed at any time, except that eagles 7723
or ospreys may be possessed for educational purposes by 7724
governmental or municipal zoological parks, museums, and 7725
scientific or educational institutions. European starlings, 7726
English sparrows, and common pigeons, other than homing pigeons, 7727
may be killed at any time and their nests or eggs may be 7728
destroyed, at any time. Blackbirds may be killed at any time when 7729
doing damage to grain or other property or when they become a 7730
nuisance. 7731

Each bird or any part thereof taken or had in possession 7732
contrary to this section constitutes a separate offense. 7733

Sec. 1533.08. Except as otherwise provided by division rule, 7734
any person desiring to collect or possess wild animals that are 7735
protected by law or their nests or eggs for scientific study, 7736
school instruction, other educational uses, or rehabilitation 7737
shall make an annual application to the chief of the division of 7738
wildlife for a wild animal ~~collecting~~ permit on a form furnished 7739
by the chief. Each applicant for a wild animal ~~collecting~~ permit, 7740
other than an applicant desiring to rehabilitate wild animals, 7741
shall pay an annual fee of twenty-five dollars for each permit. No 7742
fee shall be charged to an applicant desiring to rehabilitate wild 7743
animals. ~~When it appears that the application is made in good~~ 7744
~~faith, the~~ The chief ~~shall~~ may issue to the applicant a permit to 7745
take, possess, and transport at any time and in ~~any~~ a manner that 7746

is acceptable to the chief specimens of wild animals protected by 7747
law or their nests and eggs for scientific study, school 7748
instruction, other educational uses, or rehabilitation and under 7749
any additional rules recommended by the wildlife council. Upon the 7750
receipt of a permit, the holder may take, possess, and transport 7751
those wild animals in accordance with the permit. 7752

Each holder of a permit engaged in collecting or who 7753
possesses such wild animals shall carry the permit at all times 7754
and shall exhibit it upon demand to any ~~wildlife officer,~~ 7755
~~constable, sheriff, deputy sheriff, or police~~ peace officer, as 7756
defined in section 2935.01 of the Revised Code, or to the owner or 7757
person in lawful control of the land upon which the permit holder 7758
is collecting, ~~or to any other person~~ possesses the wild animals. 7759
Failure to so carry or exhibit the permit constitutes an offense 7760
under this section. 7761

Each permit holder shall keep a daily record of all specimens 7762
collected or possessed under the permit and the disposition of the 7763
specimens and shall exhibit the daily record to any official of 7764
the division upon demand. 7765

Each permit shall remain in effect for one year from the date 7766
of issuance unless it is revoked sooner by the chief. 7767

All moneys received as fees for the issuance of a wild animal 7768
collecting permit shall be transmitted to the director of natural 7769
resources to be paid into the state treasury to the credit of the 7770
fund created by section 1533.15 of the Revised Code. 7771

Sec. 1533.09. Before the ~~first~~ fifteenth day of ~~February~~ 7772
~~March~~ of each year, each wild animal ~~collecting~~ permit holder 7773
shall file with the division of wildlife a written report of ~~his~~ 7774
the permit holder's operations under the permit and the 7775
disposition of the specimens collected or possessed during the 7776
preceding calendar year on report blanks furnished by the chief of 7777

the division. Failure to file a report shall cause the permit to 7778
be forfeited as of the ~~first~~ fifteenth day of ~~February~~ March. 7779
Permits are not transferable. No permit holder or person 7780
collecting or possessing wild animals under authority of such a 7781
permit shall take, possess, or transport the wild animals for any 7782
purpose not specified in the permit. 7783

Conviction of a violation of this section, failure to carry a 7784
permit and exhibit it to any person requesting to see it as 7785
provided in section 1533.08 of the Revised Code, or the violation 7786
of any other law concerning wild animals constitutes a revocation 7787
and forfeiture of the permit involved. The former permit holder 7788
shall not be entitled to another permit for a period of one year 7789
from the date of the conviction. 7790

Sec. 1533.10. Except as provided in this section or division 7791
(A)(2) of section 1533.12 of the Revised Code, no person shall 7792
hunt any wild bird or wild quadruped without a hunting license. 7793
Each day that any person hunts within the state without procuring 7794
such a license constitutes a separate offense. Except as otherwise 7795
provided in this section, every applicant for a hunting license 7796
who is a resident of the state and eighteen years of age or more 7797
shall procure a resident hunting license or an apprentice resident 7798
hunting license, the fee for which shall be eighteen dollars⁷ 7799
unless the rules adopted under division (B) of section 1533.12 of 7800
the Revised Code provide for issuance of a resident hunting 7801
license to the applicant free of charge. Except as provided in 7802
rules adopted under division (B)(2) of that section, each 7803
applicant who is a resident of this state and who at the time of 7804
application is sixty-six years of age or older shall procure a 7805
special senior hunting license, the fee for which shall be 7806
one-half of the regular hunting license fee. Every applicant who 7807
is under the age of eighteen years shall procure a special youth 7808
hunting license or an apprentice youth hunting license, the fee 7809

for which shall be one-half of the regular hunting license fee. 7810
The owner of lands in the state and the owner's children of any 7811
age and grandchildren under eighteen years of age may hunt on the 7812
lands without a hunting license. The tenant and children of the 7813
tenant, residing on lands in the state, may hunt on them without a 7814
hunting license. Except as otherwise provided in division (A)(1) 7815
of section 1533.12 of the Revised Code, every applicant for a 7816
hunting license who is a nonresident of the state and who is 7817
eighteen years of age or older shall procure a nonresident hunting 7818
license or an apprentice nonresident hunting license, the fee for 7819
which shall be one hundred twenty-four dollars, unless the 7820
applicant is a resident of a state that is a party to an agreement 7821
under section 1533.91 of the Revised Code, in which case the fee 7822
shall be eighteen dollars. Apprentice resident hunting licenses, 7823
apprentice youth hunting licenses, and apprentice nonresident 7824
hunting licenses are subject to the requirements established under 7825
section 1533.102 of the Revised Code and rules adopted pursuant to 7826
it. 7827

The chief of the division of wildlife may issue a small game 7828
hunting license expiring three days from the effective date of the 7829
license to a nonresident of the state, the fee for which shall be 7830
thirty-nine dollars. No person shall take or possess deer, wild 7831
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 7832
animal while possessing only a small game hunting license. A small 7833
game hunting license or an apprentice nonresident hunting license 7834
does not authorize the taking or possessing of ducks, geese, or 7835
brant without having obtained, in addition to the small game 7836
hunting license or the apprentice nonresident hunting license, a 7837
wetlands habitat stamp as provided in section 1533.112 of the 7838
Revised Code. A small game hunting license or an apprentice 7839
nonresident hunting license does not authorize the taking or 7840
possessing of deer, wild turkeys, or fur-bearing animals. A 7841
nonresident of the state who wishes to take or possess deer, wild 7842

turkeys, or fur-bearing animals in this state shall procure, 7843
respectively, a ~~special~~ deer or wild turkey permit as provided in 7844
section 1533.11 of the Revised Code or a fur taker permit as 7845
provided in section 1533.111 of the Revised Code in addition to a 7846
nonresident hunting license, an apprentice nonresident hunting 7847
license, a special youth hunting license, or an apprentice youth 7848
hunting license, as applicable, as provided in this section. 7849

No person shall procure or attempt to procure a hunting 7850
license by fraud, deceit, misrepresentation, or any false 7851
statement. 7852
7853

This section does not authorize the taking and possessing of 7854
deer or wild turkeys without first having obtained, in addition to 7855
the hunting license required by this section, a ~~special~~ deer or 7856
wild turkey permit as provided in section 1533.11 of the Revised 7857
Code or the taking and possessing of ducks, geese, or brant 7858
without first having obtained, in addition to the hunting license 7859
required by this section, a wetlands habitat stamp as provided in 7860
section 1533.112 of the Revised Code. 7861

This section does not authorize the hunting or trapping of 7862
fur-bearing animals without first having obtained, in addition to 7863
a hunting license required by this section, a fur taker permit as 7864
provided in section 1533.111 of the Revised Code. 7865

No hunting license shall be issued unless it is accompanied 7866
by a written explanation of the law in section 1533.17 of the 7867
Revised Code and the penalty for its violation, including a 7868
description of terms of imprisonment and fines that may be 7869
imposed. 7870

No hunting license, other than an apprentice hunting license, 7871
shall be issued unless the applicant presents to the agent 7872
authorized to issue the license a previously held hunting license 7873

or evidence of having held such a license in content and manner 7874
approved by the chief, a certificate of completion issued upon 7875
completion of a hunter education and conservation course approved 7876
by the chief, or evidence of equivalent training in content and 7877
manner approved by the chief. A previously held apprentice hunting 7878
license does not satisfy the requirement concerning the 7879
presentation of a previously held hunting license or evidence of 7880
it. 7881

No person shall issue a hunting license, except an apprentice 7882
hunting license, to any person who fails to present the evidence 7883
required by this section. No person shall purchase or obtain a 7884
hunting license, other than an apprentice hunting license, without 7885
presenting to the issuing agent the evidence required by this 7886
section. Issuance of a hunting license in violation of the 7887
requirements of this section is an offense by both the purchaser 7888
of the illegally obtained hunting license and the clerk or agent 7889
who issued the hunting license. Any hunting license issued in 7890
violation of this section is void. 7891

The chief, with approval of the wildlife council, shall adopt 7892
rules prescribing a hunter education and conservation course for 7893
first-time hunting license buyers, other than buyers of apprentice 7894
hunting licenses, and for volunteer instructors. The course shall 7895
consist of subjects including, but not limited to, hunter safety 7896
and health, use of hunting implements, hunting tradition and 7897
ethics, the hunter and conservation, the law in section 1533.17 of 7898
the Revised Code along with the penalty for its violation, 7899
including a description of terms of imprisonment and fines that 7900
may be imposed, and other law relating to hunting. Authorized 7901
personnel of the division or volunteer instructors approved by the 7902
chief shall conduct such courses with such frequency and at such 7903
locations throughout the state as to reasonably meet the needs of 7904
license applicants. The chief shall issue a certificate of 7905

completion to each person who successfully completes the course 7906
and passes an examination prescribed by the chief. 7907

Sec. 1533.11. (A) Except as provided in this section, no 7908
person shall hunt deer on lands of another without first obtaining 7909
an annual ~~special~~ deer permit. Except as provided in this section, 7910
no person shall hunt wild turkeys on lands of another without 7911
first obtaining an annual ~~special~~ wild turkey permit. Each 7912
applicant for a ~~special~~ deer or wild turkey permit shall pay an 7913
annual fee of twenty-three dollars for each permit unless the 7914
rules adopted under division (B) of section 1533.12 of the Revised 7915
Code provide for issuance of a deer or wild turkey permit to the 7916
applicant free of charge. Except as provided in rules adopted 7917
under division (B)(2) of that section, each applicant who is a 7918
resident of this state and who at the time of application is 7919
sixty-six years of age or older shall procure a ~~special~~ senior 7920
deer or wild turkey permit, the fee for which shall be one-half of 7921
the regular ~~special~~ deer or wild turkey permit fee. Each applicant 7922
who is under the age of eighteen years shall procure a ~~special~~ 7923
youth deer or wild turkey permit, the fee for which shall be 7924
one-half of the regular ~~special~~ deer or wild turkey permit fee. 7925
Except as provided in division (A)(2) of section 1533.12 of the 7926
Revised Code, a deer or wild turkey permit shall run concurrently 7927
with the hunting license. The money received shall be paid into 7928
the state treasury to the credit of the wildlife fund, created in 7929
section 1531.17 of the Revised Code, exclusively for the use of 7930
the division of wildlife in the acquisition and development of 7931
land for deer or wild turkey management, for investigating deer or 7932
wild turkey problems, and for the stocking, management, and 7933
protection of deer or wild turkey. Every person, while hunting 7934
deer or wild turkey on lands of another, shall carry the person's 7935
~~special~~ deer or wild turkey permit and exhibit it to any 7936
enforcement officer so requesting. Failure to so carry and exhibit 7937

such a permit constitutes an offense under this section. The chief 7938
of the division of wildlife shall adopt any additional rules the 7939
chief considers necessary to carry out this section and section 7940
1533.10 of the Revised Code. 7941

The owner and the children of the owner of lands in this 7942
state may hunt deer or wild turkey thereon without a ~~special~~ deer 7943
or wild turkey permit. The tenant and children of the tenant may 7944
hunt deer or wild turkey on lands where they reside without a 7945
~~special~~ deer or wild turkey permit. 7946

(B) A ~~special~~ deer or wild turkey permit is not transferable. 7947
No person shall carry a ~~special~~ deer or wild turkey permit issued 7948
in the name of another person. 7949

(C) The wildlife refunds fund is hereby created in the state 7950
treasury. The fund shall consist of money received from 7951
application fees for ~~special~~ deer permits that are not issued. 7952
Money in the fund shall be used to make refunds of such 7953
application fees. 7954

Sec. 1533.12. (A)(1) Except as otherwise provided in division 7955
(A)(2) of this section, every person on active duty in the armed 7956
forces of the United States who is stationed in this state and who 7957
wishes to engage in an activity for which a license, permit, or 7958
stamp is required under this chapter first shall obtain the 7959
requisite license, permit, or stamp. Such a person is eligible to 7960
obtain a resident hunting or fishing license regardless of whether 7961
the person qualifies as a resident of this state. To obtain a 7962
resident hunting or fishing license, the person shall present a 7963
card or other evidence identifying the person as being on active 7964
duty in the armed forces of the United States and as being 7965
stationed in this state. 7966

(2) Every person on active duty in the armed forces of the 7967
United States, while on leave or furlough, may take or catch fish 7968

of the kind lawfully permitted to be taken or caught within the 7969
state, may hunt any wild bird or wild quadruped lawfully permitted 7970
to be hunted within the state, and may trap fur-bearing animals 7971
lawfully permitted to be trapped within the state, without 7972
procuring a fishing license, a hunting license, a fur taker 7973
permit, or a wetlands habitat stamp required by this chapter, 7974
provided that the person shall carry on the person when fishing, 7975
hunting, or trapping, a card or other evidence identifying the 7976
person as being on active duty in the armed forces of the United 7977
States, and provided that the person is not otherwise violating 7978
any of the hunting, fishing, and trapping laws of this state. 7979

In order to hunt deer or wild turkey, any such person shall 7980
obtain a ~~special~~ deer or wild turkey permit, as applicable, under 7981
section 1533.11 of the Revised Code. However, the person need not 7982
obtain a hunting license in order to obtain such a permit. 7983

(B) The chief of the division of wildlife shall provide by 7984
rule adopted under section 1531.10 of the Revised Code all of the 7985
following: 7986

(1) Every resident of this state with a disability that has 7987
been determined by the veterans administration to be permanently 7988
and totally disabling, who receives a pension or compensation from 7989
the veterans administration, and who received an honorable 7990
discharge from the armed forces of the United States, and every 7991
veteran to whom the registrar of motor vehicles has issued a set 7992
of license plates under section 4503.41 of the Revised Code, shall 7993
be issued ~~an annual~~ a fishing license, hunting license, fur taker 7994
permit, deer or wild turkey permit, or wetlands habitat stamp, or 7995
any combination of those licenses, permits, and stamp, free of 7996
charge on an annual, multi-year, or lifetime basis as determined 7997
appropriate by the chief when application is made to the chief in 7998
the manner prescribed by and on forms provided by the chief. 7999

(2) Every resident of the state who was born on or before 8000
December 31, 1937, shall be issued an annual fishing license, 8001
hunting license, fur taker permit, deer or wild turkey permit, or 8002
wetlands habitat stamp, or any combination of those licenses, 8003
permits, and stamp, free of charge when application is made to the 8004
chief in the manner prescribed by and on forms provided by the 8005
chief. 8006

(3) Every resident of state or county institutions, 8007
charitable institutions, and military homes in this state shall be 8008
issued an annual fishing license free of charge when application 8009
is made to the chief in the manner prescribed by and on forms 8010
provided by the chief. 8011

(4) Any mobility impaired or blind person, as defined in 8012
section 955.011 of the Revised Code, who is a resident of this 8013
state and who is unable to engage in fishing without the 8014
assistance of another person shall be issued an annual fishing 8015
license free of charge when application is made to the chief in 8016
the manner prescribed by and on forms provided by the chief. The 8017
person who is assisting the mobility impaired or blind person may 8018
assist in taking or catching fish of the kind permitted to be 8019
taken or caught without procuring the license required under 8020
section 1533.32 of the Revised Code, provided that only one line 8021
is used by both persons. 8022

(5) As used in division (B)(5) of this section, "prisoner of 8023
war" means any regularly appointed, enrolled, enlisted, or 8024
inducted member of the military forces of the United States who 8025
was captured, separated, and incarcerated by an enemy of the 8026
United States. 8027

Any person who has been a prisoner of war, was honorably 8028
discharged from the military forces, and is a resident of this 8029
state shall be issued ~~an annual~~ a fishing license, hunting 8030

license, fur taker permit, or wetlands habitat stamp, or any 8031
combination of those licenses, permits, and stamp, free of charge 8032
on an annual, multi-year, or lifetime basis as determined 8033
appropriate by the chief when application is made to the chief in 8034
the manner prescribed by and on forms provided by the chief. 8035

(C) The chief shall adopt rules pursuant to section 1531.08 8036
of the Revised Code designating not more than two days, which need 8037
not be consecutive, in each year as "free sport fishing days" on 8038
which any resident may exercise the privileges accorded the holder 8039
of a fishing license issued under section 1533.32 of the Revised 8040
Code without procuring such a license, provided that the person is 8041
not otherwise violating any of the fishing laws of this state. 8042

Sec. 1533.131. The chief of the division of wildlife may sell 8043
gift certificates that may be used to obtain hunting and fishing 8044
licenses, fur taker, ~~special~~ deer, and ~~special~~ wild turkey 8045
permits, and wetlands habitat stamps. For the purposes of this 8046
section, the chief shall adopt rules in accordance with section 8047
1531.10 of the Revised Code doing all of the following: 8048

(A) Providing that a gift certificate may be used to obtain a 8049
resident or nonresident hunting license under section 1533.10 of 8050
the Revised Code, a resident or nonresident fishing license under 8051
section 1533.32 of the Revised Code, a fur taker permit under 8052
section 1533.111 of the Revised Code, a ~~special~~ deer or wild 8053
turkey permit under section 1533.11 of the Revised Code, a 8054
wetlands habitat stamp under section 1533.112 of the Revised Code, 8055
or a combination of those licenses, permits, and stamps; 8056

(B) Prescribing the form for the gift certificates; 8057

(C) Authorizing persons who are designated and authorized 8058
under section 1533.13 of the Revised Code to sell licenses and 8059
permits under this chapter also to sell gift certificates under 8060
this section; 8061

(D) Establishing fees for the gift certificates, which shall 8062
equal the total of the fee for a resident or nonresident hunting 8063
license, a resident or nonresident fishing license, a fur taker 8064
permit, a ~~special~~ deer or wild turkey permit, a wetlands habitat 8065
stamp, or a combination of those licenses, permits, and ~~stamps~~ 8066
stamp, as applicable, and the fee established under section 8067
1533.13 of the Revised Code; 8068

(E) Requiring gift certificates to expire one year after the 8069
date of purchase. 8070

Nothing in this section or rules adopted under it relieves an 8071
individual who receives a gift certificate for a hunting license 8072
from complying with the requirement established under section 8073
1533.10 of the Revised Code to present, when applying for the 8074
license, a previously held hunting license or evidence of having 8075
held such a license in content and manner approved by the chief, a 8076
certificate of completion issued upon completion of a hunter 8077
education and conservation course approved by the chief, or 8078
evidence of equivalent training in content and manner approved by 8079
the chief. 8080

Nothing in this section or rules adopted under it relieves an 8081
individual who receives a gift certificate for a fur taker permit 8082
from complying with the requirements established under section 8083
1533.111 of the Revised Code to present, when applying for the 8084
permit, a previously held hunting license or trapping or fur taker 8085
permit or evidence of having held such a license or permit in 8086
content and manner approved by the chief, a certificate of 8087
completion issued upon completion of a trapper education course 8088
approved by the chief, or evidence of equivalent training in 8089
content and manner approved by the chief. 8090

Sec. 1533.171. (A) No person, in the act of hunting, 8091
pursuing, taking, or killing a wild animal, shall act in a 8092

negligent, careless, or reckless manner so as to injure persons or 8093
property. 8094

(B) The court before whom any person is convicted of or 8095
pleads guilty to a violation of division (A) of this section shall 8096
report that fact, together with the violator's name and address, 8097
to the chief of the division of wildlife not later than ten days 8098
after the date of conviction or plea. 8099

(C) Not later than seven days after receiving a notification 8100
under division (B) of this section, the chief shall revoke, for 8101
not less than one year nor more than five years, each hunting 8102
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8103
turkey permit, and wetlands habitat stamp issued to that person 8104
under this chapter. No fee paid for such a license, permit, or 8105
stamp shall be returned to the person. 8106

Upon revoking a license, permit, or stamp, or a combination 8107
thereof, under this division, the chief immediately shall send a 8108
notice of that action by certified mail to the last known address 8109
of the person. The notice shall state the action taken, order the 8110
person to surrender the revoked license, permit, or stamp, or 8111
combination thereof, and state that the department of natural 8112
resources will not afford a hearing as required under section 8113
119.06 of the Revised Code. 8114

(D) If, after receiving a notice under division (C) of this 8115
section, the person decides to petition for a review of the 8116
revocation, the person shall file a petition for such a review not 8117
later than thirty days after receiving the notice in the municipal 8118
court or the county court, or, if the person is under eighteen 8119
years of age, the juvenile court, in whose jurisdiction the 8120
violation occurred. The review shall be limited to the question of 8121
the appropriateness of the period of revocation. The court shall 8122
send a copy of the petition to the chief by certified mail 8123
together with timely notice of the date, time, and place of a 8124

hearing on the petition. The filing of a petition for a review 8125
shall not stay the revocation during the pendency of the appeal. 8126

(E) No person whose license, permit, or stamp, or a 8127
combination thereof, has been revoked under this section shall 8128
attempt to purchase, purchase, apply for, or receive any hunting 8129
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8130
turkey permit, or wetlands habitat stamp issued under this chapter 8131
or engage in hunting during the time any such license, permit, or 8132
stamp, or a combination thereof, is revoked. 8133

Sec. 1533.42. Except as otherwise provided by division rule, 8134
every licensee taking fish with commercial fishing gear, except a 8135
trotline of seventy hooks or less, in any of the waters mentioned 8136
in this chapter and Chapter 1531. ~~and this chapter~~ of the Revised 8137
Code or division rule, shall keep accurate reports for each day's 8138
catch upon forms provided, and in the manner prescribed, by the 8139
chief of the division of wildlife. 8140

Every commercial fishing licensee shall keep an accurate 8141
record of each day's catch as prescribed upon a monthly report 8142
form. The report shall include at least the number of pounds of 8143
each kind of fish taken, the locality fished, the kind and amount 8144
of fishing gear lifted, the number of fishing nights, the number 8145
of lifts, and any other data the biologists employed by the 8146
division of wildlife require in following the trend of the 8147
fisheries. The licensee shall report each month, under oath when 8148
requested to do so, those data to the chief. 8149

The daily catch data shall be recorded accurately on the 8150
respective date upon a report form approved by the chief no later 8151
than twelve noon on the day following the day in which the fish 8152
were taken. The monthly report and any other report required 8153
pursuant to this section shall be submitted to the division no 8154
later than the fifteenth day of the month following the end of the 8155

calendar month in which the fish were taken. 8156

A licensee shall contact the chief or the chief's designee 8157
when the licensee is in transit to the licensee's trap nets to 8158
lift, move, pull, remove, clean, or maintain the trap nets for any 8159
reason and also shall contact the chief or the chief's designee 8160
when returning to land with a daily catch of fish from a trap net 8161
indicating the licensee's estimated time of arrival at a specific 8162
port and any other information required by the chief. The licensee 8163
shall contact the chief or the chief's designee by using a 8164
cellular telephone, radio, or other communication device in a 8165
manner prescribed by the chief. 8166

No person shall fail to comply with any report procedure 8167
provided for in this section, other provisions of this section, or 8168
division rule adopted pursuant thereto. 8169

In addition to other penalties provided in the Revised Code, 8170
the license of any person who is convicted of two violations of 8171
this section that occurred within a twelve-month period is 8172
suspended upon the second such conviction by operation of law for 8173
a period of sixty fishing season days immediately following that 8174
conviction. 8175

In addition to other penalties provided in the Revised Code, 8176
the license of any person who is convicted of three or more 8177
violations of this section that occurred within a twelve-month 8178
period is suspended upon the third or subsequent such conviction 8179
by operation of law for a period of eighteen fishing season months 8180
immediately following that conviction. 8181

During any period of suspension, no person shall use or 8182
engage in fishing with commercial gear owned, used, or controlled 8183
at the time of conviction by the licensee whose license has been 8184
suspended. 8185

Sec. 1533.632. (A) As used in this section:	8186
(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.	8187 8188 8189 8190
(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.	8191 8192 8193
(3) "Class A aquaculture species" includes all of the following:	8194 8195
(a) Trout and salmon (Onchorhynchus sp., Salmo sp., Salvelinus sp.);	8196 8197
(b) Walleye (Stizostedion vitreum);	8198
(c) Sauger (Stizostedion canadense);	8199
(d) Bluegill (Lepomis macrochirus);	8200
(e) Redear sunfish (Lepomis microlophus);	8201
(f) Green sunfish (Lepomis cyanellus);	8202
(g) White crappie (Pomoxis annularis);	8203
(h) Black crappie (Pomoxis nigromaculatus);	8204
(i) Blue catfish (Ictalurus furcatus);	8205
(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) <u>any species designated as such by the chief of the division of wildlife in rules adopted under division (B) of this section.</u>	8206 8207 8208 8209 8210
(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 <u>in rules adopted under division</u>	8211 8212 8213

(B) of this section. 8214

(5) "Aquaculture production facility" means a facility ~~used~~ 8215
~~for aquaculture that has suitable infrastructure and equipment, as~~ 8216
~~determined by the chief, and that is solely dedicated to the~~ 8217
~~propagation and rearing of an aquaculture species.~~ 8218

(6) "Suitable infrastructure" includes ponds, raceways, and 8219
tanks. 8220

(B) The chief, in accordance with Chapter 119. of the Revised 8221
Code, shall adopt rules for the regulation of aquaculture and may 8222
issue permits to persons wishing to engage in aquaculture for the 8223
production of aquaculture species. Rules adopted under this 8224
section shall ensure the protection and preservation of the 8225
wildlife and natural resources of this state. The legal length and 8226
weight limitations established under section 1533.63 of the 8227
Revised Code do not apply to class A or class B aquaculture 8228
species. 8229

A permit may be issued upon application to any person who 8230
satisfies the chief that the person ~~has suitable equipment, of~~ 8231
~~which the person is the owner or lessee, to engage in aquaculture~~ 8232
~~for a given aquaculture species or group of~~ owns or leases an 8233
aquaculture ~~species~~ production facility. Each permit shall be in 8234
such form as the chief prescribes. The permits shall be classified 8235
as either class A or class B. A class A permit shall be required 8236
for all class A aquaculture species that are ~~specified in this~~ 8237
~~section or~~ designated by rule as a class A aquaculture species. 8238
Class B permits shall be issued on a case-by-case basis. In 8239
determining whether to issue a class B permit, the chief shall 8240
take into account the species for which the class B permit is 8241
requested, the location of the aquaculture production facility, 8242
and any other information determined by the chief to be necessary 8243
to protect the wildlife and natural resources of this state. The 8244
annual fee for a class A permit shall be fifty dollars unless 8245

otherwise provided by rule by the chief. The annual fee for a 8246
class B permit shall be set by the chief at a level between one 8247
hundred and five hundred dollars. In determining the fee to be 8248
charged for a class B permit, the chief shall take into account 8249
the additional costs to the division for the inspection of 8250
aquaculture facilities used to raise a given class B aquaculture 8251
species. 8252

The chief may revoke a permit upon a determination that the 8253
person to whom the permit was issued has violated any rule adopted 8254
under this section. The permit shall be reissued upon a showing by 8255
the person that the person is in compliance with the rules adopted 8256
under this section. A holder of an aquaculture permit may receive 8257
a permit issued under section 1533.301 or 1533.40 of the Revised 8258
Code without payment of the fee for that permit if the conditions 8259
for the issuance of the permit have been met. 8260

(C) No person shall knowingly sell any aquatic species under 8261
an aquaculture permit issued under this section that was not 8262
raised in an aquaculture production facility. In addition to any 8263
other penalties prescribed for violation of this division, the 8264
chief may revoke the permit of any person convicted of a violation 8265
of this division for any period of time the chief considers 8266
necessary. 8267

(D) No person who does not hold a current valid aquaculture 8268
permit shall knowingly sell an aquaculture species while claiming 8269
to possess an aquaculture permit. 8270

Sec. 1533.68. If a person is convicted of a violation of any 8271
law relative to the taking, possession, protection, preservation, 8272
or propagation of wild animals, or a violation of division (C) of 8273
section 2909.08 of the Revised Code while hunting, or is convicted 8274
of a violation of any rule of the division of wildlife, the court 8275
or magistrate before whom the conviction is had, as an additional 8276

part of the penalty in each case, ~~shall~~ may suspend or revoke each 8277
license or permit issued to the person in accordance with any 8278
section of the Revised Code pertaining to the hunting, fishing, 8279
trapping, breeding, and sale of wild animals or the sale of their 8280
hides, skins, or pelts. No fee paid for such a license or permit 8281
shall be returned to the person. 8282

No person having a license or permit suspended or revoked as 8283
provided in this section, in the event of a hunting or trapping 8284
violation, shall engage in hunting or trapping, in the event of a 8285
violation of division (C) of section 2909.08 of the Revised Code 8286
while hunting, shall engage in hunting, or in the event of a 8287
fishing violation, shall engage in fishing, or purchase, apply 8288
for, or receive any such license or permit for the following 8289
periods of time, as applicable: 8290

(A) Three years after the date of conviction if the person is 8291
convicted of taking or possessing a deer in violation of section 8292
1531.02 of the Revised Code; 8293

(B) Not more than three years after the date of conviction if 8294
the person is convicted of taking or possessing any other wild 8295
animal in violation of section 1531.02 of the Revised Code, is 8296
convicted of a misdemeanor violation of division (C) of section 8297
2909.08 of the Revised Code while hunting, or is convicted of a 8298
second or subsequent violation of section 1533.17 of the Revised 8299
Code within a period of three consecutive years after the date of 8300
conviction of the immediately preceding violation of that section; 8301

(C) Not more than five years after the date of conviction if 8302
the person is convicted of violating section 1533.171 or of taking 8303
or possessing an eagle or osprey in violation of section 1533.07 8304
of the Revised Code or is convicted of a felony violation of 8305
division (C) of section 2909.08 of the Revised Code while hunting; 8306

(D) Not more than five years after the date of conviction if 8307

the person is convicted of violating any section of this chapter 8308
or Chapter 1531. of the Revised Code not specified in division 8309
(A), (B), or (C) of this section. 8310

All licenses and permits suspended or revoked as provided in 8311
this section shall be taken up by the magistrate and sent to the 8312
department of natural resources where they shall be filed with a 8313
record of the arrest until the person who held the suspended or 8314
revoked license or permit is lawfully entitled to obtain another 8315
license or permit. 8316

Sec. 1533.86. As used in sections 1533.86 to 1533.90 of the 8317
Revised Code: 8318

(A) "Ginseng" means the plant *Panax quinquefolius* L., also 8319
known as *Panax quinquefolium* L., commonly known as American 8320
ginseng. 8321

(B) "Wild ginseng" means ginseng that grows in an 8322
uncultivated state and in its natural habitat whether the plant 8323
occurs naturally from that habitat or was introduced or increased 8324
in abundance by sowing ginseng seed or transplanting ginseng 8325
plants from other areas and performing no other cultivation 8326
practices. 8327

(C) "Cultivated ginseng" means ginseng that grows or has been 8328
grown in tilled beds under the shade of artificial structures or 8329
natural shade and is cultivated according to standard ginseng 8330
horticultural practices. 8331

(D) "Harvest" means to cut, pick, dig, root up, gather, or 8332
otherwise collect ginseng. 8333

(E) "Person" includes any legal entity defined as a person 8334
under section ~~1-59~~ 6111.01 of the Revised Code and any political 8335
subdivision, instrumentality, or agency of ~~this state,~~ another 8336
state, ~~or the United States.~~ 8337

(F) "Collector" means a person who harvests ginseng.	8338
(G) "Grower" means a person who grows cultivated ginseng.	8339
(H) "Dealer" means a person who buys or otherwise acquires or conveys ginseng for resale.	8340 8341
(I) "Buy" includes trade or barter.	8342
(J) "Sell" includes trade or barter.	8343
Sec. 1533.882. No person shall do any of the following:	8344
(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;	8345 8346 8347 8348
(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;	8349 8350 8351
(C) <u>Attempt to harvest ginseng in a manner that, if harvested, would constitute a violation of division (A) or (B) of this section;</u>	8352 8353 8354
<u>(D)</u> 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;	8355 8356 8357
(D) <u>(E)</u> 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;	8358 8359 8360
(E) <u>(F)</u> Fail to keep records as established by rule adopted pursuant to section 1533.88 of the Revised Code;	8361 8362
(F) <u>(G)</u> Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;	8363 8364 8365

~~(G)~~(H) Knowingly provide incorrect or false information on or 8366
in any permit application, report, export certificate, or other 8367
document required by rules adopted pursuant to section 1533.88 of 8368
the Revised Code; 8369

~~(H)~~(I) Violate any provision of sections 1533.86 to 1533.90 8370
of the Revised Code or rules adopted pursuant to section 1533.88 8371
of the Revised Code. 8372

Sec. 1533.99. (A) Whoever violates section 1533.17 of the 8373
Revised Code is guilty of a misdemeanor of the third degree on a 8374
first offense and a misdemeanor of the second degree on each 8375
subsequent offense. In addition to any other sanction imposed 8376
under this division, on a second or subsequent offense occurring 8377
within a period of three consecutive years after the date of 8378
conviction of the immediately preceding violation of that section 8379
any firearms or other hunting implements in the possession or 8380
under the control of the offender at the time of the violation are 8381
subject to seizure in accordance with section 1531.20 of the 8382
Revised Code. If the offender persists in the offense after 8383
reasonable warning or request to desist, the offender is guilty of 8384
a misdemeanor of the second degree. 8385

(B) Whoever violates section 1533.161, 1533.23, 1533.24, 8386
1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511, 1533.55, 8387
1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71, 1533.72, 8388
1533.73, 1533.74, 1533.75, 1533.76, 1533.77, ~~1533.78~~, 1533.79, or 8389
1533.80, division (F) of section 1533.731, or division (B) or (C) 8390
of section 1533.97 of the Revised Code is guilty of a misdemeanor 8391
of the third degree. 8392

(C) Whoever violates division (B) of section 1533.03, section 8393
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 8394
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, 1533.721, 1533.881, 8395
or 1533.882, division (B)(2) or (3) of section 1533.731, or 8396

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;	8427
(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;	8428 8429
(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;	8430 8431 8432
(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:	8433 8434 8435 8436 8437
(1) Governing opening and closing times and dates of the parks;	8438 8439
(2) Establishing fees and charges for use of facilities in state parks;	8440 8441
(3) Governing camps, camping, and fees for camps and camping;	8442
(4) Governing the application for and rental of, rental fees for, and the use of cabins <u>cottages</u> ;	8443 8444
(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;	8445 8446 8447
(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;	8448 8449 8450 8451 8452
(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	8453 8454 8455 8456

the Revised Code, over waters under the control of the division 8457
and establishing reasonable fees for the construction of and 8458
annual use permits for those structures and devices; 8459

(8) Governing state beaches, swimming, inflatable devices, 8460
and fees for them; 8461

(9) Governing the removal and disposition of any watercraft, 8462
rowboat, sailboat, or powercraft, as those terms are defined in 8463
section 1547.01 of the Revised Code, left unattended for more than 8464
seven days on any lands or waters under the control of the 8465
division; 8466

(10) Governing the establishment and collection of check 8467
collection charges for checks that are returned to the division or 8468
dishonored for any reason. 8469

The division shall adopt rules under this section 8470
establishing a discount program for all persons who are issued a 8471
golden buckeye card under section 173.06 of the Revised Code. The 8472
discount program shall provide a discount for all park services 8473
and rentals, but shall not provide a discount for the purchase of 8474
merchandise. 8475

The division shall not adopt rules establishing fees or 8476
charges for parking a motor vehicle in a state park or for 8477
admission to a state park. 8478

Every resident of this state with a disability that has been 8479
determined by the veterans administration to be permanently and 8480
totally disabling, who receives a pension or compensation from the 8481
veterans administration, and who received an honorable discharge 8482
from the armed forces of the United States, and every veteran to 8483
whom the registrar of motor vehicles has issued a set of license 8484
plates under section 4503.41 of the Revised Code, shall be exempt 8485
from the fees for camping, provided that the resident or veteran 8486
carries in the state park such evidence of the resident's or 8487

veteran's disability as the chief of the division of parks and recreation prescribes by rule. 8488
8489

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. 8490
8491
8492
8493
8494
8495
8496
8497
8498
8499
8500

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. 8501
8502
8503
8504
8505
8506

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. 8507
8508
8509
8510
8511
8512
8513
8514
8515
8516
8517

Sec. 1541.05. (A) The chief of the division of parks and 8518

recreation, with the approval of the director of natural 8519
resources, may dispose of any of the following by sale, donation, 8520
trade, trade-in, recycling, or any other lawful means, in a manner 8521
that will benefit the division: 8522

(1) Standing timber that as a result of wind, storm, 8523
pestilence, or any other natural occurrence may present a hazard 8524
to life or property, ~~or~~ timber that has weakened or fallen on 8525
lands under the control and management of the division, or any 8526
timber that requires management to improve wildlife habitat, 8527
protect against wildfires, provide access to recreational 8528
facilities, or improve the safety, quality, or appearance of any 8529
state park area; 8530

(2) Spoils of a dredging operation conducted by the division 8531
in waters under the control and management of the division. Prior 8532
to the disposition of any spoils under this division, the chief 8533
shall notify the director of environmental protection of ~~his~~ the 8534
chief's intent so that the director may determine if the spoils 8535
constitute solid wastes or hazardous waste, as those terms are 8536
defined in section 3734.01 of the Revised Code, that ~~shall~~ must be 8537
disposed of in accordance with Chapter 3734. of the Revised Code. 8538
If the director does not notify the chief within thirty days after 8539
receiving notice of the disposition that the spoils ~~shall~~ must be 8540
disposed of in accordance with Chapter 3734. of the Revised Code, 8541
the chief may proceed with the disposition. 8542

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 8543
Code, excess supplies and surplus supplies, as those terms are 8544
defined in section 125.12 of the Revised Code; 8545

(4) Agricultural products that are grown or raised by the 8546
division. As used in this division, "agricultural products" 8547
includes products of apiculture, animal husbandry, or poultry 8548
husbandry, field crops, fruits, and vegetables. 8549

(5) Abandoned personal property, including golf balls that 8550
are found on property under the control and management of the 8551
division. 8552

(B) In accordance with Chapter 119. of the Revised Code, the 8553
chief shall adopt, and may amend and rescind, such rules as are 8554
necessary to administer this section. 8555

(C) Proceeds from the disposition of items under this section 8556
shall be deposited in the state treasury to the credit of the 8557
state park fund created in section 1541.22 of the Revised Code. 8558

Sec. 1541.40. There is hereby created in the division of 8559
parks and recreation an Ohio parks and recreation council, which 8560
shall consist of seven members to be appointed by the governor 8561
with the advice and consent of the senate. By reason of his 8562
vocation, employment, or affiliation one of ~~such~~ the members shall 8563
be classed as a representative of municipal parks, one as a 8564
representative of metropolitan park districts, one as a 8565
representative of conservancy districts, one as a representative 8566
of ~~soil conservation districts or of~~ soil and water conservation 8567
districts, one as a representative of private recreational 8568
facilities, and two as representatives of the public. 8569

Terms of office shall be for ~~two~~ three years, commencing on 8570
the first day of February and ending on the thirty-first day of 8571
January, ~~except that upon expiration of the terms ending on~~ 8572
~~February 3, 1973, the new terms which succeed them shall commence~~ 8573
~~on February 4, 1974 and end on January 31, 1976, and upon~~ 8574
~~expiration of the terms ending on February 2, 1975, the new terms~~ 8575
~~which succeed them shall commence on February 3, 1975 and end on~~ 8576
~~January 31, 1977.~~ Each member shall hold office from the date of 8577
~~his~~ appointment until the end of the term for which ~~he~~ the member 8578
was appointed. Any member appointed to fill a vacancy occurring 8579
prior to the expiration of the term for which ~~his~~ the member's 8580

predecessor was appointed shall hold office for the remainder of 8581
~~such~~ that term. Any member shall continue in office subsequent to 8582
the expiration date of ~~his~~ the member's term until ~~his~~ the 8583
member's successor takes office, or until a period of sixty days 8584
has elapsed, whichever occurs first. 8585

The council shall annually select from among its members a 8586
~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. 8587

Members of the council shall receive no compensation, but 8588
shall be reimbursed for their actual and necessary expenses 8589
incurred in the performance of their official duties as members of 8590
the council. 8591

The council shall hold at least one regular meeting in each 8592
quarter of each calendar year, and shall keep a record of its 8593
proceedings, which shall be open to the public for inspection. 8594
Special meetings may be called by the ~~chairman~~ chairperson, and 8595
shall be called by ~~him~~ the chairperson upon receipt of a written 8596
request therefor signed by two or more members of the council. A 8597
written notice of the time and place of each meeting shall be sent 8598
to each member of the council. A majority of the members of the 8599
council shall constitute a quorum. 8600

The chief of the division of parks and recreation shall act 8601
as secretary of the council. Technical, legal, and other services 8602
required by the council in the performance of its official duties 8603
shall be furnished by the personnel of the division of parks and 8604
recreation. 8605

The governor may remove any member of the council at any time 8606
for inefficiency, neglect of duty, or malfeasance in office. 8607

Sec. 1547.05. No person born on or after January 1, 1982, 8608
shall operate on the waters in this state a powercraft powered by 8609
more than ten horsepower, unless the operator successfully has 8610

completed either a safe boater course approved by the national 8611
association of state boating law administrators or a proctored or 8612
nonproctored proficiency examination that tests knowledge of 8613
information included in the curriculum of such a course, and has 8614
received a certificate as evidence of successful completion of the 8615
course or examination. 8616

No person shall permit a powercraft to be operated on the 8617
waters in this state in violation of this section. 8618

Sec. 1547.08. (A) No person shall operate a vessel within or 8619
through a designated bathing area or within or through any area 8620
that has been buoyed off designating it as an area in which 8621
vessels are prohibited. 8622

(B)(1) No person shall operate a vessel at greater than idle 8623
speed or at a speed that creates a wake under any of the following 8624
circumstances: 8625

(a) Within three hundred feet of any marina, boat docking 8626
facility, boat gasoline dock, launch ramp, recreational boat 8627
harbor, or harbor entrance on Lake Erie or on the Ohio river; 8628

(b) During the period from sunset to sunrise according to 8629
local time within any water between the Dan Beard bridge and the 8630
Brent Spence bridge on the Ohio river for any vessel not 8631
documented by the United States coast guard as commercial; 8632

(c) Within any area buoyed or marked as a no wake area on the 8633
waters in this state. 8634

(2) Division (B)(1) of this section does not apply in either 8635
of the following places: 8636

(a) An area designated by the chief of the division of 8637
watercraft unless it is marked by a buoy or sign as a no wake or 8638
idle speed area; 8639

(b) Within any water between the Dan Beard bridge and the 8640

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. 8641
8642
8643

(C) No person shall operate a vessel in any area of restricted or controlled operation in violation of the designated restriction. 8644
8645
8646

(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. 8647
8648
8649

(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. 8650
8651
8652
8653
8654
8655
8656

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. 8657
8658
8659
8660
8661
8662
8663

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. 8664
8665
8666
8667
8668
8669
8670
8671

(F) No person shall enter, operate a vessel that enters, or 8672
allow a vessel to enter a federally declared security zone as 8673
defined in 33 C.F.R. Chapter I, subparts 6.01-1, 6.01-2, 6.01-3, 8674
6.01-4, 6.01-5, 6.04-1, 6.04-5, 6.04-6, 6.04-7, and 6.04-8. 8675

(G) No person shall permit any vessel to be operated on the 8676
waters in this state in violation of this section. 8677

Sec. 1547.51. There is hereby created within the department 8678
of natural resources the division of watercraft. The division 8679
shall administer and enforce all laws relative to the 8680
identification, numbering, registration, titling, use, and 8681
operation of vessels operated on the waters in this state and, 8682
with the approval of the director of natural resources, educate 8683
and inform the citizens of the state about, and promote, 8684
conservation, navigation, safety practices, and the benefits of 8685
recreational boating. 8686

Sec. 1547.54. (A)(1) Except as otherwise provided in section 8687
1547.542 of the Revised Code, the owner of every watercraft 8688
requiring registration under this chapter shall file an 8689
application for a triennial registration certificate with the 8690
chief of the division of watercraft on forms that shall be 8691
provided by the chief or by an electronic means approved by the 8692
chief. The application shall be signed by the following: 8693

(a) If the watercraft is owned by two persons under joint 8694
ownership with right of survivorship established under section 8695
2131.12 of the Revised Code, by both of those persons as owners of 8696
the watercraft. The signatures may be done by electronic signature 8697
if the owners themselves are renewing the registration and there 8698
are no changes in the registration information since the issuance 8699
of the immediately preceding registration certificate. In all 8700
other instances, the signatures shall be done manually. 8701

(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 8732
by length as prescribed in this section. 8733

(4) If an application for registration is filed by two 8734
persons as owners under division (A)(1)(a) of this section, the 8735
person who is listed first on the title shall serve as and perform 8736
the duties of the "owner" and shall be considered the person "in 8737
whose name the watercraft is registered" for purposes of divisions 8738
(B) to (Q) of this section and for purposes of all other sections 8739
in this chapter. 8740

(B) All registration certificates issued under this section 8741
are valid for three years and are renewable on a triennial basis 8742
unless sooner terminated or discontinued in accordance with this 8743
chapter. The renewal date shall be printed on the registration 8744
certificate. A registration certificate may be renewed by the 8745
owner in the manner prescribed by the chief. All fees shall be 8746
charged according to a proration of the time remaining in the 8747
registration cycle to the nearest year. 8748

(C) In addition to the fees set forth in this section, the 8749
chief, or any authorized agent, shall charge an additional fee of 8750
three dollars for any registration certificate the chief or 8751
authorized agent issues. When the registration certificate is 8752
issued by an authorized agent, the additional fee of three dollars 8753
shall be retained by the issuing agent. When the registration 8754
certificate is issued by the chief, the additional fee of three 8755
dollars shall be deposited to the credit of the waterways safety 8756
fund established in section 1547.75 of the Revised Code. 8757

(D)(1) Upon receipt of the application in approved form, the 8758
chief shall enter the same upon the records of the office of the 8759
division of watercraft, assign a number to the watercraft if a 8760
number is required under section 1547.53 of the Revised Code, and 8761
issue to the applicant a registration certificate. If a number is 8762

assigned by the chief, it shall be set forth on the certificate. 8763
The registration certificate shall be on the watercraft for which 8764
it is issued and available at all times for inspection whenever 8765
the watercraft is in operation, except that livery operators may 8766
retain the registration certificate at the livery where it shall 8767
remain available for inspection at all times and except as 8768
otherwise provided in division (D)(2) of this section. 8769

(2) A person who is operating on the waters of this state a 8770
canoe, rowboat, or inflatable watercraft that has not been 8771
numbered under section 1547.53 of the Revised Code and who is 8772
stopped by a law enforcement officer in the enforcement of this 8773
chapter or rules adopted under it shall present to the officer, 8774
not later than seventy-two hours after being stopped, a 8775
registration certificate. The registration certificate shall have 8776
been obtained under this section for the canoe, rowboat, or 8777
inflatable watercraft prior to the time that it was stopped. 8778
Failure of the person to present the registration certificate 8779
within seventy-two hours constitutes prima-facie evidence of a 8780
violation of this section. 8781

(E) No person shall issue or be issued a registration 8782
certificate for a watercraft that is required to be issued a 8783
certificate of title under Chapter 1548. of the Revised Code 8784
except upon presentation of a certificate of title for the 8785
watercraft as provided in that chapter, proof of current 8786
documentation by the United States coast guard, a renewal 8787
registration form provided by the division of watercraft, or a 8788
certificate of registration issued under this section that has 8789
expired if there is no change in the ownership or description of 8790
the watercraft. 8791

(F) Whenever the ownership of a watercraft changes, a new 8792
application form together with the prescribed fee shall be filed 8793
with the chief or the chief's agent and a new registration 8794

certificate shall be issued. The application shall be signed 8795
manually by the person or persons specified in ~~division~~ divisions 8796
(A)(1)(a) to (c) of this section and shall be accompanied by a 8797
two-dollar transfer fee. Any remaining time on the registration 8798
shall be transferred. An authorized agent of the chief shall 8799
charge an additional fee of three dollars, which shall be retained 8800
by the issuing agent. If the certificate is issued by the chief, 8801
an additional fee of three dollars for each certificate issued 8802
shall be collected. 8803

(G) If an agency of the United States has in force an overall 8804
system of identification numbering for watercraft or certain types 8805
of watercraft within the United States, the numbering system 8806
employed by the division shall be in conformity with that system. 8807

(H)(1) The chief may assign any registration certificates to 8808
any authorized agent for the assignment of the registration 8809
certificates. If a person accepts that authorization, the person 8810
may be assigned a block of numbers and certificates that upon 8811
assignment, in conformity with this chapter and Chapter 1548. of 8812
the Revised Code and with rules of the division, shall be valid as 8813
if assigned directly by the division. Any person so designated as 8814
an agent by the chief shall post with the division security as may 8815
be required by the director of natural resources. The chief may 8816
issue an order temporarily or permanently restricting or 8817
suspending an agent's authorization without a hearing if the chief 8818
finds that the agent has violated this chapter or Chapter 1548. of 8819
the Revised Code, rules adopted under them, or any agreements 8820
prescribed by the chief. 8821

(2) A clerk of the court of common pleas may apply for 8822
designation as an authorized agent of the chief. The division 8823
shall accept the clerk's bond that is required under section 8824
2303.02 of the Revised Code for any security that is required for 8825
agents under this division, provided that the bond includes a 8826

rider or other provision specifically covering the clerk's duties 8827
as an authorized agent of the chief. 8828

(I) All records of the division made or kept pursuant to this 8829
section shall be public records. Those records shall be available 8830
for inspection at reasonable hours and in a manner compatible with 8831
normal operations of the division. 8832

(J) The owner shall furnish the division notice within 8833
fifteen days of the following: 8834

(1) The transfer, other than through the creation of a 8835
security interest in any watercraft, of all or any part of the 8836
owner's interest or, if the watercraft is owned by two persons 8837
under joint ownership with right of survivorship established under 8838
section 2131.12 of the Revised Code, of all or any part of the 8839
joint interest of either of the two persons. The transfer shall 8840
not terminate the registration certificate. 8841

(2) Any change in the address appearing on the certificate 8842
~~and, as~~ As a part of the notification, the owner shall furnish 8843
the chief with the owner's new address: 8844

(3) The destruction or abandonment of the watercraft. 8845

(K) The chief may issue duplicate registration certificates 8846
or duplicate tags to owners of currently registered watercraft, 8847
the fee for which shall be four dollars. 8848

(L) If the chief finds that a registration certificate 8849
previously issued to an owner is in error to a degree that would 8850
impair its basic purpose and use, the chief may issue a corrected 8851
certificate to the owner without charge. 8852

(M) No authorized agent shall issue and no person shall 8853
receive or accept from an authorized agent a registration 8854
certificate assigned to the authorized agent under division (H) of 8855
this section unless the exact month, day, and year of issue are 8856

plainly written on the certificate by the agent. Certificates 8857
issued with incorrect dates of issue are void from the time they 8858
are issued. 8859

(N) The chief, in accordance with Chapter 119. of the Revised 8860
Code, shall adopt rules governing the renewal of watercraft 8861
registrations by electronic means. 8862

(O) As used in this section: 8863

(1) "Disabled veteran" means a person who is included in 8864
either of the following categories: 8865

(a) Because of a service-connected disability, has been or is 8866
awarded funds for the purchase of a motor vehicle under the 8867
"Disabled Veterans' and Servicemen's Automobile Assistance Act of 8868
1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto; 8869

(b) Has a service-connected disability rated at one hundred 8870
per cent by the veterans administration. 8871

(2) "Prisoner of war" means any regularly appointed, 8872
enrolled, enlisted, or inducted member of the military forces of 8873
the United States who was captured, separated, and incarcerated by 8874
an enemy of the United States at any time, and any regularly 8875
appointed, enrolled, or enlisted member of the military forces of 8876
Great Britain, France, Australia, Belgium, Brazil, Canada, China, 8877
Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, 8878
South Africa, or the republics formerly associated with the Union 8879
of Soviet Socialist Republics or Yugoslavia who was a citizen of 8880
the United States at the time of the appointment, enrollment, or 8881
enlistment, and was captured, separated, and incarcerated by an 8882
enemy of this country during World War II. 8883

(P) Any disabled veteran, congressional medal of honor 8884
awardee, or prisoner of war may apply to the chief for a 8885
certificate of registration, or for a renewal of the certificate 8886

of registration, without the payment of any fee required by this 8887
section. The application for a certificate of registration shall 8888
be accompanied by evidence of disability or by documentary 8889
evidence in support of a congressional medal of honor that the 8890
chief requires by rule. The application for a certificate of 8891
registration by any person who has been a prisoner of war shall be 8892
accompanied by written evidence in the form of a record of 8893
separation, a letter from one of the armed forces of a country 8894
listed in division (O)(2) of this section, or other evidence that 8895
the chief may require by rule, that the person was honorably 8896
discharged or is currently residing in this state on active duty 8897
with one of the branches of the armed forces of the United States, 8898
or was a prisoner of war and was honorably discharged or received 8899
an equivalent discharge or release from one of the armed forces of 8900
a country listed in division (O)(2) of this section. 8901

(Q) Annually by the fifteenth day of January, the director of 8902
natural resources shall determine the amount of fees that would 8903
have been collected in the prior calendar year for each 8904
certificate of registration issued or renewed pursuant to division 8905
(P) of this section and shall certify the total amount of foregone 8906
revenue to the director of budget and management for 8907
reimbursement. The director of budget and management shall 8908
transfer the amount certified from the general revenue fund to the 8909
waterways safety fund created pursuant to section 1547.75 of the 8910
Revised Code. 8911

Sec. 1547.541. The owner of a ~~wooden~~ watercraft that is more 8912
than twenty-five years old, is essentially as originally 8913
constructed, and is owned primarily as a collector's item and for 8914
participation in club activities, exhibitions, tours, parades, and 8915
similar uses, but is not used for general recreation may apply to 8916
the chief of the division of watercraft for an historic watercraft 8917

identification plate. The chief, by rule, may establish additional 8918
criteria for the registration of historic watercraft that the 8919
chief considers necessary. 8920

The chief shall prescribe the form of application and shall 8921
issue an historic watercraft identification plate, which shall be 8922
securely affixed to the watercraft. The plate shall bear no date, 8923
but shall bear the inscription "historic watercraft." A 8924
registration number assigned by the chief shall be shown on the 8925
plate. The plate is valid without renewal as long as the 8926
watercraft exists and ownership does not change. The fee for the 8927
plate is twenty-five dollars. 8928

Whenever the ownership of an historic watercraft changes, an 8929
application for transfer of registration, together with a fee of 8930
ten dollars, shall be filed with the division of watercraft, and a 8931
new certificate of registration shall be issued. 8932

The historic watercraft identification plate shall be shown 8933
on the watercraft in the same manner as a number required under 8934
sections 1547.53 and 1547.57 of the Revised Code. 8935

If the watercraft is to be used for general recreation, it 8936
also shall be registered as required by section 1547.54 of the 8937
Revised Code. 8938

Sec. 1547.99. (A) Whoever violates section 1547.91 of the 8939
Revised Code is guilty of a felony of the fourth degree. 8940

(B) Whoever violates division (F) of section 1547.08, section 8941
1547.10, division (I) of section 1547.111, section 1547.13, or 8942
section 1547.66 of the Revised Code is guilty of a misdemeanor of 8943
the first degree. 8944

(C) Whoever violates a provision of this chapter or a rule 8945
adopted thereunder, for which no penalty is otherwise provided, is 8946
guilty of a minor misdemeanor. 8947

(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.

9011
9012
9013
9014
9015
9016

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.

9017
9018
9019
9020

(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.

9021
9022
9023
9024
9025
9026
9027
9028

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.

9029
9030
9031
9032

(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

9033
9034
9035
9036
9037
9038
9039
9040
9041

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.

9042
9043
9044
9045
9046

(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.

9047
9048
9049
9050
9051
9052
9053
9054
9055
9056
9057
9058
9059
9060
9061
9062
9063
9064
9065
9066
9067
9068
9069

(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.

9070
9071
9072

(H) Whoever violates section 1547.304 of the Revised Code is

9073

guilty of a misdemeanor of the fourth degree and also shall be 9074
assessed any costs incurred by the state or a county, township, 9075
municipal corporation, or other political subdivision in disposing 9076
of an abandoned junk vessel or outboard motor, less any money 9077
accruing to the state, county, township, municipal corporation, or 9078
other political subdivision from that disposal. 9079

(I) Whoever violates division (B) or (C) of section 1547.49 9080
of the Revised Code is guilty of a minor misdemeanor. 9081

(J) Whoever violates section 1547.31 of the Revised Code is 9082
guilty of a misdemeanor of the fourth degree on a first offense. 9083
On each subsequent offense, the person is guilty of a misdemeanor 9084
of the third degree. 9085

(K) Whoever violates section 1547.05 or 1547.051 of the 9086
Revised Code is guilty of a misdemeanor of the fourth degree if 9087
the violation is not related to a collision, injury to a person, 9088
or damage to property and a misdemeanor of the third degree if the 9089
violation is related to a collision, injury to a person, or damage 9090
to property. 9091

(L) The sentencing court, in addition to the penalty provided 9092
under this section for a violation of this chapter or a rule 9093
adopted under it that involves a powercraft powered by more than 9094
ten horsepower and that, in the opinion of the court, involves a 9095
threat to the safety of persons or property, shall order the 9096
offender to complete successfully a boating course approved by the 9097
national association of state boating law administrators before 9098
the offender is allowed to operate a powercraft powered by more 9099
than ten horsepower on the waters in this state. Violation of a 9100
court order entered under this division is punishable as contempt 9101
under Chapter 2705. of the Revised Code. 9102

Sec. 1548.02. The chief of the division of watercraft shall 9103

adopt such rules as the chief considers necessary to ensure 9104
uniform and orderly operation of this chapter, and the clerks of 9105
the courts of common pleas shall conform to those rules. The chief 9106
shall receive and file in the chief's office all information 9107
forwarded to the chief by the clerks under this chapter and shall 9108
maintain indexes covering the state at large for that information. 9109
These indexes shall be for the state at large and not for 9110
individual counties. 9111

The chief shall check with the chief's record all duplicate 9112
certificates of title received in the chief's office from the 9113
clerks. 9114

If it appears that any certificate of title has been 9115
improperly issued or is no longer required, the chief shall cancel 9116
the certificate. Upon the cancellation of any certificate of 9117
title, the chief shall notify the clerk who issued it, and the 9118
clerk shall enter the cancellation in the clerk's records. The 9119
chief also shall notify the person to whom the certificate of 9120
title was issued, as well as any lienholders appearing on it, of 9121
the cancellation and, if it is a physical certificate of title, 9122
shall demand the surrender of the certificate of title, but the 9123
cancellation shall not affect the validity of any lien noted on 9124
it. The holder of a physical certificate of title shall return it 9125
to the chief immediately. 9126

The clerks shall keep on hand a sufficient supply of blank 9127
forms that, except certificate of title and memorandum certificate 9128
forms, shall be furnished and distributed without charge to 9129
registered manufacturers or dealers or to other persons residing 9130
within the county. The clerks shall provide the certificates of 9131
title, the ribbons for data processing, and removable backup media 9132
from moneys provided to the clerks from the automated title 9133
processing fund in accordance with division (B)(3)(b) of section 9134
4505.09 of the Revised Code. The clerks shall furnish all other 9135

supplies from other moneys available to the clerks.

9136

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.

9137

9138

9139

9140

9141

9142

9143

9144

9145

9146

9147

9148

9149

(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.

9150

9151

9152

9153

(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.

9154

9155

9156

9157

9158

9159

9160

9161

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

9162

9163

9164

9165

dealer registered under section 1547.543 of the Revised Code, the 9166
person is not required to obtain a physical certificate of title 9167
to the watercraft in order to transfer ownership to the dealer. 9168
The person shall present the dealer, in a manner approved by the 9169
chief of the division of watercraft, with sufficient proof of the 9170
person's identity and complete and sign a form prescribed by the 9171
chief attesting to the person's identity and assigning the 9172
watercraft to the dealer. Except as otherwise provided in this 9173
section, the watercraft dealer shall present the assignment form 9174
to any clerk of a court of common pleas together with an 9175
application for a certificate of title and payment of the fees 9176
prescribed by section 1548.10 of the Revised Code. 9177

In a case in which an electronic certificate of title has 9178
been issued and either the buyer or seller of the watercraft is an 9179
electronic watercraft dealer, the electronic watercraft dealer 9180
instead may inform a clerk of a court of common pleas via 9181
electronic means of the sale of the watercraft and assignment of 9182
ownership of the watercraft. The clerk shall enter the information 9183
relating to the assignment into the automated title processing 9184
system, and ownership of the watercraft passes to the applicant 9185
when the clerk enters this information into the system. The dealer 9186
is not required to obtain a physical certificate of title to the 9187
watercraft in the dealer's name. 9188

(2) A clerk shall charge and collect from a dealer a fee of 9189
five dollars for each watercraft assignment sent by the dealer to 9190
the clerk under division (A)(1) of this section. The fee shall be 9191
distributed in accordance with section 1548.10 of the Revised 9192
Code. 9193

(B) If a person who is not an electronic watercraft dealer 9194
owns a watercraft for which a physical certificate of title has 9195
not been issued by a clerk of a court of common pleas and the 9196

person sells the watercraft to a person who is not a watercraft 9197
dealer registered under section 1547.543 of the Revised Code, the 9198
person shall obtain a physical certificate of title to the 9199
watercraft in order to transfer ownership of the watercraft to 9200
that person. 9201

Sec. 1561.011. Nothing in this chapter applies to activities 9202
that are permitted and regulated under Chapter 1514. of the 9203
Revised Code. 9204

Sec. 1563.01. Except for section 1563.11 of the Revised Code, 9205
nothing in this chapter applies to activities that are permitted 9206
and regulated under Chapter 1514. of the Revised Code. 9207

Sec. 1565.01. Nothing in this chapter applies to activities 9208
that are permitted and regulated under Chapter 1514. of the 9209
Revised Code. 9210

Sec. 1567.01. Nothing in this chapter applies to activities 9211
that are permitted and regulated under Chapter 1514. of the 9212
Revised Code. 9213

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or 9214
gas engine shall be used in a mine, except for operating pumping 9215
machinery where electric, compressed air, or steam power is not 9216
available or cannot be transmitted to the pump, in which case the 9217
owner, lessee, or agent shall observe the following: 9218

(A) Notice shall be given to the chief of the division of 9219
mineral resources management, before installing, and the 9220
installation and operation shall be subject to the chief's 9221
approval. 9222

(B) No wood or inflammable material shall be permitted within 9223

twenty-five feet of the engine. 9224

(C) The supply tank from which the gasoline, naphtha, 9225
kerosene, or fuel oil is fed to the engine, shall be of metal, 9226
with a suitable screw cap opening, fitted with a gasket, so as to 9227
make the tank airtight and prevent the escape of gas into the 9228
atmosphere, and the tank kept free from leaks. 9229

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed 9230
from a tank to the carburetor or mixer by metal tubes securely 9231
connected so as to reduce the possibility of leaks to a minimum. 9232

(E) The exhaust from the engine shall be conducted by means 9233
of metal pipes into the return air current, so that the combustion 9234
fumes will not enter the workings of the mine where the ~~worker's~~ 9235
workers are required to work, or be conducted in an upcast shaft 9236
or slope not used as a means of ingress or egress or through metal 9237
pipes to the surface. 9238

(F) At no time shall more than five gallons of such gasoline, 9239
naphtha, kerosene, or fuel oil be taken into the mine, including 9240
that in the supply tank. 9241

(G) No gasoline, naphtha, kerosene, or fuel oil shall be 9242
taken into the mine except in metallic cans, with a screw cap 9243
opening at the top, fitted with a suitable gasket. 9244

(H) No package, can, or supply tank of an engine, containing 9245
gasoline, naphtha, kerosene, or fuel oil, shall be opened until 9246
ready to make the transfer from the package or can to the supply 9247
tank, and in transferring, a funnel shall be used so as to avoid 9248
spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap 9249
on the supply tank shall be immediately closed. 9250

(I) In no case shall the package, can, or supply tank be 9251
opened when an open light or other thing containing fire is within 9252
twenty-five feet of the same, provided that subject to the 9253

approval of the chief, the restrictions in the use of fuel oil in 9254
a mine shall not apply to mobile or portable machinery, if ~~such~~ 9255
the mobile or portable machinery is used in a clay, limestone, 9256
shale, or any other mine not a coal mine. 9257

Nothing in this section shall be construed to prohibit or 9258
impede the use of diesel equipment in an underground coal mine, 9259
provided that the chief approves the use of the equipment in 9260
underground mines and the equipment satisfies requirements 9261
established in rules adopted by the chief under section 1513.02 of 9262
the Revised Code governing the use of diesel equipment in 9263
underground mines. 9264

No owner, lessee, agent, or operator of a mine shall violate 9265
this section. 9266

Sec. 1571.011. Nothing in this chapter applies to activities 9267
that are permitted and regulated under Chapter 1514. of the 9268
Revised Code. 9269

Sec. 2305.041. With respect to a lease or license by which a 9270
right is granted to operate or to sink or drill wells on land in 9271
this state for natural gas or petroleum and that is recorded in 9272
accordance with section 5301.09 of the Revised Code, an action 9273
alleging breach of any express or implied provision of the lease 9274
or license concerning the calculation or payment of royalties 9275
shall be brought within the time period that is specified in 9276
section 1302.98 of the Revised Code. An action alleging a breach 9277
with respect to any other issue that the lease or license involves 9278
shall be brought within the time period specified in section 9279
2305.06 of the Revised Code. 9280

Sec. 4115.04. (A)(1) Every public authority authorized to 9281
contract for or construct with its own forces a public 9282

improvement, before advertising for bids or undertaking such 9283
construction with its own forces, shall have the director of 9284
commerce determine the prevailing rates of wages of mechanics and 9285
laborers in accordance with section 4115.05 of the Revised Code 9286
for the class of work called for by the public improvement, in the 9287
locality where the work is to be performed. ~~Such~~ Except as 9288
provided in division (A)(2) of this section, that schedule of 9289
wages shall be attached to and made part of the specifications for 9290
the work, and shall be printed on the bidding blanks where the 9291
work is done by contract. A copy of the bidding blank shall be 9292
filed with the director before ~~such~~ the contract is awarded. A 9293
minimum rate of wages for common laborers, on work coming under 9294
the jurisdiction of the department of transportation, shall be 9295
fixed in each county of the state by ~~said~~ the department of 9296
transportation, in accordance with section 4115.05 of the Revised 9297
Code. 9298

(2) In the case of contracts that are administered by the 9299
department of natural resources, the director of natural resources 9300
or the director's designee shall include language in the contracts 9301
requiring wage rate determinations and updates to be obtained 9302
directly from the department of commerce through electronic or 9303
other means as appropriate. Contracts that include this 9304
requirement are exempt from the requirements established in 9305
division (A)(1) of this section that involve attaching the 9306
schedule of wages to the specifications for the work, making the 9307
schedule part of those specifications, and printing the schedule 9308
on the bidding blanks where the work is done by contract. 9309

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 9310
apply to: 9311

(1) Public improvements in any case where the federal 9312
government or any of its agencies furnishes by loan or grant all 9313
or any part of the funds used in constructing such improvements, 9314

provided that the federal government or any of its agencies 9315
prescribes predetermined minimum wages to be paid to mechanics and 9316
laborers employed in the construction of such improvements; 9317

(2) A participant in a work activity, developmental activity, 9318
or an alternative work activity under sections 5107.40 to 5107.69 9319
of the Revised Code when a public authority directly uses the 9320
labor of the participant to construct a public improvement if the 9321
participant is not engaged in paid employment or subsidized 9322
employment pursuant to the activity; 9323

(3) Public improvements undertaken by, or under contract for, 9324
the board of education of any school district or the governing 9325
board of any educational service center; 9326

(4) Public improvements undertaken by, or under contract for, 9327
a county hospital operated pursuant to Chapter 339. of the Revised 9328
Code or a municipal hospital operated pursuant to Chapter 749. of 9329
the Revised Code if none of the funds used in constructing the 9330
improvements are the proceeds of bonds or other obligations ~~which~~ 9331
that are secured by the full faith and credit of the state, a 9332
county, a township, or a municipal corporation and none of the 9333
funds used in constructing the improvements, including funds used 9334
to repay any amounts borrowed to construct the improvements, are 9335
funds that have been appropriated for that purpose by the state, a 9336
board of county commissioners, a township, or a municipal 9337
corporation from funds generated by the levy of a tax~~+~~ provided~~+~~ 9338
~~however,~~ that a county hospital or municipal hospital may elect to 9339
apply sections 4115.03 to 4115.16 of the Revised Code to a public 9340
improvement undertaken by, or under contract for, the hospital. 9341

Sec. 5577.081. (A) Except when transferring unfinished 9342
aggregate material between facilities that are under the control 9343
of the same owner or operator that is subject to Chapter 1514. of 9344
the Revised Code or when unloading or loading finished aggregate 9345

product within a ten-mile radius of a surface mining operation 9346
that is permitted and regulated under that chapter, all vehicles 9347
entering or leaving such an operation that have a gross vehicle 9348
weight as defined in division (JJ) of section 4501.01 of the 9349
Revised Code that is in excess of sixty-six thousand pounds shall 9350
use the specific roads designated pursuant to sections 303.14 and 9351
303.141 or 519.14 and 519.141 of the Revised Code as the primary 9352
means of ingress to and egress from the facilities or operation. 9353

(B) The owner or operator of a surface mining operation that 9354
is permitted under Chapter 1514. of the Revised Code and that is 9355
subject to the use of specific roads as the primary means of 9356
ingress to and egress from the operation pursuant to sections 9357
303.14 and 303.141 or 519.14 and 519.141 of the Revised Code shall 9358
post a sign in a conspicuous location to inform the drivers of 9359
trucks entering and leaving the operation of the roads to use as 9360
the primary means of ingress to and egress from the operation. 9361

(C)(1) Whoever violates this section shall receive a written 9362
warning in such a manner that it becomes a part of the person's 9363
permanent record that is maintained by the bureau of motor 9364
vehicles and assists in monitoring violations of this section. 9365

(2) A person who commits a second offense within one year 9366
after committing the first offense is guilty of a minor 9367
misdemeanor. 9368

(3) A person who commits a third or subsequent offense within 9369
one year after committing the first offense is guilty of a 9370
misdemeanor of the fourth degree. 9371

(D) Fine money that is collected under division (C) of this 9372
section shall be deposited in the state treasury to the credit of 9373
the surface mining fund created in section 1514.06 of the Revised 9374
Code. 9375

Sec. 5749.02. (A) For the purpose of providing revenue to 9376
administer the state's coal mining and reclamation regulatory 9377
program, to meet the environmental and resource management needs 9378
of this state, and to reclaim land affected by mining, an excise 9379
tax is hereby levied on the privilege of engaging in the severance 9380
of natural resources from the soil or water of this state. The tax 9381
shall be imposed upon the severer and shall be: 9382

(1) ~~Seven~~ Ten and six-tenths cents per ton of coal; 9383

(2) Four cents per ton of salt; 9384

(3) Two cents per ton of limestone or dolomite; 9385

(4) Two cents per ton of sand and gravel; 9386

(5) Ten cents per barrel of oil; 9387

(6) Two and one-half cents per thousand cubic feet of natural 9388
gas; 9389

(7) One cent per ton of clay, sandstone or conglomerate, 9390
shale, gypsum, or quartzite; 9391

(8) Except as otherwise provided in this division or in rules 9392
adopted by the reclamation forfeiture fund advisory board under 9393
section 1513.182 of the Revised Code, an additional fourteen cents 9394
per ton of coal produced from an area under a coal mining and 9395
reclamation permit issued under Chapter 1513. of the Revised Code 9396
for which the performance security is provided under division 9397
(C)(2) of section 1513.08 of the Revised Code. If at the end of a 9398
fiscal biennium the balance of the reclamation forfeiture fund 9399
created in section 1513.18 of the Revised Code is equal to or 9400
greater than ten million dollars, the rate levied shall be twelve 9401
cents per ton. If at the end of a fiscal biennium the balance of 9402
the fund is at least five million dollars, but less than ten 9403
million dollars, the rate levied shall be fourteen cents per ton. 9404
If at the end of a fiscal biennium the balance of the fund is less 9405

than five million dollars, the rate levied shall be sixteen cents 9406
per ton. Not later than thirty days after the close of a fiscal 9407
biennium, the chief of the division of mineral resources 9408
management shall certify to the tax commissioner the amount of the 9409
balance of the reclamation forfeiture fund as of the close of the 9410
fiscal biennium. Any necessary adjustment of the rate levied shall 9411
take effect on the first day of the following January and shall 9412
remain in effect during the calendar biennium that begins on that 9413
date. 9414

(B) Of the moneys received by the treasurer of state from the 9415
tax levied in division (A)(1) of this section, ~~six and~~ 9416
~~three tenths~~ four and seventy-six-hundredths per cent shall be 9417
credited to the geological mapping fund created in section 1505.09 9418
of the Revised Code, ~~fourteen and two tenths per cent shall be~~ 9419
~~credited to the reclamation forfeiture fund created in section~~ 9420
~~1513.18 of the Revised Code, fifty seven and nine tenths~~ eighty 9421
and ninety-five-hundredths per cent shall be credited to the coal 9422
mining administration and reclamation reserve fund created in 9423
section 1513.181 of the Revised Code, and ~~the remainder~~ fourteen 9424
and twenty-nine-hundredths per cent shall be credited to the 9425
unreclaimed lands fund created in section 1513.30 of the Revised 9426
Code. ~~When, at any time during a fiscal year, the chief of the~~ 9427
~~division of mineral resources management finds that the balance of~~ 9428
~~the coal mining administration and reclamation reserve fund is~~ 9429
~~below two million dollars, the chief shall certify that fact to~~ 9430
~~the director of budget and management. Upon receipt of the chief's~~ 9431
~~certification, the director shall direct the tax commissioner to~~ 9432
~~instead credit to the coal mining administration and reclamation~~ 9433
~~reserve fund during the remainder of the fiscal year for which the~~ 9434
~~certification is made the fourteen and two tenths per cent of the~~ 9435
~~moneys collected from the tax levied in division (A)(1) of this~~ 9436
~~section and otherwise required by this division to be credited to~~ 9437

~~the reclamation forfeiture fund.~~ 9438

Fifteen per cent of the moneys received by the treasurer of 9439
state from the tax levied in division (A)(2) of this section shall 9440
be credited to the geological mapping fund and the remainder shall 9441
be credited to the unreclaimed lands fund. 9442

Of the moneys received by the treasurer of state from the tax 9443
levied in divisions (A)(3) and (4) of this section, seven and 9444
five-tenths per cent shall be credited to the geological mapping 9445
fund, forty-two and five-tenths per cent shall be credited to the 9446
unreclaimed lands fund, and the remainder shall be credited to the 9447
surface mining fund created in section 1514.06 of the Revised 9448
Code. 9449

Of the moneys received by the treasurer of state from the tax 9450
levied in divisions (A)(5) and (6) of this section, ninety per 9451
cent shall be credited to the oil and gas well fund created in 9452
section 1509.02 of the Revised Code and ten per cent shall be 9453
credited to the geological mapping fund. All of the moneys 9454
received by the treasurer of state from the tax levied in division 9455
(A)(7) of this section shall be credited to the surface mining 9456
fund. 9457

All of the moneys received by the treasurer of state from the 9458
tax levied in division (A)(8) of this section shall be credited to 9459
the reclamation forfeiture fund. 9460

~~(C) For the purpose of paying the state's expenses for 9461
reclaiming mined lands that the operator failed to reclaim under a 9462
coal mining and reclamation permit issued under Chapter 1513. of 9463
the Revised Code, or under a surface mining permit issued under 9464
Chapter 1514. of the Revised Code, for which the operator's bond 9465
is not sufficient to pay the state's expense for reclamation, 9466
there is hereby levied an excise tax on the privilege of engaging 9467
in the severance of coal from the soil or water of this state in 9468~~

~~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 9501
those findings to the tax commissioner, and the tax levied under 9502
division (A)(8) of this section shall cease to be imposed after 9503
the last day of that calendar year on coal produced under a coal 9504
mining and reclamation permit issued under Chapter 1513. of the 9505
Revised Code if the permittee has made tax payments under division 9506
(A)(8) of this section during each of the preceding five full 9507
calendar years. Not later than thirty days after the close of a 9508
fiscal year, the chief shall certify to the tax commissioner the 9509
identity of any permittees who accordingly no longer are required 9510
to pay the tax levied under division (A)(8) of this section. 9511

Sec. 5749.11. (A) There is hereby allowed a nonrefundable 9512
credit against the taxes imposed under division (A)(8) of section 9513
5749.02 of the Revised Code for any severer to which a reclamation 9514
tax credit certificate is issued under section 1513.171 of the 9515
Revised Code. The credit shall be claimed in the amount shown on 9516
the certificate. The credit shall be claimed by deducting the 9517
amount of the credit from the amount of the first tax payment due 9518
under section 5749.06 of the Revised Code after the certificate is 9519
issued. 9520

If the amount of the credit shown on a certificate exceeds 9521
the amount of the tax otherwise due with that first payment, the 9522
excess shall be claimed against the amount of tax otherwise due on 9523
succeeding payment dates until the entire credit amount has been 9524
deducted. The total amount of credit claimed against payments 9525
shall not exceed the total amount of credit shown on the 9526
certificate. 9527

(B) A severer claiming a credit under this section shall 9528
retain a reclamation tax credit certificate for not less than four 9529
years following the date of the last tax payment against which the 9530
credit allowed under that certificate was applied. Severers shall 9531

make tax credit certificates available for inspection by the tax 9532
commissioner upon the tax commissioner's request. 9533

Section 2. That existing sections 123.04, 303.14, 307.37, 9534
519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 9535
1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 9536
1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 9537
1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 9538
1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 9539
1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 9540
1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 9541
1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 9542
1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 9543
1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 9544
1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 9545
1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 9546
1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 4115.04, and 5749.02 9547
and sections 1502.11, 1513.10, 1521.08, and 1533.78 of the Revised 9548
Code are hereby repealed. 9549

Section 3. It is the intent of the General Assembly to 9550
appropriate five million dollars for the reclamation of land 9551
affected by the surface mining of coal. Of that five million 9552
dollars, not more than fifty thousand dollars shall be used to 9553
study the management of the financial resources of the coal mining 9554
regulatory program of the Division of Mineral Resources Management 9555
in the Department of Natural Resources. The Chief of the Division 9556
of Mineral Resources Management, in consultation with a statewide 9557
association representing the coal mining industry and a statewide 9558
association representing environmental advocacy, shall develop an 9559
outline of the subjects for the study. The Chief shall select an 9560
objective third party that has knowledge in the management of 9561
finances to conduct the study. Upon completion of the study, the 9562

third party shall prepare a report of its findings and submit the 9563
report to the Director of Natural Resources. 9564

Section 4. Not later than five years after the effective date 9565
of this act, the Chief of the Division of Mineral Resources 9566
Management shall submit a report to the Governor summarizing the 9567
activities of the Division of Mineral Resources Management under 9568
sections 1514.40 to 1514.47 of the Revised Code, as enacted by 9569
this act, trends in miner accident rates, and the number and 9570
causes of life-threatening accidents and fatalities since the 9571
effective date of this act. In addition, the report shall compare 9572
those trends and accident rates with the trends and accident rates 9573
that occurred ten years prior to the effective date of this act 9574
and, if necessary, recommend changes to those sections in order to 9575
improve miner health or safety. 9576

Section 5. The amendment of section 1541.40 of the Revised 9577
Code by this act applies to members appointed to the Ohio Parks 9578
and Recreation Council on and after the effective date of this 9579
act. 9580

Section 6. Section 5749.02 of the Revised Code as amended by 9581
this act shall take effect on April 1, 2007. 9582

Section 7. Section 1533.10 of the Revised Code is presented 9583
in this act as a composite of the section as amended by both Am. 9584
Sub. H.B. 66 and H.B. 296 of the 126th General Assembly. Section 9585
1547.54 of the Revised Code is presented in this act as a 9586
composite of the section as amended by both Sub. H.B. 345 and Sub. 9587
S.B. 150 of the 124th General Assembly. The General Assembly, 9588
applying the principle stated in division (B) of section 1.52 of 9589
the Revised Code that amendments are to be harmonized if 9590
reasonably capable of simultaneous operation, finds that the 9591

composites are the resulting versions of the sections in effect	9592
prior to the effective date of the sections as presented in this	9593
act.	9594