

**As Passed by the Senate**

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

**Sub. H. B. No. 443**

**Representatives Uecker, Aslanides, McGregor, J., Setzer, Book, Carmichael,  
Combs, Flowers, Seitz  
Senators Niehaus, Kearney, Mumper, Padgett, Spada, Wilson, Zurz, Harris,  
Dann**

—

**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, 3734.13, 3745.01,	19
3745.08, 4115.04, 4501.01, and 5749.02; to enact	20
sections 303.141, 519.141, 1501.45, 1513.075,	21

1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 22  
1514.051, 1514.40 to 1514.47, 1514.50, 1515.093, 23  
1548.031, 1548.032, 1561.011, 1563.01, 1565.01, 24  
1567.01, 1571.011, 2305.041, 3734.61 to 3734.65, 25  
5577.081, and 5749.11; and to repeal sections 26  
1502.11, 1513.10, 1521.08, and 1533.78 of the 27  
Revised Code to revise the statutes governing the 28  
Department of Natural Resources; to make changes 29  
to the law governing coal mining, including 30  
increasing the severance tax on coal and revising 31  
the distribution of revenue from that tax; to make 32  
changes to the law governing the mining of 33  
industrial minerals, including revising zoning 34  
provisions related to such mining; to establish 35  
requirements governing mercury; and to make other 36  
changes. 37

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

**Section 1.** That sections 123.04, 303.14, 307.37, 519.14, 38  
1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 39  
1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 40  
1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 41  
1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 42  
1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 43  
1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 44  
1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 45  
1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 46  
1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 47  
1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 48  
1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 49  
1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 50

1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 3745.08, 51  
4115.04, 4501.01, and 5749.02 be amended and sections 303.141, 52  
519.141, 1501.45, 1513.075, 1513.081, 1513.171, 1513.182, 53  
1513.371, 1514.011, 1514.051, 1514.40, 1514.41, 1514.42, 1514.43, 54  
1514.44, 1514.45, 1514.46, 1514.47, 1514.50, 1515.093, 1548.031, 55  
1548.032, 1561.011, 1563.01, 1565.01, 1567.01, 1571.011, 2305.041, 56  
3734.61, 3734.62, 3734.63, 3734.64, 3734.65, 5577.081, and 5749.11 57  
of the Revised Code be enacted to read as follows: 58

**Sec. 123.04.** The director of administrative services shall be 59  
appointed superintendent of public works and shall have the care 60  
and control of the public works of the state ~~except as provided in~~ 61  
~~section 1521.08 of the Revised Code~~ and shall protect, maintain, 62  
and keep them in repair. 63

Subject to the approval of the governor, the director may 64  
purchase on behalf of the state such real or personal property, 65  
rights, or privileges as are necessary, in the director's 66  
judgment, to acquire in the maintenance of the public works or 67  
their improvement. 68

Any instrument by which the state or an agency of the state 69  
acquires real property pursuant to this section shall identify the 70  
agency of the state that has the use and benefit of the real 71  
property as specified in section 5301.012 of the Revised Code. 72

**Sec. 303.14.** The county board of zoning appeals may: 73

(A) Hear and decide appeals where it is alleged there is 74  
error in any order, requirement, decision, or determination made 75  
by an administrative official in the enforcement of sections 76  
303.01 to 303.25 of the Revised Code, or of any resolution adopted 77  
pursuant thereto; 78

(B) Authorize upon appeal, in specific cases, such variance 79

from the terms of the zoning resolution as will not be contrary to  
the public interest, where, owing to special conditions, a literal  
enforcement of the resolution will result in unnecessary hardship,  
and so that the spirit of the resolution shall be observed and  
substantial justice done;

80  
81  
82  
83  
84

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

85  
86  
87  
88  
89  
90  
91  
92

(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.

93  
94  
95

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

96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109

In exercising the above-mentioned powers, ~~such~~ the board may,

110

in conformity with such sections, reverse or affirm, wholly or 111  
partly, or modify the order, requirement, decision, or 112  
determination appealed from and may make such order, requirement, 113  
decision, or determination as ought to be made, and to that end 114  
has all powers of the officer from whom the appeal is taken. 115

Sec. 303.141. (A) If a county board of zoning appeals 116  
considers conditional zoning certificates for activities that are 117  
permitted and regulated under Chapter 1514. of the Revised Code or 118  
activities that are related to making finished aggregate products, 119  
the board shall not consider or base its determination on matters 120  
that are regulated by any federal, state, or local agency. 121  
However, the board may require as a condition of the approval of a 122  
conditional zoning certificate for such an activity compliance 123  
with any general standards contained in the zoning resolution that 124  
apply to all conditional uses that are provided for in the zoning 125  
resolution and, except as provided in division (C) of this 126  
section, may require any specified measure, including, but not 127  
limited to, one or more of the following: 128

(1) Inspections of nearby structures and water wells to 129  
determine structural integrity and water levels; 130

(2) Compliance with applicable federal, state, and local laws 131  
and regulations; 132

(3) Identification of specific roads in accordance with 133  
division (B) of this section to be used as the primary means of 134  
ingress to and egress from the proposed activity; 135

(4) Compliance with reasonable noise abatement measures; 136

(5) Compliance with reasonable dust abatement measures; 137

(6) Establishment of setbacks, berms, and buffers for the 138  
proposed activity; 139

(7) Establishment of a complaint procedure; 140

(8) Any other measure reasonably related to public health and safety. 141  
142

(B)(1) For purposes of this section and section 519.141 of the Revised Code, and prior to the submission of an application for a conditional zoning certificate, an applicant shall send written notice to the county engineer of the applicant's intent to apply for a conditional zoning certificate. Not later than fourteen days after receipt of the written notice, the county engineer shall establish the time, date, and location of a meeting with the applicant and send written notice of the time, date, and location of the meeting to the applicant and to the fiscal officer of each township in which the proposed activity is to be located or expanded. At the meeting, the applicant shall explain the proposed location of the activity or expansion of an existing activity, the anticipated amount of aggregate material to be shipped by truck from the activity, and the anticipated primary market areas for the finished aggregate products leaving the activity. 143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158

Not later than thirty days after the meeting with the applicant, the county engineer shall submit a written recommendation of specific roads to be used as the primary means of ingress to and egress from the proposed activity to the board of county commissioners. In making the recommendation, the county engineer shall consider all of the following: 159  
160  
161  
162  
163  
164

(a) The ability of each road to handle the anticipated recurring loads resulting from trucks entering and leaving the proposed activity; 165  
166  
167

(b) The present condition of each road; 168

(c) The amount of residential development that exists along each road; 169  
170

(d) The most direct route from the proposed activity to a 171

state highway unless another route is more capable of 172  
accommodating the anticipated recurring loads and will result in 173  
fewer conflicts with existing residential development. 174

(2) At the next regularly scheduled meeting of the board of 175  
county commissioners after receipt of a written recommendation 176  
under division (B)(1) of this section, the board shall adopt the 177  
recommendation or adopt the recommendation with modifications. If 178  
the board adopts the recommendation with modifications, the board 179  
shall base the modifications only on the criteria established in 180  
divisions (B)(1)(a) to (d) of this section. The board may adopt 181  
the recommendation with modifications only by a unanimous vote. 182  
The board shall send written notice of the adoption of the 183  
recommendation or the recommendation with modifications to the 184  
county board of zoning appeals. 185

(3) For purposes of this section and section 519.141 of the 186  
Revised Code, a decision of a board of county commissioners under 187  
division (B)(2) of this section is final ten days after the board 188  
adopts the recommendation or the recommendation with modifications 189  
unless the applicant or an affected board of township trustees 190  
submits written notice of appeal within ten days after the board's 191  
action. If the board of county commissioners receives a timely 192  
written notice of appeal, the board shall conduct an appeal 193  
hearing concerning its decision not later than fourteen days after 194  
receipt of the notice. If the board of county commissioners 195  
receives more than one timely written notice of appeal, the board 196  
may conduct one appeal hearing concerning all of the notices of 197  
appeal. 198

For purposes of an appeal hearing that is held under this 199  
division, the applicant or a board of township trustees that 200  
submitted written notice of appeal may present testimony for the 201  
board of county commissioners to consider concerning its decision 202  
under division (B)(2) of this section. At the hearing, the 203

applicant or the board of township trustees may be represented by 204  
an attorney. A witness at the hearing shall testify under oath or 205  
affirmation, which any member of the board of county commissioners 206  
may administer. A witness at the hearing shall be subject to 207  
cross-examination. 208

Not later than fourteen days after the hearing, the board of 209  
county commissioners shall affirm its decision under division 210  
(B)(2) of this section or, based on the testimony at the hearing, 211  
modify its decision. The board shall send written notice of its 212  
decision to the applicant, any board of township trustees that 213  
submitted written notice of appeal, and the county board of zoning 214  
appeals. 215

A decision of a board of county commissioners under this 216  
division is final unless vacated or modified upon judicial review. 217

(4) An applicant or a board of township trustees that 218  
submitted written notice of appeal under division (B)(3) of this 219  
section may appeal a decision of a board of county commissioners 220  
under that division to the court of common pleas of the county in 221  
which the activity is proposed to be located or expanded pursuant 222  
to section 2506.01 of the Revised Code. 223

(C) When granting a conditional zoning certificate, a county 224  
board of zoning appeals shall not require the identification of 225  
specific roads, as otherwise authorized in division (A)(3) of this 226  
section, and the identification of specific roads in accordance 227  
with division (B) of this section shall not apply, for any of the 228  
following: 229

(1) The transfer of unfinished aggregate material between 230  
facilities that are under the control of the same owner or 231  
operator; 232

(2) The loading or unloading of finished aggregate product 233  
within a ten-mile radius of a surface mining operation; 234



(3) The expansion of an existing surface mining operation 235  
when the specific road that is used as the primary means of 236  
ingress to and egress from the operation will be the same road 237  
that is used for that purpose after the expansion of the facility. 238

(D) The identification of specific roads in accordance with 239  
division (B) of this section to be used as the primary means of 240  
ingress to and egress from a proposed activity becomes effective 241  
only upon the granting of a conditional zoning certificate. 242

(E) As used in this section, "surface mining operation" has 243  
the same meaning as in section 1514.01 of the Revised Code. 244

**Sec. 307.37.** (A) As used in division (B)(3) of this section, 245  
"proposed new construction" means a proposal to erect, construct, 246  
repair, alter, redevelop, or maintain a single-family, two-family, 247  
or three-family dwelling or any structure that is regulated by the 248  
Ohio building code. 249

(B)(1)(a) The board of county commissioners may adopt local 250  
residential building regulations governing residential buildings 251  
as defined in section 3781.06 of the Revised Code, to be enforced 252  
within the unincorporated area of the county or within districts 253  
the board establishes in any part of the unincorporated area. No 254  
local residential building regulation shall differ from the state 255  
residential building code the board of building standards 256  
establishes pursuant to Chapter 3781. of the Revised Code unless 257  
the regulation addresses subject matter not addressed by the state 258  
residential building code or is adopted pursuant to section 259  
3781.01 of the Revised Code. 260

(b) The board of county commissioners may, by resolution, 261  
adopt, administer, and enforce within the unincorporated area of 262  
the county, or within districts the board establishes in the 263  
unincorporated area, an existing structures code pertaining to the 264

repair and continued maintenance of structures and the premises of 265  
those structures provided that the existing structures code 266  
governs subject matter not addressed by, and is not in conflict 267  
with, the state residential building code adopted pursuant to 268  
Chapter 3781. of the Revised Code. The board may adopt by 269  
incorporation by reference a model or standard code prepared and 270  
promulgated by the state, any agency of this state, or any private 271  
organization that publishes a recognized or standard existing 272  
structures code. 273

(c) The board shall assign the duties of administering and 274  
enforcing any local residential building regulations or existing 275  
structures code to a county officer or employee who is trained and 276  
qualified for those duties and shall establish by resolution the 277  
minimum qualifications necessary to perform those duties. 278

(2) The board may adopt regulations for participation in the 279  
national flood insurance program ~~established in the "Flood~~ 280  
~~Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002,~~ 281  
as amended, defined in section 1521.01 of the Revised Code and 282  
regulations ~~adopted~~ for the purposes of section 1506.04 or 1506.07 283  
of the Revised Code governing the prohibition, location, erection, 284  
construction, redevelopment, or floodproofing of new buildings or 285  
structures, substantial improvements to existing buildings or 286  
structures, or other development in unincorporated territory 287  
within flood hazard areas identified under the "Flood Disaster 288  
Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as 289  
amended, or within Lake Erie coastal erosion areas identified 290  
under section 1506.06 of the Revised Code, including, but not 291  
limited to, residential, commercial, institutional, or industrial 292  
buildings or structures or other permanent structures, as defined 293  
in section 1506.01 of the Revised Code. Rules adopted under 294  
division (B)(2) of this section shall not conflict with the state 295  
residential and nonresidential building codes adopted pursuant to 296

section 3781.10 of the Revised Code. 297

(3)(a) A board may adopt regulations that provide for a 298  
review of the specific effects of a proposed new construction on 299  
existing surface or subsurface drainage. The regulations may 300  
require reasonable drainage mitigation and reasonable alteration 301  
of a proposed new construction before a building permit is issued 302  
in order to prevent or correct any adverse effects that the 303  
proposed new construction may have on existing surface or 304  
subsurface drainage. The regulations shall not be inconsistent 305  
with, more stringent than, or broader in scope than standards 306  
adopted by the natural resource conservation service in the United 307  
States department of agriculture concerning drainage or rules 308  
adopted by the environmental protection agency for reducing, 309  
controlling, or mitigating storm water runoff from construction 310  
sites, where applicable. The regulations shall allow a person who 311  
is registered under Chapter 4703. or 4733. of the Revised Code to 312  
prepare and submit relevant plans and other documents for review, 313  
provided that the person is authorized to prepare the plans and 314  
other documents pursuant to the person's registration. 315

(b) If regulations are adopted under division (B)(3) of this 316  
section, the board shall specify in the regulations a procedure 317  
for the review of the specific effects of a proposed new 318  
construction on existing surface or subsurface drainage. The 319  
procedure shall include at a minimum all of the following: 320

(i) A meeting at which the proposed new construction shall be 321  
examined for those specific effects. The meeting shall be held 322  
within thirty days after an application for a building permit is 323  
filed or a review is requested unless the applicant agrees in 324  
writing to extend that time period or to postpone the meeting to 325  
another date, time, or place. The meeting shall be scheduled 326  
within five days after an application for a building permit is 327  
filed or a review is requested. 328

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

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

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

(c) The regulations may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry

out any necessary inspections and make evaluations about what, if  
any, alterations are necessary to prevent or correct any adverse  
effects that a proposed new construction may have on existing  
surface or subsurface drainage.

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

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

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

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

(D)(1) No person shall violate any regulation, code, or

amendment the board adopts under sections 307.37 to 307.40 of the Revised Code. 392  
393

(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense. 394  
395  
396  
397

(E) Regulations or amendments the board adopts pursuant to this section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the regulation or amendment. 398  
399  
400  
401  
402

(F)(1) The board may create a building department and employ the personnel it determines necessary to administer and enforce any local residential building regulations or existing structures code the board adopts pursuant to this section. The building department may enforce the state residential and nonresidential building codes adopted pursuant to Chapter 3781. of the Revised Code if the building department is certified pursuant to section 3781.10 of the Revised Code to enforce those codes. 403  
404  
405  
406  
407  
408  
409  
410

(2) The board may direct the building department, upon certification, to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for the class of building for which the department and personnel are certified. 411  
412  
413  
414  
415

**Sec. 519.14.** The township board of zoning appeals may: 416

(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto; 417  
418  
419  
420  
421

(B) Authorize, upon appeal, in specific cases, such variance 422  
from the terms of the zoning resolution as will not be contrary to 423  
the public interest, where, owing to special conditions, a literal 424  
enforcement of the resolution will result in unnecessary hardship, 425  
and so that the spirit of the resolution shall be observed and 426  
substantial justice done; 427

(C) Grant conditional zoning certificates for the use of 428  
land, buildings, or other structures if such certificates for 429  
specific uses are provided for in the zoning resolution. If the 430  
board considers conditional zoning certificates for activities 431  
that are permitted and regulated under Chapter 1514. of the 432  
Revised Code or activities that are related to making finished 433  
aggregate products, the board shall proceed in accordance with 434  
section 519.141 of the Revised Code. 435

(D) Revoke an authorized variance or conditional zoning 436  
certificate granted for the extraction of minerals, if any 437  
condition of the variance or certificate is violated. 438

The board shall notify the holder of the variance or 439  
certificate by certified mail of its intent to revoke the variance 440  
or certificate under division (D) of this section and of ~~his~~ the 441  
holder's right to a hearing before the board, within thirty days 442  
of the mailing of the notice, if ~~he~~ the holder so requests. If the 443  
holder requests a hearing, the board shall set a time and place 444  
for the hearing and notify the holder. At the hearing, the holder 445  
may appear in person, by ~~his~~ the holder's attorney, or by other 446  
representative, or ~~he~~ the holder may present ~~his~~ the holder's 447  
position in writing. ~~He~~ The holder may present evidence and 448  
examine witnesses appearing for or against ~~him~~ the holder. If no 449  
hearing is requested, the board may revoke the variance or 450  
certificate without a hearing. The authority to revoke a variance 451  
or certificate is in addition to any other means of zoning 452  
enforcement provided by law. 453

In exercising the above-mentioned powers, ~~such~~ the board may, 454  
in conformity with such sections, reverse or affirm, wholly or 455  
partly, or may modify the order, requirement, decision, or 456  
determination appealed from, and may make such order, requirement, 457  
decision, or determination as ought to be made, and to that end 458  
has all powers of the officer from whom the appeal is taken. 459

Sec. 519.141. (A) If a township board of zoning appeals 460  
considers conditional zoning certificates for activities that are 461  
permitted and regulated under Chapter 1514. of the Revised Code or 462  
activities that are related to making finished aggregate products, 463  
the board shall not consider or base its determination on matters 464  
that are regulated by any federal, state, or local agency. 465  
However, the board may require as a condition of the approval of a 466  
conditional zoning certificate for such an activity compliance 467  
with any general standards contained in the zoning resolution that 468  
apply to all conditional uses that are provided for in the zoning 469  
resolution and, except as provided in division (C) of this 470  
section, may require any specified measure, including, but not 471  
limited to, one or more of the following: 472

(1) Inspections of nearby structures and water wells to 473  
determine structural integrity and water levels; 474

(2) Compliance with applicable federal, state, and local laws 475  
and regulations; 476

(3) Identification of specific roads in accordance with 477  
division (B) of section 303.141 of the Revised Code to be used as 478  
the primary means of ingress to and egress from the proposed 479  
activity; 480

(4) Compliance with reasonable noise abatement measures; 481

(5) Compliance with reasonable dust abatement measures; 482

(6) Establishment of setbacks, berms, and buffers for the 483



<u>proposed activity;</u>	484
<u>(7) Establishment of a complaint procedure;</u>	485
<u>(8) Any other measure reasonably related to public health and safety.</u>	486 487
<u>(B)(1) Prior to the submission of an application for a conditional zoning certificate, an applicant, in accordance with division (B) of section 303.141 of the Revised Code, shall send written notice to the county engineer of the applicant's intent to apply for a conditional zoning certificate. The county engineer and the applicable board of county commissioners shall proceed in accordance with divisions (B)(1) to (3) of section 303.141 of the Revised Code. As provided in division (B)(3) of that section, the applicant or an affected board of township trustees may submit written notice of appeal regarding a decision of the board of county commissioners under division (B)(2) of that section.</u>	488 489 490 491 492 493 494 495 496 497 498
<u>(2) An applicant or a board of township trustees that submitted written notice of appeal under division (B)(3) of section 303.141 of the Revised Code may appeal a decision of a board of county commissioners under that division to the court of common pleas of the county in which the activity is proposed to be located or expanded pursuant to section 2506.01 of the Revised Code.</u>	499 500 501 502 503 504 505
<u>(C) When granting a conditional zoning certificate, a township board of zoning appeals shall not require the identification of specific roads, as otherwise authorized in division (A)(3) of section 303.141 of the Revised Code, and the identification of specific roads in accordance with division (B) of that section shall not apply, for any of the following:</u>	506 507 508 509 510 511
<u>(1) The transfer of unfinished aggregate material between facilities that are under the control of the same owner or operator;</u>	512 513 514

(2) The loading or unloading of finished aggregate product 515  
within a ten-mile radius of a surface mining operation; 516

(3) The expansion of an existing surface mining operation 517  
when the specific road that is used as the primary means of 518  
ingress to and egress from the operation will be the same road 519  
that is used for that purpose after the expansion of the facility. 520

(D) The identification of specific roads in accordance with 521  
this section and division (B) of section 303.141 of the Revised 522  
Code to be used as the primary means of ingress to and egress from 523  
a proposed activity becomes effective only upon the granting of a 524  
conditional zoning certificate. 525

(E) As used in this section, "surface mining operation" has 526  
the same meaning as in section 1514.01 of the Revised Code. 527

**Sec. 1501.011.** (A) The department of natural resources has 528  
the following powers in addition to its other powers: to prepare, 529  
or contract to be prepared, surveys, general and detailed plans, 530  
specifications, bills of materials, and estimates of cost for, to 531  
enter into contracts for, and to supervise the performance of 532  
labor, the furnishing of materials, or the construction, repair, 533  
or maintenance of any projects, improvements, or buildings, on 534  
lands and waters under the control of the department, as may be 535  
authorized by legislative appropriations or any other funds 536  
available therefor. 537

(B) Except in cases of extreme public exigency or emergency 538  
as provided in division (E) of this section, the director of 539  
natural resources shall publish notice in a newspaper of general 540  
circulation in the county region where the contract activity for 541  
which bids are submitted is to be let occur and in any other 542  
newspapers that the director determines are appropriate, at least 543  
once each week for four consecutive weeks, the last publication to 544

be at least eight days preceding the day for opening bids, seeking 545  
proposals on each contract for the performance of labor, the 546  
furnishing of materials, or the construction, repair, or 547  
maintenance of projects, improvements, or buildings, as necessary 548  
for compliance with provisions of the act to make appropriations 549  
for capital improvements or the act to make general 550  
appropriations, and ~~he~~ the director may also advertise in such 551  
trade journals as will afford adequate information to the public 552  
of the terms of the contract and the nature of the work to be 553  
performed, together with the time of the letting and place and 554  
manner of receiving proposals, and the places where plans and 555  
specifications are on file. A proposal is invalid and shall not be 556  
considered by the department unless the form for proposals 557  
specified by the department is used without change, alteration, or 558  
addition. 559

(C) Each bidder for a contract for the performance of labor, 560  
the furnishing of materials, or the maintenance, construction, 561  
demolition, alteration, repair, or reconstruction of an 562  
improvement shall meet the requirements of section 153.54 of the 563  
Revised Code. The director may require each bidder to furnish ~~him~~ 564  
under oath, upon such printed forms as ~~he~~ the director may 565  
prescribe, detailed information with respect to ~~his~~ the bidder's 566  
financial resources, equipment, past performance record, 567  
organization personnel, and experience, together with such other 568  
information as the director considers necessary. 569

(D) The director shall award the contract to the lowest 570  
responsive and responsible bidder in accordance with section 9.312 571  
of the Revised Code. The award shall be made within a reasonable 572  
time after the date on which the bids were opened, and the 573  
successful bidder shall enter into a contract within ten days from 574  
the date ~~he~~ the successful bidder is notified that ~~he~~ the contract 575  
has been awarded ~~the contract~~, or within any longer period ~~which~~ 576

~~that~~ the director considers necessary. ~~When an exigency occurs, or~~ 577  
~~there is immediate danger of such occurrence, which would~~ 578  
~~materially impair the construction or completion of any project,~~ 579  
~~improvement, or building, the director may make necessary plan and~~ 580  
~~specification change orders.~~ Nothing in this section shall 581  
preclude the rejection of any bid the acceptance of which is not 582  
in the best interests of the state. No contract shall be entered 583  
into until the bureau of workers' compensation has certified that 584  
the corporation, partnership, or person awarded the contract has 585  
complied with Chapter 4123. of the Revised Code and until, if the 586  
bidder awarded the contract is a foreign corporation, the 587  
secretary of state has certified that ~~such~~ the corporation is 588  
authorized to do business in this state, and until, if the bidder 589  
so awarded the contract is a person or partnership nonresident of 590  
this state, ~~such~~ the person or partnership has filed with the 591  
secretary of state a power of attorney designating the secretary 592  
of state as its agency for the purpose of accepting service of 593  
process. 594

~~The director may enter~~ (E) With respect to the director's 595  
entering into a contract ~~without advertising for and receiving~~ 596  
~~bids~~ for the performance of labor, the furnishing of materials, or 597  
the construction, repair, or maintenance of any projects, 598  
improvements, or buildings on lands and waters under the control 599  
of the department, both of the following apply: 600

(1) The director is not required to advertise for and receive 601  
bids if the total estimated cost of ~~which~~ the contract is less 602  
than ~~ten~~ twenty-five thousand dollars. 603

(2) The director is not required to advertise for bids, 604  
regardless of the cost of the contract, if the contract involves 605  
an exigency that concerns the public health, safety, or welfare or 606  
addresses an emergency situation in which timeliness is crucial in 607  
preventing the cost of the contract from increasing significantly. 608

Regarding such a contract, the director may solicit bids by 609  
sending a letter to a minimum of three contractors in the region 610  
where the contract is to be let or by any other means that the 611  
director considers appropriate. 612

(F) The director may insert in any contract awarded under 613  
this section a clause providing for value engineering change 614  
proposals, under which a contractor who has been awarded a 615  
contract may propose a change in the plans and specifications of 616  
the project that saves the department time or money on the project 617  
without impairing any of the essential functions and 618  
characteristics of the project such as service life, reliability, 619  
economy of operation, ease of maintenance, safety, and necessary 620  
standardized features. If the director adopts the value 621  
engineering proposal, the savings from the proposal shall be 622  
divided between the department and the contractor according to 623  
guidelines established by the director, provided that the 624  
contractor shall receive at least fifty per cent of the savings 625  
from the proposal. The adoption of a value engineering proposal 626  
does not invalidate the award of the contract or require the 627  
director to rebid the project. 628

(G) When in the opinion of the department the work under any 629  
contract made under this section or any law of the state is 630  
neglected by the contractor, the work completed is deficient in 631  
quality or materials, or ~~such the~~ work is not prosecuted with the 632  
diligence and force specified or intended in the contract, the 633  
department may ~~make requisition upon~~ require the contractor ~~for~~ 634  
~~such additional specific force or materials to be brought into the~~ 635  
~~work under such contract or to remove improper materials from the~~ 636  
~~grounds as in their judgment the contract and its faithful~~ 637  
~~fulfillment requires. Not less than five days' notice in writing~~ 638  
~~of such action shall be served upon the contractor or his agent in~~ 639  
~~charge of the work to provide, at no additional expense to the~~ 640

department, any additional labor and materials that are necessary 641  
to complete the improvements at the level of quality and within 642  
the time of performance specified in the contract. Procedures 643  
concerning such a requirement together with its format shall be 644  
specified in the contract. If the contractor fails to comply with 645  
such requisition the requirement within fifteen days the period 646  
specified in the contract, the department may ~~employ upon~~ take 647  
action to complete the work the additional force, or supply the 648  
special materials or such part of either as it considers proper, 649  
and may remove improper materials from the grounds through other 650  
means, up to and including termination of the contract. 651

(H) When an exigency occurs or there is immediate danger of 652  
an exigency that would materially impair the successful bidding, 653  
construction, or completion of a project, improvement, or 654  
building, the director may revise related plans and specifications 655  
as necessary to address the exigency through the issuance of an 656  
addendum prior to the opening of bids or, in accordance with 657  
procedures established in section 153.62 of the Revised Code, 658  
through the issuance of a change order after the contract has been 659  
awarded. 660

**Sec. 1501.02.** The director of natural resources may enter 661  
into cooperative or contractual arrangements with the United 662  
States or any agency or department thereof, other states, other 663  
departments and subdivisions of this state, or any other person or 664  
body politic for the accomplishment of the purposes for which the 665  
department of natural resources was created. The director shall 666  
cooperate with, and not infringe upon the rights of, other state 667  
departments, divisions, boards, commissions, and agencies, 668  
political subdivisions, and other public officials and public and 669  
private agencies in the conduct of conservation plans and other 670  
matters in which the interests of the department of natural 671  
resources and the other departments and agencies overlap. 672

The director, by mutual agreement, may utilize the facilities 673  
and staffs of state-supported educational institutions in order to 674  
promote the conservation and development of the natural resources 675  
of the state. 676

All funds made available by the United States for the 677  
exclusive use of any division shall be expended only by that 678  
division and only for the purposes for which the funds were 679  
appropriated. In accepting any such funds for the acquisition of 680  
lands or interests in them to be used for open-space purposes 681  
including park, recreational, historical, or scenic purposes, or 682  
for conservation of land or other natural resources, the director 683  
may agree on behalf of the state that lands or interests in them 684  
acquired in part with those funds shall not be converted to other 685  
uses except pursuant to further agreement between the director and 686  
the United States. 687

The director shall adopt rules in accordance with Chapter 688  
119. of the Revised Code establishing guidelines for entering into 689  
and may enter into a cooperative or contractual arrangement with 690  
any individual, agency, organization, or business entity to assist 691  
the department in funding a program or project of the department, 692  
its divisions, or its offices, through securing, without 693  
limitation, donations, sponsorships, marketing, advertising, and 694  
licensing arrangements. State moneys appropriated to the 695  
department shall continue to be used as authorized and shall not 696  
be redirected to any other purpose as a result of financial 697  
savings resulting from the department's entering into the 698  
cooperative or contractual arrangement. 699

The director may enter into a mutual aid compact with the 700  
chief law enforcement officer of any federal agency, state agency, 701  
county, township, municipal corporation, or other political 702  
subdivision or with the superintendent of the state highway patrol 703  
to enable forest officers, preserve officers, park officers, and 704

state watercraft officers and the law enforcement officers of the 705  
respective federal or state agencies or political subdivisions or 706  
the state highway patrol to assist each other in the provision of 707  
police services within each other's jurisdiction. 708

**Sec. 1501.07.** The department of natural resources through the 709  
division of parks and recreation may plan, supervise, acquire, 710  
construct, enlarge, improve, erect, equip, and furnish public 711  
service facilities such as inns, lodges, hotels, ~~cabins~~ cottages, 712  
camping sites, scenic trails, picnic sites, restaurants, 713  
commissaries, golf courses, boating and bathing facilities, and 714  
other similar facilities in state parks reasonably necessary and 715  
useful in promoting the public use of state parks under its 716  
control and may purchase lands or interests in lands in the name 717  
of the state necessary for ~~such~~ those purposes. 718

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



shall be planned with regard to the needs of the people of the  
state and with regard to the purposes and uses of such state parks  
and, except for facilities constructed in consideration of a lease  
under section 1501.012 of the Revised Code, shall be paid for from  
the state park fund created in section 1541.22 of the Revised Code  
or from the proceeds of the sale of bonds issued under sections  
1501.12 to 1501.15 of the Revised Code. Sections 125.81 and 153.04  
of the Revised Code, insofar as they require a certification by  
the chief of the division of capital planning and improvement, do  
not apply to the acquisition of lands or interests therein and  
public service facilities to be paid for from the proceeds of  
bonds issued under sections 1501.12 to 1501.15 of the Revised  
Code.

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

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

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

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

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

All such state parks shall be exclusively under the control

and administration of the division of parks and recreation. With 768  
the approval of the council, the director by order may remove from 769  
the classification as state parks any of the lands or interests 770  
therein so classified by divisions (C) and (D) of this section, 771  
subject to the limitations, provisions, and conditions in any 772  
order authorizing state park revenue bonds or in any trust 773  
agreement securing such bonds. Lands or interests therein so 774  
removed shall be transferred to other divisions of the department 775  
for administration or may be sold as provided by law. Proceeds of 776  
any sale shall be used or transferred as provided in the order 777  
authorizing state park revenue bonds or in the trust agreement 778  
and, if no such provision is made, shall be transferred to the 779  
state park fund. State parks do not include any lands or interest 780  
in lands of the state administered jointly by two or more 781  
divisions of the department. The designation of lands as state 782  
parks under divisions (A) to (D) of this section shall be 783  
conclusive, and those lands shall be under the control of and 784  
administered by the division of parks and recreation. No order or 785  
proceeding designating lands as state parks or park purchase areas 786  
shall be subject to any appeal or review by any officer, board, 787  
commission, or court. 788

**Sec. 1501.23.** The department of natural resources may utilize 789  
the services of volunteers to implement clean-up and 790  
beautification programs or any other programs that accomplish any 791  
of the purposes of the department. The director of natural 792  
resources shall approve all volunteer programs and may recruit, 793  
train, and supervise the services of community volunteers or 794  
volunteer groups for volunteer programs. In accordance with state 795  
guidelines, the director may reimburse volunteers for necessary 796  
and appropriate expenses, such as travel expenses, that they incur 797  
in the course of their volunteer service to the department. The 798  
director may designate volunteers in a volunteer program as state 799

employees for the purpose of motor vehicle accident liability 800  
insurance under section 9.83 of the Revised Code, for the purpose 801  
of immunity under section 9.86 of the Revised Code, and for the 802  
purpose of indemnification from liability incurred in the 803  
performance of their duties under section 9.87 of the Revised 804  
Code. 805

**Sec. 1501.32.** (A) No person shall divert more than one 806  
hundred thousand gallons per day of any waters of the state out of 807  
the Lake Erie or Ohio river drainage basins to another basin 808  
without having a permit to do so issued by the director of natural 809  
resources. An application for such a permit shall be filed with 810  
the director upon such forms as ~~he~~ the director prescribes. The 811  
application shall state the quantity of water to be diverted, the 812  
purpose of the diversion, the life of the project for which the 813  
water is to be diverted, and such other information as the 814  
director may require by rule. Each application shall be 815  
accompanied by a nonrefundable fee of one thousand dollars, which 816  
shall be credited to the water management fund, which is hereby 817  
created. 818

(B) The director shall not approve a permit application filed 819  
under this section if ~~he~~ the director determines that any of the 820  
following ~~apply~~ applies: 821

(1) During the life of the project for which the water is to 822  
be diverted, some or all of the water to be diverted will be 823  
needed for use within the basin~~+~~. 824

(2) The proposed diversion would endanger the public health, 825  
safety, or welfare~~+~~. 826

(3) The applicant has not demonstrated that the proposed 827  
diversion is a reasonable and beneficial use and is necessary to 828  
serve the applicant's present and future needs~~+~~. 829

(4) The applicant has not demonstrated that reasonable 830  
efforts have been made to develop and conserve water resources in 831  
the importing basin and that further development of those 832  
resources would engender overriding, adverse economic, social, or 833  
environmental impacts. 834

(5) The proposed diversion is inconsistent with regional or 835  
state water resources plans. 836

(6) The proposed diversion, alone or in combination with 837  
other diversions and water losses, will have a significant adverse 838  
impact on in-stream uses or on economic or ecological aspects of 839  
water levels. 840

The director may hold public hearings upon any application 841  
for a permit. 842

(C) Whenever the director receives an application under this 843  
section to divert water out of the Lake Erie drainage basin, ~~he~~ 844  
the director shall notify the governors and premiers of the other 845  
great lakes states and provinces, the appropriate water management 846  
agencies of those states and provinces, and, when appropriate, the 847  
international joint commission and shall solicit their comments 848  
and concerns regarding the application. In the event of an 849  
objection to the proposed diversion, the director shall consult 850  
with the affected great lakes states and provinces to consider the 851  
issues involved and seek mutually agreeable recommendations. 852  
Before rendering a decision on the permit application, the 853  
director shall consider the concerns, comments, and 854  
recommendations of the other great lakes states and provinces and 855  
the international joint commission, and, in accordance with 856  
section 1109 of the "Water Resources Development Act of 1986," 100 857  
Stat. 4230, 42 U.S.C.A. 1962d-20, the director shall not approve a 858  
permit application for any diversion to which that section 859  
pertains unless that diversion is approved by the governor of each 860

great lakes state as defined in section 1109(c) of that act. 861

(D) The director shall determine the period for which each 862  
permit approved under this section will be valid and specify the 863  
expiration date, but in no case shall a permit be valid beyond the 864  
life of the project as stated in the application. 865

The director shall establish rules providing for the transfer 866  
of permits. A permit may be transferred on the conditions that the 867  
quantity of water diverted not be increased and that the purpose 868  
of the diversion not be changed. 869

(E)(1) Within a time established by rule, the director shall 870  
do one of the following: 871

(a) Notify the applicant that an application ~~he~~ the applicant 872  
filed under this section is approved or denied and, if denied, the 873  
reason for denial; 874

(b) Notify the applicant of any modification necessary to 875  
qualify the application for approval. 876

(2) Any person who receives notice of a denial or 877  
modification under division (E)(1) of this section is entitled to 878  
a hearing under Chapter 119. of the Revised Code if the person 879  
sends a written request for a hearing to the director within 880  
thirty days after the date on which the notice is mailed or 881  
otherwise provided to the applicant. 882

(F) The director shall revoke a permit under this section 883  
without a prior hearing if ~~he~~ the director determines that the 884  
quantity of water being diverted exceeds the quantity stated in 885  
the permit application. 886

The director may suspend a permit if ~~he~~ the director 887  
determines that the continued diversion of water will endanger the 888  
public health, safety, or welfare. Before suspending a permit, the 889  
director shall make a reasonable attempt to notify the permittee 890

that ~~he~~ the director intends to suspend the permit. If the attempt 891  
fails, notification shall be given as soon as practicable 892  
following the suspension. Within five days after the suspension, 893  
the director shall provide the permittee an opportunity to be 894  
heard and to present evidence that the continued diversion of 895  
water will not endanger the public health, safety, or welfare. 896

If the director determines before the expiration date of a 897  
suspended permit that the diversion of water can be resumed 898  
without danger to the public health, safety, or welfare, ~~he~~ the 899  
director shall, upon request of the permittee, reinstate the 900  
permit. 901

(G) Any six or more residents of this state may petition the 902  
director for an investigation of a withdrawal of water resources 903  
that they allege is in violation of a permit issued under this 904  
section. 905

The petition shall identify the permittee and detail the 906  
reasons why the petitioners believe that grounds exist for the 907  
revocation or suspension of the permit under this section. 908

Upon receipt of the petition, the director shall send a copy 909  
to the permittee and, within sixty days, make a determination 910  
whether grounds exist for revocation or suspension of the permit 911  
under this section. 912

(H) Each permittee shall submit to the director an annual 913  
report containing such information as the director may require by 914  
rule. 915

(I) The director shall issue a permit under division (A) of 916  
this section to any person who lawfully diverted more than one 917  
hundred thousand gallons per day of any waters of the state out of 918  
the Ohio river drainage basin during the calendar year ending 919  
October 14, 1984. A person who is eligible for a permit under this 920  
division shall file an application under division (A) of this 921

section not later than one hundred eighty days after the effective date of this amendment.

922  
923

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

924  
925  
926  
927  
928  
929

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

930

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

931  
932  
933  
934

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

935  
936  
937  
938

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

939  
940

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

941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951

forfeited property apply to the law enforcement divisions. If a 952  
law enforcement division is eligible to receive such proceeds, the 953  
proceeds shall be deposited into the state treasury to the credit 954  
of the applicable law enforcement fund. 955

(C) There are hereby created in the state treasury the 956  
division of forestry law enforcement fund, the division of natural 957  
areas and preserves law enforcement fund, the division of wildlife 958  
law enforcement fund, the division of parks and recreation law 959  
enforcement fund, and the division of watercraft law enforcement 960  
fund. The funds shall consist of proceeds from forfeited property 961  
that are deposited in accordance with this section. The funds 962  
shall be used by the applicable law enforcement division for law 963  
enforcement purposes specified in the forfeiture laws; however, a 964  
law enforcement division shall not use such funds to pay the 965  
salaries of its employees or to provide for any other remuneration 966  
of personnel. 967

(D) If the forfeiture laws conflict with any provisions that 968  
govern forfeitures and that are established in another section of 969  
Title XV of the Revised Code, the provisions established in the 970  
other section of Title XV apply. 971

**Sec. 1502.01.** As used in this chapter: 972

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 973  
cans, bottles, wire, paper, cartons, boxes, automobile parts, 974  
furniture, glass, or anything else of an unsightly or unsanitary 975  
nature thrown, dropped, discarded, placed, or deposited by a 976  
person on public property, on private property not owned by the 977  
person, or in or on waters of the state unless one of the 978  
following applies: 979

(1) The person has been directed to do so by a public 980  
official as part of a litter collection drive+. 981



(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements.	982 983 984
(3) The person has been issued a permit or license covering the material pursuant to Chapter 3734. or 6111. of the Revised Code.	985 986 987
(B) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the materials.	988 989 990
(C) "Agency of the state" includes, but is not limited to, an "agency" subject to Chapter 119. of the Revised Code and a "state university or college" as defined in section 3345.12 of the Revised Code.	991 992 993 994
(D) " <del>Waste</del> <u>Source</u> reduction" means activities that decrease the initial production of waste materials at their point of origin.	995 996 997
(E) "Enterprise" means a business with its principal place of business in this state and that proposes to engage in research and development or recycling in this state.	998 999 1000
(F) "Research and development" means inquiry, experimentation, or demonstration to advance basic scientific or technical knowledge or the application, adaptation, or use of existing or newly discovered scientific or technical knowledge regarding recycling, <del>waste</del> <u>source</u> reduction, or litter prevention.	1001 1002 1003 1004 1005
(G) "Recyclables" means waste materials that are collected, separated, or processed and used as raw materials or products.	1006 1007
(H) "Recycling market development" means activities that stimulate the demand for recycled products, provide for a consistent supply of recyclables to meet the needs of recycling industries, or both.	1008 1009 1010 1011

(I) "Solid waste management districts" means solid waste management districts established under Chapter 343. of the Revised Code. 1012  
1013  
1014

(J) "Synthetic rubber" means produced or extended rubber and products made from a synthetic rubber base material originating from petrochemical feedstocks, including scrap tires, tire molds, automobile engine belts, brake pads and hoses, weather stripping, fittings, electrical insulation, and other molded objects and parts. 1015  
1016  
1017  
1018  
1019  
1020

**Sec. 1502.03.** (A) The chief of the division of recycling and litter prevention shall establish and implement statewide ~~waste~~ source reduction, recycling, recycling market development, and litter prevention programs that include all of the following: 1021  
1022  
1023  
1024

(1) The assessment of waste generation within the state and implementation of ~~waste~~ source reduction practices; 1025  
1026

(2) The implementation of recycling and recycling market development activities and projects, including all of the following: 1027  
1028  
1029

(a) Collection of recyclables; 1030

(b) Separation of recyclables; 1031

(c) Processing of recyclables; 1032

(d) Facilitation and encouragement of the use of recyclables and products made with recyclables; 1033  
1034

(e) Education and training concerning recycling and products manufactured with recyclables; 1035  
1036

(f) Public awareness campaigns to promote recycling; 1037

(g) Other activities and projects that promote recycling and recycling market development. 1038  
1039

(3) Litter prevention assistance to enforce antilitter laws, 1040  
educate the public, and stimulate collection and containment of 1041  
litter; 1042

(4) Research and development regarding ~~waste~~ source 1043  
reduction, recycling, and litter prevention, including, without 1044  
limitation, research and development regarding materials or 1045  
products manufactured with recyclables. 1046

(B) The chief, with the approval of the director of natural 1047  
resources, may enter into contracts or other agreements and may 1048  
execute any instruments necessary or incidental to the discharge 1049  
of the chief's responsibilities under this chapter. 1050

**Sec. 1502.12.** (A) There is hereby created in the state 1051  
treasury the scrap tire grant fund, consisting of moneys 1052  
transferred to the fund under section 3734.82 of the Revised Code. 1053  
The chief of the division of recycling and litter prevention, with 1054  
the approval of the director of natural resources, may make grants 1055  
from the fund for the purpose of supporting market development 1056  
activities for scrap tires and synthetic rubber from tire 1057  
manufacturing processes and tire recycling processes. The grants 1058  
may be awarded to individuals, businesses, and entities certified 1059  
under division (A) of section 1502.04 of the Revised Code. 1060

(B) Projects and activities that are eligible for grants 1061  
under this section shall be evaluated for funding using, at a 1062  
minimum, the following criteria: 1063

(1) The degree to which a proposed project contributes to the 1064  
increased use of scrap tires generated in this state; 1065

(2) The degree of local financial support for a proposed 1066  
project; 1067

(3) The technical merit and quality of a proposed project. 1068

Sec. 1504.02. (A) The division of real estate and land 1069  
management shall do all of the following: 1070

(1) Except as otherwise provided in the Revised Code, 1071  
coordinate and conduct all real estate functions for the 1072  
department of natural resources, including at least acquisitions 1073  
by purchase, lease, gift, devise, bequest, appropriation, or 1074  
otherwise; grants through sales, leases, exchanges, easements, and 1075  
licenses; inventories of land; and other related general 1076  
management duties; 1077

(2) Assist the department and its divisions by providing 1078  
department-wide planning, including at least master planning, 1079  
comprehensive planning, capital improvements planning, and special 1080  
purpose planning such as trails coordination and planning under 1081  
section 1519.03 of the Revised Code; 1082

(3) On behalf of the director of natural resources, 1083  
administer the coastal management program established under 1084  
sections 1506.01 to 1506.03 and 1506.05 to 1506.09 of the Revised 1085  
Code and consult with and provide coordination among state 1086  
agencies, political subdivisions, the United States and agencies 1087  
of it, and interstate, regional, and areawide agencies to assist 1088  
the director in executing the director's duties and 1089  
responsibilities under that program and to assist the department 1090  
as the lead agency for the development and implementation of the 1091  
program; 1092

(4) On behalf of the director, administer sections 1506.10 1093  
and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code; 1094

(5) Cooperate with the United States and agencies of it and 1095  
with political subdivisions in administering federal recreation 1096  
moneys under the "Land and Water Conservation Fund Act of 1965," 1097  
78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and 1098

distribute the statewide comprehensive outdoor recreation plan; 1099  
and administer the state recreational vehicle fund created in 1100  
section 4519.11 of the Revised Code; 1101

(6)(a) Support the geographic information system needs for 1102  
the department as requested by the director, which shall include, 1103  
but not be limited to, all of the following: 1104

(i) Assisting in the training and education of department 1105  
resource managers, administrators, and other staff in the 1106  
application and use of geographic information system technology; 1107

(ii) Providing technical support to the department in the 1108  
design, preparation of data, and use of appropriate geographic 1109  
information system applications in order to help solve resource 1110  
related problems and to improve the effectiveness and efficiency 1111  
of department delivered services; 1112

(iii) Creating, maintaining, and documenting spatial digital 1113  
data bases for the division and for other divisions as assigned by 1114  
the director. 1115

(b) Provide information to and otherwise assist government 1116  
officials, planners, and resource managers in understanding land 1117  
use planning and resource management; 1118

(c) Provide continuing assistance to local government 1119  
officials and others in natural resource digital data base 1120  
development and in applying and utilizing the geographic 1121  
information system for land use planning, current agricultural use 1122  
value assessment, development reviews, coastal management, and 1123  
other resource management activities; 1124

(d) Coordinate and administer the remote sensing needs of the 1125  
department, including the collection and analysis of aerial 1126  
photography, satellite data, and other data pertaining to land, 1127  
water, and other resources of the state; 1128

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

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

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

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

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

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

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

Sec. 1506.04. (A) No later than ~~six months after the~~ 1159  
~~effective date of this section~~ September 15, 1989, each county or 1160  
municipal corporation within whose jurisdiction is a coastal flood 1161  
hazard area shall either participate in and remain in compliance 1162  
with the national flood insurance program ~~established in the~~ 1163  
~~"Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A.~~ 1164  
~~4002, as amended,~~ or shall adopt resolutions or ordinances 1165  
governing the coastal flood hazard area that meet or exceed the 1166  
standards required for participation in the regular phase of the 1167  
national flood insurance program. 1168

(B) If the director of natural resources determines at any 1169  
time that a county or municipal corporation that is participating 1170  
in the national flood insurance program ~~as described in division~~ 1171  
~~(A) of this section~~ or has adopted resolutions or ordinances under 1172  
~~that~~ division (A) of this section is not in compliance with that 1173  
program or those resolutions or ordinances, as applicable, ~~he~~ the 1174  
director shall so notify the legislative authority of the county 1175  
or municipal corporation and shall also notify the legislative 1176  
authority that it may respond to ~~his~~ the determination in 1177  
accordance with the procedure for doing so established by rules 1178  
adopted under section 1506.02 of the Revised Code. If after 1179  
considering the legislative authority's response the director 1180  
determines that the county or municipal corporation is still not 1181  
in compliance with the national flood insurance program or 1182  
resolutions or ordinances adopted under division (A) of this 1183  
section, as applicable, ~~he~~ the director may request the attorney 1184  
general in writing to, and the attorney general shall, bring an 1185  
action for appropriate relief in a court of competent jurisdiction 1186  
against the county or municipal corporation. 1187

(C) The attorney general, upon the written request of the 1188  
director, shall bring an action for appropriate relief in a court 1189

of competent jurisdiction against any development that meets both 1190  
of the following criteria: 1191

(1) Is located in a county or municipal corporation that is 1192  
not in compliance with division (A) of this section; 1193

(2) Is not in compliance with the standards of the national 1194  
flood insurance program ~~established in the "Flood Disaster~~ 1195  
~~Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as~~ 1196  
amended. 1197

~~As used in this division, "development" means any artificial~~ 1198  
~~change to improved or unimproved real estate, including, without~~ 1199  
~~limitation, the construction of buildings and other structures and~~ 1200  
~~mining, dredging, filling, grading, paving, excavation, and~~ 1201  
~~drilling operations.~~ 1202

(D) This section does not apply to any permits or approvals 1203  
issued by any state agency prior to the effective date of rules 1204  
adopted under section 1506.02 of the Revised Code for the 1205  
implementation of this section. 1206

(E) As used in this section, "national flood insurance 1207  
program" and "development" have the same meanings as in section 1208  
1521.01 of the Revised Code. 1209

**Sec. 1507.01.** There is hereby created in the department of 1210  
natural resources the division of engineering to be administered 1211  
by the chief engineer of the department, who shall be a 1212  
professional engineer registered under Chapter 4733. or a 1213  
professional architect certified under Chapter 4703. of the 1214  
Revised Code. The chief engineer shall do all of the following: 1215

(A) Administer this chapter; 1216

(B) Provide engineering, architectural, land surveying, and 1217  
related administrative and maintenance support services to the 1218  
other divisions in the department; 1219



(C) Upon request of the director of natural resources, 1220  
implement the department's capital improvement program and 1221  
facility maintenance projects, including all associated 1222  
engineering, architectural, design, contracting, surveying, 1223  
inspection, and management responsibilities and requirements; 1224

(D) With the approval of the director, act as contracting 1225  
officer in departmental engineering, architectural, surveying, and 1226  
construction matters regarding capital improvements except for 1227  
those matters otherwise specifically provided for in law; 1228

(E) Provide engineering support for the coastal management 1229  
program established under Chapter 1506. of the Revised Code; 1230

(F) Coordinate the department's roadway maintenance program 1231  
with the department of transportation pursuant to section 5511.05 1232  
of the Revised Code and maintain the roadway inventory of the 1233  
department of natural resources; 1234

(G) Coordinate the department's projects, programs, policies, 1235  
procedures, and activities with the United States army corps of 1236  
engineers; 1237

(H) Subject to the approval of the director, employ 1238  
professional and technical assistants and such other employees as 1239  
are necessary for the performance of the activities required or 1240  
authorized under this chapter, other work of the division, and any 1241  
other work agreed to under working agreements or contractual 1242  
arrangements; prescribe their duties; and fix their compensation 1243  
in accordance with such schedules as are provided by law for the 1244  
compensation of state employees. 1245

**Sec. 1510.04.** (A) Independent producers in this state may 1246  
present the technical advisory council with a petition signed by 1247  
the lesser of one hundred or ten per cent of all such producers 1248  
requesting that the council hold a referendum in accordance with 1249

section 1510.05 of the Revised Code to establish a marketing 1250  
program for oil and natural gas or to amend an existing program. 1251

(B) At the time of presentation of the petition to the 1252  
council under division (A) of this section, the petitioners also 1253  
shall present the proposed program or amendment, which shall 1254  
include all of the following: 1255

(1) The rate of assessment to be made on the production of 1256  
oil and natural gas in this state, which shall not exceed ~~one cent~~ 1257  
five cents per each gross barrel of oil and ~~one-tenth of one cent~~ 1258  
per thousand cubic feet of natural gas; 1259

(2) Terms, conditions, limitations, and other qualifications 1260  
for assessment; 1261

(3) Procedures to refund the assessment. 1262

(C) Before making a decision under this division to approve 1263  
or disapprove a proposed program or amendment, the council shall 1264  
publish in at least two appropriate periodicals designated by the 1265  
council a notice that the program or amendment has been proposed 1266  
and informing interested persons of the procedures for submitting 1267  
comments regarding the proposal. After publishing the notice, the 1268  
council shall provide interested persons with a copy of the 1269  
proposed program or amendment and an opportunity to comment on the 1270  
proposed program or amendment for thirty days after the 1271  
publication of the notice. The petitioners may make changes to the 1272  
proposed program or amendment based upon the comments received. 1273  
The council may make technical changes to the proposal to ensure 1274  
compliance with this chapter. Subsequent to any changes made by 1275  
the petitioners or any technical changes made by the council to a 1276  
proposed program or amendment, the council may approve or 1277  
disapprove the proposed program or amendment. 1278

(D) If the council approves the proposed program or 1279  
amendment, with any changes made under division (C) of this 1280

section, the council shall hold a referendum in accordance with 1281  
section 1510.05 of the Revised Code to establish a marketing 1282  
program for oil and natural gas or to amend an existing program. 1283

**Sec. 1511.021.** (A) Any person who owns or operates 1284  
agricultural land or a concentrated animal feeding operation may 1285  
develop and operate under an operation and management plan 1286  
approved by the chief of the division of soil and water 1287  
conservation under section 1511.02 of the Revised Code or by the 1288  
supervisors of the local soil and water conservation district 1289  
under section 1515.08 of the Revised Code. 1290

(B) Any person who wishes to make a complaint regarding 1291  
nuisances involving agricultural pollution may do so ~~only orally~~ 1292  
or by submitting a written, signed, and dated complaint to the 1293  
chief or to the chief's designee. After receiving an oral 1294  
complaint, the chief or the chief's designee may cause an 1295  
investigation to be conducted to determine whether agricultural 1296  
pollution has occurred or is imminent. After receiving a written, 1297  
signed, and dated complaint, the chief or the chief's designee 1298  
shall cause such an investigation to be conducted. 1299

(C) In a private civil action for nuisances involving 1300  
agricultural pollution, it is an affirmative defense if the person 1301  
owning, operating, or otherwise responsible for agricultural land 1302  
or a concentrated animal feeding operation is operating under and 1303  
in substantial compliance with an approved operation and 1304  
management plan developed under division (A) of this section, with 1305  
an operation and management plan developed by the chief under 1306  
section 1511.02 of the Revised Code or by the supervisors of the 1307  
local soil and water conservation district under section 1515.08 1308  
of the Revised Code, or with an operation and management plan 1309  
required by an order issued by the chief under division (G) of 1310  
section 1511.02 of the Revised Code. Nothing in this section is in 1311

derogation of the authority granted to the chief in division (E) 1312  
of section 1511.02 and in section 1511.07 of the Revised Code. 1313

**Sec. 1513.01.** As used in this chapter: 1314

(A) "Approximate original contour" means that surface 1315  
configuration achieved by backfilling and grading of a mined area 1316  
so that the reclaimed area, including any terracing or access 1317  
roads, closely resembles the general surface configuration of the 1318  
land prior to mining and blends into and complements the drainage 1319  
pattern of the surrounding terrain, with all highwalls and spoil 1320  
piles eliminated; water impoundments may be permitted where the 1321  
chief of the division of mineral resources management determines 1322  
that they are in compliance with division (A)(8) of section 1323  
1513.16 of the Revised Code. 1324

(B) "Coal mining and reclamation operations" means coal 1325  
mining operations and all activities necessary and incident to the 1326  
reclamation of such operations. 1327

(C) "Degrees" means inclination from the horizontal. 1328

(D) "Deposition of sediment" means placing or causing to be 1329  
placed in any waters of the state, in stream beds on or off the 1330  
land described in an application for a coal mining permit, or upon 1331  
other lands any organic or inorganic matter that settles or is 1332  
capable of settling to the bottom of the waters and onto the beds 1333  
or lands. 1334

(E) "Imminent danger to the health and safety of the public" 1335  
means the existence of any condition or practice or violation of a 1336  
permit or other requirement of this chapter or rule adopted 1337  
thereunder in a coal mining and reclamation operation, which 1338  
condition, practice, or violation could reasonably be expected to 1339  
cause substantial physical harm to persons outside the permit area 1340  
before the condition, practice, or violation can be abated. A 1341

reasonable expectation of death or serious injury before abatement 1342  
exists if a rational person subjected to the same conditions or 1343  
practices giving rise to the peril would not expose oneself to the 1344  
danger during the time necessary for abatement. 1345

(F) "Lands eligible for reining" means those lands that 1346  
otherwise would be eligible for expenditures under division (C)(1) 1347  
of section 1513.37 of the Revised Code. 1348

(G) "Mountain top removal" means a coal mining operation that 1349  
will remove an entire coal seam or seams running through the upper 1350  
fraction of a mountain, ridge, or hill by removing all of the 1351  
overburden and creating a level plateau with no highwalls 1352  
remaining instead of restoring to approximate original contour, 1353  
and is capable of supporting postmining uses in accordance with 1354  
the requirements established by the chief. 1355

(H) "Operation" or "coal mining operation" means: 1356

(1) Activities conducted on the surface of lands in 1357  
connection with a coal mine, the removal of coal from coal refuse 1358  
piles, and surface impacts incident to an underground coal mine. 1359  
Such activities include excavation for the purpose of obtaining 1360  
coal, including such common methods as contour, strip, auger, 1361  
mountaintop removal, box cut, open pit, and area mining; the use 1362  
of explosives and blasting; in situ distillation or retorting; 1363  
leaching or other chemical or physical processing; and the 1364  
cleaning, concentrating, or other processing or preparation of 1365  
coal. Such activities also include the loading of coal at or near 1366  
the mine site. Such activities do not include any of the 1367  
following: 1368

(a) The extraction of coal incidental to the extraction of 1369  
other minerals if the weight of coal extracted is less than 1370  
one-sixth the total weight of minerals removed, including coal; 1371

(b) The extraction of coal as an incidental part of federal, 1372

state, or local highway or other government-financed construction	1373
when approved by the chief;	1374
(c) Coal exploration subject to section 1513.072 of the Revised Code.	1375 1376
(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.	1377 1378 1379 1380 1381 1382 1383 1384 1385 1386 1387 1388 1389 1390 1391
(I) "Operator" means any person conducting a coal mining operation.	1392 1393
(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.	1394 1395 1396 1397
(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.	1398 1399 1400
(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	1401 1402 1403

Code. 1404

(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. 1405  
1406  
1407

(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. 1408  
1409  
1410  
1411  
1412  
1413  
1414  
1415

(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. 1416  
1417  
1418  
1419  
1420  
1421  
1422  
1423  
1424

(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. 1425  
1426  
1427  
1428  
1429  
1430

(Q) "Spoil bank" means a deposit of removed overburden. 1431

(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. 1432  
1433  
1434

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

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

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

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

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

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

(3) Regularly maintained with public funds;

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

(W) "Performance security" means a form of financial assurance, including, without limitation, a surety bond issued by a surety licensed to do business in this state; an annuity; cash;



a negotiable certificate of deposit; an irrevocable letter of 1465  
credit that automatically renews; a negotiable bond of the United 1466  
States, this state, or a municipal corporation in this state; a 1467  
trust fund of which the state is named a conditional beneficiary; 1468  
or other form of financial guarantee or financial assurance that 1469  
is acceptable to the chief. 1470

**Sec. 1513.02.** (A) The division of mineral resources 1471  
management shall administer, enforce, and implement this chapter. 1472  
The chief of the division of mineral resources management shall do 1473  
all of the following: 1474

(1) Adopt, amend, and rescind rules: 1475

(a) To administer and enforce this chapter; 1476

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

requirements of this chapter relating to reclamation, and the 1496  
attainment of those objectives in the interest of the public 1497  
health, safety, and welfare to which these reclamation 1498  
requirements are directed; 1499

(c) To meet the requirements of the "Surface Mining Control 1500  
and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201. 1501

(2) Issue orders to enforce this chapter and rules adopted 1502  
under it; 1503

(3) Adopt rules for the internal management of the division 1504  
that do not affect private rights; 1505

(4) Adopt programs, rules, and procedures designed to assist 1506  
the coal operator in this state with the permitting process and 1507  
complying with the environmental standards of this chapter. Upon 1508  
request of the applicant for a permit, the chief shall make a 1509  
determination of the probable hydrologic consequences required in 1510  
division (B)~~(2)~~(1)(k) of section 1513.07 of the Revised Code 1511  
within sixty days after a permit has been submitted to the 1512  
division for those applications requesting the chief to perform 1513  
the study. The chief shall perform the chemical analysis of test 1514  
borings or core samplings for operators who have a total annual 1515  
production of coal at all locations that does not exceed one 1516  
hundred thousand tons. 1517

(5) Adopt programs, rules, and procedures designed to ensure 1518  
that reclamation is performed on operations for which the 1519  
performance ~~bond~~ security has been forfeited pursuant to section 1520  
1513.16 of the Revised Code; 1521

(6) Receive, administer, and expend moneys obtained from the 1522  
United States department of the interior and other federal 1523  
agencies to implement the state's permanent coal regulatory 1524  
program; 1525

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

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

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

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

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

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

Nothing in division (A)(7) of this section shall be construed to limit any other requirements that are applicable to the beneficial use of coal combustion byproducts and that are established under Chapter 3704., 3714., 3734., or 6111. of the Revised Code or under local or federal laws, including, without

limitation, requirements governing air pollution control permits, 1557  
hazardous waste, national pollutant discharge elimination system 1558  
permits, and section 401 water quality certifications. 1559

(b) As used in division (A)(7) of this section: 1560

(i) "Coal combustion byproducts" means fly ash, bottom ash, 1561  
coal slag, flue gas desulphurization and fluidized bed combustion 1562  
byproducts, air or water pollution control residues from the 1563  
operation of a coal-fired electric or steam generation facility, 1564  
and any material from a clean coal technology demonstration 1565  
project or other innovative process at a coal-fired electric or 1566  
steam generation facility. 1567

(ii) "Beneficial use" means the use of coal combustion 1568  
byproducts in a manner that is not equivalent to the establishment 1569  
of a disposal system or a solid waste disposal facility and that 1570  
is unlikely to affect human health or safety or the environment 1571  
adversely or to degrade the existing quality of the land, air, or 1572  
water. "Beneficial use" includes, without limitation, land 1573  
application uses for agronomic value; land reclamation uses; and 1574  
discrete, controlled uses for structural fill, pavement aggregate, 1575  
pipe bedding aggregate, mine sealing, alternative drainage or 1576  
capping material, and pilot demonstration projects. 1577

(iii) "Structural fill" means the discrete, controlled use of 1578  
a coal combustion byproduct as a substitute for a conventional 1579  
aggregate, raw material, or soil under or immediately adjacent to 1580  
a building or structure. "Structural fill" does not include uses 1581  
that involve general filling or grading operations or valley 1582  
fills. 1583

(iv) "Pavement aggregate" means the discrete, controlled use 1584  
of a coal combustion byproduct as a subbase material or drainage 1585  
layer under or immediately adjacent to a paved road or a paved 1586  
parking lot where the coal combustion byproduct is a substitute 1587

for a conventional aggregate, raw material, or soil. 1588

(v) "Pipe bedding aggregate" means the discrete, controlled 1589  
use of a coal combustion byproduct as a substitute for a 1590  
conventional aggregate, raw material, or soil under, around, or 1591  
immediately adjacent to a water, sewer, or other pipeline. 1592

(vi) "Coal-fired electric or steam generation facility" 1593  
includes any boiler that is fired with coal or with coal in 1594  
combination with petroleum coke, oil, natural gas, or any other 1595  
fossil fuel. 1596

(vii) "Solid waste disposal facility" means a facility for 1597  
the disposal of solid wastes as provided in Chapter 3734. of the 1598  
Revised Code and rules adopted under it. 1599

(viii) "Disposal system" has the same meaning as in section 1600  
6111.01 of the Revised Code. 1601

(8) Establish programs and adopt rules and procedures 1602  
governing terms, limitations, and conditions for the use of diesel 1603  
equipment in an underground coal mine. 1604

(B) The chief, by rule, may designate as unsuitable for coal 1605  
mining natural areas maintained on the registry of natural areas 1606  
of the department of natural resources pursuant to Chapter 1517. 1607  
of the Revised Code, wild, scenic, or recreational river areas 1608  
designated pursuant to that chapter, publicly owned or dedicated 1609  
parks, and other areas of unique and irreplaceable natural beauty 1610  
or condition, or areas within specified distances of a public 1611  
road, occupied dwelling, public building, school, church, 1612  
community, or institutional building, public park, or cemetery. 1613  
Such a designation may include land adjacent to the perimeters of 1614  
those areas that may be necessary to protect their integrity. 1615

(C)(1) The adoption, amendment, and rescission of rules under 1616  
divisions (A)(1), (4), (5), and (8), (B) , and (J) of this 1617

section are subject to Chapter 119. of the Revised Code. 1618

(2) The issuance of orders under division (A)(2) of this 1619  
section and appeals therefrom are not governed by or subject to 1620  
Chapter 119. of the Revised Code, but are governed by this 1621  
chapter. 1622

(D)(1) When the chief or an authorized representative of the 1623  
chief determines that any condition or practice exists or that any 1624  
permittee is in violation of any requirement of this chapter or 1625  
any permit condition required by this chapter, which condition, 1626  
practice, or violation creates an imminent danger to the health or 1627  
safety of the public or is causing, or can reasonably be expected 1628  
to cause, significant, imminent environmental harm to land, air, 1629  
or water resources, the chief or the authorized representative 1630  
immediately shall order the cessation of coal mining and 1631  
reclamation operations or the portion thereof relevant to the 1632  
condition, practice, or violation. The cessation order shall 1633  
remain in effect until the chief or the authorized representative 1634  
determines that the condition, practice, or violation has been 1635  
abated or until the order is modified, vacated, or terminated by 1636  
the chief or the authorized representative pursuant to division 1637  
(D)(4) of this section or by the reclamation commission pursuant 1638  
to section 1513.13 of the Revised Code. When the chief or the 1639  
authorized representative finds that the ordered cessation of coal 1640  
mining and reclamation operations or any portion thereof will not 1641  
completely abate the imminent danger to the health or safety of 1642  
the public or the significant, imminent environmental harm to 1643  
land, air, or water resources, the chief or the authorized 1644  
representative, in addition to the cessation order, shall order 1645  
the operator to take whatever steps the chief or the authorized 1646  
representative considers necessary to abate the imminent danger or 1647  
the significant environmental harm. 1648

(2) When the chief or an authorized representative of the 1649

chief determines that any person is in violation of any 1650  
requirement of this chapter or any permit condition required by 1651  
this chapter, but the violation does not create an imminent danger 1652  
to the health or safety of the public or cannot reasonably be 1653  
expected to cause significant, imminent environmental harm to 1654  
land, air, or water resources, the chief or the authorized 1655  
representative shall issue a notice of violation to the person or 1656  
the person's agent fixing a reasonable time for the abatement of 1657  
the violation, provided that the time afforded a person to abate 1658  
the violation shall not exceed the time limitations prescribed by 1659  
the secretary of the interior in 30 C.F.R. Part 843 for an 1660  
approvable state regulatory program under the "Surface Mining 1661  
Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1662  
1201. 1663

If, upon expiration of the period of time as originally fixed 1664  
or subsequently extended for good cause shown and upon the written 1665  
finding of the chief or the authorized representative, the chief 1666  
or the authorized representative finds that the violation has not 1667  
been abated, the chief or the authorized representative 1668  
immediately shall order the cessation of coal mining and 1669  
reclamation operations or the portion thereof relevant to the 1670  
violation. The cessation order shall remain in effect until the 1671  
chief or the authorized representative determines that the 1672  
violation has been abated or until the order is modified, vacated, 1673  
or terminated by the chief or the authorized representative 1674  
pursuant to division (D)(4) of this section or by the reclamation 1675  
commission pursuant to section 1513.13 of the Revised Code. In a 1676  
cessation order issued under division (D)(2) of this section, the 1677  
chief or the authorized representative shall prescribe the steps 1678  
necessary to abate the violation in the most expeditious manner 1679  
possible. 1680

(3) When in the judgment of the chief or an authorized 1681

representative of the chief a pattern of violations of any 1682  
requirements of this chapter or any permit conditions required by 1683  
this chapter exists or has existed and the violations are caused 1684  
by the unwarranted failure of the permittee to comply with any 1685  
requirements of this chapter or any permit conditions or are 1686  
willfully caused by the permittee, the chief or the authorized 1687  
representative immediately shall issue an order to the permittee 1688  
to show cause why the permit should not be suspended or revoked. 1689  
If a hearing is requested, the chief shall inform all interested 1690  
parties of the time and place of the hearing and conduct the 1691  
hearing pursuant to division (D) of section 1513.13 of the Revised 1692  
Code. Upon the permittee's failure to show cause why the permit 1693  
should not be suspended or revoked, the chief or the authorized 1694  
representative immediately shall suspend or revoke the permit. 1695

(4) Notices of violation and orders issued pursuant to this 1696  
section shall set forth with reasonable specificity the nature of 1697  
the violation and the remedial action required, the period of time 1698  
established for abatement, and a reasonable description of the 1699  
portion of the coal mining and reclamation operation to which the 1700  
notice or order applies. Each notice or order issued under this 1701  
section shall be given promptly to the alleged violator or the 1702  
agent of the alleged violator by the chief or an authorized 1703  
representative of the chief who issues the notice or order. 1704  
Notices and orders shall be in writing and shall be signed by the 1705  
chief or the authorized representative and may be modified, 1706  
vacated, or terminated by the chief or the authorized 1707  
representative. Any notice or order issued pursuant to this 1708  
section that requires cessation of mining by the operator shall 1709  
expire within thirty days after actual notice to the operator 1710  
unless a public hearing pursuant to section 1513.13 of the Revised 1711  
Code is held at the site or within such reasonable proximity to 1712  
the site that any viewings of the site can be conducted during the 1713



course of the public hearing. 1714

(E)(1) A person who violates a permit condition or any other 1715  
provision of this chapter may be assessed a civil penalty by the 1716  
chief, except that if the violation leads to the issuance of a 1717  
cessation order under division (D) of this section, the civil 1718  
penalty shall be assessed for each day until the person initiates 1719  
the necessary corrective steps. The penalty shall not exceed five 1720  
thousand dollars for each violation. Each day of continuing 1721  
violation may be deemed a separate violation for purposes of 1722  
penalty assessments. In determining the amount of the penalty, 1723  
consideration shall be given to the person's history of previous 1724  
violation at the particular coal mining operation; the seriousness 1725  
of the violation, including any irreparable harm to the 1726  
environment and any hazard to the health or safety of the public; 1727  
whether the person was negligent; and the demonstrated diligence 1728  
of the person charged in attempting to achieve rapid compliance 1729  
after notification of the violation. 1730

(2) A civil penalty shall be assessed by the chief only after 1731  
the person charged with a violation under division (E)(1) of this 1732  
section has been given an opportunity for a public hearing. If a 1733  
person charged with such a violation fails to avail oneself of the 1734  
opportunity for a public hearing, a civil penalty shall be 1735  
assessed by the chief after the chief has determined that a 1736  
violation did occur, and the amount of the penalty that is 1737  
warranted, and has issued an order requiring that the penalty be 1738  
paid. 1739

(3) Upon the issuance of a notice or order charging that a 1740  
violation of this chapter has occurred, the chief shall inform the 1741  
operator within thirty days of the proposed amount of the penalty 1742  
and provide opportunity for an adjudicatory hearing pursuant to 1743  
section 1513.13 of the Revised Code. The person charged with the 1744  
penalty then shall have thirty days to pay the proposed penalty in 1745

full or, if the person wishes to contest either the amount of the  
penalty or the fact of the violation, file a petition for review  
of the proposed assessment with the secretary of the reclamation  
commission pursuant to section 1513.13 of the Revised Code. If,  
after the hearing, the commission affirms or modifies the proposed  
amount of the penalty, the person charged with the penalty then  
shall have thirty days after receipt of the written decision to  
pay the amount in full or file an appeal with the court of appeals  
in accordance with section 1513.14 of the Revised Code. At the  
time the petition for review of the proposed assessment is filed  
with the secretary, the person shall forward the amount of the  
penalty to the secretary for placement in the reclamation penalty  
fund, which is hereby created. The fund shall be in the custody of  
the treasurer of state, but shall not be a part of the state  
treasury. Pursuant to administrative or judicial review of the  
penalty, the secretary, within thirty days, shall remit the  
appropriate amount of the penalty to the person, with interest, if  
it is determined that no violation occurred or that the amount of  
the penalty should be reduced, and the secretary shall forward the  
balance of the penalty or, if the penalty was not reduced, the  
entire amount of the penalty, with interest, to the chief for  
deposit in the ~~coal mining administration and reclamation reserve~~  
forfeiture fund created in section ~~1513.181~~ 1513.18 of the Revised  
Code. Failure to forward the money to the secretary within thirty  
days after the chief informs the operator of the proposed amount  
of the penalty shall result in a waiver of all legal rights to  
contest the violation or the amount of the penalty. Within fifteen  
days after being informed of the penalty, the person charged with  
the penalty may request in writing an informal assessment  
conference to review the amount of the penalty. The conference  
shall be presided over by the chief or an individual appointed by  
the chief other than the inspector that issued the notice of  
violation or order upon which the penalty is based. The chief

shall adopt rules governing procedures to be followed in informal 1779  
conferences. Time allowed for payment of the penalty or appeal to 1780  
the commission shall be tolled while the penalty is being reviewed 1781  
in an informal conference. 1782

(4) An operator who fails to correct a violation for which a 1783  
notice of violation or order has been issued under division (D) of 1784  
this section within the period permitted for its correction shall 1785  
be assessed a civil penalty of not less than seven hundred fifty 1786  
dollars for each day during which the failure or violation 1787  
continues. However, a civil penalty shall not be assessed under 1788  
division (E)(4) of this section if the commission orders the 1789  
suspension of the abatement requirement after determining, based 1790  
upon the findings of an expedited hearing held under section 1791  
1513.13 of the Revised Code at the request of the operator, that 1792  
the operator will suffer irreparable loss or damage from the 1793  
application of the abatement requirement or if the court orders 1794  
suspension of the abatement requirement pursuant to review 1795  
proceedings held under section 1513.14 of the Revised Code at the 1796  
request of the operator. 1797

(F) The chief may enter into a cooperative agreement with the 1798  
secretary of the interior to provide for state regulation of coal 1799  
mining and reclamation operations on federal lands within the 1800  
state. 1801

(G) The chief may prohibit augering if necessary to maximize 1802  
the utilization, recoverability, or conservation of the solid fuel 1803  
resources or to protect against adverse water quality impacts. 1804

(H) The chief shall transmit copies of all schedules 1805  
submitted under section 1513.07 of the Revised Code pertaining to 1806  
violations of air or water quality laws and rules adopted and 1807  
orders issued under those laws in connection with coal mining 1808  
operations to the director of environmental protection for 1809  
verification. 1810

(I) For the purposes of sections 1513.18, 1513.24, 1513.37, 1811  
and 1514.06 of the Revised Code, the chief triennially shall 1812  
determine the average wage rate for companies performing 1813  
reclamation work for the division under those sections by 1814  
averaging the wage rate paid by all companies performing such 1815  
reclamation work during the three years immediately preceding the 1816  
determination. However, in making the initial determination under 1817  
this division, the chief shall average the wage rate paid by all 1818  
companies performing such reclamation work during the ten years 1819  
immediately preceding October 29, 1995. 1820

(J) If this state becomes covered by a state programmatic 1821  
general permit issued by the United States army corps of engineers 1822  
for the discharge of dredged or fill material into the waters of 1823  
the United States by operations that conduct surface and 1824  
underground coal mining and reclamation operations and the 1825  
restoration of abandoned mine lands, the chief may establish 1826  
programs and adopt rules and procedures designed to implement the 1827  
terms, limitations, and conditions of the permit. The purpose of 1828  
the programs, rules, and procedures shall be to enable the state 1829  
to reduce or eliminate duplicative state and federal project 1830  
evaluation, simplify the regulatory approval process, provide 1831  
environmental protection for aquatic resources that is equivalent 1832  
to federal protection, and satisfy the requirements of the United 1833  
States army corps of engineers regulatory program under which the 1834  
permit is issued and that is established under section 404 of the 1835  
"Federal Water Pollution Control Act," 86 Stat. 48 (1972), 33 1836  
U.S.C. 1344, as amended by the "Clean Water Act of 1977," 91 Stat. 1837  
1600, 33 U.S.C. 1344; section 10 of the "Rivers and Harbors Act of 1838  
1899," 30 Stat. 1151, 33 U.S.C. 403; and section 103 of the 1839  
"Marine Protection, Research, and Sanctuaries Act of 1972," 86 1840  
Stat. 1055, 33 U.S.C. 1413. 1841

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 1842  
operation without a permit for the operation issued by the chief 1843  
of the division of mineral resources management. 1844

(2) All permits issued pursuant to this chapter shall be 1845  
issued for a term not to exceed five years, except that, if the 1846  
applicant demonstrates that a specified longer term is reasonably 1847  
needed to allow the applicant to obtain necessary financing for 1848  
equipment and the opening of the operation and if the application 1849  
is full and complete for the specified longer term, the chief may 1850  
grant a permit for the longer term. A successor in interest to a 1851  
permittee who applies for a new permit within thirty days after 1852  
succeeding to the interest and who is able to obtain the ~~bond~~ 1853  
~~coverage~~ performance security of the original permittee may 1854  
continue coal mining and reclamation operations according to the 1855  
approved mining and reclamation plan of the original permittee 1856  
until the successor's application is granted or denied. 1857

(3) A permit shall terminate if the permittee has not 1858  
commenced the coal mining operations covered by the permit within 1859  
three years after the issuance of the permit, except that the 1860  
chief may grant reasonable extensions of the time upon a showing 1861  
that the extensions are necessary by reason of litigation 1862  
precluding the commencement or threatening substantial economic 1863  
loss to the permittee or by reason of conditions beyond the 1864  
control and without the fault or negligence of the permittee, and 1865  
except that with respect to coal to be mined for use in a 1866  
synthetic fuel facility or specified major electric generating 1867  
facility, the permittee shall be deemed to have commenced coal 1868  
mining operations at the time construction of the synthetic fuel 1869  
or generating facility is initiated. 1870

(4)(a) Any permit issued pursuant to this chapter shall carry 1871  
with it the right of successive renewal upon expiration with 1872  
respect to areas within the boundaries of the permit. The holders 1873

of the permit may apply for renewal and the renewal shall be 1874  
issued unless the chief determines by written findings, subsequent 1875  
to fulfillment of the public notice requirements of this section 1876  
and section 1513.071 of the Revised Code through demonstrations by 1877  
opponents of renewal or otherwise, that one or more of the 1878  
following circumstances exists: 1879

(i) The terms and conditions of the existing permit are not 1880  
being satisfactorily met. 1881

(ii) The present coal mining and reclamation operation is not 1882  
in compliance with the environmental protection standards of this 1883  
chapter. 1884

(iii) The renewal requested substantially jeopardizes the 1885  
operator's continuing responsibilities on existing permit areas. 1886

(iv) The applicant has not provided evidence that the 1887  
performance ~~and~~ security in effect for the operation will 1888  
continue in effect for any renewal requested in the application. 1889

(v) Any additional, revised, or updated information required 1890  
by the chief has not been provided. Prior to the approval of any 1891  
renewal of a permit, the chief shall provide notice to the 1892  
appropriate public authorities as prescribed by rule of the chief. 1893

(b) If an application for renewal of a valid permit includes 1894  
a proposal to extend the mining operation beyond the boundaries 1895  
authorized in the existing permit, the portion of the application 1896  
for renewal of a valid permit that addresses any new land areas 1897  
shall be subject to the full standards applicable to new 1898  
applications under this chapter. 1899

(c) A permit renewal shall be for a term not to exceed the 1900  
period of the original permit established by this chapter. 1901  
Application for permit renewal shall be made at least one hundred 1902  
twenty days prior to the expiration of the valid permit. 1903

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

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

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

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

~~(i) The permit applicant;~~

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

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

~~(iv) Any purchaser of record of the property under a real  
estate contract;~~

~~(v) The operator if different from the applicant;~~

~~(vi) If any of these are business entities other than a  
single proprietor, the names and addresses of the principals,  
officers, and statutory agent for service of process.~~

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

(c) A statement of any current or previous coal mining 1934  
permits in the United States held by the applicant, the permit 1935  
identification, and any pending applications; 1936

(d) If the applicant is a partnership, corporation, 1937  
association, or other business entity, the following where 1938  
applicable: the names and addresses of every officer, partner, 1939  
director, or person performing a function similar to a director, 1940  
of the applicant, the name and address of any person owning, of 1941  
record, ten per cent or more of any class of voting stock of the 1942  
applicant, a list of all names under which the applicant, partner, 1943  
or principal shareholder previously operated a coal mining 1944  
operation within the United States within the five-year period 1945  
preceding the date of submission of the application, and a list of 1946  
the person or persons primarily responsible for ensuring that the 1947  
applicant complies with the requirements of this chapter and rules 1948  
adopted pursuant thereto while mining and reclaiming under the 1949  
permit; 1950

(e) A statement of whether the applicant, any subsidiary, 1951  
affiliate, or persons controlled by or under common control with 1952  
the applicant, any partner if the applicant is a partnership, any 1953  
officer, principal shareholder, or director if the applicant is a 1954  
corporation, or any other person who has a right to control or in 1955  
fact controls the management of the applicant or the selection of 1956  
officers, directors, or managers of the applicant: 1957

(i) Has ever held a federal or state coal mining permit that 1958  
in the five-year period prior to the date of submission of the 1959  
application has been suspended or revoked or has had a coal mining 1960  
bond, performance security, or similar security deposited in lieu 1961  
of bond forfeited and, if so, a brief explanation of the facts 1962  
involved; 1963

(ii) Has been an officer, partner, director, principal 1964



shareholder, or person having the right to control or has in fact 1965  
controlled the management of or the selection of officers, 1966  
directors, or managers of a business entity that has had a coal 1967  
mining or surface mining permit that in the five-year period prior 1968  
to the date of submission of the application has been suspended or 1969  
revoked or has had a coal mining or surface mining bond, 1970  
performance security, or similar security deposited in lieu of 1971  
bond forfeited and, if so, a brief explanation of the facts 1972  
involved. 1973

(f) A copy of the applicant's advertisement to be published 1974  
in a newspaper of general circulation in the locality of the 1975  
proposed site at least once a week for four successive weeks, 1976  
which shall include the ownership of the proposed mine, a 1977  
description of the exact location and boundaries of the proposed 1978  
site sufficient to make the proposed operation readily 1979  
identifiable by local residents, and the location where the 1980  
application is available for public inspection; 1981

(g) A description of the type and method of coal mining 1982  
operation that exists or is proposed, the engineering techniques 1983  
proposed or used, and the equipment used or proposed to be used; 1984

(h) The anticipated or actual starting and termination dates 1985  
of each phase of the mining operation and number of acres of land 1986  
to be affected; 1987

(i) An accurate map or plan, to an appropriate scale, clearly 1988  
showing the land to be affected and the land upon which the 1989  
applicant has the legal right to enter and commence coal mining 1990  
operations, copies of those documents upon which is based the 1991  
applicant's legal right to enter and commence coal mining 1992  
operations, and a statement whether that right is the subject of 1993  
pending litigation. This chapter does not authorize the chief to 1994  
adjudicate property title disputes. 1995

(j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged; 1996  
1997  
1998

(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application; 1999  
2000  
2001  
2002  
2003  
2004  
2005  
2006  
2007  
2008  
2009  
2010  
2011  
2012

(l) When requested by the chief, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges; 2013  
2014  
2015  
2016  
2017

(m) Accurate maps prepared by or under the direction of and certified by a qualified registered professional engineer, registered surveyor, or licensed landscape architect to an appropriate scale clearly showing all types of information set forth on topographical maps of the United States geological survey of a scale of not more than four hundred feet to the inch, including all artificial features and significant known archeological sites. The map, among other things specified by the chief, shall show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all 2018  
2019  
2020  
2021  
2022  
2023  
2024  
2025  
2026  
2027

surface areas abutting the permit area, and the location of all 2028  
buildings within one thousand feet of the permit area. 2029

(n)(i) Cross-section maps or plans of the land to be affected 2030  
including the actual area to be mined, prepared by or under the 2031  
direction of and certified by a qualified registered professional 2032  
engineer or certified professional geologist with assistance from 2033  
experts in related fields such as hydrology, hydrogeology, 2034  
geology, and landscape architecture, showing pertinent elevations 2035  
and locations of test borings or core samplings and depicting the 2036  
following information: the nature and depth of the various strata 2037  
of overburden; the nature and thickness of any coal or rider seam 2038  
above the coal seam to be mined; the nature of the stratum 2039  
immediately beneath the coal seam to be mined; all mineral crop 2040  
lines and the strike and dip of the coal to be mined within the 2041  
area to be affected; existing or previous coal mining limits; the 2042  
location and extent of known workings of any underground mines, 2043  
including mine openings to the surface; the location of spoil, 2044  
waste, or refuse areas and topsoil preservation areas; the 2045  
location of all impoundments for waste or erosion control; any 2046  
settling or water treatment facility; constructed or natural 2047  
drainways and the location of any discharges to any surface body 2048  
of water on the land to be affected or adjacent thereto; profiles 2049  
at appropriate cross sections of the anticipated final surface 2050  
configuration that will be achieved pursuant to the operator's 2051  
proposed reclamation plan; the location of subsurface water, if 2052  
encountered; the location and quality of aquifers; and the 2053  
estimated elevation of the water table. Registered surveyors shall 2054  
be allowed to perform all plans, maps, and certifications under 2055  
this chapter as they are authorized under Chapter 4733. of the 2056  
Revised Code. 2057

(ii) A statement of the quality and locations of subsurface 2058  
water. The chief shall provide by rule the number of locations to 2059

be sampled, frequency of collection, and parameters to be analyzed  
to obtain the statement required.

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

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

(q) A certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation operations for which the permit is sought or evidence that the applicant has satisfied other state self-insurance requirements. The policy shall provide for personal injury and

property damage protection in an amount adequate to compensate any persons damaged as a result of coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in effect during the term of the permit or any renewal, including the length of all reclamation operations. The insurance company shall give prompt notice to the permittee and the chief if the public liability insurance policy lapses for any reason including the nonpayment of insurance premiums. Upon the lapse of the policy, the chief may suspend the permit and all other outstanding permits until proper insurance coverage is obtained.

(r) The business telephone number of the applicant;

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

~~(3)~~(2) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available by the chief to any person with an interest that is or may be adversely affected, except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental content that is potentially toxic in the environment,

shall be kept confidential and not made a matter of public record. 2124

~~(4)~~(3)(a) If the chief finds that the probable total annual 2125  
production at all locations of any operator will not exceed three 2126  
hundred thousand tons, the following activities, upon the written 2127  
request of the operator in connection with a permit application, 2128  
shall be performed by a qualified public or private laboratory or 2129  
another public or private qualified entity designated by the 2130  
chief, and the cost of the activities shall be assumed by the 2131  
chief, provided that sufficient moneys for such assistance are 2132  
available: 2133

(i) The determination of probable hydrologic consequences 2134  
required under division (B)~~(2)~~(1)(k) of this section; 2135

(ii) The development of cross-section maps and plans required 2136  
under division (B)~~(2)~~(1)(n)(i) of this section; 2137

(iii) The geologic drilling and statement of results of test 2138  
borings and core samplings required under division (B)~~(2)~~(1)(o) of 2139  
this section; 2140

(iv) The collection of archaeological information required 2141  
under division (B)~~(2)~~(1)(m) of this section and any other 2142  
archaeological and historical information required by the chief, 2143  
and the preparation of plans necessitated thereby; 2144

(v) Pre-blast surveys required under division (E) of section 2145  
1513.161 of the Revised Code; 2146

(vi) The collection of site-specific resource information and 2147  
production of protection and enhancement plans for fish and 2148  
wildlife habitats and other environmental values required by the 2149  
chief under this chapter. 2150

(b) A coal operator that has received assistance under 2151  
division (B)~~(4)~~(3)(a) of this section shall reimburse the chief 2152  
for the cost of the services rendered if the chief finds that the 2153

operator's actual and attributed annual production of coal for all 2154  
locations exceeds three hundred thousand tons during the twelve 2155  
months immediately following the date on which the operator was 2156  
issued a coal mining and reclamation permit. 2157

~~(5)~~(4) Each applicant for a permit shall submit to the chief 2158  
as part of the permit application a reclamation plan that meets 2159  
the requirements of this chapter. 2160

~~(6)~~(5) Each applicant for a coal mining and reclamation 2161  
permit shall file a copy of the application for a permit, 2162  
excluding that information pertaining to the coal seam itself, for 2163  
public inspection with the county recorder or an appropriate 2164  
public office approved by the chief in the county where the mining 2165  
is proposed to occur. 2166

~~(7)~~(6) Each applicant for a coal mining and reclamation 2167  
permit shall submit to the chief as part of the permit application 2168  
a blasting plan that describes the procedures and standards by 2169  
which the operator will comply with section 1513.161 of the 2170  
Revised Code. 2171

(C) Each reclamation plan submitted as part of a permit 2172  
application shall include, in the detail necessary to demonstrate 2173  
that reclamation required by this chapter can be accomplished, a 2174  
statement of: 2175

(1) The identification of the lands subject to coal mining 2176  
operations over the estimated life of those operations and the 2177  
size, sequence, and timing of the subareas for which it is 2178  
anticipated that individual permits for mining will be sought; 2179

(2) The condition of the land to be covered by the permit 2180  
prior to any mining including all of the following: 2181

(a) The uses existing at the time of the application and, if 2182  
the land has a history of previous mining, the uses that preceded 2183  
any mining; 2184

(b) The capability of the land prior to any mining to support 2185  
a variety of uses, giving consideration to soil and foundation 2186  
characteristics, topography, and vegetative cover and, if 2187  
applicable, a soil survey prepared pursuant to division 2188  
(B)~~(2)~~(1)(p) of this section; 2189

(c) The productivity of the land prior to mining, including 2190  
appropriate classification as prime farmlands as well as the 2191  
average yield of food, fiber, forage, or wood products obtained 2192  
from the land under high levels of management. 2193

(3) The use that is proposed to be made of the land following 2194  
reclamation, including information regarding the utility and 2195  
capacity of the reclaimed land to support a variety of alternative 2196  
uses, the relationship of the proposed use to existing land use 2197  
policies and plans, and the comments of any owner of the land and 2198  
state and local governments or agencies thereof that would have to 2199  
initiate, implement, approve, or authorize the proposed use of the 2200  
land following reclamation; 2201

(4) A detailed description of how the proposed postmining 2202  
land use is to be achieved and the necessary support activities 2203  
that may be needed to achieve the proposed land use; 2204

(5) The engineering techniques proposed to be used in mining 2205  
and reclamation and a description of the major equipment; a plan 2206  
for the control of surface water drainage and of water 2207  
accumulation; a plan, where appropriate, for backfilling, soil 2208  
stabilization, and compacting, grading, and appropriate 2209  
revegetation; a plan for soil reconstruction, replacement, and 2210  
stabilization, pursuant to the performance standards in section 2211  
1513.16 of the Revised Code, for those food, forage, and forest 2212  
lands identified in that section; and an estimate of the cost per 2213  
acre of the reclamation, including a statement as to how the 2214  
permittee plans to comply with each of the requirements set out in 2215



section 1513.16 of the Revised Code;	2216
(6) A description of the means by which the utilization and conservation of the solid fuel resource being recovered will be maximized so that re-affecting the land in the future can be minimized;	2217 2218 2219 2220
(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;	2221 2222
(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;	2223 2224 2225
(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;	2226 2227 2228
(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;	2229 2230 2231
(11) A description of all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;	2232 2233 2234 2235
(12) The results of test borings that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the chief, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden; except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental contents that are potentially toxic in the environment, shall be kept confidential and not made a matter of public record;	2236 2237 2238 2239 2240 2241 2242 2243 2244 2245

(13) A detailed description of the measures to be taken	2246
during the mining and reclamation process to ensure the protection	2247
of all of the following:	2248
(a) The quality of surface and ground water systems, both on-	2249
and off-site, from adverse effects of the mining and reclamation	2250
process;	2251
(b) The rights of present users to such water;	2252
(c) The quantity of surface and ground water systems, both	2253
on- and off-site, from adverse effects of the mining and	2254
reclamation process or, where such protection of quantity cannot	2255
be assured, provision of alternative sources of water.	2256
(14) Any other requirements the chief prescribes by rule.	2257
(D)(1) Any information required by division (C) of this	2258
section that is not on public file pursuant to this chapter shall	2259
be held in confidence by the chief.	2260
(2) With regard to requests for an exemption from the	2261
requirements of this chapter for coal extraction incidental to the	2262
extraction of other minerals, as described in division (H)(1)(a)	2263
of section 1513.01 of the Revised Code, confidential information	2264
includes and is limited to information concerning trade secrets or	2265
privileged commercial or financial information relating to the	2266
competitive rights of the persons intending to conduct the	2267
extraction of minerals.	2268
(E)(1) Upon the basis of a complete mining application and	2269
reclamation plan or a revision or renewal thereof, as required by	2270
this chapter, and information obtained as a result of public	2271
notification and public hearing, if any, as provided by section	2272
1513.071 of the Revised Code, the chief shall grant, require	2273
modification of, or deny the application for a permit in a	2274
reasonable time set by the chief and notify the applicant in	2275

writing. The applicant for a permit or revision of a permit has 2276  
the burden of establishing that the application is in compliance 2277  
with all the requirements of this chapter. Within ten days after 2278  
the granting of a permit, the chief shall notify the boards of 2279  
township trustees and county commissioners, the mayor, and the 2280  
legislative authority in the township, county, and municipal 2281  
corporation in which the area of land to be affected is located 2282  
that a permit has been issued and shall describe the location of 2283  
the land. However, failure of the chief to notify the local 2284  
officials shall not affect the status of the permit. 2285

(2) No permit application or application for revision of an 2286  
existing permit shall be approved unless the application 2287  
affirmatively demonstrates and the chief finds in writing on the 2288  
basis of the information set forth in the application or from 2289  
information otherwise available, which shall be documented in the 2290  
approval and made available to the applicant, all of the 2291  
following: 2292

(a) The application is accurate and complete and all the 2293  
requirements of this chapter have been complied with. 2294

(b) The applicant has demonstrated that the reclamation 2295  
required by this chapter can be accomplished under the reclamation 2296  
plan contained in the application. 2297

(c)(i) Assessment of the probable cumulative impact of all 2298  
anticipated mining in the general and adjacent area on the 2299  
hydrologic balance specified in division (B)~~(2)~~(1)(k) of this 2300  
section has been made by the chief, and the proposed operation has 2301  
been designed to prevent material damage to hydrologic balance 2302  
outside the permit area. 2303

(ii) There shall be an ongoing process conducted by the chief 2304  
in cooperation with other state and federal agencies to review all 2305  
assessments of probable cumulative impact of coal mining in light 2306

of post-mining data and any other hydrologic information as it 2307  
becomes available to determine if the assessments were realistic. 2308  
The chief shall take appropriate action as indicated in the review 2309  
process. 2310

(d) The area proposed to be mined is not included within an 2311  
area designated unsuitable for coal mining pursuant to section 2312  
1513.073 of the Revised Code or is not within an area under study 2313  
for such designation in an administrative proceeding commenced 2314  
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 2315  
Revised Code unless in an area as to which an administrative 2316  
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 2317  
section 1513.073 of the Revised Code, the operator making the 2318  
permit application demonstrates that, prior to January 1, 1977, 2319  
the operator made substantial legal and financial commitments in 2320  
relation to the operation for which a permit is sought. 2321

(e) In cases where the private mineral estate has been 2322  
severed from the private surface estate, the applicant has 2323  
submitted to the chief one of the following: 2324

(i) The written consent of the surface owner to the 2325  
extraction of coal by strip mining methods; 2326

(ii) A conveyance that expressly grants or reserves the right 2327  
to extract the coal by strip mining methods; 2328

(iii) If the conveyance does not expressly grant the right to 2329  
extract coal by strip mining methods, the surface-subsurface legal 2330  
relationship shall be determined under the law of this state. This 2331  
chapter does not authorize the chief to adjudicate property rights 2332  
disputes. 2333

(3)(a) The applicant shall file with the permit application a 2334  
schedule listing all notices of violations of any law, rule, or 2335  
regulation of the United States or of any department or agency 2336  
thereof or of any state pertaining to air or water environmental 2337

protection incurred by the applicant in connection with any coal 2338  
mining operation during the three-year period prior to the date of 2339  
application. The schedule also shall indicate the final resolution 2340  
of such a notice of violation. Upon receipt of an application, the 2341  
chief shall provide a schedule listing all notices of violations 2342  
of this chapter pertaining to air or water environmental 2343  
protection incurred by the applicant during the three-year period 2344  
prior to receipt of the application and the final resolution of 2345  
all such notices of violation. The chief shall provide this 2346  
schedule to the applicant for filing by the applicant with the 2347  
application filed for public review, as required by division 2348  
(B)~~(6)~~(5) of this section. When the schedule or other information 2349  
available to the chief indicates that any coal mining operation 2350  
owned or controlled by the applicant is currently in violation of 2351  
such laws, the permit shall not be issued until the applicant 2352  
submits proof that the violation has been corrected or is in the 2353  
process of being corrected to the satisfaction of the regulatory 2354  
authority, department, or agency that has jurisdiction over the 2355  
violation and that any civil penalties owed to the state for a 2356  
violation and not the subject of an appeal have been paid. No 2357  
permit shall be issued to an applicant after a finding by the 2358  
chief that the applicant or the operator specified in the 2359  
application controls or has controlled mining operations with a 2360  
demonstrated pattern of willful violations of this chapter of a 2361  
nature and duration to result in irreparable damage to the 2362  
environment as to indicate an intent not to comply with or a 2363  
disregard of this chapter. 2364

(b) For the purposes of division (E)(3)(a) of this section, 2365  
any violation resulting from an unanticipated event or condition 2366  
at a surface coal mining operation on lands eligible for remining 2367  
under a permit held by the person submitting an application for a 2368  
coal mining permit under this section shall not prevent issuance 2369

of that permit. As used in this division, "unanticipated event or  
condition" means an event or condition encountered in a remining  
operation that was not contemplated by the applicable surface coal  
mining and reclamation permit.

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

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

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

(6) The chief may issue an order denying a permit after  
finding that the applicant, any partner, if the applicant is a  
partnership, any officer, principal shareholder, or director, if  
the applicant is a corporation, or any other person who has a  
right to control or in fact controls the management of the  
applicant or the selection of officers, directors, or managers of  
the applicant has been a sole proprietor or partner, officer,  
director, principal shareholder, or person having the right to

control or has in fact controlled the management of or the 2401  
selection of officers, directors, or managers of a business entity 2402  
that ever has had a coal mining license or permit issued by this 2403  
or any other state or the United States suspended or revoked, ever 2404  
has forfeited a coal or surface mining bond, performance security, 2405  
or similar security deposited in lieu of bond in this or any other 2406  
state or with the United States, or ever has substantially or 2407  
materially failed to comply with this chapter. 2408

(7) When issuing a permit under this section, the chief may 2409  
authorize an applicant to conduct coal mining and reclamation 2410  
operations on areas to be covered by the permit that were affected 2411  
by coal mining operations before August 3, 1977, that have 2412  
resulted in continuing water pollution from or on the previously 2413  
mined areas for the purpose of potentially reducing the pollution 2414  
loadings of pH, iron, and manganese from discharges from or on the 2415  
previously mined areas. Following the chief's authorization to 2416  
conduct such operations on those areas, the areas shall be 2417  
designated as pollution abatement areas for the purposes of this 2418  
chapter. 2419

The chief shall not grant an authorization under division 2420  
(E)(7) of this section to conduct coal mining and reclamation 2421  
operations on any such previously mined areas unless the applicant 2422  
demonstrates to the chief's satisfaction that all of the following 2423  
conditions are met: 2424

(a) The applicant's pollution abatement plan for mining and 2425  
reclaiming the previously mined areas represents the best 2426  
available technology economically achievable+. 2427

(b) Implementation of the plan will potentially reduce 2428  
pollutant loadings of pH, iron, and manganese resulting from 2429  
discharges of surface waters or ground water from or on the 2430  
previously mined areas within the permit area+. 2431

(c) Implementation of the plan will not cause any additional 2432  
degradation of surface water quality off the permit area with 2433  
respect to pH, iron, and manganese+ 2434

(d) Implementation of the plan will not cause any additional 2435  
degradation of ground water+ 2436

(e) The plan meets the requirements governing mining and 2437  
reclamation of such previously mined pollution abatement areas 2438  
established by the chief in rules adopted under section 1513.02 of 2439  
the Revised Code+ 2440

(f) Neither the applicant; any partner, if the applicant is a 2441  
partnership; any officer, principal shareholder, or director, if 2442  
the applicant is a corporation; any other person who has a right 2443  
to control or in fact controls the management of the applicant or 2444  
the selection of officers, directors, or managers of the 2445  
applicant; nor any contractor or subcontractor of the applicant, 2446  
has any of the following: 2447

(i) Responsibility or liability under this chapter or rules 2448  
adopted under it as an operator for treating the discharges of 2449  
water pollutants from or on the previously mined areas for which 2450  
the authorization is sought; 2451

(ii) Any responsibility or liability under this chapter or 2452  
rules adopted under it for reclaiming the previously mined areas 2453  
for which the authorization is sought; 2454

(iii) During the eighteen months prior to submitting the 2455  
permit application requesting an authorization under division 2456  
(E)(7) of this section, had a coal mining and reclamation permit 2457  
suspended or revoked under division (D)(3) of section 1513.02 of 2458  
the Revised Code for violating this chapter or Chapter 6111. of 2459  
the Revised Code or rules adopted under them with respect to water 2460  
quality, effluent limitations, or surface or ground water 2461  
monitoring; 2462



(iv) Ever forfeited a coal or surface mining bond, 2463  
performance security, or similar security deposited in lieu of a 2464  
bond in this or any other state or with the United States. 2465

(8) In the case of the issuance of a permit that involves a 2466  
conflict of results between various methods of calculating 2467  
potential acidity and neutralization potential for purposes of 2468  
assessing the potential for acid mine drainage to occur at a mine 2469  
site, the permit shall include provisions for monitoring and 2470  
record keeping to identify the creation of unanticipated acid 2471  
water at the mine site. If the monitoring detects the creation of 2472  
acid water at the site, the permit shall impose on the permittee 2473  
additional requirements regarding mining practices and site 2474  
reclamation to prevent the discharge of acid mine drainage from 2475  
the mine site. As used in division (E)(8) of this section, 2476  
"potential acidity" and "neutralization potential" have the same 2477  
meanings as in section 1513.075 of the Revised Code. 2478

(F)(1) During the term of the permit, the permittee may 2479  
submit an application for a revision of the permit, together with 2480  
a revised reclamation plan, to the chief. 2481

(2) An application for a revision of a permit shall not be 2482  
approved unless the chief finds that reclamation required by this 2483  
chapter can be accomplished under the revised reclamation plan. 2484  
The revision shall be approved or disapproved within ninety days 2485  
after receipt of a complete revision application. The chief shall 2486  
establish, by rule, criteria for determining the extent to which 2487  
all permit application information requirements and procedures, 2488  
including notice and hearings, shall apply to the revision 2489  
request, except that any revisions that propose significant 2490  
alterations in the reclamation plan, at a minimum, shall be 2491  
subject to notice and hearing requirements. 2492

(3) Any extensions to the area covered by the permit except 2493

incidental boundary revisions shall be made by application for a permit. 2494  
2495

(G) No transfer, assignment, or sale of the rights granted 2496  
under a permit issued pursuant to this chapter shall be made 2497  
without the written approval of the chief. 2498

(H) The chief, within a time limit prescribed in the chief's 2499  
rules, shall review outstanding permits and may require reasonable 2500  
revision or modification of a permit. A revision or modification 2501  
shall be based upon a written finding and subject to notice and 2502  
hearing requirements established by rule of the chief. 2503

(I)(1) If an informal conference has been held pursuant to 2504  
section 1513.071 of the Revised Code, the chief shall issue and 2505  
furnish the applicant for a permit, persons who participated in 2506  
the informal conference, and persons who filed written objections 2507  
pursuant to division (B) of section 1513.071 of the Revised Code, 2508  
with the written finding of the chief granting or denying the 2509  
permit in whole or in part and stating the reasons therefor within 2510  
sixty days of the conference. 2511

(2) If there has been no informal conference held pursuant to 2512  
section 1513.071 of the Revised Code, the chief shall notify the 2513  
applicant for a permit within a reasonable time as provided by 2514  
rule of the chief, taking into account the time needed for proper 2515  
investigation of the site, the complexity of the permit 2516  
application, whether or not a written objection to the application 2517  
has been filed, and whether the application has been approved or 2518  
disapproved in whole or in part. 2519

(3) If the application is approved, the permit shall be 2520  
issued. If the application is disapproved, specific reasons 2521  
therefor shall be set forth in the notification. Within thirty 2522  
days after the applicant is notified of the final decision of the 2523  
chief on the permit application, the applicant or any person with 2524

an interest that is or may be adversely affected may appeal the 2525  
decision to the reclamation commission pursuant to section 1513.13 2526  
of the Revised Code. 2527

(4) Any applicant or any person with an interest that is or 2528  
may be adversely affected who has participated in the 2529  
administrative proceedings as an objector and is aggrieved by the 2530  
decision of the reclamation commission, or if the commission fails 2531  
to act within the time limits specified in this chapter, may 2532  
appeal in accordance with section 1513.14 of the Revised Code. 2533

**Sec. 1513.071.** (A) Simultaneously with the filing of an 2534  
application for a permit or significant revision of an existing 2535  
permit under section 1513.07 of the Revised Code, the applicant 2536  
shall submit to the chief of the division of mineral resources 2537  
management a copy of ~~his~~ the applicant's advertisement of the 2538  
ownership, precise location, and boundaries of the land to be 2539  
affected. At the time of submission, the advertisement shall be 2540  
placed by the applicant in a newspaper of general circulation in 2541  
the locality of the proposed coal mine at least once a week for 2542  
four consecutive weeks. The chief shall notify, in each county or 2543  
part of a county in which a proposed area to be permitted is 2544  
located, the board of county commissioners, the board of township 2545  
trustees, the legislative authorities of municipal corporations, 2546  
private water companies, regional councils of governments, and the 2547  
boards of directors of conservancy districts informing them of the 2548  
operator's intention to conduct a coal mining operation on a 2549  
particularly described tract of land and indicating the permit 2550  
application number and where a copy of the proposed mining and 2551  
reclamation plan may be inspected. The chief shall also notify the 2552  
planning commissions with jurisdiction over all or part of the 2553  
area to be permitted. These agencies, authorities, or companies 2554  
may submit written comments on the application with respect to the 2555

effects of the proposed operation on the environment that are 2556  
within their area of responsibility in quadruplicate to the chief 2557  
within thirty days after notification by the chief of receipt of 2558  
the application. The chief shall immediately transmit these 2559  
comments to the applicant and make them available to the public at 2560  
the same locations at which the mining application is available 2561  
for inspection. 2562

(B) A person having an interest that is or may be adversely 2563  
affected or the officer or head of any federal, state, or local 2564  
governmental agency or authority may file written objections to 2565  
the proposed initial or revised application for a coal mining and 2566  
reclamation permit with the chief within thirty days after the 2567  
last publication of the notice required by division (A) of this 2568  
section. The objections shall immediately be transmitted to the 2569  
applicant by the chief and shall be made available to the public. 2570  
If written objections are filed and an informal conference 2571  
requested, the chief or ~~his~~ the chief's representative shall then 2572  
hold an informal conference on the application for a permit within 2573  
a reasonable time in the county where the largest area of the area 2574  
to be permitted is located. The date, time, and location of the 2575  
informal conference shall be advertised by the chief in a 2576  
newspaper of general circulation in the locality at least two 2577  
weeks prior to the scheduled conference date. The chief may 2578  
arrange with the applicant, upon request by any objecting party, 2579  
access to the proposed mining area for the purpose of gathering 2580  
information relevant to the proceeding. An electronic or 2581  
stenographic record shall be made of the conference proceeding 2582  
unless waived by all parties. The record shall be maintained and 2583  
shall be accessible to the parties until final release of the 2584  
applicant's performance ~~bond~~ security. If all parties requesting 2585  
the informal conference stipulate agreement prior to the requested 2586  
informal conference and withdraw their request, the informal 2587  
conference need not be held. 2588

Sec. 1513.075. (A) As used in this section: 2589

(1) "Potential acidity" means a laboratory measurement of the amount of acidity that could be produced by material in a rock strata proposed to be disturbed by mining and that is expressed by a numeral indicating the number of tons of that acidity that would be present in one thousand tons of disturbed overburden. 2590  
2591  
2592  
2593  
2594

(2) "Neutralization potential" means a laboratory measurement of the alkalinity of a rock strata expressed as the amount of acidity that would be neutralized by material proposed to be disturbed by mining and that is expressed by a numeral indicating the number of tons of that alkalinity that would be present in one thousand tons of disturbed overburden. 2595  
2596  
2597  
2598  
2599  
2600

(3) "Test borings or core samplings" refer to test borings or core samplings performed on rock strata in an area proposed to be covered by a permit for a coal mining operation, the results of which must be stated in the permit application in accordance with division (B)(1)(o) of section 1513.07 of the Revised Code. 2601  
2602  
2603  
2604  
2605

(B) For purposes of the determination of the chief of the division of mineral resources management regarding whether to approve an application for a permit for a coal mining operation based on criteria established in divisions (E)(2)(a) and (c) of section 1513.07 of the Revised Code and related performance standards established in division (A)(10) of section 1513.16 of the Revised Code, the potential acidity and the neutralization potential of the rock strata that would be disturbed under the permit may be calculated in accordance with this section. 2606  
2607  
2608  
2609  
2610  
2611  
2612  
2613  
2614

(C) The measurement of potential acidity may be based on laboratory analyses of the sulfur content of the coal and overburden to be disturbed by mining. If the results of test borings or core samplings include laboratory analyses of the 2615  
2616  
2617  
2618

pyritic form of sulfur, the applicant may base the calculation of 2619  
the potential acidity for the area on the pyritic sulfur content 2620  
of the coal and overburden to be disturbed by mining rather than 2621  
on the total sulfur content. 2622

(D) The tons of rock in the area represented by each core 2623  
hole resulting from test boring or core sampling may be estimated 2624  
and used to calculate the tons of potential acidity and tons of 2625  
neutralization potential for each rock stratum. The sum of those 2626  
values across the proposed permit area may be used to calculate 2627  
the site's overall neutralization potential and potential acidity. 2628

(E) The proposed permit area may not be considered to have 2629  
the potential to create acid or other toxic mine drainage if 2630  
either of the following applies: 2631

(1) The numeral that indicates the site's overall 2632  
neutralization potential divided by the numeral that indicates the 2633  
site's overall potential acidity results in a quotient that is 2634  
equal to or greater than two. 2635

(2) The numeral that indicates the neutralization potential 2636  
subtracted from the numeral that indicates the potential acidity 2637  
results in a remainder that is equal to or less than either of the 2638  
following: 2639

(a) Negative five in the case that the total sulfur content 2640  
of rock strata is used to calculate potential acidity; 2641

(b) Negative ten in the case that the pyritic sulfur content 2642  
of rock strata is used to calculate potential acidity. 2643

**Sec. 1513.08.** (A) After a coal mining and reclamation permit 2644  
application has been approved, but before the permit is issued, 2645  
the applicant shall file with the chief of the division of mineral 2646  
resources management, on a form prescribed and furnished by the 2647  
chief, ~~a bond for performance payable, as appropriate, to the~~ 2648

~~state and conditioned upon faithful performance of all the~~ 2649  
~~requirements of this chapter and the permit the performance~~ 2650  
~~security required under this section. The bond~~ 2651

(B) Using the information contained in the permit 2652  
application; the requirements contained in the approved permit and 2653  
reclamation plan; and, after considering the topography, geology, 2654  
hydrology, and revegetation potential of the area of the approved 2655  
permit, the probable difficulty of reclamation; the chief shall be 2656  
in the amount of twenty five hundred dollars times the number of 2657  
acres of land upon which the operator states in the application 2658  
for a permit the operator will initiate and conduct coal mining 2659  
and determine the estimated cost of reclamation operations within 2660  
under the initial term of the permit if the reclamation has to be 2661  
performed by the division of mineral resources management in the 2662  
event of forfeiture of the performance security by the applicant. 2663  
~~The minimum amount of a bond shall be ten thousand dollars. The~~ 2664  
~~bond~~ The chief shall send written notice of the amount of the 2665  
estimated cost of reclamation by certified mail to the applicant. 2666  
The applicant shall send written notice to the chief indicating 2667  
the method by which the applicant will provide the performance 2668  
security pursuant to division (C) of this section. 2669

(C) The applicant shall provide the performance security in 2670  
an amount using one of the following: 2671

(1) If the applicant elects to provide performance security 2672  
without reliance on the reclamation forfeiture fund created in 2673  
section 1513.18 of the Revised Code, the amount of the estimated 2674  
cost of reclamation as determined by the chief under division (B) 2675  
of this section for the increments of land on which the operator 2676  
will conduct a coal mining and reclamation operation under the 2677  
initial term of the permit as indicated in the application; 2678

(2) If the applicant elects to provide performance security 2679  
together with reliance on the reclamation forfeiture fund through 2680

payment of the additional tax on the severance of coal that is 2681  
levied under division (A)(8) of section 5749.02 of the Revised 2682  
Code, an amount of twenty-five hundred dollars per acre of land on 2683  
which the operator will conduct coal mining and reclamation under 2684  
the initial term of the permit as indicated in the application. 2685  
However, in order to be eligible to provide performance security 2686  
in accordance with division (C)(2) of this section, an applicant 2687  
shall have held a permit issued under this chapter for any coal 2688  
mining and reclamation operation for a period of not less than 2689  
five years. In the event of forfeiture of performance security 2690  
that was provided in accordance with division (C)(2) of this 2691  
section, the difference between the amount of that performance 2692  
security and the estimated cost of reclamation as determined by 2693  
the chief under division (B) of this section shall be obtained 2694  
from money in the reclamation forfeiture fund as needed to 2695  
complete the reclamation. 2696

The performance security provided under division (C) of this 2697  
section for the entire area to be mined under one permit issued 2698  
under this chapter shall not be less than ten thousand dollars. 2699

The performance security shall cover areas of land affected 2700  
by mining within or immediately adjacent to the permitted area, so 2701  
long as the total number of acres does not exceed the number of 2702  
acres bonded for which the performance security is provided. 2703  
However, the authority for ~~bond~~ the performance security to cover 2704  
areas of land immediately adjacent to the permitted area does not 2705  
authorize a permittee to mine areas outside an approved permit 2706  
area. As succeeding increments of coal mining and reclamation 2707  
operations are to be initiated and conducted within the permit 2708  
area, the permittee shall file with the chief ~~an~~ additional bond 2709  
~~or bonds~~ performance security to cover the increments in 2710  
accordance with this section. ~~In the event of forfeiture of a~~ 2711  
~~bond, if the bond is insufficient to complete the reclamation, the~~ 2712



~~chief shall complete the reclamation in accordance with section 2713  
1513.18 of the Revised Code using funds from the reclamation 2714  
forfeiture fund created in that section If a permittee intends to 2715  
mine areas outside the approved permit area, the permittee shall 2716  
provide additional performance security in accordance with this 2717  
section to cover the areas to be mined. 2718~~

~~(B) Liability An applicant shall provide performance security 2719  
in accordance with division (C)(1) of this section in the full 2720  
amount of the estimated cost of reclamation as determined by the 2721  
chief for a permitted coal preparation plant or coal refuse 2722  
disposal area that is not located within a permitted area of a 2723  
mine. A permittee shall provide the performance security not later 2724  
than one year after the effective date of this amendment for a 2725  
permitted coal preparation plant or coal refuse disposal area that 2726  
is in existence on the effective date of this amendment and that 2727  
is not located within a permitted area of a mine. 2728~~

~~(D) A permittee's liability under the performance security 2729  
shall be limited to the obligations established under the permit, 2730  
which include completion of the reclamation plan in order to make 2731  
the land capable of supporting the postmining land use that was 2732  
approved in the permit. The period of liability under the ~~bond~~ 2733  
performance security shall be for the duration of the coal mining 2734  
and reclamation operation and for a period coincident with the 2735  
operator's responsibility for revegetation requirements under 2736  
section 1513.16 of the Revised Code. ~~The bond~~ 2737~~

~~(E) The amount of the estimated cost of reclamation 2738  
determined under division (B) of this section and the amount of a 2739  
permittee's performance security provided in accordance with 2740  
division (C)(1) of this section may be adjusted by the chief as 2741  
the land that is affected by mining increases or decreases or if 2742  
the cost of reclamation increases or decreases. If the performance 2743  
security was provided in accordance with division (C)(2) of this 2744~~

section and the chief has issued a cessation order under division 2745  
(D)(2) of section 1513.02 of the Revised Code for failure to abate 2746  
a violation of the contemporaneous reclamation requirement under 2747  
division (A)(15) of section 1513.16 of the Revised Code, the chief 2748  
may require the permittee to increase the amount of performance 2749  
security from twenty-five hundred dollars per acre of land to five 2750  
thousand dollars per acre of land. 2751

The chief shall notify the permittee, each surety, and any 2752  
person who has a property interest in the performance security and 2753  
who has requested to be notified of any proposed adjustment to the 2754  
performance security. The permittee may request an informal 2755  
conference with the chief concerning the proposed adjustment, and 2756  
the chief shall provide such an informal conference. 2757

If the chief increases the amount of performance security 2758  
under this division, the permittee shall provide additional 2759  
performance security in an amount determined by the chief. If the 2760  
chief decreases the amount of performance security under this 2761  
division, the chief shall determine the amount of the reduction of 2762  
the performance security and send written notice of the amount of 2763  
reduction to the permittee. The permittee may reduce the amount of 2764  
the performance security in the amount determined by the chief. 2765

(F) A permittee may request a reduction in the amount of the 2766  
performance security by submitting to the chief documentation 2767  
proving that the amount of the performance security provided by 2768  
the permittee exceeds the estimated cost of reclamation if the 2769  
reclamation would have to be performed by the division in the 2770  
event of forfeiture of the performance security. The chief shall 2771  
examine the documentation and determine whether the permittee's 2772  
performance security exceeds the estimated cost of reclamation. If 2773  
the chief determines that the performance security exceeds that 2774  
estimated cost, the chief shall determine the amount of the 2775  
reduction of the performance security and send written notice of 2776

the amount to the permittee. The permittee may reduce the amount 2777  
of the performance security in the amount determined by the chief. 2778  
Adjustments in the amount of performance security under this 2779  
division shall not be considered release of performance security 2780  
and are not subject to section 1513.16 of the Revised Code. 2781

(G) If the performance security is a bond, it shall be 2782  
executed by the operator and a corporate surety licensed to do 2783  
business in this state, except that the operator may elect to 2784  
deposit. If the performance security is a cash, negotiable bonds 2785  
of the United States or this state, deposit or negotiable 2786  
certificates of deposit of any a bank or savings and loan 2787  
association organized or transacting business in the United 2788  
States, the bank or savings and loan association shall be licensed 2789  
and operating in this state. The cash deposit or market value of 2790  
the securities shall be equal to or greater than the amount of the 2791  
bond performance security required for the bonded area under this 2792  
section. The chief shall review any documents pertaining to the 2793  
performance security and approve or disapprove the documents. The 2794  
chief shall notify the applicant of the chief's determination. 2795

~~(C) The~~ (H) If the performance security is a bond, the chief 2796  
may accept the bond of the applicant itself without separate 2797  
surety when the applicant demonstrates to the satisfaction of the 2798  
chief the existence of a suitable agent to receive service of 2799  
process and a history of financial solvency and continuous 2800  
operation sufficient for authorization to self-insure or bond the 2801  
amount. 2802

~~(D) Cash or securities so deposited shall be deposited upon~~ 2803  
~~the same terms as the terms upon which surety bonds may be~~ 2804  
~~deposited. The securities shall be security for the repayment of~~ 2805  
~~the negotiable certificate of deposit.~~ 2806

~~(E) The amount of the bond or deposit required and the terms~~ 2807

~~of each acceptance of the applicant's bond shall be adjusted by~~ 2808  
~~the chief from time to time as affected land acreages are~~ 2809  
~~increased or decreased~~ (I) Performance security provided under 2810  
this section may be held in trust, provided that the state is the 2811  
conditional beneficiary of the trust and the custodian of the 2812  
performance security held in trust is a bank, trust company, or 2813  
other financial institution that is licensed and operating in this 2814  
state. The chief shall review the trust document and approve or 2815  
disapprove the document. The chief shall notify the applicant of 2816  
the chief's determination. 2817

(J) If a surety, bank, savings and loan association, trust 2818  
company, or other financial institution that holds the performance 2819  
security required under this section becomes insolvent, the 2820  
permittee shall notify the chief of the insolvency, and the chief 2821  
shall order the permittee to submit a plan for replacement 2822  
performance security within thirty days after receipt of notice 2823  
from the chief. If the permittee provided performance security in 2824  
accordance with division (C)(1) of this section, the permittee 2825  
shall provide the replacement performance security within ninety 2826  
days after receipt of notice from the chief. If the permittee 2827  
provided performance security in accordance with division (C)(2) 2828  
of this section, the permittee shall provide the replacement 2829  
performance security within one year after receipt of notice from 2830  
the chief, and, for a period of one year after the permittee's 2831  
receipt of notice from the chief or until the permittee provides 2832  
the replacement performance security, whichever occurs first, 2833  
money in the reclamation forfeiture fund shall be the permittee's 2834  
replacement performance security in an amount not to exceed the 2835  
estimated cost of reclamation as determined by the chief. 2836

(K) A permittee's responsibility for repairing material 2837  
damage and replacement of water supply resulting from subsidence 2838  
may be satisfied by liability insurance required under this 2839

chapter in lieu of the permittee's performance security if the 2840  
liability insurance policy contains terms and conditions that 2841  
specifically provide coverage for repairing material damage and 2842  
replacement of water supply resulting from subsidence. 2843

(L) If the performance security provided in accordance with 2844  
this section exceeds the estimated cost of reclamation, the chief 2845  
may authorize the amount of the performance security that exceeds 2846  
the estimated cost of reclamation together with any interest or 2847  
other earnings on the performance security to be paid to the 2848  
permittee. 2849

Sec. 1513.081. (A) If an operator becomes insolvent, the 2850  
division of mineral resources management shall have a priority 2851  
lien in front of all other interested creditors against the assets 2852  
of that operator for the amount of any reclamation that is 2853  
required as a result of the operator's mining activities. The 2854  
chief of the division of mineral resources management shall file a 2855  
statement in the office of the county recorder of each county in 2856  
which the mined land lies of the estimated cost to reclaim the 2857  
land. The estimated cost to reclaim the land shall include the 2858  
direct and indirect costs of the development, design, 2859  
construction, management, and administration of the reclamation. 2860  
The statement shall constitute a lien on the assets of the 2861  
operator as of the date of the filing. The lien shall continue in 2862  
force so long as any portion of the lien remains unpaid or until 2863  
the chief issues a certificate of release of the lien. If the 2864  
chief issues a certificate of release of the lien, the chief shall 2865  
file the certificate of release in the office of each applicable 2866  
county recorder. 2867

(B) The chief promptly shall issue a certificate of release 2868  
of a lien under any of the following circumstances: 2869

(1) Upon the repayment in full of the money that is necessary 2870

to complete the reclamation; 2871

(2) Upon the transfer of an existing permit that includes the 2872  
areas of the operation for which reclamation was not completed to 2873  
a different operator; 2874

(3) Any other circumstance that the chief determines to be in 2875  
the best interests of the state. 2876

(C) The chief may modify the amount of a lien under this 2877  
section. If the chief modifies a lien, the chief shall file a 2878  
statement in the office of the county recorder of each applicable 2879  
county of the new amount of the lien. 2880

(D) The chief may authorize an agent to hold a certificate of 2881  
release in escrow for a period not to exceed one hundred eighty 2882  
days for the purpose of facilitating the transfer of unreclaimed 2883  
mine land. 2884

(E) All money from the collection of liens under this section 2885  
shall be deposited in the state treasury to the credit of the 2886  
reclamation forfeiture fund created in section 1513.18 of the 2887  
Revised Code. 2888

**Sec. 1513.13.** (A)(1) Any person having an interest that is or 2889  
may be adversely affected by a notice of violation, order, or 2890  
decision of the chief of the division of mineral resources 2891  
management, other than a show cause order or an order that adopts 2892  
a rule, or by any modification, vacation, or termination of such a 2893  
notice, order, or decision, may appeal by filing a notice of 2894  
appeal with the reclamation commission for review of the notice, 2895  
order, or decision within thirty days after the notice, order, or 2896  
decision is served upon the person or within thirty days after its 2897  
modification, vacation, or termination and by filing a copy of the 2898  
notice of appeal with the chief within three days after filing the 2899  
notice of appeal with the commission. The notice of appeal shall 2900

contain a copy of the notice of violation, order, or decision 2901  
complained of and the grounds upon which the appeal is based. The 2902  
commission has exclusive original jurisdiction to hear and decide 2903  
such appeals. The filing of a notice of appeal under division 2904  
(A)(1) of this section does not operate as a stay of any order, 2905  
notice of violation, or decision of the chief. 2906

(2) The permittee, the chief, and other interested persons 2907  
shall be given written notice of the time and place of the hearing 2908  
at least five days prior thereto. The hearing shall be of record. 2909

(3) Any person authorized under this section to appeal to the 2910  
commission may request an informal review by the chief or the 2911  
chief's designee by filing a written request with the chief within 2912  
thirty days after a notice, order, decision, modification, 2913  
vacation, or termination is served upon the person. Filing of the 2914  
written request shall toll the time for appeal before the 2915  
commission, but shall not operate as a stay of any order, notice 2916  
of violation, or decision of the chief. The chief's determination 2917  
of an informal review is appealable to the commission under this 2918  
section. 2919

(B) The commission shall affirm the notice of violation, 2920  
order, or decision of the chief unless the commission determines 2921  
that it is arbitrary, capricious, or otherwise inconsistent with 2922  
law; in that case the commission may modify the notice of 2923  
violation, order, or decision or vacate it and remand it to the 2924  
chief for further proceedings that the commission may direct. 2925

The commission shall conduct hearings and render decisions in 2926  
a timely fashion, except that all of the following apply: 2927

(1) When the appeal concerns an order for the cessation of 2928  
coal mining and reclamation operations issued pursuant to division 2929  
(D)(1) or (2) of section 1513.02 of the Revised Code, the 2930  
commission shall issue its written decision within thirty days 2931

after the receipt of the appeal unless temporary relief has been 2932  
granted by the chairperson pursuant to division (C) of this 2933  
section. 2934

(2) When the appeal concerns an application for a permit 2935  
under division (I) of section 1513.07 of the Revised Code, the 2936  
commission shall hold a hearing within thirty days after receipt 2937  
of the notice of appeal and issue its decision within thirty days 2938  
after the hearing. 2939

(3) When the appeal concerns a decision of the chief 2940  
regarding release of ~~bond~~ a performance security under division 2941  
(F) of section 1513.16 of the Revised Code, the commission shall 2942  
hold a hearing within thirty days after receipt of the notice of 2943  
appeal and issue its decision within sixty days after the hearing. 2944

(4) When the appeal concerns a decision of the chief 2945  
regarding the location of a well in a coal bearing township under 2946  
section 1509.08 of the Revised Code, the commission shall hold a 2947  
hearing and issue its decision within thirty days after receipt of 2948  
the notice of appeal. 2949

(C) The chairperson of the commission, under conditions the 2950  
chairperson prescribes, may grant temporary relief the chairperson 2951  
considers appropriate pending final determination of an appeal if 2952  
all of the following conditions are met: 2953

(1) All parties to the appeal have been notified and given an 2954  
opportunity for a hearing to be held in the locality of the 2955  
subject site on the request for temporary relief and the 2956  
opportunity to be heard on the request. 2957

(2) The person requesting relief shows that there is a 2958  
substantial likelihood that the person will prevail on the merits. 2959

(3) The relief will not adversely affect public health or 2960  
safety or cause significant imminent environmental harm to land, 2961



air, or water resources. 2962

The chairperson shall issue a decision expeditiously, except 2963  
that when the applicant requests relief from an order for the 2964  
cessation of coal mining and reclamation operations issued 2965  
pursuant to division (D)(1) or (2) of section 1513.02 of the 2966  
Revised Code, the decision shall be issued within five days after 2967  
its receipt. 2968

Any party to an appeal filed with the commission who is 2969  
aggrieved or adversely affected by a decision of the chairperson 2970  
to grant or deny temporary relief under this section may appeal 2971  
that decision to the commission. The commission may confine its 2972  
review to the record developed at the hearing before the 2973  
chairperson. 2974

The appeal shall be filed with the commission within thirty 2975  
days after the chairperson issues the decision on the request for 2976  
temporary relief. The commission shall issue a decision as 2977  
expeditiously as possible, except that when the appellant requests 2978  
relief from an order for the cessation of coal mining and 2979  
reclamation operations issued pursuant to division (D)(1) or (2) 2980  
of section 1513.02 of the Revised Code, the decision of the 2981  
commission shall be issued within five days after receipt of the 2982  
notice of appeal. 2983

The commission shall affirm the decision of the chairperson 2984  
granting or denying temporary relief unless it determines that the 2985  
decision is arbitrary, capricious, or otherwise inconsistent with 2986  
law. 2987

(D) Following the issuance of an order to show cause as to 2988  
why a permit should not be suspended or revoked pursuant to 2989  
division (D)(3) of section 1513.02 of the Revised Code, the chief 2990  
or a representative of the chief shall hold a public adjudicatory 2991  
hearing after giving written notice of the time, place, and date 2992

thereof. The hearing shall be of record.

2993

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.

2994  
2995  
2996  
2997  
2998  
2999  
3000  
3001  
3002

(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.

3003  
3004  
3005  
3006  
3007  
3008  
3009  
3010  
3011  
3012  
3013  
3014  
3015  
3016  
3017  
3018  
3019  
3020  
3021

(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

3022  
3023  
3024

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 3057  
participation in the proceedings, may be awarded to either party, 3058  
in accordance with division (E)(1) of this section, as the court, 3059  
on the basis of judicial review, considers proper. 3060

**Sec. 1513.16.** (A) Any permit issued under this chapter to 3061  
conduct coal mining operations shall require that the operations 3062  
meet all applicable performance standards of this chapter and such 3063  
other requirements as the chief of the division of mineral 3064  
resources management shall adopt by rule. General performance 3065  
standards shall apply to all coal mining and reclamation 3066  
operations and shall require the operator at a minimum to do all 3067  
of the following: 3068

(1) Conduct coal mining operations so as to maximize the 3069  
utilization and conservation of the solid fuel resource being 3070  
recovered so that re-affecting the land in the future through coal 3071  
mining can be minimized; 3072

(2) Restore the land affected to a condition capable of 3073  
supporting the uses that it was capable of supporting prior to any 3074  
mining, or higher or better uses of which there is reasonable 3075  
likelihood, so long as the uses do not present any actual or 3076  
probable hazard to public health or safety or pose any actual or 3077  
probable threat of diminution or pollution of the waters of the 3078  
state, and the permit applicants' declared proposed land uses 3079  
following reclamation are not considered to be impractical or 3080  
unreasonable, to be inconsistent with applicable land use policies 3081  
and plans, to involve unreasonable delay in implementation, or to 3082  
violate federal, state, or local law; 3083

(3) Except as provided in division (B) of this section, with 3084  
respect to all coal mining operations, backfill, compact where 3085  
advisable to ensure stability or to prevent leaching of toxic 3086  
materials, and grade in order to restore the approximate original 3087

contour of the land with all highwalls, spoil piles, and 3088  
depressions eliminated unless small depressions are needed in 3089  
order to retain moisture to assist revegetation or as otherwise 3090  
authorized pursuant to this chapter, provided that if the operator 3091  
demonstrates that due to volumetric expansion the amount of 3092  
overburden and the spoil and waste materials removed in the course 3093  
of the mining operation are more than sufficient to restore the 3094  
approximate original contour, the operator shall backfill, grade, 3095  
and compact the excess overburden and other spoil and waste 3096  
materials to attain the lowest grade, but not more than the angle 3097  
of repose, and to cover all acid-forming and other toxic materials 3098  
in order to achieve an ecologically sound land use compatible with 3099  
the surrounding region in accordance with the approved mining 3100  
plan. The overburden or spoil shall be shaped and graded in such a 3101  
way as to prevent slides, erosion, and water pollution and shall 3102  
be revegetated in accordance with this chapter. 3103

(4) Stabilize and protect all surface areas, including spoil 3104  
piles affected by the coal mining and reclamation operation, to 3105  
control erosion and attendant air and water pollution effectively; 3106

(5) Remove the topsoil from the land in a separate layer, 3107  
replace it on the backfill area, or, if not utilized immediately, 3108  
segregate it in a separate pile from the spoil, and when the 3109  
topsoil is not replaced on a backfill area within a time short 3110  
enough to avoid deterioration of the topsoil, maintain a 3111  
successful cover by quick-growing plants or other means thereafter 3112  
so that the topsoil is preserved from wind and water erosion, 3113  
remains free of any contamination by acid or other toxic material, 3114  
and is in a usable condition for sustaining vegetation when 3115  
restored during reclamation. If the topsoil is of insufficient 3116  
quantity or of poor quality for sustaining vegetation or if other 3117  
strata can be shown to be more suitable for vegetation 3118  
requirements, the operator shall remove, segregate, and preserve 3119

in a like manner such other strata as are best able to support 3120  
vegetation. 3121

(6) Restore the topsoil or the best available subsoil that is 3122  
best able to support vegetation; 3123

(7) For all prime farmlands as identified in division 3124  
(B)~~(2)~~(1)(p) of section 1513.07 of the Revised Code to be mined 3125  
and reclaimed, perform soil removal, storage, replacement, and 3126  
reconstruction in accordance with specifications established by 3127  
the secretary of the United States department of agriculture under 3128  
the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 3129  
445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be 3130  
required to do all of the following: 3131

(a) Segregate the A horizon of the natural soil, except where 3132  
it can be shown that other available soil materials will create a 3133  
final soil having a greater productive capacity, and, if not 3134  
utilized immediately, stockpile this material separately from the 3135  
spoil and provide needed protection from wind and water erosion or 3136  
contamination by acid or other toxic material; 3137

(b) Segregate the B horizon of the natural soil, or 3138  
underlying C horizons or other strata, or a combination of such 3139  
horizons or other strata that are shown to be both texturally and 3140  
chemically suitable for plant growth and that can be shown to be 3141  
equally or more favorable for plant growth than the B horizon, in 3142  
sufficient quantities to create in the regraded final soil a root 3143  
zone of comparable depth and quality to that which existed in the 3144  
natural soil, and, if not utilized immediately, stockpile this 3145  
material separately from the spoil and provide needed protection 3146  
from wind and water erosion or contamination by acid or other 3147  
toxic material; 3148

(c) Replace and regrade the root zone material described in 3149  
division (A)(7)(b) of this section with proper compaction and 3150

uniform depth over the regraded spoil material; 3151

(d) Redistribute and grade in a uniform manner the surface 3152  
soil horizon described in division (A)(7)(a) of this section. 3153

(8) Create, if authorized in the approved mining and 3154  
reclamation plan and permit, permanent impoundments of water on 3155  
mining sites as part of reclamation activities only when it is 3156  
adequately demonstrated by the operator that all of the following 3157  
conditions will be met: 3158

(a) The size of the impoundment is adequate for its intended 3159  
purposes. 3160

(b) The impoundment dam construction will be so designed as 3161  
to achieve necessary stability with an adequate margin of safety 3162  
compatible with that of structures constructed under the 3163  
"Watershed Protection and Flood Prevention Act," 68 Stat. 666 3164  
(1954), 16 U.S.C. 1001, as amended. 3165

(c) The quality of impounded water will be suitable on a 3166  
permanent basis for its intended use and discharges from the 3167  
impoundment will not degrade the water quality below water quality 3168  
standards established pursuant to applicable federal and state law 3169  
in the receiving stream. 3170

(d) The level of water will be reasonably stable. 3171

(e) Final grading will provide adequate safety and access for 3172  
proposed water users. 3173

(f) The water impoundments will not result in the diminution 3174  
of the quality or quantity of water utilized by adjacent or 3175  
surrounding landowners for agricultural, industrial, recreational, 3176  
or domestic uses. 3177

(9) Conduct any augering operation associated with strip 3178  
mining in a manner to maximize recoverability of mineral reserves 3179  
remaining after the operation and reclamation are complete and 3180

seal all auger holes with an impervious and noncombustible material in order to prevent drainage, except where the chief determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety. The chief may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts.

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

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

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

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

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

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



(ii) Constructing any siltation structures pursuant to 3211  
division (A)(10)(b)(i) of this section prior to commencement of 3212  
coal mining operations. The structures shall be certified by 3213  
persons approved by the chief to be constructed as designed and as 3214  
approved in the reclamation plan. 3215

(c) Cleaning out and removing temporary or large settling 3216  
ponds or other siltation structures from drainways after disturbed 3217  
areas are revegetated and stabilized, and depositing the silt and 3218  
debris at a site and in a manner approved by the chief; 3219

(d) Restoring recharge capacity of the mined area to 3220  
approximate premining conditions; 3221

(e) Avoiding channel deepening or enlargement in operations 3222  
requiring the discharge of water from mines; 3223

(f) Such other actions as the chief may prescribe. 3224

(11) With respect to surface disposal of mine wastes, 3225  
tailings, coal processing wastes, and other wastes in areas other 3226  
than the mine working areas or excavations, stabilize all waste 3227  
piles in designated areas through construction in compacted 3228  
layers, including the use of noncombustible and impervious 3229  
materials if necessary, and ensure that the final contour of the 3230  
waste pile will be compatible with natural surroundings and that 3231  
the site can and will be stabilized and revegetated according to 3232  
this chapter; 3233

(12) Refrain from coal mining within five hundred feet of 3234  
active and abandoned underground mines in order to prevent 3235  
breakthroughs and to protect the health or safety of miners. The 3236  
chief shall permit an operator to mine near, through, or partially 3237  
through an abandoned underground mine or closer than five hundred 3238  
feet to an active underground mine if both of the following 3239  
conditions are met: 3240

(a) The nature, timing, and sequencing of the approximate 3241  
coincidence of specific strip mine activities with specific 3242  
underground mine activities are approved by the chief+ 3243

(b) The operations will result in improved resource recovery, 3244  
abatement of water pollution, or elimination of hazards to the 3245  
health and safety of the public. 3246

(13) Design, locate, construct, operate, maintain, enlarge, 3247  
modify, and remove or abandon, in accordance with the standards 3248  
and criteria developed pursuant to rules adopted by the chief, all 3249  
existing and new coal mine waste piles consisting of mine wastes, 3250  
tailings, coal processing wastes, or other liquid and solid 3251  
wastes, and used either temporarily or permanently as dams or 3252  
embankments; 3253

(14) Ensure that all debris, acid-forming materials, toxic 3254  
materials, or materials constituting a fire hazard are treated or 3255  
buried and compacted or otherwise disposed of in a manner designed 3256  
to prevent contamination of ground or surface waters and that 3257  
contingency plans are developed to prevent sustained combustion; 3258

(15) Ensure that all reclamation efforts proceed in an 3259  
environmentally sound manner and as contemporaneously as 3260  
practicable with the coal mining operations, except that where the 3261  
applicant proposes to combine strip mining operations with 3262  
underground mining operations to ensure maximum practical recovery 3263  
of the mineral resources, the chief may grant a variance for 3264  
specific areas within the reclamation plan from the requirement 3265  
that reclamation efforts proceed as contemporaneously as 3266  
practicable to permit underground mining operations prior to 3267  
reclamation if: 3268

(a) The chief finds in writing that: 3269

(i) The applicant has presented, as part of the permit 3270  
application, specific, feasible plans for the proposed underground 3271

mining operations. 3272

(ii) The proposed underground mining operations are necessary 3273  
or desirable to ensure maximum practical recovery of the mineral 3274  
resource and will avoid multiple disturbance of the surface. 3275

(iii) The applicant has satisfactorily demonstrated that the 3276  
plan for the underground mining operations conforms to 3277  
requirements for underground mining in this state and that permits 3278  
necessary for the underground mining operations have been issued 3279  
by the appropriate authority. 3280

(iv) The areas proposed for the variance have been shown by 3281  
the applicant to be necessary for the implementing of the proposed 3282  
underground mining operations. 3283

(v) No substantial adverse environmental damage, either 3284  
on-site or off-site, will result from the delay in completion of 3285  
reclamation as required by this chapter. 3286

(vi) Provisions for the off-site storage of spoil will comply 3287  
with division (A)(21) of this section. 3288

(b) The chief has adopted specific rules to govern the 3289  
granting of such variances in accordance with this division and 3290  
has imposed such additional requirements as the chief considers 3291  
necessary. 3292

(c) Variances granted under this division shall be reviewed 3293  
by the chief not more than three years from the date of issuance 3294  
of the permit. 3295

(d) Liability under the ~~bond~~ performance security filed by 3296  
the applicant with the chief pursuant to section 1513.08 of the 3297  
Revised Code shall be for the duration of the underground mining 3298  
operations and until the requirements of this section and section 3299  
1513.08 of the Revised Code have been fully complied with. 3300

(16) Ensure that the construction, maintenance, and 3301

postmining conditions of access roads into and across the site of 3302  
operations will control or prevent erosion and siltation, 3303  
pollution of water, and damage to fish or wildlife or their 3304  
habitat, or to public or private property; 3305

(17) Refrain from the construction of roads or other access 3306  
ways up a stream bed or drainage channel or in such proximity to 3307  
the channel as to seriously alter the normal flow of water; 3308

(18) Establish, on the regraded areas and all other lands 3309  
affected, a diverse, effective, and permanent vegetative cover of 3310  
the same seasonal variety native to the area of land to be 3311  
affected and capable of self-regeneration and plant succession at 3312  
least equal in extent of cover to the natural vegetation of the 3313  
area, except that introduced species may be used in the 3314  
revegetation process where desirable and necessary to achieve the 3315  
approved postmining land use plan; 3316

(19)(a) Assume the responsibility for successful 3317  
revegetation, as required by division (A)(18) of this section, for 3318  
a period of five full years after the last year of augmented 3319  
seeding, fertilizing, irrigation, or other work in order to ensure 3320  
compliance with that division, except that when the chief approves 3321  
a long-term intensive agricultural postmining land use, the 3322  
applicable five-year period of responsibility for revegetation 3323  
shall commence at the date of initial planting for that long-term 3324  
intensive agricultural postmining land use, and except that when 3325  
the chief issues a written finding approving a long-term intensive 3326  
agricultural postmining land use as part of the mining and 3327  
reclamation plan, the chief may grant an exception to division 3328  
(A)(18) of this section; 3329

(b) On lands eligible for remining, assume the responsibility 3330  
for successful revegetation, as required by division (A)(18) of 3331  
this section, for a period of two full years after the last year 3332

of augmented seeding, fertilizing, irrigation, or other work in 3333  
order to ensure compliance with that division. 3334

(20) Protect off-site areas from slides or damage occurring 3335  
during the coal mining and reclamation operations and not deposit 3336  
spoil material or locate any part of the operations or waste 3337  
accumulations outside the permit area; 3338

(21) Place all excess spoil material resulting from coal 3339  
mining and reclamation operations in such a manner that all of the 3340  
following apply: 3341

(a) Spoil is transported and placed in a controlled manner in 3342  
position for concurrent compaction and in such a way as to ensure 3343  
mass stability and to prevent mass movement. 3344

(b) The areas of disposal are within the ~~banded~~ permit areas 3345  
for which performance security has been provided. All organic 3346  
matter shall be removed immediately prior to spoil placement 3347  
except in the zoned concept method. 3348

(c) Appropriate surface and internal drainage systems and 3349  
diversion ditches are used so as to prevent spoil erosion and mass 3350  
movement. 3351

(d) The disposal area does not contain springs, natural 3352  
watercourses, or wet weather seeps unless lateral drains are 3353  
constructed from the wet areas to the main underdrains in such a 3354  
manner that filtration of the water into the spoil pile will be 3355  
prevented unless the zoned concept method is used. 3356

(e) If placed on a slope, the spoil is placed upon the most 3357  
moderate slope among those slopes upon which, in the judgment of 3358  
the chief, the spoil could be placed in compliance with all the 3359  
requirements of this chapter and is placed, where possible, upon, 3360  
or above, a natural terrace, bench, or berm if that placement 3361  
provides additional stability and prevents mass movement. 3362

(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.	3363 3364 3365
(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.	3366 3367
(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards.	3368 3369 3370
(i) All other provisions of this chapter are met.	3371
(22) Meet such other criteria as are necessary to achieve reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site;	3372 3373 3374 3375
(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;	3376 3377 3378 3379
(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion.	3380 3381 3382 3383
(B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section.	3384 3385
(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill,	3386 3387 3388 3389 3390 3391 3392

except as provided in division (B)(4)(a) of this section, by 3393  
removing all of the overburden and creating a level plateau or a 3394  
gently rolling contour with no highwalls remaining, and capable of 3395  
supporting postmining uses in accordance with this division. 3396

(3) In cases where an industrial, commercial, agricultural, 3397  
residential, or public facility use, including recreational 3398  
facilities, is proposed for the postmining use of the affected 3399  
land, the chief may grant a permit for a mining operation of the 3400  
nature described in division (B)(2) of this section when all of 3401  
the following apply: 3402

(a) After consultation with the appropriate land use planning 3403  
agencies, if any, the proposed postmining land use is considered 3404  
to constitute an equal or better economic or public use of the 3405  
affected land, as compared with premining use. 3406

(b) The applicant presents specific plans for the proposed 3407  
postmining land use and appropriate assurances that the use will 3408  
be all of the following: 3409

(i) Compatible with adjacent land uses; 3410

(ii) Obtainable according to data regarding expected need and 3411  
market; 3412

(iii) Assured of investment in necessary public facilities; 3413

(iv) Supported by commitments from public agencies where 3414  
appropriate; 3415

(v) Practicable with respect to private financial capability 3416  
for completion of the proposed use; 3417

(vi) Planned pursuant to a schedule attached to the 3418  
reclamation plan so as to integrate the mining operation and 3419  
reclamation with the postmining land use; 3420

(vii) Designed by a registered engineer in conformity with 3421  
professional standards established to ensure the stability, 3422

drainage, and configuration necessary for the intended use of the site. 3423  
3424

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs. 3425  
3426

(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use. 3427  
3428  
3429  
3430  
3431  
3432

(e) All other requirements of this chapter will be met. 3433

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met: 3434  
3435

(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion. 3436  
3437  
3438

(b) The reclaimed area is stable. 3439

(c) The resulting plateau or rolling contour drains inward from the out slopes except at specified points. 3440  
3441

(d) No damage will be done to natural watercourses. 3442

(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section. 3443  
3444  
3445  
3446  
3447

(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met. 3448  
3449

(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of 3450  
3451



this section and may impose such additional requirements as the 3452  
chief considers necessary. 3453

(6) All permits granted under divisions (B)(1) to (4) of this 3454  
section shall be reviewed not more than three years from the date 3455  
of issuance of the permit unless the applicant affirmatively 3456  
demonstrates that the proposed development is proceeding in 3457  
accordance with the terms of the approved schedule and reclamation 3458  
plan. 3459

(C) All of the following performance standards apply to 3460  
steep-slope coal mining and are in addition to those general 3461  
performance standards required by this section, except that this 3462  
division does not apply to those situations in which an operator 3463  
is mining on flat or gently rolling terrain on which an occasional 3464  
steep slope is encountered through which the mining operation is 3465  
to proceed, leaving a plain or predominantly flat area, or where 3466  
an operator is in compliance with division (B) of this section: 3467

(1) The operator shall ensure that when performing coal 3468  
mining on steep slopes, no debris, abandoned or disabled 3469  
equipment, spoil material, or waste mineral matter is placed on 3470  
the downslope below the bench or mining cut. Spoil material in 3471  
excess of that required for the reconstruction of the approximate 3472  
original contour under division (A)(3) or (C)(2) of this section 3473  
shall be permanently stored pursuant to division (A)(21) of this 3474  
section. 3475

(2) The operator shall complete backfilling with spoil 3476  
material to cover completely the highwall and return the site to 3477  
the approximate original contour, which material will maintain 3478  
stability following mining and reclamation. 3479

(3) The operator shall not disturb land above the top of the 3480  
highwall unless the chief finds that the disturbance will 3481  
facilitate compliance with the environmental protection standards 3482

of this section, except that any such disturbance involving land 3483  
above the highwall shall be limited to that amount of land 3484  
necessary to facilitate compliance. 3485

(D)(1) The chief may permit variances for the purposes set 3486  
forth in division (D)(3) of this section, provided that the 3487  
watershed control of the area is improved and that complete 3488  
backfilling with spoil material shall be required to cover 3489  
completely the highwall, which material will maintain stability 3490  
following mining and reclamation. 3491

(2) Where an applicant meets the requirements of divisions 3492  
(D)(3) and (4) of this section, a variance from the requirement to 3493  
restore to approximate original contour set forth in division 3494  
(C)(2) of this section may be granted for the mining of coal when 3495  
the owner of the surface knowingly requests in writing, as a part 3496  
of the permit application, that such a variance be granted so as 3497  
to render the land, after reclamation, suitable for an industrial, 3498  
commercial, residential, or public use, including recreational 3499  
facilities, in accordance with divisions (D)(3) and (4) of this 3500  
section. 3501

(3) A variance pursuant to division (D)(2) of this section 3502  
may be granted if: 3503

(a) After consultation with the appropriate land use planning 3504  
agencies, if any, the potential use of the affected land is 3505  
considered to constitute an equal or better economic or public 3506  
use. 3507

(b) The postmining land condition is designed and certified 3508  
by a registered professional engineer in conformity with 3509  
professional standards established to ensure the stability, 3510  
drainage, and configuration necessary for the intended use of the 3511  
site. 3512

(c) After approval of the appropriate state environmental 3513

agencies, the watershed of the affected land is considered to be improved. 3514  
3515

(4) In granting a variance pursuant to division (D) of this section, the chief shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this chapter. All spoil placement off the mine bench shall comply with division (A)(21) of this section. 3516  
3517  
3518  
3519  
3520  
3521  
3522

(5) The chief shall adopt specific rules to govern the granting of variances under division (D) of this section and may impose such additional requirements as the chief considers necessary. 3523  
3524  
3525  
3526

(6) All variances granted under division (D) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan. 3527  
3528  
3529  
3530  
3531

(E) The chief shall establish standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in division (A)(13) of this section and division (A)(5) of section 1513.35 of the Revised Code. The standards and criteria shall conform to the standards and criteria used by the chief of the United States army corps of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this division shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or 3532  
3533  
3534  
3535  
3536  
3537  
3538  
3539  
3540  
3541  
3542  
3543  
3544

abandonment; performance of periodic inspections during 3545  
construction; issuance of certificates of approval upon completion 3546  
of construction; performance of periodic safety inspections; and 3547  
issuance of notices for required remedial or maintenance work. 3548

(F)(1) The permittee may file a request with the chief for 3549  
release of a part of a performance ~~bond or deposit~~ security under 3550  
division (F)(3) of this section. Within thirty days after any 3551  
request for ~~bond or deposit~~ performance security release under 3552  
this section has been filed with the chief, the operator shall 3553  
submit a copy of an advertisement placed at least once a week for 3554  
four successive weeks in a newspaper of general circulation in the 3555  
locality of the coal mining operation. The advertisement shall be 3556  
considered part of any ~~bond~~ performance security release 3557  
application and shall contain a notification of the precise 3558  
location of the land affected, the number of acres, the permit 3559  
number and the date approved, the amount of the ~~bond~~ performance 3560  
security filed and the portion sought to be released, the type and 3561  
appropriate dates of reclamation work performed, and a description 3562  
of the results achieved as they relate to the operator's approved 3563  
reclamation plan and, if applicable, the operator's pollution 3564  
abatement plan. In addition, as part of any ~~bond~~ performance 3565  
security release application, the applicant shall submit copies of 3566  
the letters sent to adjoining property owners, local governmental 3567  
bodies, planning agencies, and sewage and water treatment 3568  
authorities or water companies in the locality in which the coal 3569  
mining and reclamation activities took place, notifying them of 3570  
the applicant's intention to seek release from the ~~bond~~ 3571  
performance security. 3572

(2) Upon receipt of a copy of the advertisement and request 3573  
for release of a ~~bond or deposit~~ performance security under 3574  
division (F)(3)(c) of this section, the chief, within thirty days, 3575  
shall conduct an inspection and evaluation of the reclamation work 3576

involved. The evaluation shall consider, among other things, the 3577  
degree of difficulty to complete any remaining reclamation, 3578  
whether pollution of surface and subsurface water is occurring, 3579  
the probability of continuation or future occurrence of the 3580  
pollution, and the estimated cost of abating the pollution. The 3581  
chief shall notify the permittee in writing of the decision to 3582  
release or not to release all or part of the performance ~~bond or~~ 3583  
~~deposit~~ security within sixty days after the filing of the request 3584  
if no public hearing is held pursuant to division (F)(6) of this 3585  
section or, if there has been a public hearing held pursuant to 3586  
division (F)(6) of this section, within thirty days thereafter. 3587

(3) The chief may release the ~~bond or deposit~~ performance 3588  
security if the reclamation covered by the ~~bond or deposit~~ 3589  
performance security or portion thereof has been accomplished as 3590  
required by this chapter and rules adopted under it according to 3591  
the following schedule: 3592

(a) When the operator completes the backfilling, regrading, 3593  
and drainage control of a ~~bonded~~ an area for which performance 3594  
security has been provided in accordance with the approved 3595  
reclamation plan, and, if the area covered by the ~~bond or deposit~~ 3596  
performance security is one for which an authorization was made 3597  
under division (E)(7) of section 1513.07 of the Revised Code, the 3598  
operator has complied with the approved pollution abatement plan 3599  
and all additional requirements established by the chief in rules 3600  
adopted under section 1513.02 of the Revised Code governing coal 3601  
mining and reclamation operations on pollution abatement areas, 3602  
the chief shall grant a release of fifty per cent of the ~~bond or~~ 3603  
~~deposit~~ performance security for the applicable permit area. 3604

(b) After resoiling and revegetation have been established on 3605  
the regraded mined lands in accordance with the approved 3606  
reclamation plan, the chief shall grant a release in an amount not 3607  
exceeding thirty-five per cent of the original ~~bond or deposit~~ 3608

performance security for all or part of the affected area under 3609  
the permit. When determining the amount of ~~bond~~ performance 3610  
security to be released after successful revegetation has been 3611  
established, the chief shall retain that amount of ~~bond~~ 3612  
performance security for the revegetated area that would be 3613  
sufficient for a third party to cover the cost of reestablishing 3614  
revegetation for the period specified for operator responsibility 3615  
in this section for reestablishing revegetation. No part of the 3616  
~~bond or deposit~~ performance security shall be released under this 3617  
division so long as the lands to which the release would be 3618  
applicable are contributing suspended solids to streamflow or 3619  
runoff outside the permit area in excess of the requirements of 3620  
this section or until soil productivity for prime farmlands has 3621  
returned to equivalent levels of yield as nonmined land of the 3622  
same soil type in the surrounding area under equivalent management 3623  
practices as determined from the soil survey performed pursuant to 3624  
section 1513.07 of the Revised Code. If the area covered by the 3625  
~~bond or deposit~~ performance security is one for which an 3626  
authorization was made under division (E)(7) of section 1513.07 of 3627  
the Revised Code, no part of the ~~bond or deposit~~ performance 3628  
security shall be released under this division until the operator 3629  
has complied with the approved pollution abatement plan and all 3630  
additional requirements established by the chief in rules adopted 3631  
under section 1513.02 of the Revised Code governing coal mining 3632  
and reclamation operations on pollution abatement areas. Where a 3633  
silt dam is to be retained as a permanent impoundment pursuant to 3634  
division (A)(10) of this section, the portion of ~~bond~~ performance 3635  
security may be released under this division so long as provisions 3636  
for sound future maintenance by the operator or the landowner have 3637  
been made with the chief. 3638

(c) When the operator has completed successfully all coal 3639  
mining and reclamation activities, including, if applicable, all 3640  
additional requirements established in the pollution abatement 3641

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

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

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

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

develop and enforce environmental standards with respect to such 3674  
operations may file written objections to the proposed release 3675  
from the ~~bond~~ performance security with the chief within thirty 3676  
days after the last publication of the notice required by division 3677  
(F)(1) of this section. If written objections are filed and an 3678  
informal conference is requested, the chief shall inform all 3679  
interested parties of the time and place of the conference. The 3680  
date, time, and location of the informal conference shall be 3681  
advertised by the chief in a newspaper of general circulation in 3682  
the locality of the coal mining operation proposed for ~~bond~~ 3683  
performance security release for at least once a week for two 3684  
consecutive weeks. The informal conference shall be held in the 3685  
locality of the coal mining operation proposed for ~~bond~~ 3686  
performance security release or in Franklin county, at the option 3687  
of the objector, within thirty days after the request for the 3688  
conference. An electronic or stenographic record shall be made of 3689  
the conference proceeding unless waived by all parties. The record 3690  
shall be maintained and shall be accessible to the parties until 3691  
final release of the performance ~~bond~~ security at issue. In the 3692  
event all parties requesting the informal conference stipulate 3693  
agreement prior to the requested informal conference and withdraw 3694  
their request, the informal conference need not be held. 3695

(7) If an informal conference has been held pursuant to 3696  
division (F)(6) of this section, the chief shall issue and furnish 3697  
the applicant and persons who participated in the conference with 3698  
the written decision regarding the release within sixty days after 3699  
the conference. Within thirty days after notification of the final 3700  
decision of the chief regarding the ~~bond~~ performance security 3701  
release, the applicant or any person with an interest that is or 3702  
may be adversely affected by the decision may appeal the decision 3703  
to the reclamation commission pursuant to section 1513.13 of the 3704  
Revised Code. 3705



(8)(a) Except as provided in division (F)(8)(c) of this 3706  
section, if the chief determines that a permittee is responsible 3707  
for mine drainage that requires water treatment after reclamation 3708  
is completed under the terms of the permit or that a permittee 3709  
must provide an alternative water supply after reclamation is 3710  
completed under the terms of the permit, the permittee shall 3711  
provide alternative financial security in an amount determined by 3712  
the chief prior to the release of the remaining portion of 3713  
performance security under division (F)(3)(c) of this section. The 3714  
alternative financial security shall be in an amount that is equal 3715  
to or greater than the present value of the estimated cost over 3716  
time to develop and implement mine drainage plans and provide 3717  
water treatment or in an amount that is necessary to provide and 3718  
maintain an alternative water supply, as applicable. The 3719  
alternative financial security shall include a contract, trust, or 3720  
other agreement or mechanism that is enforceable under law to 3721  
provide long-term water treatment or a long-term alternative water 3722  
supply, or both. 3723

(b) The chief shall adopt rules in accordance with Chapter 3724  
119. of the Revised Code that are necessary for the administration 3725  
of division (F)(8)(a) of this section. 3726

(c) Division (F)(8)(a) of this section does not apply while 3727  
the chief's determination of a permittee's responsibility under 3728  
that division is the subject of a good faith administrative or 3729  
judicial appeal contesting the validity of the determination. If 3730  
after completion of the appeal there is an enforceable 3731  
administrative or judicial decision affirming or modifying the 3732  
chief's determination, the permittee shall provide the alternative 3733  
financial security in an amount established in the administrative 3734  
or judicial decision. 3735

(9) Final release of the performance security in accordance 3736  
with division (F)(3)(c) of this section terminates the 3737

jurisdiction of the chief under this chapter over the reclaimed 3738  
site of a surface coal mining and reclamation operation or 3739  
applicable portion of an operation. However, the chief shall 3740  
reassert jurisdiction over such a site if the release was based on 3741  
fraud, collusion, or misrepresentation of a material fact and the 3742  
chief, in writing, demonstrates evidence of the fraud, collusion, 3743  
or misrepresentation. Any person with an interest that is or may 3744  
be adversely affected by the chief's determination may appeal the 3745  
determination to the reclamation commission in accordance with 3746  
section 1513.13 of the Revised Code. 3747

(G) The chief shall adopt rules governing the criteria for 3748  
forfeiture of ~~bond~~ performance security, the method of determining 3749  
the forfeited amount, and the procedures to be followed in the 3750  
event of forfeiture. Cash received as the result of such 3751  
forfeiture is the property of the state. 3752

**Sec. 1513.17.** (A) No person shall: 3753

(1) Engage in coal mining or conduct a coal mining operation 3754  
without a permit issued by the chief of the division of mineral 3755  
resources management; 3756

(2) Knowingly violate a condition or exceed the limits of a 3757  
permit; 3758

(3) Knowingly fail to comply with an order of the chief 3759  
issued under this chapter; 3760

(4) Knowingly violate any provision of this chapter not 3761  
specifically mentioned in this section; 3762

(5) Knowingly make any false statement, representation, or 3763  
certification or knowingly fail to make any statement, 3764  
representation, or certification in any application, record, 3765  
report, plan, or other document filed or required to be maintained 3766  
under this chapter or under a final order or decision issued by 3767

the chief; 3768

(6) Knowingly prevent, hinder, delay, or otherwise obstruct 3769  
the operator from completing backfilling, grading, resoiling, 3770  
establishing successful vegetation, and meeting all other 3771  
reclamation requirements of this chapter prior to the final 3772  
release of the operator's ~~bond~~ performance security. 3773

(B) Division (A)(1) of this section imposes strict criminal 3774  
liability. 3775

Sec. 1513.171. (A) For the purpose of claiming a credit under 3776  
section 5749.11 of the Revised Code, an operator with a valid 3777  
permit issued under section 1513.07 of the Revised Code may submit 3778  
an application to the chief of the division of mineral resources 3779  
management to perform reclamation on land or water resources that 3780  
are not within the area of the applicant's permit and that have 3781  
been adversely affected by past coal mining for which the 3782  
performance security was forfeited. The chief shall provide the 3783  
application form. The application shall include all of the 3784  
following: 3785

(1) The operator's name, address, and telephone number; 3786

(2) The valid permit number of the operator; 3787

(3) An identification of the area or areas to be reclaimed; 3788

(4) An identification of the owner of the land; 3789

(5) A reclamation plan that describes the work to be done to 3790  
reclaim the land or water resources. The plan shall include a 3791  
description of how the plan is consistent with local physical, 3792  
environmental, and climatological conditions and the measures to 3793  
be taken during the reclamation to ensure the protection of water 3794  
systems. 3795

(6) An estimate of the total cost of the reclamation; 3796

(7) An estimate of the timetables for accomplishing the reclamation; 3797  
3798

(8) Any other requirements that the chief prescribes by rule. 3799

The chief shall approve, disapprove, or approve with modifications the application concerning the proposed reclamation work. If the chief approves the application, the applicant may commence reclamation in accordance with the timetables included in the application. Upon the completion of the reclamation to the satisfaction of the chief, the chief shall issue a numbered reclamation tax credit certificate showing the amount of the credit and the identity of the recipient. Prior to the close of the fiscal quarter in which the tax credit certificate is issued, the chief shall certify to the tax commissioner the amount of the credit and the identity of the recipient. 3800  
3801  
3802  
3803  
3804  
3805  
3806  
3807  
3808  
3809  
3810

(B) The chief shall determine the amount of the credit in accordance with this section and rules adopted under it. The amount of the credit shall be equal to the cost that the division of mineral resources management would have expended from the reclamation forfeiture fund created in section 1513.18 of the Revised Code to complete the reclamation. 3811  
3812  
3813  
3814  
3815  
3816

(C) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer this section. The rules shall establish all of the following: 3817  
3818  
3819

(1) A procedure that the chief shall use to determine the amount of the credit issued under this section; 3820  
3821

(2) A procedure by which the chief may obtain consent of the owners of land or water resources to allow reclamation work for purposes of this section; 3822  
3823  
3824

(3) A procedure for delivery of notice to the owners of land or water resources on which the reclamation work is to be 3825  
3826

performed. The rules shall require the notice to include the date 3827  
on which the reclamation work is scheduled to begin. 3828

**Sec. 1513.18.** (A) All money that becomes the property of the 3829  
state under division (G) of section 1513.16 of the Revised Code 3830  
shall be deposited in the reclamation forfeiture fund, which is 3831  
hereby created in the state treasury. Disbursements from the fund 3832  
shall be made by the chief of the division of mineral resources 3833  
management for the purpose of reclaiming areas of land affected by 3834  
coal mining under a coal mining and reclamation permit issued on 3835  
or after September 1, 1981, on which an operator has defaulted. 3836

(B) The fund also shall consist of ~~any moneys transferred to~~ 3837  
~~it under this division from the unreclaimed lands fund created in~~ 3838  
~~section 1513.30~~ all money from the collection of liens under 3839  
section 1513.081 of the Revised Code, any moneys transferred to it 3840  
under section 1513.181 of the Revised Code from the coal mining 3841  
and reclamation reserve fund created in that section, fin 3842  
collected under division (E) of section 1513.02 and section 3843  
1513.99 of the Revised Code, fines collected for a violation of 3844  
section 2921.31 of the Revised Code that, prior to July 1, 1996, 3845  
would have been a violation of division (G) of section 1513.17 of 3846  
the Revised Code as it existed prior to that date, and moneys 3847  
collected and credited to it pursuant to section 5749.02 of the 3848  
Revised Code. Disbursements from the fund shall be made by the 3849  
chief in accordance with division (D) of this section for the 3850  
purpose of reclaiming areas that an operator has affected by 3851  
mining and failed to reclaim under a coal mining and reclamation 3852  
permit issued under this chapter or under a surface mining permit 3853  
issued under Chapter 1514. of the Revised Code. ~~The chief's~~ 3854  
~~priority for management of the fund, including the selection of~~ 3855  
~~projects and transfer of moneys, shall be to ensure that~~ 3856  
~~sufficient moneys are available for the reclamation of areas~~ 3857

~~affected by mining under a coal mining and reclamation permit.~~ 3858

The chief may expend moneys from the fund to pay necessary 3859  
administrative costs, including engineering and design services, 3860  
incurred by the division of mineral resources management in 3861  
reclaiming these areas. The chief also may expend moneys from the 3862  
fund to pay necessary administrative costs of the reclamation 3863  
forfeiture fund advisory board created in section 1513.182 of the 3864  
Revised Code as authorized by the board under that section. 3865  
Expenditures from the fund to pay such administrative costs need 3866  
not be made under contract. 3867

~~As moneys are spent from the fund, the director of budget and 3868  
management, upon the certification of the chief, shall transfer 3869  
additional moneys from the unreclaimed lands fund created in 3870  
section 1513.30 of the Revised Code that the chief requests, 3871  
provided that the director shall not transfer more than one 3872  
million dollars from the unreclaimed lands fund to the reclamation 3873  
forfeiture fund during any fiscal year.~~ 3874

(C) Except when paying necessary administrative costs 3875  
authorized by division (B) of this section, expenditures from the 3876  
fund shall be made under contracts entered into by the chief, with 3877  
the approval of the director of natural resources, in accordance 3878  
with procedures established by the chief, by rules adopted in 3879  
accordance with section 1513.02 of the Revised Code. The chief may 3880  
reclaim the land in the same manner as set forth in sections 3881  
1513.21 to 1513.24 of the Revised Code. Each contract awarded by 3882  
the chief shall be awarded to the lowest responsive and 3883  
responsible bidder, in accordance with section 9.312 of the 3884  
Revised Code, after sealed bids are received, opened, and 3885  
published at the time and place fixed by the chief. The chief 3886  
shall publish notice of the time and place at which bids will be 3887  
received, opened, and published, at least once and at least ten 3888  
days before the date of the opening of the bids, in a newspaper of 3889

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 3922  
do under the operator's applicable coal mining and reclamation 3923  
permit issued under this chapter. 3924

(3) If the performance security for the area of land was 3925  
provided under division (C)(2) of section 1513.08 of the Revised 3926  
Code, the chief shall use the money from the forfeited performance 3927  
security to complete the reclamation that the operator failed to 3928  
do under the operator's applicable coal mining and reclamation 3929  
permit issued under this chapter. If the money credited to the 3930  
reclamation forfeiture fund from the forfeiture of the performance 3931  
security provided under division (C)(2) of section 1513.08 of the 3932  
Revised Code is not sufficient to complete the reclamation, the 3933  
chief shall notify the reclamation forfeiture fund advisory board 3934  
of the amount of the insufficiency. The chief may expend money 3935  
credited to the reclamation forfeiture fund under section 5749.02 3936  
of the Revised Code or transferred to the fund under section 3937  
1513.181 of the Revised Code to complete the reclamation. The 3938  
chief shall not expend money from the fund in an amount that 3939  
exceeds the difference between the amount of the performance 3940  
security provided under division (C)(2) of section 1513.08 of the 3941  
Revised Code and the estimated cost of reclamation as determined 3942  
by the chief under divisions (B) and (E) of that section. 3943

(4) Money from the reclamation forfeiture fund shall not be 3944  
used for reclamation of land or water resources affected by 3945  
material damage from subsidence, mine drainage that requires 3946  
extended water treatment after reclamation is completed under the 3947  
terms of the permit, or coal preparation plants or coal refuse 3948  
disposal areas not located within a permitted area of a mine if 3949  
performance security for the area of land was provided under 3950  
division (C)(2) of section 1513.08 of the Revised Code. 3951

(E) The chief shall keep a detailed accounting of the 3952  
expenditures from the reclamation forfeiture fund to complete 3953



reclamation of the land and, upon completion of the reclamation, 3954  
shall certify the expenditures to the attorney general. Upon the 3955  
chief's certification of the expenditures from the reclamation 3956  
forfeiture fund, the attorney general shall bring an action for 3957  
that amount of money. The operator is liable for that expense in 3958  
addition to any other liabilities imposed by law. Moneys so 3959  
recovered shall be credited to the reclamation forfeiture fund. 3960  
The chief shall not postpone the reclamation because of any action 3961  
brought by the attorney general under this division. Prior to 3962  
completing reclamation, the chief may collect through the attorney 3963  
general any additional amount that the chief believes will be 3964  
necessary for reclamation in excess of the forfeited ~~bond~~ 3965  
performance security amount applicable to the land that the 3966  
operator should have, but failed to, reclaim. 3967

(F) ~~If~~ Except as otherwise provided in division (H) of this 3968  
section, if any part of the moneys in the reclamation forfeiture 3969  
fund remains in the fund after the chief has caused the area of 3970  
land to be reclaimed and has paid all the reclamation costs and 3971  
expenses, the chief may expend those moneys to complete other 3972  
reclamation work performed under this section on forfeiture areas 3973  
affected under a coal mining and reclamation permit issued on or 3974  
after September 1, 1981. 3975

(G) The chief shall require every contractor performing 3976  
reclamation work pursuant to this section to pay workers at the 3977  
greater of their regular rate of pay, as established by contract, 3978  
agreement, or prior custom or practice, or the average wage rate 3979  
paid in this state for the same or similar work as determined by 3980  
the chief under section 1513.02 of the Revised Code. 3981

(H) All investment earnings of the fund shall be credited to 3982  
the fund and shall be used only for the reclamation of land for 3983  
which performance security was provided under division (C)(2) of 3984  
section 1513.08 of the Revised Code. 3985

**Sec. 1513.181.** There is hereby created in the state treasury 3986  
the coal mining administration and reclamation reserve fund. The 3987  
fund shall be used for the administration and enforcement of this 3988  
chapter. The chief of the division of mineral resources management 3989  
may transfer not more than one million dollars annually from the 3990  
fund to the reclamation forfeiture fund created in section 1513.18 3991  
of the Revised Code to complete reclamation of lands affected by 3992  
coal mining under a permit issued under this chapter, ~~or by~~ 3993  
~~surface mining under a surface mining permit issued under Chapter~~ 3994  
~~1514. of the Revised Code,~~ that the operator failed to reclaim and 3995  
for which the operator's ~~bond~~ performance security is insufficient 3996  
to complete the reclamation. Within ten days before or after the 3997  
beginning of each calendar quarter, the chief may certify to the 3998  
director of budget and management the amount of money needed to 3999  
perform such reclamation during the quarter for transfer from the 4000  
coal mining administration and reclamation reserve fund to the 4001  
reclamation forfeiture fund. 4002

~~Fines collected under division (E) of section 1513.02 and 4003  
section 1513.99 of the Revised Code, and fines collected for a 4004  
violation of section 2921.31 of the Revised Code that, prior to 4005  
July 1, 1996, would have been a violation of division (G) of 4006  
section 1513.17 of the Revised Code as it existed prior to that 4007  
date, shall be paid into the coal mining administration and 4008  
reclamation reserve fund.~~ 4009

If the director of natural resources determines it to be 4010  
necessary, the director may request the controlling board to 4011  
transfer an amount of money from the coal mining administration 4012  
and reclamation reserve fund to the unreclaimed lands fund created 4013  
in section 1513.30 of the Revised Code. 4014

**Sec. 1513.182.** (A) There is hereby created the reclamation 4015

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

4016  
4017  
4018  
4019  
4020  
4021  
4022  
4023  
4024  
4025  
4026  
4027  
4028  
4029  
4030

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

4031  
4032  
4033  
4034  
4035  
4036  
4037  
4038  
4039  
4040  
4041  
4042  
4043  
4044  
4045  
4046

The directors of natural resources and insurance shall not

4047

receive compensation for serving on the board, but shall be 4048  
reimbursed for the actual and necessary expenses incurred in the 4049  
performance of their duties as members of the board. The members 4050  
appointed by the governor shall receive per diem compensation 4051  
fixed pursuant to division (J) of section 124.15 of the Revised 4052  
Code and reimbursement for the actual and necessary expenses 4053  
incurred in the performance of their duties. 4054

(B) The board annually shall elect from among its members a 4055  
chairperson, a vice-chairperson, and a secretary to record the 4056  
board's meetings. 4057

(C) The board shall hold meetings as often as necessary as 4058  
the chairperson or a majority of the members determines. 4059

(D) The board shall establish procedures for conducting 4060  
meetings and for the election of its chairperson, 4061  
vice-chairperson, and secretary. 4062

(E) The board shall do all of the following: 4063

(1) Review the deposits into and expenditures from the 4064  
reclamation forfeiture fund created in section 1513.18 of the 4065  
Revised Code; 4066

(2) Retain periodically a qualified actuary to perform an 4067  
actuarial study of the reclamation forfeiture fund; 4068

(3) Based on an actuarial study and as determined necessary 4069  
by the board, adopt rules in accordance with Chapter 119. of the 4070  
Revised Code to adjust the rate of the tax levied under division 4071  
(A)(8) of section 5749.02 of the Revised Code and the balance of 4072  
the reclamation forfeiture fund that pertains to that rate; 4073

(4) Evaluate any rules, procedures, and methods for 4074  
estimating the cost of reclamation for purposes of determining the 4075  
amount of performance security that is required under section 4076  
1513.08 of the Revised Code; the collection of forfeited 4077

performance security; payments to the reclamation forfeiture fund; 4078  
reclamation of sites for which operators have forfeited the 4079  
performance security; and the compliance of operators with their 4080  
reclamation plans; 4081

(5) Provide a forum for discussion of issues related to the 4082  
reclamation forfeiture fund and the performance security that is 4083  
required under section 1513.08 of the Revised Code; 4084

(6) Submit a report biennially to the governor that describes 4085  
the financial status of the reclamation forfeiture fund and the 4086  
adequacy of the amount of money in the fund to accomplish the 4087  
purposes of the fund and that may discuss any matter related to 4088  
the performance security that is required under section 1513.08 of 4089  
the Revised Code; 4090

(7) Make recommendations to the governor, if necessary, of 4091  
alternative methods of providing money for or using money in the 4092  
reclamation forfeiture fund and issues related to the reclamation 4093  
of land or water resources that have been adversely affected by 4094  
past coal mining for which the performance security was forfeited; 4095

(8) Adopt rules in accordance with Chapter 119. of the 4096  
Revised Code that are necessary to administer this section. 4097

**Sec. 1513.29.** There is hereby created the council on 4098  
unreclaimed strip mined lands. Its members are the chief of the 4099  
division of mineral resources management, four persons appointed 4100  
by the director of natural resources, two members of the house of 4101  
representatives appointed by the speaker of the house of 4102  
representatives, one member of the house of representatives 4103  
appointed by the minority leader of the house of representatives, 4104  
two members of the senate appointed by the president of the 4105  
senate, and one member of the senate appointed by the minority 4106  
leader of the senate. 4107

Members who are members of the general assembly shall serve 4108  
terms of four years or until their legislative terms end, 4109  
whichever is sooner. Members appointed by the director shall serve 4110  
terms of four years, except that the terms of the first four 4111  
members shall be for two and four years, as designated by the 4112  
director. Any vacancy in the office of a member of the council 4113  
shall be filled by the appointing authority for the unexpired term 4114  
of the member whose office will be vacant. The appointing 4115  
authority may at any time remove a member of the council for 4116  
misfeasance, nonfeasance, malfeasance, or conflict of interest in 4117  
office. 4118

The council shall hold ~~at least four regular quarterly~~ 4119  
~~meetings each year. Special meetings may be held as necessary~~ at 4120  
the call of the chairperson or a majority of the members. The 4121  
council shall annually elect from among its members a chairperson, 4122  
a vice-chairperson, and a secretary to keep a record of its 4123  
proceedings. 4124

The council shall gather information, study, and make 4125  
recommendations concerning the number of acres, location, 4126  
ownership, condition, environmental damage resulting from the 4127  
condition, cost of acquiring, reclaiming, and possible future uses 4128  
and value of eroded lands within the state, including land 4129  
affected by strip mining for which no cash is held in the ~~strip~~ 4130  
~~mining~~ reclamation forfeiture fund created in section 1513.18 of 4131  
the Revised Code. 4132

The council may employ such staff and hire such consultants 4133  
as necessary to perform its duties. Members appointed by the 4134  
director and, notwithstanding section 101.26 of the Revised Code, 4135  
members who are members of the general assembly, when engaged in 4136  
their official duties as members of the council, shall be 4137  
compensated on a per diem basis in accordance with division (J) of 4138  
section 124.15 of the Revised Code. Members shall be reimbursed 4139

for their necessary expenses. Expenses incurred by the council and 4140  
compensation provided under this section shall be paid by the 4141  
chief ~~of the division of mineral resources management~~ from the 4142  
unreclaimed lands fund created in section 1513.30 of the Revised 4143  
Code. 4144

The council shall report its findings and recommendations to 4145  
the governor and the general assembly not later than January 1, 4146  
1974, and biennially thereafter. 4147

**Sec. 1513.30.** There is hereby created in the state treasury 4148  
the unreclaimed lands fund, to be administered by the chief of the 4149  
division of mineral resources management and used for the purpose 4150  
of reclaiming land, public or private, affected by mining, or 4151  
controlling mine drainage, for which no cash is held in the 4152  
reclamation forfeiture fund created in section 1513.18 of the 4153  
Revised Code or the surface mining fund created in section 1514.06 4154  
of the Revised Code and also for the purpose of paying the 4155  
expenses and compensation of the council on unreclaimed strip 4156  
mined lands as required by section 1513.29 of the Revised Code. 4157

In order to direct expenditures from the unreclaimed lands 4158  
fund toward reclamation projects that fulfill priority needs and 4159  
provide the greatest public benefits, the chief periodically shall 4160  
submit to the council project proposals to be financed from the 4161  
unreclaimed lands fund, together with benefit and cost data and 4162  
other pertinent information. For the purpose of selecting project 4163  
areas and determining the boundaries of project areas, the council 4164  
shall consider the feasibility, cost, and public benefits of 4165  
reclaiming the areas, their potential for being mined, the 4166  
availability of federal or other financial assistance for 4167  
reclamation, and the geographic distribution of project areas to 4168  
ensure fair distribution among affected areas. 4169

The council shall give priority to areas where there is 4170

little or no likelihood of mining within the foreseeable future, 4171  
reclamation is feasible at reasonable cost with available funds, 4172  
and either of the following applies: 4173

(A) The pollution of the waters of the state and damage to 4174  
adjacent property are most severe and widespread. 4175

(B) Reclamation will make possible public uses for soil, 4176  
water, forest, or wildlife conservation or public recreation 4177  
purposes, will facilitate orderly commercial or industrial site 4178  
development, or will facilitate the use or improve the enjoyment 4179  
of nearby public conservation or recreation lands. 4180

~~At least two weeks before any meeting of the council on 4181  
unreclaimed strip mined lands at which the chief will submit a 4182  
project proposal, a project area will be selected, or the 4183  
boundaries of a project area will be determined, the chief shall 4184  
mail notice by first class mail to the board of county 4185  
commissioners of the county and the board of township trustees of 4186  
the township in which the proposed project lies and the chief 4187  
executive and the legislative authority of each municipal 4188  
corporation within the proposed project area. The chief also shall 4189  
give reasonable notice to the news media in the county where the 4190  
proposed project lies. 4191~~

Expenditures from the unreclaimed lands fund for reclamation 4192  
projects may be made only for projects that are within the 4193  
boundaries of project areas approved by the council, and 4194  
expenditures for a particular project may not exceed any 4195  
applicable limits set by the council. Expenditures from the 4196  
unreclaimed lands fund shall be made by the chief, with the 4197  
approval of the director of natural resources. 4198

~~The controlling board may transfer excess funds from the oil 4199  
and gas well fund created in section 1509.02 of the Revised Code, 4200  
after recommendation by the council on unreclaimed strip mined 4201~~



~~lands, to meet deficiencies in the unreclaimed lands fund.~~ 4202

The chief may expend an amount not to exceed twenty per cent 4203  
of the moneys credited annually by the treasurer of state to the 4204  
unreclaimed lands fund for the purpose of administering the fund. 4205

The chief may engage in cooperative projects under this 4206  
section with any agency of the United States, appropriate state 4207  
agencies, or state universities or colleges as defined in section 4208  
3345.27 of the Revised Code and may transfer money from the fund, 4209  
with the approval of the council, to other appropriate state 4210  
agencies or to state universities or colleges in order to carry 4211  
out the reclamation activities authorized by this section. 4212

If the director of natural resources determines it to be 4213  
necessary, the director may request the controlling board to 4214  
transfer an amount of money from the fund to the coal mining 4215  
administration and reclamation reserve fund created in section 4216  
1513.181 of the Revised Code. 4217

**Sec. 1513.37.** (A) There is hereby created in the state 4218  
treasury the abandoned mine reclamation fund, which shall be 4219  
administered by the chief of the division of mineral resources 4220  
management. The fund shall consist of grants from the secretary of 4221  
the interior from the federal abandoned mine reclamation fund 4222  
established by Title IV of the "Surface Mining Control and 4223  
Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, 4224  
regulations adopted under it, and amendments to the act and 4225  
regulations. Expenditures from the abandoned mine reclamation fund 4226  
shall be made by the chief for the following purposes: 4227

(1) Reclamation and restoration of land and water resources 4228  
adversely affected by past coal mining, including, but not limited 4229  
to, reclamation and restoration of abandoned strip mine areas, 4230  
abandoned coal processing areas, and abandoned coal refuse 4231

disposal areas; sealing and filling of abandoned deep mine entries	4232
and voids; planting of land adversely affected by past coal	4233
mining; prevention of erosion and sedimentation; prevention,	4234
abatement, treatment, and control of water pollution created by	4235
coal mine drainage, including restoration of streambeds and	4236
construction and operation of water treatment plants; prevention,	4237
abatement, and control of burning coal refuse disposal areas and	4238
burning coal in situ; and prevention, abatement, and control of	4239
coal mine subsidence;	4240
(2) Acquisition and filling of voids and sealing of tunnels,	4241
shafts, and entryways of noncoal lands;	4242
(3) Acquisition of land as provided for in this section;	4243
(4) Administrative expenses incurred in accomplishing the	4244
purposes of this section;	4245
(5) All other necessary expenses to accomplish the purposes	4246
of this section.	4247
(B) Expenditures of moneys from the fund on land and water	4248
eligible pursuant to division (C) of this section shall reflect	4249
the following priorities in the order stated:	4250
(1) The protection of public health, safety, general welfare,	4251
and property from extreme danger of adverse effects of coal mining	4252
practices;	4253
(2) The protection of public health, safety, and general	4254
welfare from adverse effects of coal mining practices;	4255
(3) The restoration of land and water resources and the	4256
environment previously degraded by adverse effects of coal mining	4257
practices, including measures for the conservation and development	4258
of soil and water (excluding channelization), woodland, fish and	4259
wildlife, recreation resources, and agricultural productivity;	4260
(4) Research and demonstration projects relating to the	4261

development of coal mining reclamation and water quality control	4262
program methods and techniques;	4263
(5) The protection, repair, replacement, construction, or	4264
enhancement of public facilities such as utilities, roads,	4265
recreation facilities, and conservation facilities adversely	4266
affected by coal mining practices;	4267
(6) The development of publicly owned land adversely affected	4268
by coal mining practices, including land acquired as provided in	4269
this section for recreation and historic purposes, conservation	4270
and reclamation purposes, and open space benefits.	4271
(C)(1) Lands and water eligible for reclamation or drainage	4272
abatement expenditures under this section are those that were	4273
mined for coal or were affected by such mining, wastebanks, coal	4274
processing, or other coal mining processes and that meet one of	4275
the following criteria:	4276
(a) Are lands that were abandoned or left in an inadequate	4277
reclamation status prior to August 3, 1977, and for which there is	4278
no continuing reclamation responsibility under state or federal	4279
laws;	4280
(b) Are lands for which the chief finds that surface coal	4281
mining operations occurred at any time between August 4, 1977, and	4282
August 16, 1982, and that any moneys for reclamation or abatement	4283
that are available pursuant to a bond, <u>performance security</u> , or	4284
other form of financial guarantee or from any other source are not	4285
sufficient to provide for adequate reclamation or abatement at the	4286
site;	4287
(c) Are lands for which the chief finds that surface coal	4288
mining operations occurred at any time between August 4, 1977, and	4289
November 5, 1990, that the surety of the mining operator became	4290
insolvent during that time, and that, as of November 5, 1990, any	4291
moneys immediately available from proceedings relating to that	4292

insolvency or from any financial guarantee or other source are not 4293  
sufficient to provide for adequate reclamation or abatement at the 4294  
site. 4295

(2) In determining which sites to reclaim pursuant to 4296  
divisions (C)(1)(b) and (c) of this section, the chief shall 4297  
follow the priorities stated in divisions (B)(1) and (2) of this 4298  
section and shall ensure that priority is given to those sites 4299  
that are in the immediate vicinity of a residential area or that 4300  
have an adverse economic impact on a local community. 4301

(3) Surface coal mining operations on lands eligible for 4302  
remining shall not affect the eligibility of those lands for 4303  
reclamation and restoration under this section after the release 4304  
of the bond, performance security, or other form of financial 4305  
guarantee for any such operation as provided under division (F) of 4306  
section 1513.16 of the Revised Code. If the bond, performance 4307  
security, or other form of financial guarantee for a surface coal 4308  
mining operation on lands eligible for remaining is forfeited, 4309  
moneys available under this section may be used if the amount of 4310  
the bond, performance security, or other form of financial 4311  
guarantee is not sufficient to provide for adequate reclamation or 4312  
abatement, except that if conditions warrant, the chief 4313  
immediately shall exercise the authority granted under division 4314  
(L) of this section. 4315

(D) The chief may submit to the secretary of the interior a 4316  
state reclamation plan and annual projects to carry out the 4317  
purposes of this section. 4318

(1) The reclamation plan generally shall identify the areas 4319  
to be reclaimed, the purposes for which the reclamation is 4320  
proposed, the relationship of the lands to be reclaimed and the 4321  
proposed reclamation to surrounding areas, the specific criteria 4322  
for ranking and identifying projects to be funded, and the legal 4323

authority and programmatic capability to perform the work in 4324  
accordance with this section. 4325

(2) On an annual basis, the chief may submit to the secretary 4326  
an application for support of the abandoned mine reclamation fund 4327  
and implementation of specific reclamation projects. The annual 4328  
requests shall include such information as may be requested by the 4329  
secretary. 4330

Before submitting an annual application to the secretary, the 4331  
chief first shall submit it to the council on unreclaimed strip 4332  
mined lands for review and approval by the council. The chief 4333  
shall not submit such an application to the secretary until it has 4334  
been approved by the council. The chief shall submit applications 4335  
for administrative costs, imminent hazards, or emergency projects 4336  
to the council for review. 4337

(3) The costs for each proposed project under this section 4338  
shall include actual construction costs, actual operation and 4339  
maintenance costs of permanent facilities, planning and 4340  
engineering costs, construction inspection costs, and other 4341  
necessary administrative expenses. 4342

(4) Before making any expenditure of funds from the fund to 4343  
implement any specific reclamation project under this section, the 4344  
chief first shall submit to the council a project proposal and any 4345  
other pertinent information regarding the project requested by the 4346  
council for review and approval of the specific project by the 4347  
council. 4348

(5) The chief may submit annual and other reports required by 4349  
the secretary when funds are provided by the secretary under Title 4350  
IV of the "Surface Mining Control and Reclamation Act of 1977," 91 4351  
Stat. 445, 30 U.S.C.A. 1201, regulations adopted under it, and 4352  
amendments to the act and regulations. 4353

(E)(1) There is hereby created in the state treasury the acid 4354

mine drainage abatement and treatment fund, which shall be 4355  
administered by the chief. The fund shall consist of grants from 4356  
the secretary of the interior from the federal abandoned mine 4357  
reclamation fund pursuant to section 402(g)(6) of Title IV of the 4358  
"Surface Mining Control and Reclamation Act of 1977," 91 Stat. 4359  
445, 30 U.S.C.A. 1201. All investment earnings of the fund shall 4360  
be credited to the fund. 4361

(2) The chief shall make expenditures from the fund, in 4362  
consultation with the United States department of agriculture, 4363  
soil conservation service, to implement acid mine drainage 4364  
abatement and treatment plans approved by the secretary. The plans 4365  
shall provide for the comprehensive abatement of the causes and 4366  
treatment of the effects of acid mine drainage within qualified 4367  
hydrologic units affected by coal mining practices and shall 4368  
include at least all of the following: 4369

(a) An identification of the qualified hydrologic unit. As 4370  
used in division (E) of this section, "qualified hydrologic unit" 4371  
means a hydrologic unit that meets all of the following criteria: 4372

(i) The water quality in the unit has been significantly 4373  
affected by acid mine drainage from coal mining practices in a 4374  
manner that has an adverse impact on biological resources. 4375

(ii) The unit contains lands and waters that meet the 4376  
eligibility requirements established under division (C) of this 4377  
section and any of the priorities established in divisions (B)(1) 4378  
to (3) of this section. 4379

(iii) The unit contains lands and waters that are proposed to 4380  
be the subject of expenditures from the reclamation forfeiture 4381  
fund created in section 1513.18 of the Revised Code or the 4382  
unreclaimed lands fund created in section 1513.30 of the Revised 4383  
Code. 4384

(b) The extent to which acid mine drainage is affecting the 4385

water quality and biological resources within the hydrologic unit;	4386
(c) An identification of the sources of acid mine drainage within the hydrologic unit;	4387 4388
(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;	4389 4390 4391
(e) The cost of undertaking the proposed abatement and treatment measures;	4392 4393
(f) An identification of existing and proposed sources of funding for those measures;	4394 4395
(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.	4396 4397
(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:	4398 4399 4400 4401 4402
(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:	4403 4404
(i) Identify a watershed as a qualified hydrologic unit;	4405
(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.	4406 4407 4408
(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.	4409 4410 4411 4412
A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to the	4413 4414

chief on forms provided by the division of mineral resources 4415  
management, together with detailed estimates and timetables for 4416  
accomplishing the stated goals of the project and any other 4417  
information that the chief requires. 4418

For the purposes of establishing priorities for awarding 4419  
grants under division (E)(3) of this section, the chief shall 4420  
consider each project's feasibility, cost-effectiveness, and 4421  
environmental benefit, together with the availability of matching 4422  
funding, including in-kind services, for the project. 4423

The chief shall enter into a contract for funding with each 4424  
applicant awarded a grant to ensure that the moneys granted are 4425  
used for the purposes of this section and that the work that the 4426  
project involves is done properly. The contract is not subject to 4427  
division (B) of section 127.16 of the Revised Code. The final 4428  
payment of grant moneys shall not be made until the chief inspects 4429  
and approves the completed project. 4430

The chief shall require each applicant awarded a grant under 4431  
this section who conducts a project involving construction work to 4432  
pay workers at the greater of their regular rate of pay, as 4433  
established by contract, agreement, or prior custom or practice, 4434  
or the average wage rate paid in this state for the same or 4435  
similar work performed in the same or a similar locality by 4436  
private companies doing similar work on similar projects. 4437

As used in division (E)(3) of this section, "watershed group" 4438  
means a charitable organization as defined in section 1716.01 of 4439  
the Revised Code that has been established for the purpose of 4440  
conducting reclamation of land and waters adversely affected by 4441  
coal mining practices and specifically for conducting acid mine 4442  
drainage abatement. 4443

(F)(1) If the chief makes a finding of fact that land or 4444  
water resources have been adversely affected by past coal mining 4445



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 4478  
such adverse effects. The entry shall be construed as an exercise 4479  
of the police power for the protection of the public health, 4480  
safety, and general welfare and shall not be construed as an act 4481  
of condemnation of property nor trespass on it. 4482

(3) The chief may acquire any land by purchase, donation, or 4483  
condemnation that is adversely affected by past coal mining 4484  
practices if the chief determines that acquisition of the land is 4485  
necessary to successful reclamation and that all of the following 4486  
apply: 4487

(a) The acquired land, after restoration, reclamation, 4488  
abatement, control, or prevention of the adverse effects of past 4489  
coal mining practices, will serve recreation and historic 4490  
purposes, serve conservation and reclamation purposes, or provide 4491  
open space benefits. 4492

(b) Permanent facilities such as a treatment plant or a 4493  
relocated stream channel will be constructed on the land for the 4494  
restoration, reclamation, abatement, control, or prevention of the 4495  
adverse effects of past coal mining practices. 4496

(c) Acquisition of coal refuse disposal sites and all coal 4497  
refuse thereon will serve the purposes of this section or public 4498  
ownership is desirable to meet emergency situations and prevent 4499  
recurrences of the adverse effects of past coal mining practices. 4500

(4)(a) Title to all lands acquired pursuant to this section 4501  
shall be in the name of the state. The price paid for land 4502  
acquired under this section shall reflect the market value of the 4503  
land as adversely affected by past coal mining practices. 4504

(b) The chief may receive grants on a matching basis from the 4505  
secretary of the interior for the purpose of carrying out this 4506  
section. 4507

(5)(a) Where land acquired pursuant to this section is 4508  
considered to be suitable for industrial, commercial, residential, 4509  
or recreational development, the chief may sell the land by public 4510  
sale under a system of competitive bidding at not less than fair 4511  
market value and under other requirements imposed by rule to 4512  
ensure that the lands are put to proper use consistent with local 4513  
and state land use plans, if any, as determined by the chief. 4514

(b) The chief, when requested, and after appropriate public 4515  
notice, shall hold a public meeting in the county, counties, or 4516  
other appropriate political subdivisions of the state in which 4517  
lands acquired pursuant to this section are located. The meetings 4518  
shall be held at a time that shall afford local citizens and 4519  
governments the maximum opportunity to participate in the decision 4520  
concerning the use or disposition of the lands after restoration, 4521  
reclamation, abatement, control, or prevention of the adverse 4522  
effects of past coal mining practices. 4523

(6) In addition to the authority to acquire land under 4524  
division (F)(3) of this section, the chief may use money in the 4525  
fund to acquire land by purchase, donation, or condemnation, and 4526  
to reclaim and transfer acquired land to a political subdivision, 4527  
or to any person, if the chief determines that it is an integral 4528  
and necessary element of an economically feasible plan for the 4529  
construction or rehabilitation of housing for persons disabled as 4530  
the result of employment in the mines or work incidental to that 4531  
employment, persons displaced by acquisition of land pursuant to 4532  
this section, persons dislocated as the result of adverse effects 4533  
of coal mining practices that constitute an emergency as provided 4534  
in the "Surface Mining Control and Reclamation Act of 1977," 91 4535  
Stat. 466, 30 U.S.C.A. 1240, or amendments to it, or persons 4536  
dislocated as the result of natural disasters or catastrophic 4537  
failures from any cause. Such activities shall be accomplished 4538  
under such terms and conditions as the chief requires, which may 4539

include transfers of land with or without monetary consideration, 4540  
except that to the extent that the consideration is below the fair 4541  
market value of the land transferred, no portion of the difference 4542  
between the fair market value and the consideration shall accrue 4543  
as a profit to those persons. No part of the funds provided under 4544  
this section may be used to pay the actual construction costs of 4545  
housing. The chief may carry out the purposes of division (F)(6) 4546  
of this section directly or by making grants and commitments for 4547  
grants and may advance money under such terms and conditions as 4548  
the chief may require to any agency or instrumentality of the 4549  
state or any public body or nonprofit organization designated by 4550  
the chief. 4551

(G)(1) Within six months after the completion of projects to 4552  
restore, reclaim, abate, control, or prevent adverse effects of 4553  
past coal mining practices on privately owned land, the chief 4554  
shall itemize the moneys so expended and may file a statement of 4555  
the expenditures in the office of the county recorder of the 4556  
county in which the land lies, together with a notarized appraisal 4557  
by an independent appraiser of the value of the land before the 4558  
restoration, reclamation, abatement, control, or prevention of 4559  
adverse effects of past coal mining practices if the moneys so 4560  
expended result in a significant increase in property value. The 4561  
statement shall constitute a lien upon the land as of the date of 4562  
the expenditures of the moneys and shall have priority as a lien 4563  
second only to the lien of real property taxes imposed upon the 4564  
land. The lien shall not exceed the amount determined by the 4565  
appraisal to be the increase in the fair market value of the land 4566  
as a result of the restoration, reclamation, abatement, control, 4567  
or prevention of the adverse effects of past coal mining 4568  
practices. No lien shall be filed under division (G) of this 4569  
section against the property of any person who owned the surface 4570  
prior to May 2, 1977, and did not consent to, participate in, or 4571

exercise control over the mining operation that necessitated the 4572  
reclamation performed. 4573

(2) The landowner may petition, within sixty days after the 4574  
filing of the lien, to determine the increase in the fair market 4575  
value of the land as a result of the restoration, reclamation, 4576  
abatement, control, or prevention of the adverse effects of past 4577  
coal mining practices. The amount reported to be the increase in 4578  
value of the premises shall constitute the amount of the lien and 4579  
shall be recorded with the statement provided in this section. Any 4580  
party aggrieved by the decision may appeal as provided by state 4581  
law. 4582

(3) The lien provided in division (G) of this section shall 4583  
be recorded and indexed, under the name of the state and the 4584  
landowner, in a lien index in the office of the county recorder of 4585  
the county in which the land lies. The county recorder shall 4586  
impose no charge for the recording or indexing of the lien. If the 4587  
land is registered, the county recorder shall make a notation and 4588  
enter a memorial of the lien upon the page of the register in 4589  
which the last certificate of title to the land is registered, 4590  
stating the name of the claimant, amount claimed, volume and page 4591  
of the record where recorded, and exact time the memorial was 4592  
entered. 4593

(4) The lien shall continue in force so long as any portion 4594  
of the amount of the lien remains unpaid. If the lien remains 4595  
unpaid at the time of conveyance of the land on which the lien was 4596  
placed, the conveyance may be set aside. Upon repayment in full of 4597  
the moneys expended under this section, the chief promptly shall 4598  
issue a certificate of release of the lien. Upon presentation of 4599  
the certificate of release, the county recorder of the county in 4600  
which the lien is recorded shall record the lien as having been 4601  
discharged. 4602

(5) A lien imposed under this section shall be foreclosed 4603  
upon the substantial failure of a landowner to pay any portion of 4604  
the amount of the lien. Before foreclosing any lien under this 4605  
section, the chief shall make a written demand upon the landowner 4606  
for payment. If the landowner does not pay the amount due within 4607  
sixty days, the chief shall refer the matter to the attorney 4608  
general, who shall institute a civil action to foreclose the lien. 4609

(H)(1) The chief may fill voids, seal abandoned tunnels, 4610  
shafts, and entryways, and reclaim surface impacts of underground 4611  
or strip mines that the chief determines could endanger life and 4612  
property, constitute a hazard to the public health and safety, or 4613  
degrade the environment. 4614

(2) In those instances where mine waste piles are being 4615  
reworked for conservation purposes, the incremental costs of 4616  
disposing of the wastes from those operations by filling voids and 4617  
sealing tunnels may be eligible for funding, provided that the 4618  
disposal of these wastes meets the purposes of this section. 4619

(3) The chief may acquire by purchase, donation, easement, or 4620  
otherwise such interest in land as the chief determines necessary 4621  
to carry out division (H) of this section. 4622

(I) The chief shall report annually to the secretary of the 4623  
interior on operations under the fund and include recommendations 4624  
as to its future uses. 4625

(J)(1) The chief may engage in any work and do all things 4626  
necessary or expedient, including the adoption of rules, to 4627  
implement and administer this section. 4628

(2) The chief may engage in cooperative projects under this 4629  
section with any agency of the United States, any other state, or 4630  
their governmental agencies or with any state university or 4631  
college as defined in section 3345.27 of the Revised Code. The 4632  
cooperative projects are not subject to division (B) of section 4633

127.16 of the Revised Code. 4634

(3) The chief may request the attorney general to initiate in 4635  
any court of competent jurisdiction an action in equity for an 4636  
injunction to restrain any interference with the exercise of the 4637  
right to enter or to conduct any work provided in this section, 4638  
which remedy is in addition to any other remedy available under 4639  
this section. 4640

(4) The chief may construct or operate a plant or plants for 4641  
the control and treatment of water pollution resulting from mine 4642  
drainage. The extent of this control and treatment may be 4643  
dependent upon the ultimate use of the water. Division (J)(4) of 4644  
this section does not repeal or supersede any portion of the 4645  
"Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 4646  
U.S.C.A. 1151, as amended, and no control or treatment under 4647  
division (J)(4) of this section, in any way, shall be less than 4648  
that required by that act. The construction of a plant or plants 4649  
may include major interceptors and other facilities appurtenant to 4650  
the plant. 4651

(5) The chief may transfer money from the abandoned mine 4652  
reclamation fund and the acid mine drainage abatement and 4653  
treatment fund to other appropriate state agencies or to state 4654  
universities or colleges in order to carry out the reclamation 4655  
activities authorized by this section. 4656

(K) The chief may contract for any part of work to be 4657  
performed under this section, with or without advertising for 4658  
bids, if the chief determines that a condition exists that could 4659  
reasonably be expected to cause substantial physical harm to 4660  
persons, property, or the environment and to which persons or 4661  
improvements on real property are currently exposed. 4662

The chief shall require every contractor performing 4663  
reclamation work under this section to pay its workers at the 4664

greater of their regular rate of pay, as established by contract, 4665  
agreement, or prior custom or practice, or the average wage rate 4666  
paid in this state for the same or similar work as determined by 4667  
the chief under section 1513.02 of the Revised Code. 4668

(L)(1) The chief may contract for the emergency restoration, 4669  
reclamation, abatement, control, or prevention of adverse effects 4670  
of mining practices on eligible lands if the chief determines that 4671  
an emergency exists constituting a danger to the public health, 4672  
safety, or welfare and that no other person or agency will act 4673  
expeditiously to restore, reclaim, abate, control, or prevent 4674  
those adverse effects. The chief may enter into a contract for 4675  
emergency work under division (L) of this section without 4676  
advertising for bids. Any such contract or any purchase of 4677  
materials for emergency work under division (L) of this section is 4678  
not subject to division (B) of section 127.16 of the Revised Code. 4679

(2) The chief or the chief's agents, employees, or 4680  
contractors may enter on any land where such an emergency exists, 4681  
and on other land in order to have access to that land, in order 4682  
to restore, reclaim, abate, control, or prevent the adverse 4683  
effects of mining practices and to do all things necessary or 4684  
expedient to protect the public health, safety, or welfare. Such 4685  
an entry shall be construed as an exercise of the police power and 4686  
shall not be construed as an act of condemnation of property or of 4687  
trespass. The moneys expended for the work and the benefits 4688  
accruing to any premises so entered upon shall be chargeable 4689  
against the land and shall mitigate or offset any claim in or any 4690  
action brought by any owner of any interest in the premises for 4691  
any alleged damages by virtue of the entry. This provision is not 4692  
intended to create new rights of action or eliminate existing 4693  
immunities. 4694

**Sec. 1513.371.** There is hereby created in the state treasury 4695



the mined land set aside fund consisting of grants made by the 4696  
United States secretary of the interior from the federal abandoned 4697  
mine reclamation fund pursuant to section 402 of the "Surface 4698  
Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 4699  
U.S.C. 1232. The chief of the division of mineral resources 4700  
management shall administer the fund. Money in the fund shall be 4701  
used solely for the purposes specified in divisions (B)(1) to (4) 4702  
of section 1513.37 of the Revised Code. All investment earnings of 4703  
the fund shall be credited to the fund. 4704

**Sec. 1514.01.** As used in this chapter: 4705

(A) "Surface mining" means all or any part of a process 4706  
followed in the production of minerals from the earth or from the 4707  
surface of the land by surface excavation methods, such as open 4708  
pit mining, dredging, placering, or quarrying, and includes the 4709  
removal of overburden for the purpose of determining the location, 4710  
quantity, or quality of mineral deposits, and the incidental 4711  
removal of coal at a rate less than one-sixth the total weight of 4712  
minerals and coal removed during the year, but does not include: 4713  
test or exploration boring; mining operations carried out beneath 4714  
the surface by means of shafts, tunnels, or similar mine openings; 4715  
the extraction of minerals, other than coal, by a landowner for 4716  
the landowner's own noncommercial use where such material is 4717  
extracted and used in an unprocessed form on the same tract of 4718  
land; the extraction of minerals, other than coal, from borrow 4719  
pits for highway construction purposes, provided that the 4720  
extraction is performed under a bond, a contract, and 4721  
specifications that substantially provide for and require 4722  
reclamation practices consistent with the requirements of this 4723  
chapter; the removal of minerals incidental to construction work, 4724  
provided that the owner or person having control of the land upon 4725  
which the construction occurs, the contractor, or the construction 4726

firm possesses a valid building permit; the removal of minerals to 4727  
a depth of not more than five feet, measured from the highest 4728  
original surface elevation of the area to be excavated, where not 4729  
more than one acre of land is excavated during twelve successive 4730  
calendar months; routine dredging of a watercourse for purely 4731  
navigational or flood control purposes during which materials are 4732  
removed for noncommercial purposes; or the extraction or movement 4733  
of soil or minerals within a solid waste facility, as defined in 4734  
section 3734.01 of the Revised Code, that is a sanitary landfill 4735  
when the soil or minerals are used exclusively for the 4736  
construction, operation, closure, and post-closure care of the 4737  
facility or for maintenance activities at the facility. 4738

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 4739  
halite, limestone, dolomite, sandstone, other stone, metalliferous 4740  
or nonmetalliferous ore, or other material or substance of 4741  
commercial value excavated in a solid state from natural deposits 4742  
on or in the earth, but does not include coal or peat. 4743

(C) "Overburden" means all of the earth and other materials 4744  
that cover a natural deposit of minerals and also means such earth 4745  
and other materials after removal from their natural state in the 4746  
process of surface mining. 4747

(D) "Spoil bank" means a pile of removed overburden. 4748

(E) "Area of land affected" means the area of land that has 4749  
been excavated, or upon which a spoil bank exists, or both. 4750

(F)(1) "Operation" or "surface mining operation" means all of 4751  
the premises, facilities, and equipment used in the process of 4752  
removing minerals, or minerals and incidental coal, by surface 4753  
mining from a mining area in the creation of which mining area 4754  
overburden or minerals, or minerals and incidental coal, are 4755  
disturbed or removed, such surface mining area being located upon 4756  
a single tract of land or upon two or more contiguous tracts of 4757

land. Separation by a stream or roadway shall not preclude the 4758  
tracts from being considered contiguous. 4759

(2) When the context indicates, "operation" or "in-stream 4760  
mining operation" means all of the premises, facilities, and 4761  
equipment used in the process of removing minerals by in-stream 4762  
mining from a mining area. 4763

(G) "Operator" means any person engaged in surface mining who 4764  
removes minerals, or minerals and incidental coal, from the earth 4765  
by surface mining or who removes overburden for the purpose of 4766  
determining the location, quality, or quantity of a mineral 4767  
deposit. "Operator" also means any person engaged in in-stream 4768  
mining who removes minerals from the bottom of the channel of a 4769  
watercourse by in-stream mining. 4770

(H) "Performance bond" means the surety bond required to be 4771  
filed under section 1514.04 of the Revised Code and includes cash, 4772  
an irrevocable letter of credit, and negotiable certificates of 4773  
deposit authorized to be deposited in lieu of the surety bond 4774  
under that section. 4775

(I) "Dewatering" means the withdrawal of ground water from an 4776  
aquifer or saturated zone that may result in the lowering of the 4777  
water level within the aquifer or saturated zone or a decline of 4778  
the potentiometric surface within that aquifer or saturated zone. 4779

(J) "Ground water" means all water occurring in an aquifer. 4780

(K) "Cone of depression" means a depression or low point in 4781  
the water table or potentiometric surface of a body of ground 4782  
water that develops around a location from which ground water is 4783  
being withdrawn. 4784

(L) "High water mark" means the line on the shore that is 4785  
established by the fluctuations of water and indicated by physical 4786  
characteristics such as a natural line impressed on the bank; 4787

shelving; changes in the character of soil; destruction of 4788  
terrestrial vegetation; the presence of litter and debris; or 4789  
other appropriate means that consider the characteristics of the 4790  
surrounding area. 4791

(M) "In-stream mining" means all or any part of a process 4792  
followed in the production of minerals from the bottom of the 4793  
channel of a watercourse that drains a surface area of more than 4794  
one hundred square miles. "In-stream mining" may be accomplished 4795  
by using any technique or by using surface excavation methods, 4796  
such as open pit mining, dredging, placering, or quarrying, and 4797  
includes the removal of overburden for the purpose of determining 4798  
the location, quantity, or quality of mineral deposits. "In-stream 4799  
mining" does not include either of the following: 4800

(1) Routine dredging for purely navigational or flood control 4801  
purposes during which materials are removed for noncommercial 4802  
purposes; 4803

(2) The extraction of minerals, other than coal, by a 4804  
landowner for the landowner's own noncommercial use when the 4805  
material is extracted and used in an unprocessed form on the same 4806  
tract of land. 4807

For purposes of division (M) of this section, the number of 4808  
square miles of surface area that a watercourse drains shall be 4809  
determined by consulting the "gazetteer of Ohio streams," which is 4810  
a portion of the Ohio water plan inventory published in 1960 by 4811  
the division of water in the department of natural resources, or 4812  
its successor, if any. 4813

(N) In provisions concerning in-stream mining, when the 4814  
context is appropriate, "land" is deemed to include an area of a 4815  
watercourse. 4816

(O) "Watercourse" means any naturally occurring perennial or 4817  
intermittent stream, river, or creek flowing within a defined 4818

stream bed and banks.

4819

(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.

4820

4821

4822

4823

4824

4825

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.

4826

4827

4828

4829

**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.

4831

4832

4833

4834

4835

4836

4837

4838

4839

4840

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

4841

4842

4843

4844

4845

4846

4847

4848

4849

or surveyor registered under Chapter 4733. of the Revised Code. 4850  
However, the chief may require that an annual progress map or a 4851  
final map be prepared by a registered professional engineer or 4852  
registered surveyor if the chief has reason to believe that the 4853  
operator exceeded the boundaries of the permit area or, if the 4854  
operator filed the map required under division (A)(11) of section 4855  
1514.02 of the Revised Code, that the operator extracted ten 4856  
thousand tons or more of minerals during the period covered by the 4857  
report. 4858

Each annual report for an in-stream mining operation shall 4859  
include a statement of the total tonnage removed by in-stream 4860  
mining for each month and of the surface acreage and depth of 4861  
material removed by in-stream mining and shall include a map that 4862  
identifies the area affected by the in-stream mining, soundings 4863  
that depict the cross-sectional views of the channel bottom of the 4864  
watercourse, and water elevations for the watercourse. 4865

Each annual report shall be accompanied by a filing fee in 4866  
the amount of five hundred dollars, except in the case of an 4867  
annual report filed by a small operator or an in-stream mining 4868  
operator. A small operator, which is a surface mine operator who 4869  
intends to extract fewer than ten thousand tons of minerals and no 4870  
coal during the next year of operation under the permit, or an 4871  
in-stream mining operator shall include a filing fee in the amount 4872  
of two hundred fifty dollars with each annual report. The annual 4873  
report of any operator also shall be accompanied by an acreage fee 4874  
in the amount of seventy-five dollars multiplied by the number of 4875  
acres estimated in the report to be affected during the next year 4876  
of operation under the permit. The acreage fee shall be adjusted 4877  
by subtracting a credit of seventy-five dollars per excess acre 4878  
paid for the preceding year if the acreage paid for the preceding 4879  
year exceeds the acreage actually affected or by adding an 4880  
additional amount of seventy-five dollars per excess acre affected 4881

if the acreage actually affected exceeds the acreage paid for the 4882  
preceding year. 4883

With each annual report the operator shall file a performance 4884  
bond in the amount, unless otherwise provided by rule, of ~~one~~ 4885  
~~thousand~~ five hundred dollars multiplied by the number of acres 4886  
estimated to be affected during the next year of operation under 4887  
the permit for which no performance bond previously was filed. 4888  
Unless otherwise provided by rule, the bond shall be adjusted by 4889  
subtracting a credit of ~~one thousand~~ five hundred dollars per 4890  
excess acre for which bond was filed for the preceding year if the 4891  
acreage for which the bond was filed for the preceding year 4892  
exceeds the acreage actually affected, or by adding an amount of 4893  
~~one thousand~~ five hundred dollars per excess acre affected if the 4894  
acreage actually affected exceeds the acreage for which bond was 4895  
filed for the preceding year. 4896

Within thirty days after the expiration of the surface or 4897  
in-stream mining permit, or completion or abandonment of the 4898  
operation, whichever occurs earlier, the operator shall submit a 4899  
final report containing the same information required in an annual 4900  
report, but covering the time from the last annual report to the 4901  
expiration of the permit, or completion or abandonment of the 4902  
operation, whichever occurs earlier. 4903

Each final report shall include a map indicating the location 4904  
of the area of land affected during the period of the report and 4905  
the location of the total area of land affected under the permit. 4906  
The map shall be prepared in accordance with division (A)(11) or 4907  
(12) of section 1514.02 of the Revised Code, as appropriate. 4908

In the case of a final report for an in-stream mining 4909  
operation, the map also shall include the information required 4910  
under division (A)(18) of section 1514.02 of the Revised Code. 4911

If the final report and certified map, as verified by the 4912

chief, show that the number of acres affected under the permit is 4913  
larger than the number of acres for which the operator has paid an 4914  
acreage fee or filed a performance bond, upon notification by the 4915  
chief, the operator shall pay an additional acreage fee in the 4916  
amount of seventy-five dollars multiplied by the difference 4917  
between the number of acres affected under the permit and the 4918  
number of acres for which the operator has paid an acreage fee and 4919  
shall file an additional performance bond in the amount, unless 4920  
otherwise provided by rule, of ~~one thousand~~ five hundred dollars 4921  
multiplied by the difference between the number of acres affected 4922  
under the permit and the number of acres for which the operator 4923  
has filed bond. 4924

If the final report and certified map, as verified by the 4925  
chief, show that the number of acres affected under the permit is 4926  
smaller than the number of acres for which the operator has filed 4927  
a performance bond, the chief shall order release of the excess 4928  
bond. However, the chief shall retain a performance bond in a 4929  
minimum amount of ten thousand dollars irrespective of the number 4930  
of acres affected under the permit. The release of the excess bond 4931  
shall be in an amount, unless otherwise provided by rule, equal to 4932  
~~one thousand~~ five hundred dollars multiplied by the difference 4933  
between the number of acres affected under the permit and the 4934  
number of acres for which the operator has filed bond. 4935

The fees collected pursuant to this section and section 4936  
1514.02 of the Revised Code shall be deposited with the treasurer 4937  
of state to the credit of the surface mining fund created under 4938  
section 1514.06 of the Revised Code. 4939

If upon inspection the chief finds that any filing fee, 4940  
acreage fee, performance bond, or part thereof is not paid when 4941  
due or is paid on the basis of false or substantially inaccurate 4942  
reports, the chief may request the attorney general to recover the 4943  
unpaid amounts that are due the state, and the attorney general 4944



shall commence appropriate legal proceedings to recover the unpaid 4945  
amounts. 4946

**Sec. 1514.04.** (A) Upon receipt of notification from the chief 4947  
of the division of mineral resources management of the chief's 4948  
intent to issue an order granting a surface or in-stream mining 4949  
permit to the applicant, the applicant shall file a surety bond, 4950  
cash, an irrevocable letter of credit, or certificates of deposit 4951  
in the amount, unless otherwise provided by rule, of ten thousand 4952  
dollars ~~plus one thousand~~. If the amount of land to be affected is 4953  
more than twenty acres, the applicant also shall file a surety 4954  
bond, cash, an irrevocable letter of credit, or certificates of 4955  
deposit in the amount of five hundred dollars per acre of land to 4956  
be affected that exceeds twenty acres. Upon receipt of 4957  
notification from the chief of the chief's intent to issue an 4958  
order granting an amendment to a surface or in-stream mining 4959  
permit, the applicant shall file a surety bond, cash, an 4960  
irrevocable letter of credit, or certificates of deposit in the 4961  
amount, ~~unless otherwise provided by rule, of one thousand dollars~~ 4962  
~~per acre of land to be affected~~ required in this division. 4963

In the case of a surface mining permit, the bond shall be 4964  
filed ~~for~~ based on the number of acres estimated to be affected 4965  
during the first year of operation under the permit. In the case 4966  
of an amendment to a surface mining permit, the bond shall be 4967  
filed ~~for~~ based on the number of acres estimated to be affected 4968  
during the balance of the period until the next anniversary date 4969  
of the permit. 4970

In the case of an in-stream mining permit, the bond shall be 4971  
filed ~~for~~ based on the number of acres of land within the limits 4972  
of the in-stream mining permit for the entire permit period. In 4973  
the case of an amendment to an in-stream mining permit, the bond 4974  
shall be filed ~~for~~ based on the number of any additional acres of 4975

land to be affected within the limits of the in-stream mining 4976  
permit. 4977

(B) A surety bond filed pursuant to this section and sections 4978  
1514.02 and 1514.03 of the Revised Code shall be upon the form 4979  
that the chief prescribes and provides and shall be signed by the 4980  
operator as principal and by a surety company authorized to 4981  
transact business in the state as surety. The bond shall be 4982  
payable to the state and shall be conditioned upon the faithful 4983  
performance by the operator of all things to be done and performed 4984  
by the operator as provided in this chapter and the rules and 4985  
orders of the chief adopted or issued pursuant thereto. 4986

The operator may deposit with the chief, in lieu of a surety 4987  
bond, cash in an amount equal to the surety bond as prescribed in 4988  
this section, an irrevocable letter of credit or negotiable 4989  
certificates of deposit issued by any bank organized or 4990  
transacting business in this state, or an irrevocable letter of 4991  
credit or certificates of deposit issued by any savings and loan 4992  
association as defined in section 1151.01 of the Revised Code, 4993  
having a cash value equal to or greater than the amount of the 4994  
surety bond as prescribed in this section. Cash or certificates of 4995  
deposit shall be deposited upon the same terms as the terms upon 4996  
which surety bonds may be deposited. If one or more certificates 4997  
of deposit are deposited with the chief in lieu of a surety bond, 4998  
the chief shall require the bank or savings and loan association 4999  
that issued any such certificate to pledge securities of a cash 5000  
value equal to the amount of the certificate, or certificates, 5001  
that is in excess of the amount insured by the federal deposit 5002  
insurance corporation. The securities shall be security for the 5003  
repayment of the certificate of deposit. 5004

(C) Immediately upon a deposit of cash, a letter of credit, 5005  
or certificates with the chief, the chief shall deliver it to the 5006  
treasurer of state who shall hold it in trust for the purposes for 5007

which it has been deposited. The treasurer of state shall be 5008  
responsible for the safekeeping of such deposits. An operator 5009  
making a deposit of cash, a letter of credit, or certificates of 5010  
deposit may withdraw and receive from the treasurer of state, on 5011  
the written order of the chief, all or any part of the cash, 5012  
letter of credit, or certificates in the possession of the 5013  
treasurer of state, upon depositing with the treasurer of state 5014  
cash, an irrevocable letter of credit, or negotiable certificates 5015  
of deposit issued by any bank organized or transacting business in 5016  
this state, or an irrevocable letter of credit or certificates of 5017  
deposit issued by any savings and loan association, equal in value 5018  
to the value of the cash, letter of credit, or certificates 5019  
withdrawn. An operator may demand and receive from the treasurer 5020  
of state all interest or other income from any certificates as it 5021  
becomes due. If certificates deposited with and in the possession 5022  
of the treasurer of state mature or are called for payment by the 5023  
issuer thereof, the treasurer of state, at the request of the 5024  
operator who deposited them, shall convert the proceeds of the 5025  
redemption or payment of the certificates into such other 5026  
negotiable certificates of deposit issued by any bank organized or 5027  
transacting business in this state, such other certificates of 5028  
deposit issued by any savings and loan association, or cash, as 5029  
may be designated by the operator. 5030

(D) A governmental agency, as defined in division (A) of 5031  
section 1514.022 of the Revised Code, or a board or commission 5032  
that derives its authority from a governmental agency shall not 5033  
require a surface or in-stream mining operator to file a surety 5034  
bond or any other form of financial assurance for the reclamation 5035  
of land to be affected by a surface or in-stream mining operation 5036  
authorized under this chapter. 5037

**Sec. 1514.05.** (A) At any time within the period allowed an 5038  
operator by section 1514.02 of the Revised Code to reclaim an area 5039

of land affected by surface or in-stream mining, the operator may 5040  
file a request, on a form provided by the chief of the division of 5041  
mineral resources management, for inspection of the area of land 5042  
upon which ~~a phase of the reclamation, other than any required~~ 5043  
~~planting,~~ is completed. ~~For purposes of inspections and subsequent~~ 5044  
~~releases of performance bonds or cash, irrevocable letters of~~ 5045  
~~credit, or certificates of deposit deposited in lieu of bonds~~ 5046  
~~under this section, reclamation shall be considered to occur in~~ 5047  
~~two phases. The first phase involves grading, contouring,~~ 5048  
~~terracing, resoiling, and initial planting. The second phase~~ 5049  
~~involves the establishment of vegetative cover together with the~~ 5050  
~~maintenance and the completion of all reclamation required under~~ 5051  
~~this chapter or rules adopted under it. The~~ 5052

A request ~~for inspection at the completion of a phase of~~ 5053  
~~reclamation~~ shall include all of the following: 5054

(1) The location of the area and number of acres; 5055

(2) The permit number; 5056

(3) ~~The amount of performance bond on deposit at the time of~~ 5057  
~~the request to ensure reclamation of the area;~~ 5058

~~(4)~~ A map showing the location of the acres reclaimed, 5059  
prepared and certified in accordance with division (A)(11) or (12) 5060  
of section 1514.02 of the Revised Code, as appropriate. In the 5061  
case of an in-stream mining operation, the map also shall include 5062  
the information required under division (A)(18) of section 1514.02 5063  
of the Revised Code. 5064

~~In addition, a request for inspection of the second phase of~~ 5065  
~~reclamation shall include a description of the type and date of~~ 5066  
~~any required planting and a statement regarding the degree of~~ 5067  
~~success of the growth.~~ 5068

~~(B)~~ The chief shall make an inspection and evaluation of the 5069

reclamation of the area of land for which a the request was 5070  
submitted within ninety days after receipt of the request or, if 5071  
the operator fails to complete the reclamation or file the request 5072  
as required, as soon as the chief learns of the default. 5073  
Thereupon, if the chief approves ~~the first phase of the~~ 5074  
reclamation, other than any required planting, as meeting the 5075  
requirements of this chapter, rules adopted thereunder, any orders 5076  
issued during the mining or reclamation, and the specifications of 5077  
the plan for mining and reclaiming, the chief shall issue an order 5078  
to the operator and the operator's surety releasing them from 5079  
liability for ~~the applicable percentage specified in this division~~ 5080  
one-half of the total amount of their surety bond on deposit to 5081  
ensure reclamation for the area upon which reclamation is 5082  
completed. If ~~the chief approves the second phase of the~~ 5083  
~~reclamation, the chief shall order release of the remaining~~ 5084  
~~performance bond, after completing the inspection and evaluation,~~ 5085  
~~in the same manner as in the case of approval of the first phase~~ 5086  
~~of reclamation, and the treasurer of state shall proceed as in~~ 5087  
~~that case.~~ 5088

~~On approval of the first phase of reclamation, the chief~~ 5089  
~~shall release seventy five per cent of the amount of the surety~~ 5090  
~~bond on deposit. On approval of the second phase of reclamation,~~ 5091  
~~the chief shall release the remaining amount of the surety bond~~ 5092  
~~that originally was on deposit.~~ 5093

~~If~~ the operator has deposited cash, an irrevocable letter of 5094  
credit, or certificates of deposit in lieu of a surety bond to 5095  
ensure reclamation, the chief shall issue an order to the operator 5096  
releasing one-half of the amount so held ~~in the same manner and in~~ 5097  
~~the same percentages that apply to the release of a surety bond~~ 5098  
and promptly shall transmit a certified copy of the order to the 5099  
treasurer of state. Upon presentation of the order to the 5100  
treasurer of state by the operator to whom it was issued, or by 5101

the operator's authorized agent, the treasurer of state shall 5102  
deliver to the operator or the operator's authorized agent the 5103  
cash, irrevocable letter of credit, or certificates of deposit 5104  
designated in the order. 5105

~~(C)~~ If the chief does not approve ~~a phase of~~ the reclamation, 5106  
other than any required planting, the chief shall notify the 5107  
operator by certified mail. The notice shall be an order stating 5108  
the reasons for unacceptability, ordering further actions to be 5109  
taken, and setting a time limit for compliance. If the operator 5110  
does not comply with the order within the time limit specified, 5111  
the chief may order an extension of time for compliance after 5112  
determining that the operator's noncompliance is for good cause, 5113  
resulting from developments partially or wholly beyond the 5114  
operator's control. If the operator complies within the time limit 5115  
or the extension of time granted for compliance, the chief shall 5116  
order release of the performance bond in the same manner as in the 5117  
case of approval of reclamation, other than any required planting, 5118  
by the chief, and the treasurer of state shall proceed as in that 5119  
case. If the operator does not comply within the time limit and 5120  
the chief does not order an extension, or if the chief orders an 5121  
extension of time and the operator does not comply within the 5122  
extension of time granted for compliance, the chief shall issue 5123  
another order declaring that the operator has failed to reclaim 5124  
and, if the operator's permit has not already expired or been 5125  
revoked, revoking the operator's permit. The chief shall thereupon 5126  
proceed under division ~~(D)~~(C) of this section. 5127

~~(D)~~(B) At any time within the period allowed an operator by 5128  
section 1514.02 of the Revised Code to reclaim an area affected by 5129  
surface mining, the operator may file a request, on a form 5130  
provided by the chief, for inspection of the area of land on which 5131  
all reclamation, including the successful establishment of any 5132  
required planting, is completed. The request shall include all of 5133

the following: 5134

(1) The location of the area and number of acres; 5135

(2) The permit number; 5136

(3) The type and date of any required planting of vegetative cover and the degree of success of growth; 5137  
5138

(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. 5139  
5140  
5141  
5142  
5143  
5144

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. 5145  
5146  
5147  
5148  
5149  
5150  
5151  
5152  
5153  
5154  
5155  
5156  
5157  
5158  
5159

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 5160  
5161  
5162  
5163  
5164

unacceptability, ordering further actions to be taken, and setting 5165  
a time limit for compliance. If the operator does not comply with 5166  
the order within the time limit specified, the chief may order an 5167  
extension of time for compliance after determining that the 5168  
operator's noncompliance is for good cause, resulting from 5169  
developments partially or wholly beyond the operator's control. If 5170  
the operator complies within the time limit or the extension of 5171  
time granted for compliance, the chief shall order release of the 5172  
remaining performance bond in the same manner as in the case of 5173  
approval of reclamation by the chief, and the treasurer of state 5174  
shall proceed as in that case. If the operator does not comply 5175  
within the time limit and the chief does not order an extension, 5176  
or if the chief orders an extension of time and the operator does 5177  
not comply within the extension of time granted for compliance, 5178  
the chief shall issue another order declaring that the operator 5179  
has failed to reclaim and, if the operator's permit has not 5180  
already expired or been revoked, revoking the operator's permit. 5181  
The chief then shall proceed under division (C) of this section. 5182

(C) Upon issuing an order under division ~~(C)~~(A) or (B) of 5183  
this section declaring that the operator has failed to reclaim, 5184  
the chief shall ~~retain all or part of the performance bond on~~ 5185  
~~deposit for reclamation of the affected surface or in-stream mine~~ 5186  
~~site. The~~ make a finding as to the number and location of the 5187  
acres of land that the operator has failed to reclaim in the 5188  
manner required by this chapter. The chief shall order the release 5189  
of the performance bond in the amount of five hundred dollars per 5190  
acre for those acres that the chief finds to have been reclaimed 5191  
in the manner required by this chapter. The release shall be 5192  
ordered in the same manner as in the case of other approval of 5193  
reclamation by the chief, and the treasurer of state shall proceed 5194  
as in that case. If the operator has on deposit cash, an 5195  
irrevocable letter of credit, or certificates of deposit to ensure 5196



reclamation of the area of the land affected, the chief at the 5197  
same time shall issue an order declaring that the remaining cash, 5198  
irrevocable letter of credit, or certificates of deposit, ~~if any,~~ 5199  
are the property of the state and are available for use by the 5200  
chief in performing reclamation of the area and shall proceed in 5201  
accordance with section 1514.06 of the Revised Code. 5202

If the operator has on deposit a surety bond to ensure 5203  
reclamation of the area of land affected, the chief shall notify 5204  
the surety in writing of the operator's default and shall request 5205  
the surety to perform the surety's obligation and that of the 5206  
operator. The surety, within ten days after receipt of the notice, 5207  
shall notify the chief as to whether it intends to perform those 5208  
obligations. 5209

If the surety chooses to perform, it shall arrange for work 5210  
to begin within thirty days of the day on which it notifies the 5211  
chief of its decision. If the surety completes the work as 5212  
required by this chapter, the chief shall issue an order to the 5213  
surety releasing the surety from liability under the bond in the 5214  
same manner as if the surety were an operator proceeding under 5215  
this section. If, after the surety begins the work, the chief 5216  
determines that the surety is not carrying the work forward with 5217  
reasonable progress, or that it is improperly performing the work, 5218  
or that it has abandoned the work or otherwise failed to perform 5219  
its obligation and that of the operator, the chief shall issue an 5220  
order terminating the right of the surety to perform the work and 5221  
demanding payment of the amount due as required by this chapter. 5222

If the surety chooses not to perform and so notifies the 5223  
chief, does not respond to the chief's notice within ten days of 5224  
receipt thereof, or fails to begin work within thirty days of the 5225  
day it timely notifies the chief of its decision to perform its 5226  
obligation and that of the operator, the chief shall issue an 5227  
order terminating the right of the surety to perform the work and 5228

demanding payment of the amount due, as required by this chapter. 5229

Upon receipt of an order of the chief demanding payment of 5230  
the amount due, the surety immediately shall deposit with the 5231  
chief cash in the full amount due under the order for deposit with 5232  
the treasurer of state. If the surety fails to make an immediate 5233  
deposit, the chief shall certify it to the attorney general for 5234  
collection. When the chief has issued an order terminating the 5235  
right of the surety and has the cash on deposit, the cash is the 5236  
property of the state and is available for use by the chief, who 5237  
shall proceed in accordance with section 1514.06 of the Revised 5238  
Code. 5239

Sec. 1514.051. (A) If an operator or a partner or officer of 5240  
the operator forfeits a performance bond, the division of mineral 5241  
resources management shall have a priority lien in front of all 5242  
other interested creditors against the assets of that operator for 5243  
the amount that is needed to perform any reclamation that is 5244  
required as a result of the operator's mining activities. The 5245  
chief of the division of mineral resources management shall file a 5246  
statement in the office of the county recorder of each county in 5247  
which the mined land lies of the estimated costs to reclaim the 5248  
land. Estimated costs shall include direct and indirect costs of 5249  
the development, design, construction, management, and 5250  
administration of the reclamation. The statement shall constitute 5251  
a lien on the assets of the operator as of the date of the filing. 5252  
The lien shall continue in force so long as any portion of the 5253  
lien remains unpaid or until the chief issues a certificate of 5254  
release of the lien. If the chief issues a certificate of release 5255  
of the lien, the chief shall file a certificate of release in the 5256  
office of each applicable county recorder. 5257

(B) The chief promptly shall issue a certificate of release 5258  
under any of the following circumstances: 5259

(1) Upon the repayment in full of the money that is necessary 5260  
to complete the reclamation; 5261

(2) Upon the transfer of an existing permit that includes the 5262  
areas of the surface mine for which reclamation was not completed 5263  
from the operator that forfeited the performance bond to a new 5264  
operator; 5265

(3) Any other circumstance that the chief determines to be in 5266  
the best interests of the state. 5267

(C) The chief may modify the amount of a lien under this 5268  
section. If the chief modifies a lien, the chief shall file a 5269  
statement in the office of the county recorder of each applicable 5270  
county of the new amount of the lien. 5271

(D) The chief may authorize a closing agent to hold a 5272  
certificate of release in escrow for a period not to exceed one 5273  
hundred eighty days for the purpose of facilitating the transfer 5274  
of unreclaimed mine land. 5275

(E) All money from the collection of liens under this section 5276  
shall be deposited in the state treasury to the credit of the 5277  
surface mining fund created in section 1514.06 of the Revised 5278  
Code. 5279

**Sec. 1514.06.** (A) There is hereby created in the state 5280  
treasury the surface mining fund. ~~All cash~~ consisting of all money 5281  
that becomes the property of the state pursuant to ~~section~~ 5282  
sections 1514.05 and 1514.051 of the Revised Code ~~shall be~~ 5283  
deposited in the fund, and expenditures, money credited to the 5284  
fund under divisions (C)(1) and (2) of section 1514.071, and other 5285  
money specified in section 1514.11 of the Revised Code. All 5286  
investment earnings of the fund shall be credited to the fund. 5287  
Expenditures from the fund shall be made by the chief of the 5288  
division of mineral resources management ~~only~~ for the purpose of 5289

reclaiming areas of land affected by surface or in-stream mining 5290  
~~operations on which an~~ under a permit issued under this chapter 5291  
that the operator has defaulted failed to reclaim and for other 5292  
purposes specified in section 1514.11 of the Revised Code. 5293

(B) Expenditures of moneys from the fund, except as otherwise 5294  
provided by this section, shall be made pursuant to contracts 5295  
entered into by the chief with persons who agree to furnish all of 5296  
the materials, equipment, work, and labor, as specified and 5297  
provided in the contracts, for the prices stipulated therein. With 5298  
the approval of the director of natural resources, the chief may 5299  
reclaim the land in the same manner as the chief required of the 5300  
operator who ~~defaulted~~ failed to reclaim the land. Each contract 5301  
awarded by the chief shall be awarded to the lowest responsive and 5302  
responsible bidder, in accordance with section 9.312 of the 5303  
Revised Code, after sealed bids are received, opened, and 5304  
published at the time and place fixed by the chief. The chief 5305  
shall publish notice of the time and place at which bids will be 5306  
received, opened, and published, at least once at least ten days 5307  
before the date of the opening of the bids, in a newspaper of 5308  
general circulation in the county in which the area of land to be 5309  
reclaimed under the contract is located. If, after so advertising 5310  
for bids, no bids are received by the chief at the time and place 5311  
fixed for receiving them, the chief may advertise again for bids, 5312  
or, if the chief considers the public interest will be best 5313  
served, the chief may enter into a contract for the reclamation of 5314  
the area of land without further advertisement for bids. The chief 5315  
may reject any or all bids received and again publish notice of 5316  
the time and place at which bids for contracts will be received, 5317  
opened, and published. 5318

(C) With the approval of the director, the chief, without 5319  
advertising for bids, may enter into a contract with the 5320  
landowner, a surface or in-stream mine operator or coal mine 5321

operator mining under a current, valid permit issued under this 5322  
chapter or Chapter 1513. of the Revised Code, or a contractor 5323  
hired by a surety to complete reclamation, to carry out 5324  
reclamation on land affected by surface or in-stream mining 5325  
operations ~~on which~~ that an operator has ~~defaulted~~ failed to  
reclaim. 5326  
5327

(D) With the approval of the director, the chief may carry 5328  
out all or part of the reclamation work on land affected by 5329  
surface or in-stream mining operations ~~on which~~ that the operator 5330  
has ~~defaulted~~ failed to reclaim using the employees and equipment 5331  
of any division of the department of natural resources. 5332

(E) The chief shall require every contractor performing 5333  
reclamation work under this section to pay workers at the greater 5334  
of their regular rate of pay, as established by contract, 5335  
agreement, or prior custom or practice, or the average wage rate 5336  
paid in this state for the same or similar work, as determined by 5337  
the chief under section 1513.02 of the Revised Code. 5338

(F) Each contract entered into by the chief under this 5339  
section shall provide only for the reclamation of land affected by 5340  
the surface or in-stream mining operation or operations of one 5341  
operator and not reclaimed by the operator as required by this 5342  
chapter. If there is money in the fund derived from the 5343  
performance bond deposited with the chief by one operator to 5344  
ensure the reclamation of two or more areas of land affected by 5345  
the surface or in-stream mining operation or operations of one 5346  
operator and not reclaimed by the operator as required by this 5347  
chapter, the chief may award a single contract for the reclamation 5348  
of all such areas of land. 5349

(G) The cost of the reclamation work done under this section 5350  
on each area of land affected by surface or in-stream mining 5351  
operations ~~on which~~ that an operator has ~~defaulted~~ failed to 5352

reclaim shall be paid out of the money in the fund derived from 5353  
the performance bond that was deposited with the chief to ensure 5354  
the reclamation of that area of land. If the amount of money is 5355  
not sufficient to pay the cost of doing all of the reclamation 5356  
work on the area of land that the operator should have done, but 5357  
failed to do, the chief may expend from the reclamation forfeiture 5358  
fund created in section 1513.18 of the Revised Code or the surface 5359  
mining fund created in this section the amount of money needed to 5360  
complete reclamation to the standards required by this chapter. 5361  
The operator is liable for that expense in addition to any other 5362  
liabilities imposed by law. At the request of the chief, the 5363  
attorney general shall bring an action against the operator for 5364  
the amount of the expenditures from either fund. Moneys so 5365  
recovered shall be deposited in the state treasury to the 5366  
appropriate credit of the fund from which the expenditures were 5367  
made. 5368

(H) If any part of the money in the surface mining fund 5369  
remains in the fund after the chief has caused the area of land to 5370  
be reclaimed and has paid all the reclamation costs and expenses, 5371  
or if any money remains because the area of land has been 5372  
repermitted under this chapter or reclaimed by a person other than 5373  
the chief, the chief may expend the remaining money to complete 5374  
other reclamation work performed under this section. The chief 5375  
shall prepare an annual report that summarizes the money credited 5376  
to the fund and expenditures made from the fund and post the 5377  
report on the division of mineral resources management's web site. 5378

**Sec. 1514.09.** The reclamation commission established pursuant 5379  
to section 1513.05 of the Revised Code shall serve as the 5380  
reclamation commission pursuant to this chapter. However, whenever 5381  
the commission is considering any appeal pertaining to surface or 5382  
in-stream mining, as distinguished from coal strip mining, the 5383  
member representing the coal strip mine operators shall be 5384

replaced by a person who, by reason of the person's previous 5385  
vocation, employment, or affiliations, can be classed as a 5386  
representative of surface or in-stream mine operators, as 5387  
applicable. The appointment of that person shall be made in 5388  
accordance with section 1513.05 of the Revised Code, and the 5389  
person's term shall be concurrent with that of the representative 5390  
of the coal strip mine operators. 5391

No party to an appeal brought under this section shall be 5392  
eligible for an award of attorney's fees, costs, or expenses from 5393  
the commission or any court. 5394

Notwithstanding section 1513.13 of the Revised Code, an 5395  
operator may appeal the determination of the chief of the division 5396  
of mineral resources management that is made under division (D) of 5397  
section 1514.43 of the Revised Code within ten days after the 5398  
operator receives a copy of the determination. 5399

Notwithstanding section 1513.14 of the Revised Code, appeals 5400  
from an order of the commission pertaining to surface or in-stream 5401  
mining may be taken to the court of common pleas of the county in 5402  
which the operation is located, or to the court of common pleas of 5403  
Franklin county. 5404

**Sec. 1514.11.** In addition to the purposes authorized in 5405  
section 1514.06 of the Revised Code, the chief of the division of 5406  
mineral resources management may use moneys in the surface mining 5407  
fund created under that section for the administration and 5408  
enforcement of this chapter, for the reclamation of land affected 5409  
by surface or in-stream mining under a permit issued under this 5410  
chapter that the operator failed to reclaim and for which the 5411  
performance bond filed by the operator is insufficient to complete 5412  
the reclamation, and for the reclamation of land affected by 5413  
surface or in-stream mining that was abandoned and left 5414  
unreclaimed and for which no permit was issued or bond filed under 5415

this chapter. Also, the chief may use the portion of the surface 5416  
mining fund that consists of moneys collected from the severance 5417  
taxes levied under section 5749.02 of the Revised Code for ~~the~~ 5418  
mine safety and first aid ~~classes provided under division (C) of~~ 5419  
~~section 1561.26 of the Revised Code~~ training. For purposes of this 5420  
section, the chief shall expend moneys in the fund in accordance 5421  
with the procedures and requirements established in section 5422  
1514.06 of the Revised Code and may enter into contracts and 5423  
perform work in accordance with that section. 5424

Fees collected under sections 1514.02 and 1514.03 of the 5425  
Revised Code, one-half of the moneys collected from the severance 5426  
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 5427  
the Revised Code, and all of the moneys collected from the 5428  
severance tax levied under division (A)(7) of section 5749.02 of 5429  
the Revised Code shall be credited to the fund in accordance with 5430  
those sections. Notwithstanding any section of the Revised Code 5431  
relating to the distribution or crediting of fines for violations 5432  
of the Revised Code, all fines imposed under section 1514.99 of 5433  
the Revised Code shall be credited to the fund. 5434

Sec. 1514.40. In accordance with Chapter 119. of the Revised 5435  
Code, the chief of the division of mineral resources management, 5436  
in consultation with a statewide association that represents the 5437  
surface mining industry, shall adopt rules that do all of the 5438  
following: 5439

(A) For the purpose of establishing safety standards 5440  
governing surface mining operations, incorporate by reference 30 5441  
C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended; 5442

(B) Establish criteria, standards, and procedures governing 5443  
safety performance evaluations conducted under section 1514.45 of 5444  
the Revised Code, including requirements for the notification of 5445  
operators and the identification of authorized representatives of 5446



miners at surface mining operations for purposes of inspections 5447  
conducted under sections 1541.41 to 1541.47 of the Revised Code; 5448

(C) Establish requirements governing the reporting and 5449  
investigation of accidents at surface mining operations. In 5450  
adopting the rules, the chief shall establish requirements that 5451  
minimize duplication with any reporting and investigations of 5452  
accidents that are conducted by the mine safety and health 5453  
administration in the United States department of labor. 5454

(D) Establish the time, place, and frequency of mine safety 5455  
training conducted under section 1514.06 of the Revised Code and a 5456  
fee, if any, for the purpose of that section. The amount of the 5457  
fee shall not exceed the costs of conducting the training that is 5458  
required under that section. 5459

(E) Establish the minimum qualifications necessary to take 5460  
the examination that is required for certification of certified 5461  
mine forepersons under division (B) of section 1514.47 of the 5462  
Revised Code and requirements, fees, and procedures governing the 5463  
taking of the examination; 5464

(F) Establish requirements and fees governing the renewal of 5465  
certificates under division (C) of that section; 5466

(G) Establish requirements and procedures for the approval of 5467  
training plans submitted under division (E) of that section for 5468  
the use of qualified persons to conduct examinations of surface 5469  
mining operations in lieu of certified mine forepersons and 5470  
minimum qualifications of those persons. The rules shall include 5471  
requirements governing training frequency and curriculum that must 5472  
be provided for qualified persons under such plans and shall 5473  
establish related reporting and record keeping requirements. 5474

As used in sections 1514.41 to 1514.47 of the Revised Code, 5475  
"rule" means a rule adopted under this section unless the context 5476  
indicates otherwise. 5477

Sec. 1514.41. (A) If a surface mining operation is not 5478  
inspected by the mine safety and health administration in the 5479  
United States department of labor, the chief of the division of 5480  
mineral resources management annually shall conduct a minimum of 5481  
two inspections of the operation. 5482

(B) If a surface mining operation is identified through a 5483  
safety performance evaluation conducted under section 1514.45 of 5484  
the Revised Code and rules as having lost-time accidents in an 5485  
amount greater than the national average, the chief shall conduct 5486  
a minimum of two inspections of the operation for one year 5487  
following the identification. 5488

(C) If a fatality of a miner occurs at a surface mining 5489  
operation as a result of an unsafe condition or a practice at the 5490  
operation, the chief shall conduct a minimum of one inspection 5491  
every three months at the operation for two years following the 5492  
fatality. 5493

(D) If a life-threatening injury of a miner occurs at a 5494  
surface mining operation as a result of an unsafe condition or a 5495  
practice at the operation, the chief shall conduct a minimum of 5496  
one inspection every three months at the operation for one year 5497  
following the injury. 5498

Sec. 1514.42. The chief of the division of mineral resources 5499  
management shall conduct a safety audit at a surface mining 5500  
operation if the operator of the operation has requested the 5501  
division of mineral resources management to conduct mine safety 5502  
training. The chief shall conduct additional safety audits at any 5503  
surface mining operation if requested by the operator of the 5504  
operation. If the chief conducts a safety audit, the operator 5505  
shall ensure that the chief has a copy of the training plan that 5506  
is required by 30 C.F.R. part 46, as amended, at the time of the 5507

audit. 5508

After completion of an audit, the chief shall prepare a 5509  
report that describes the general conditions of the surface mining 5510  
operation, lists any hazardous conditions at the operation, lists 5511  
any violations of the safety standards established in rules, and 5512  
describes the nature and extent of any hazardous condition or 5513  
violation found and the corresponding remedy for each hazardous 5514  
condition or violation. The chief shall provide two copies of the 5515  
report to the operator of the operation. The operator shall post 5516  
one copy of the report at the operation for review by the 5517  
employees of the operation. 5518

Sec. 1514.43. (A) The chief of the division of mineral 5519  
resources management shall enforce the safety standards 5520  
established in rules when conducting inspections under section 5521  
1514.41 of the Revised Code. 5522

(B) Except as otherwise provided in section 1514.44 of the 5523  
Revised Code or pursuant to a safety audit conducted under section 5524  
1514.42 of the Revised Code, if during an inspection the chief 5525  
finds a violation of a safety standard, the chief shall require 5526  
the operator to comply with the standard that is being violated 5527  
within a reasonable period of time. If the chief finds a violation 5528  
of a safety standard, the chief shall return to the surface mining 5529  
operation after a reasonable period of time to determine if the 5530  
operator has complied with the standard that was being violated. 5531  
If the operator has failed to comply with the standard, the chief 5532  
shall take appropriate action to obtain compliance if necessary. 5533

(C) Except as otherwise provided in section 1514.44 of the 5534  
Revised Code or pursuant to a safety audit conducted under section 5535  
1514.42 of the Revised Code, after completion of an inspection of 5536  
a surface mining operation, the chief shall prepare a report that 5537

describes the general conditions of the surface mining operation, 5538  
lists any hazardous conditions at the operation, lists any 5539  
violations of the safety standards established in rules, and 5540  
describes the nature and extent of any hazardous condition or 5541  
violation found and the corresponding remedy for each hazardous 5542  
condition or violation. The chief shall provide two copies of the 5543  
report to the operator of the operation. The operator shall post 5544  
one copy of the report at the operation for review by the 5545  
employees of the operation. 5546

(D) Except pursuant to a safety audit conducted under section 5547  
1514.42 of the Revised Code, not later than ten days after receipt 5548  
of a report under this section, the operator may submit a written 5549  
request to the chief for a meeting with the chief to review the 5550  
findings contained in the report. Upon receipt of a request, the 5551  
chief shall review the report and schedule a meeting with the 5552  
operator. Within a reasonable period of time after the meeting, 5553  
the chief shall make a written determination concerning the 5554  
findings contained in the report and provide one copy of the 5555  
determination to the operator of the surface mining operation and 5556  
one copy of the determination to an authorized representative of 5557  
the miners at the operation. If the chief makes a determination 5558  
that affirms the findings contained in the report, the chief's 5559  
determination constitutes an order for purposes of this chapter 5560  
and rules adopted under it. 5561

(E) An operator shall not appeal the contents of a report 5562  
prepared under division (C) of this section. However, an operator 5563  
may appeal a determination of the chief made under division (D) of 5564  
this section. 5565

(F) No operator shall violate or fail to comply with an order 5566  
issued pursuant to this section. 5567

**Sec. 1514.44.** If during an inspection conducted under section 5568

1514.41 of the Revised Code or a safety audit conducted under 5569  
section 1514.42 of the Revised Code, the chief of the division of 5570  
mineral resources management finds a condition or practice at a 5571  
surface mining operation that could reasonably be expected to 5572  
cause the death of or imminent serious physical harm to an 5573  
employee of the operation, the chief immediately shall issue 5574  
orders to safeguard the employees, notify the operator of the 5575  
condition or practice, and require the operator to abate the 5576  
condition or practice within a reasonable period of time. In all 5577  
such situations, the chief may require the operation to cease in 5578  
the area in which the condition or practice is occurring or may 5579  
require the entire operation to cease, if necessary, until the 5580  
condition or practice that could reasonably be expected to cause 5581  
death or serious physical harm is eliminated. 5582

The chief shall complete a report that describes the 5583  
condition or practice and the action taken to eliminate it. The 5584  
chief shall provide two copies of the report to the operator of 5585  
the operation. The operator shall post one copy of the report at 5586  
the operation for review by the employees of the operation. 5587

**Sec. 1514.45.** The chief of the division of mineral resources 5588  
management annually shall conduct a safety performance evaluation 5589  
of all surface mining operations in the state in accordance with 5590  
rules. The operator of a surface mining operation shall provide to 5591  
the chief a copy of the notification of legal identity required 5592  
under 30 C.F.R. part 41, as amended, at the same time that the 5593  
notice is filed with the mine safety and health administration in 5594  
the United States department of labor. 5595

**Sec. 1514.46.** If the operator of a surface mining operation 5596  
requests the division of mineral resources management to conduct 5597  
mine safety training, the chief of the division of mineral 5598

resources management shall conduct mine safety training for the 5599  
employees of that operator. For persons who are not employed by a 5600  
holder of a surface mining permit issued under this chapter and 5601  
who seek the training, the chief may charge a fee in an amount 5602  
established in rules for conducting it. The safety training shall 5603  
be conducted in accordance with rules and shall emphasize the 5604  
standards adopted in rules and include any other content that the 5605  
chief determines is beneficial. Any fees collected under this 5606  
section shall be deposited in the state treasury to the credit of 5607  
the surface mining fund created in section 1514.06 of the Revised 5608  
Code. 5609

**Sec. 1514.47.** (A) The operator of a surface mining operation 5610  
shall employ a certified mine foreperson or a person who is 5611  
qualified in accordance with this section and rules to conduct 5612  
examinations of surface mining operations for purposes of 30 5613  
C.F.R. part 56, as amended. 5614

(B) The chief of the division of mineral resources management 5615  
shall conduct examinations for the position of certified mine 5616  
foreperson in accordance with rules. In order to be eligible for 5617  
examination as a certified mine foreperson, an applicant shall 5618  
file with the chief an affidavit establishing the applicant's 5619  
qualifications to take the examination. The chief shall grade 5620  
examinations and issue certificates. 5621

(C) A certificate issued under this section shall expire five 5622  
years after the date of issuance. A certificate may be renewed, 5623  
provided that the applicant verifies that all required training 5624  
pursuant to 30 C.F.R. part 46, as amended, has been completed and 5625  
any other requirements for renewal have been satisfied. 5626

(D) If a certificate issued under this section is suspended, 5627  
the certificate shall not be renewed until the suspension period 5628

expires and the person whose certificate is suspended successfully 5629  
completes all actions required by the chief. If an applicant's 5630  
license, certificate, or similar authority that is issued by 5631  
another state to perform specified mining duties is suspended or 5632  
revoked by that state, the applicant shall be ineligible for 5633  
examination for or renewal of a certificate in this state during 5634  
that period of suspension or revocation. A certificate that has 5635  
been revoked shall not be renewed. 5636

If a person who has been certified by the chief under this 5637  
section purposely violates this chapter, the chief may suspend or 5638  
revoke the certificate after an investigation and hearing 5639  
conducted in accordance with Chapter 119. of the Revised Code are 5640  
completed. 5641

(E) In lieu of employing a certified mine foreperson, the 5642  
operator of a surface mining operation may submit to the chief a 5643  
detailed training plan under which persons who qualify under the 5644  
plan may conduct and document examinations at the surface mining 5645  
operation for purposes of 30 C.F.R. part 56, as amended. The chief 5646  
shall review the plan and determine if the plan complies with the 5647  
requirements established in rules. The chief shall approve or deny 5648  
the plan and notify in writing the operator who submitted the plan 5649  
of the chief's decision. 5650

**Sec. 1514.50.** (A) The chief of the division of mineral 5651  
resources management or an authorized employee of the division of 5652  
mineral resources management may enter on lands to make 5653  
inspections in accordance with this chapter and rules adopted 5654  
under it when necessary in the discharge of the duties specified 5655  
in this chapter and the rules. No person shall prevent or hinder 5656  
the chief or an authorized employee of the division in the 5657  
performance of those duties. 5658

(B) For purposes of performing reclamation of land affected 5659

by surface mining operations on which the holder of a permit 5660  
issued under this chapter has defaulted or otherwise failed to 5661  
timely conduct the reclamation required by section 1514.05 of the 5662  
Revised Code, the chief may enter on the land and perform 5663  
reclamation that the chief determines is necessary to protect 5664  
public health or safety or the environment. In order to perform 5665  
the reclamation, the chief may enter on adjoining land or other 5666  
land that is necessary to access the land on which the surface 5667  
mining occurred and on which the reclamation is to be performed. 5668  
The chief shall provide reasonable advance notice to the owner of 5669  
any land to be entered for the purpose of access for reclamation 5670  
under this chapter. The division shall return the land that was 5671  
used to access the former surface mining operation to the same or 5672  
an improved grade, topography, and condition that existed prior to 5673  
its use by the division. 5674

(C) When conducting investigations pursuant to section 5675  
1514.13 of the Revised Code, the chief or an authorized employee 5676  
of the division may enter on lands to conduct water supply 5677  
surveys, measure ground water levels and collect data when 5678  
necessary to define the cone of depression, or perform other 5679  
duties for the purposes of that section. 5680

**Sec. 1514.99.** (A) Whoever violates division (A)(1) or (2) of 5681  
section 1514.10 of the Revised Code may be fined not more than 5682  
five thousand dollars plus not more than one thousand dollars per 5683  
acre of land affected, and is responsible for achieving 5684  
reclamation of the land as required pursuant to this chapter. 5685

(B) Whoever violates division (B) of section 1514.10 of the 5686  
Revised Code may be fined not more than one thousand dollars per 5687  
acre of land affected that is not under permit, and is responsible 5688  
for achieving reclamation of the land as required pursuant to this 5689  
chapter. 5690



(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. 5722  
5723  
5724  
5725  
5726  
5727  
5728  
5729

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. 5730  
5731  
5732  
5733  
5734  
5735

**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. 5736  
5737  
5738  
5739  
5740  
5741  
5742  
5743  
5744  
5745  
5746  
5747

**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 5748  
5749  
5750  
5751

improvement. In preparing the schedule, the board or its designee 5752  
shall use information concerning the proposed improvement that 5753  
must be submitted to the board by the supervisors of a soil and 5754  
water conservation district. The information includes plans for 5755  
the proposed improvement, including surveys, maps, and 5756  
specifications, together with schedules of damages, cost 5757  
estimates, and any related reports that the supervisors or their 5758  
designee prepared. 5759

The schedule of estimated assessments that must be prepared 5760  
shall include the name and address of each owner of land believed 5761  
to be benefited by the proposed improvement together with a 5762  
description of the land. The names and descriptions shall be 5763  
obtained from the tax duplicates of the county. The board or its 5764  
designee shall enter in the schedule the amount of each estimated 5765  
assessment, which shall be determined using considerations 5766  
established in section 1515.24 of the Revised Code. In no case 5767  
shall an assessment be less than twenty-five dollars for each 5768  
parcel of land, except in the case of a multi-parcel lot, in which 5769  
case the board may charge a minimum of twenty-five dollars with 5770  
respect to all of the parcels comprising the multi-parcel lot. In 5771  
addition, the board may charge an assessment of less than 5772  
twenty-five dollars if the board determines that a lower amount is 5773  
appropriate, provided that the lower amount includes the cost of 5774  
preparing and mailing the notice required under division (D)(1) of 5775  
section 1515.24 of the Revised Code. The total of the estimated 5776  
assessments, including the total estimated assessments allocated 5777  
to public corporations and the state, shall equal the estimated 5778  
cost of the proposed improvement. The board shall use the schedule 5779  
of estimated assessments for purposes of levying final assessments 5780  
under section 1515.24 of the Revised Code. 5781

(B) As used in this section, "multi-parcel lot" means a site 5782  
on which a dwelling is located and that comprises two or more 5783

contiguous parcels of land.

5784

**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.

5785  
5786  
5787  
5788  
5789  
5790  
5791

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.

5792  
5793  
5794  
5795  
5796  
5797  
5798  
5799  
5800  
5801

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.

5802  
5803  
5804  
5805  
5806

The chief shall do the following:

5807

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

5808  
5809

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

5810  
5811

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

5812  
5813

(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; 5845

(I) Establish an appropriate system for marking nature 5846  
preserves; 5847

(J) Publish and submit to the governor and the general 5848  
assembly a biennial report of the status and condition of each 5849  
nature preserve, activities conducted within each preserve, and 5850  
plans and recommendations for natural area preservation. 5851

**Sec. 1517.10.** (A) As used in this section, "felony" has the 5852  
same meaning as in section 109.511 of the Revised Code. 5853

(B)(1) Any person selected by the chief of the division of 5854  
natural areas and preserves for custodial or patrol service on the 5855  
lands and waters operated or administered by the division shall be 5856  
employed in conformity with the law applicable to the classified 5857  
civil service of the state. Subject to division (C) of this 5858  
section, the chief may designate that person as a preserve 5859  
officer. A preserve officer, in any nature preserve, in any 5860  
natural area owned or managed through easement, license, or lease 5861  
by the department of natural resources and administered by the 5862  
division, and on lands owned or managed through easement, license, 5863  
or lease by the department and administered by the division that 5864  
are within or adjacent to any wild, scenic, or recreational river 5865  
area established under this chapter and along any trail 5866  
established under Chapter 1519. of the Revised Code, has the 5867  
authority specified under section 2935.03 of the Revised Code for 5868  
peace officers of the department of natural resources to keep the 5869  
peace, to enforce all laws and rules governing those lands and 5870  
waters, and to make arrests for violation of those laws and rules, 5871  
provided that the authority shall be exercised on lands or waters 5872  
administered by another division of the department only pursuant 5873  
to an agreement with the chief of that division or to a request 5874  
for assistance by an enforcement officer of that division in an 5875

emergency. A preserve officer, in or along any watercourse within, 5876  
abutting, or upstream from the boundary of any area administered 5877  
by the department, has the authority to enforce section 3767.32 of 5878  
the Revised Code and any other laws prohibiting the dumping of 5879  
refuse into or along waters and to make arrests for violation of 5880  
those laws. The jurisdiction of a preserve officer shall be 5881  
concurrent with that of the peace officers of the county, 5882  
township, or municipal corporation in which the violation occurs. 5883

The governor, upon the recommendation of the chief, shall 5884  
issue to each preserve officer a commission indicating authority 5885  
to make arrests as provided in this section. 5886

The chief shall furnish a suitable badge to each commissioned 5887  
preserve officer as evidence of the preserve officer's authority. 5888

(2) If any person employed under this section is designated 5889  
by the chief to act as an agent of the state in the collection of 5890  
money resulting from the sale of licenses, fees of any nature, or 5891  
other money belonging to the state, the chief shall require a 5892  
surety bond from the person in an amount not less than one 5893  
thousand dollars. 5894

(3) A preserve officer may render assistance to a state or 5895  
local law enforcement officer at the request of the officer or in 5896  
the event of an emergency. Preserve officers serving outside the 5897  
division of natural areas and preserves under this section or 5898  
serving under the terms of a mutual aid compact authorized under 5899  
section 1501.02 of the Revised Code shall be considered as 5900  
performing services within their regular employment for the 5901  
purposes of compensation, pension or indemnity fund rights, 5902  
workers' compensation, and other rights or benefits to which they 5903  
may be entitled as incidents of their regular employment. 5904

Preserve officers serving outside the division of natural 5905  
areas and preserves under this section or under the terms of a 5906

mutual aid compact retain personal immunity from civil liability 5907  
as specified in section 9.86 of the Revised Code and shall not be 5908  
considered an employee of a political subdivision for purposes of 5909  
Chapter 2744. of the Revised Code. A political subdivision that 5910  
uses preserve officers under this section or under the terms of a 5911  
mutual aid compact authorized under section 1501.02 of the Revised 5912  
Code is not subject to civil liability under Chapter 2744. of the 5913  
Revised Code as a result of any action or omission of any preserve 5914  
officer acting under this section or under a mutual aid compact. 5915

(C)(1) The chief of the division of natural areas and 5916  
preserves shall not designate a person as a preserve officer 5917  
pursuant to division (B)(1) of this section on a permanent basis, 5918  
on a temporary basis, for a probationary term, or on other than a 5919  
permanent basis if the person previously has been convicted of or 5920  
has pleaded guilty to a felony. 5921

(2)(a) The chief of the division of natural areas and 5922  
preserves shall terminate the employment as a preserve officer of 5923  
a person designated as a preserve officer under division (B)(1) of 5924  
this section if that person does either of the following: 5925

(i) Pleads guilty to a felony; 5926

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 5927  
plea agreement as provided in division (D) of section 2929.43 of 5928  
the Revised Code in which the preserve officer agrees to surrender 5929  
the certificate awarded to the preserve officer under section 5930  
109.77 of the Revised Code. 5931

(b) The chief shall suspend from employment as a preserve 5932  
officer a person designated as a preserve officer under division 5933  
(B)(1) of this section if that person is convicted, after trial, 5934  
of a felony. If the preserve officer files an appeal from that 5935  
conviction and the conviction is upheld by the highest court to 5936  
which the appeal is taken or if the preserve officer does not file 5937



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, 5968  
and wild, scenic, and recreational river areas; 5969

(C) Special projects, including, but not limited to, 5970  
biological inventories, research grants, and the production of 5971  
interpretive material related to natural areas, nature preserves, 5972  
and wild, scenic, and recreational river areas; 5973

(D) Routine maintenance for health and safety purposes. 5974

Moneys appropriated from the fund shall not be used to fund 5975  
salaries of permanent employees, or administrative costs, ~~or~~ 5976  
~~routine maintenance.~~ 5977

All investment earnings of the fund shall be credited to the 5978  
fund. 5979

**Sec. 1520.02.** (A) The director of natural resources has 5980  
exclusive authority to administer, manage, and establish policies 5981  
governing canal lands. 5982

(B)(1) ~~Except as provided in division (C) of this section,~~ 5983  
~~the~~ The director may sell, lease, exchange, give, or grant all or 5984  
part of the state's interest in any canal lands in accordance with 5985  
section 1501.01 of the Revised Code. The director may stipulate 5986  
that an appraisal or survey need not be conducted for, and may 5987  
establish any terms or conditions that the director determines 5988  
appropriate for, any such conveyance. 5989

(2) With regard to canal lands, the chief of the division of 5990  
water, with the approval of the director, may sell, lease, or 5991  
transfer minerals or mineral rights when the chief ~~and, with the~~ 5992  
approval of the director ~~determine,~~ determines that the sale, 5993  
lease, or transfer is in the best interest of the state. 5994  
Consideration for minerals and mineral rights shall be by rental 5995  
or on a royalty basis as prescribed by the chief, with the 5996  
approval of the director, and payable as prescribed by contract. 5997

Moneys collected under division (B)(2) of this section shall be 5998  
paid into the state treasury to the credit of the canal lands fund 5999  
created in section 1520.05 of the Revised Code. 6000

~~(C)(1) Not later than one year after July 1, 1989, the 6001  
director of transportation and the director of the Ohio historical 6002  
society shall identify all canal lands that are or may be of use 6003  
to any program operated by the department of transportation or the 6004  
Ohio historical society, respectively, and shall notify the 6005  
director of natural resources of those lands. The director of 6006  
natural resources may transfer any canal lands so identified to 6007  
the exclusive care, custody, and control of the department of 6008  
transportation or the Ohio historical society, as applicable, by 6009  
means of a departmental transfer not later than six months after 6010  
receiving notification under division (C)(1) of this section. 6011~~

~~(2) The director of natural resources may transfer to the 6012  
Ohio historical society any equipment, maps, and records used on 6013  
or related to canal lands that are of historical interest and that 6014  
are not needed by the director to administer this chapter. 6015~~

(D) If the director of natural resources determines that any 6016  
canal lands are a necessary part of a county's drainage or ditch 6017  
system and are not needed for any purpose of the department of 6018  
natural resources, the director may sell, grant, or otherwise 6019  
convey those canal lands to that county in accordance with 6020  
division (B) of this section. The board of county commissioners 6021  
shall accept the transfer of canal lands. 6022

(E) Notwithstanding any other section of the Revised Code, 6023  
the county auditor shall transfer any canal lands conveyed under 6024  
this section, and the county recorder shall record the deed for 6025  
those lands in accordance with section 317.12 of the Revised Code. 6026  
~~This division does not apply to canal lands transferred under 6027  
division (C)(1) of this section. 6028~~

Sec. 1520.03. (A) The director of natural resources may 6029  
appropriate real property in accordance with Chapter 163. of the 6030  
Revised Code for the purpose of administering this chapter. 6031

(B)(1) The director shall operate and maintain all canals and 6032  
canal reservoirs owned by the state except those canals that are 6033  
operated by the Ohio historical society on July 1, 1989. 6034

(2) On behalf of the director, the division of water shall 6035  
have the care and control of all canals and canal reservoirs owned 6036  
by the state, the water in them, and canal lands and shall 6037  
protect, operate, and maintain them and keep them in repair. The 6038  
chief of the division of water may remove obstructions from or on 6039  
them and shall make any alterations or changes in or to them and 6040  
construct any feeders, dikes, reservoirs, dams, locks, or other 6041  
works, devices, or improvements in or on them that are necessary 6042  
in the discharge of the chief's duties. 6043

In accordance with Chapter 119. of the Revised Code, the 6044  
chief may adopt, amend, and rescind rules that are necessary for 6045  
the administration of this division. 6046

(C) The director may sell or lease water from any canal or 6047  
canal reservoir that the director operates and maintains only to 6048  
the extent that the water is in excess of the quantity that is 6049  
required for navigation, recreation, and wildlife purposes. The 6050  
director may adopt, amend, and rescind rules in accordance with 6051  
Chapter 119. of the Revised Code necessary to administer this 6052  
division. 6053

The withdrawal of water from any canal or canal reservoir for 6054  
domestic use is exempt from this division. However, the director 6055  
may require water conservation measures for water that is 6056  
withdrawn from any canal or canal reservoir for domestic use 6057  
during drought conditions or other emergencies declared by the 6058

governor.

6059

(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.

6060

6061

6062

(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.

6063

6064

6065

6066

6067

6068

6069

6070

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.

6071

6072

6073

6074

6075

6076

6077

6078

6079

6080

6081

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.

6082

6083

6084

(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.

6085

6086

6087

6088

**Sec. 1520.05.** There is hereby created in the state treasury 6089  
the canal lands fund, which shall be composed of all moneys 6090  
received by the director of natural resources under sections 6091  
1520.02 and 1520.03 of the Revised Code, all civil penalties 6092  
assessed under section 1520.03 of the Revised Code, and any moneys 6093  
appropriated to it. The fund shall be administered by the 6094  
director, who shall spend moneys in the fund for the purposes of 6095  
administering and enforcing this chapter ~~and section 1521.08 of~~ 6096  
~~the Revised Code.~~ The director may spend any surplus moneys in the 6097  
fund, as determined by ~~him~~ the director, for any other programs 6098  
operated by the department of natural resources. 6099

**Sec. 1520.07.** (A) The director of natural resources may give 6100  
away or sell timber that has fallen on or been removed for 6101  
maintenance reasons from canal lands. 6102

(B) The director may give away or sell the spoils of a 6103  
dredging operation conducted by the department of natural 6104  
resources in waters under the control and management of the 6105  
~~division of water~~ department. Prior to giving away or selling any 6106  
spoils under this division, the director shall notify the director 6107  
of environmental protection of ~~his~~ that intent so that the 6108  
director of environmental protection may determine whether the 6109  
spoils constitute solid wastes or hazardous waste, as those terms 6110  
are defined in section 3734.01 of the Revised Code, that shall be 6111  
disposed of in accordance with Chapter 3734. of the Revised Code. 6112  
If the director of environmental protection does not notify the 6113  
director of natural resources within thirty days after receiving 6114  
notice of the gift or sale that the spoils shall be disposed of in 6115  
accordance with Chapter 3734. of the Revised Code, the director of 6116  
natural resources may proceed with the gift or sale. 6117

(C) Proceeds from the sale of timber or dredge spoils under 6118

this section shall be deposited into the state treasury to the 6119  
credit of the canal lands fund created in section 1520.05 of the 6120  
Revised Code. 6121

**Sec. 1521.01.** As used in sections 1521.01 to 1521.05, 1521.13 6122  
to 1521.18, and 1521.20 to 1521.30 of the Revised Code: 6123

(A) "Consumptive use," "diversion," "Lake Erie drainage 6124  
basin," "other great lakes states and provinces," "water 6125  
resources," and "waters of the state" have the same meanings as in 6126  
section 1501.30 of the Revised Code. 6127

(B) "Well" means any excavation, regardless of design or 6128  
method of construction, created for any of the following purposes: 6129

(1) Removing ground water from or recharging water into an 6130  
aquifer, excluding subsurface drainage systems installed to 6131  
enhance agricultural crop production or urban or suburban 6132  
landscape management or to control seepage in dams, dikes, and 6133  
levees; 6134

(2) Determining the quantity, quality, level, or movement of 6135  
ground water in or the stratigraphy of an aquifer, excluding 6136  
borings for instrumentation in dams, dikes, levees, or highway 6137  
embankments; 6138

(3) Removing or exchanging heat from ground water, excluding 6139  
horizontal trenches that are installed for water source heat pump 6140  
systems. 6141

(C) "Aquifer" means a consolidated or unconsolidated geologic 6142  
formation or series of formations that are hydraulically 6143  
interconnected and that have the ability to receive, store, or 6144  
transmit water. 6145

(D) "Ground water" means all water occurring in an aquifer. 6146

(E) "Ground water stress area" means a definable geographic 6147

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.

6178

(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:

6179

6180

6181

6182

6183

6184

6185

6186

(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;

6187

6188

6189

6190

6191

(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.

6192

6193

6194

6195

(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.

6196

6197

6198

6199

6200

6201

6202

6203

6204

(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

6205

6206

6207

6208

occurred. 6209

(O) "National flood insurance program" means the national 6210  
flood insurance program established in the "National Flood 6211  
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as amended, 6212  
and regulations adopted under it. 6213

(R) "Conservancy district" means a conservancy district 6214  
established under Chapter 6101. of the Revised Code. 6215

~~(Q)~~(S) "Park board" means the board of park commissioners of 6216  
a park district created under Chapter 1545. of the Revised Code. 6217

~~(R)~~(T) "Erosion control structure" means anything that is 6218  
designed primarily to reduce or control erosion of the shore along 6219  
or near lake erie, including, but not limited to, revetments, 6220  
seawalls, bulkheads, certain breakwaters designated by the chief, 6221  
and similar structures. "Erosion control structure" does not 6222  
include wharves, piers, docks, marinas, boat ramps, and other 6223  
similar structures. 6224

**Sec. 1521.04.** The chief of the division of water, with the 6225  
approval of the director of natural resources, may make loans and 6226  
grants from the water management fund created in section 1501.32 6227  
of the Revised Code to governmental agencies for water management, 6228  
water supply improvements, and planning and may administer grants 6229  
from the federal government and from other public or private 6230  
sources for carrying out those functions and for the performance 6231  
of any acts that may be required by the United States or by any 6232  
agency or department thereof as a condition for the participation 6233  
by any governmental agency in any federal financial or technical 6234  
assistance program. Direct and indirect costs of administration 6235  
may be paid from the ~~water management~~ fund. 6236

The chief may use the water management fund for the purposes 6237  
of administering the water diversion and consumptive use permit 6238

programs established in sections 1501.30 to 1501.35 of the Revised 6239  
Code; to perform watershed and water resources studies for the 6240  
purposes of water management planning; and to acquire, construct, 6241  
reconstruct, improve, equip, maintain, operate, and dispose of 6242  
water management improvements. The chief may fix, alter, charge, 6243  
and collect rates, fees, rentals, and other charges to be paid 6244  
into the ~~water management~~ fund by governmental agencies and 6245  
persons who are supplied with water by facilities constructed or 6246  
operated by the department of natural resources in order to 6247  
amortize and defray the cost of the construction, maintenance, and 6248  
operation of those facilities. 6249

**Sec. 1521.05.** (A) As used in this section: 6250

(1) "Construct" or "construction" includes drilling, boring, 6251  
digging, deepening, altering, and logging. 6252

(2) "Altering" means changing the configuration of a well, 6253  
including, without limitation, deepening a well, extending or 6254  
replacing any portion of the inside or outside casing or wall of a 6255  
well that extends below ground level, plugging a portion of a well 6256  
back to a certain depth, and reaming out a well to enlarge its 6257  
original diameter. 6258

(3) "Logging" means describing the lithology, grain size, 6259  
color, and texture of the formations encountered during the 6260  
drilling, boring, digging, deepening, or altering of a well. 6261

(4) "Grouting" means neat cement; bentonite products in 6262  
slurry, granular, or pelletized form, excluding drilling mud or 6263  
fluids; or any combination of neat cement and bentonite products 6264  
that is placed within a well to seal the annular space or to seal 6265  
an abandoned well and that is impervious to and capable of 6266  
preventing the movement of water. 6267

(5) "Abandoned well" means a well whose use has been 6268

permanently discontinued and that poses potential health and 6269  
safety hazards or that has the potential to transmit surface 6270  
contaminants into the aquifer in which the well has been 6271  
constructed. 6272

(6) "Sealing" means the complete filling of an abandoned well 6273  
with grouting or other approved materials in order to permanently 6274  
prevent the vertical movement of water in the well and thus 6275  
prevent the contamination of ground water or the intermixing of 6276  
water between aquifers. 6277

(B) Any person that constructs a well shall keep a careful 6278  
and accurate log of the construction of the well. The log shall 6279  
show all of the following: 6280

(1) The character, including, without limitation, the 6281  
lithology, color, texture, and grain size, the name, if known, and 6282  
the depth of all formations passed through or encountered; 6283

(2) The depths at which water is encountered; 6284

(3) The static water level of the completed well; 6285

(4) A copy of the record of all pumping tests and analyses 6286  
related to those tests, if any; 6287

(5) Construction details, including lengths, diameters, and 6288  
thicknesses of casing and screening and the volume, type of 6289  
material, and method of introducing gravel packing and grouting 6290  
into the well; 6291

(6) The type of pumping equipment installed, if any; 6292

(7) The name of the owner of the well, the address of the 6293  
location where the well was constructed, and ~~a description of the~~ 6294  
~~location of~~ either the property where state plane coordinates or 6295  
the latitude and longitude of the well was constructed; 6296

(8) The signature of the individual who constructed the well 6297  
and filed the well log; 6298

(9) Any other information required by the chief of the 6299  
division of water. 6300

The log shall be furnished to the division of water within 6301  
thirty days after the completion of construction of the well on 6302  
forms prescribed and prepared by the division. The log shall be 6303  
kept on file by the division. 6304

(C) Any person that seals a well shall keep a careful and 6305  
accurate report of the sealing of the well. The sealing report 6306  
shall show all of the following: 6307

(1) The name of the owner of the well, the address of the 6308  
location where the well was constructed, and either the state 6309  
plane coordinates or the latitude and longitude of the well; 6310

(2) The depth of the well, the size and length of its casing, 6311  
and the static water level of the well; 6312

(3) The sealing procedures, including the volume and type of 6313  
sealing material or materials and the method and depth of 6314  
placement of each material; 6315

(4) The date on which the sealing was performed; 6316

(5) The signature of the individual who sealed the well and 6317  
filed the sealing report; 6318

(6) Any other information required by the chief. 6319

The sealing report shall be furnished to the division within 6320  
thirty days after the completion of the sealing of the well on 6321  
forms prescribed and prepared by the division. 6322

(D) In accordance with Chapter 119. of the Revised Code, the 6323  
chief may adopt, amend, and rescind rules requiring other persons 6324  
that are involved in the construction or subsequent development of 6325  
a well to submit well logs under ~~this~~ division (B) of this section 6326  
containing any or all of the information specified in divisions 6327  
(B)(1) to (9) of this section and ~~requiring any person that seals~~ 6328

an abandoned well to submit a well sealing report under this 6329  
division containing any or all of the information specified in 6330  
those divisions and any specifying additional information 6331  
specified in the rules to be included in sealing reports required 6332  
under division (C) of this section. 6333

~~(C)~~(E)(1) No person shall fail to keep and submit a well log 6334  
or a sealing report as required by this section. 6335

(2) No person shall make a false statement in any well log or 6336  
sealing report required to be kept and submitted under this 6337  
section. Violation of division ~~(C)~~(E)(2) of this section is 6338  
falsification under section 2921.13 of the Revised Code. 6339

~~(D)~~(F) For the purposes of prosecution of a violation of 6340  
division ~~(C)~~(E)(1) of this section, a prima-facie case is 6341  
established when the division obtains either of the following: 6342

(1) A certified copy of a permit for a private water system 6343  
issued in accordance with rules adopted under section 3701.344 of 6344  
the Revised Code, or a certified copy of the invoice or a canceled 6345  
check from the owner of a well indicating the construction or 6346  
sealing services performed; 6347

(2) A certified copy of any permit issued under Chapter 3734. 6348  
or 6111. of the Revised Code or plan approval granted under 6349  
Chapter 6109. of the Revised Code for any activity that includes 6350  
the construction or sealing of a well as applicable. 6351

**Sec. 1521.06.** (A) No dam may be constructed for the purpose 6352  
of storing, conserving, or retarding water, or for any other 6353  
purpose, nor shall any ~~dike or~~ levee be constructed for the 6354  
purpose of diverting or retaining flood water, unless the person 6355  
or governmental agency desiring the construction has a 6356  
construction permit for the dam, ~~dike,~~ or levee issued by the 6357  
chief of the division of water. 6358

A construction permit is not required under this section for: 6359

(1) A dam that is or will be less than ten feet in height and 6360  
that has or will have a storage capacity of not more than fifty 6361  
acre-feet at the elevation of the top of the dam, as determined by 6362  
the chief. For the purposes of this section, the height of a dam 6363  
shall be measured from the natural stream bed or lowest ground 6364  
elevation at the downstream or outside limit of the dam to the 6365  
elevation of the top of the dam. 6366

(2) A dam, regardless of height, that has or will have a 6367  
storage capacity of not more than fifteen acre-feet at the 6368  
elevation of the top of the dam, as determined by the chief; 6369

(3) A dam, regardless of storage capacity, that is or will be 6370  
six feet or less in height, as determined by the chief; 6371

(4) A dam, ~~dike~~, or levee that belongs to a class exempted by 6372  
the chief; 6373

(5) The repair, maintenance, improvement, alteration, or 6374  
removal of a dam, ~~dike~~, or levee that is subject to section 6375  
1521.062 of the Revised Code, unless the construction constitutes 6376  
an enlargement or reconstruction of the structure as determined by 6377  
the chief; 6378

(6) A dam or impoundment constructed under Chapter 1513. of 6379  
the Revised Code. 6380

(B) Before a construction permit may be issued, three copies 6381  
of the plans and specifications, including a detailed cost 6382  
estimate, for the proposed construction, prepared by a registered 6383  
professional engineer, together with the filing fee specified by 6384  
this section and the bond or other security required by section 6385  
1521.061 of the Revised Code, shall be filed with the chief. The 6386  
detailed estimate of the cost shall include all costs associated 6387  
with the construction of the dam, ~~dike~~, or levee, including 6388

supervision and inspection of the construction by a registered 6389  
professional engineer. The filing fee shall be based on the 6390  
detailed cost estimate for the proposed construction as filed with 6391  
and approved by the chief, and shall be determined by the 6392  
following schedule unless otherwise provided by rules adopted 6393  
under this section: 6394

(1) For the first one hundred thousand dollars of estimated 6395  
cost, a fee of four per cent; 6396

(2) For the next four hundred thousand dollars of estimated 6397  
cost, a fee of three per cent; 6398

(3) For the next five hundred thousand dollars of estimated 6399  
cost, a fee of two per cent; 6400

(4) For all costs in excess of one million dollars, a fee of 6401  
one-half of one per cent. 6402

In no case shall the filing fee be less than one thousand 6403  
dollars or more than one hundred thousand dollars. If the actual 6404  
cost exceeds the estimated cost by more than fifteen per cent, an 6405  
additional filing fee shall be required equal to the fee 6406  
determined by the preceding schedule less the original filing fee. 6407  
All fees collected pursuant to this section, and all fines 6408  
collected pursuant to section 1521.99 of the Revised Code, shall 6409  
be deposited in the state treasury to the credit of the dam safety 6410  
fund, which is hereby created. Expenditures from the fund shall be 6411  
made by the chief for the purpose of administering this section 6412  
and sections 1521.061 and 1521.062 of the Revised Code. 6413

(C) The chief shall, within thirty days from the date of the 6414  
receipt of the application, fee, and bond or other security, issue 6415  
or deny a construction permit for the construction or may issue a 6416  
construction permit conditioned upon the making of such changes in 6417  
the plans and specifications for the construction as the chief 6418  
considers advisable if the chief determines that the construction 6419



of the proposed dam,~~dike~~, or levee, in accordance with the plans 6420  
and specifications filed, would endanger life, health, or 6421  
property. 6422

(D) The chief may deny a construction permit after finding 6423  
that a dam,~~dike~~, or levee built in accordance with the plans and 6424  
specifications would endanger life, health, or property, because 6425  
of improper or inadequate design, or for such other reasons as the 6426  
chief may determine. 6427

In the event the chief denies a permit for the construction 6428  
of the dam,~~dike~~, or levee, or issues a permit conditioned upon a 6429  
making of changes in the plans or specifications for the 6430  
construction, the chief shall state the reasons therefor and so 6431  
notify, in writing, the person or governmental agency making the 6432  
application for a permit. If the permit is denied, the chief shall 6433  
return the bond or other security to the person or governmental 6434  
agency making application for the permit. 6435

The decision of the chief conditioning or denying a 6436  
construction permit is subject to appeal as provided in Chapter 6437  
119. of the Revised Code. A dam,~~dike~~, or levee built 6438  
substantially at variance from the plans and specifications upon 6439  
which a construction permit was issued is in violation of this 6440  
section. The chief may at any time inspect any dam,~~dike~~, or 6441  
levee, or site upon which any dam,~~dike~~, or levee is to be 6442  
constructed, in order to determine whether it complies with this 6443  
section. 6444

(E) A registered professional engineer shall inspect the 6445  
construction for which the permit was issued during all phases of 6446  
construction and shall furnish to the chief such regular reports 6447  
of the engineer's inspections as the chief may require. When the 6448  
chief finds that construction has been fully completed in 6449  
accordance with the terms of the permit and the plans and 6450

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. 6483  
of the Revised Code, for the design and construction of dams, 6484  
~~dikes~~, and levees for which a construction permit is required by 6485  
this section or for which periodic inspection is required by 6486  
section 1521.062 of the Revised Code, for establishing a filing 6487  
fee schedule in lieu of the schedule established under division 6488  
(B) of this section, for deposit and forfeiture of bonds and other 6489  
securities required by section 1521.061 of the Revised Code, for 6490  
the periodic inspection, operation, repair, improvement, 6491  
alteration, or removal of all dams, ~~dikes~~, and levees, as 6492  
specified in section 1521.062 of the Revised Code, and for 6493  
establishing classes of dams, ~~dikes~~, or levees that are exempt 6494  
from the requirements of ~~sections 1521.06~~ this section and section 6495  
1521.062 of the Revised Code as being of a size, purpose, or 6496  
situation that does not present a substantial hazard to life, 6497  
health, or property. The chief may, by rule, limit the period 6498  
during which a construction permit issued under this section is 6499  
valid. The rules may allow for the extension of the period during 6500  
which a permit is valid upon written request, provided that the 6501  
written request includes a revised construction cost estimate, and 6502  
may require the payment of an additional filing fee for the 6503  
requested extension. If a construction permit expires without an 6504  
extension before construction is completed, the person or agency 6505  
shall apply for a new permit, and shall not continue construction 6506  
until the new permit is issued. 6507

**Sec. 1521.061.** Except as otherwise provided in this section, 6508  
a construction permit shall not be issued under section 1521.06 of 6509  
the Revised Code unless the person or governmental agency applying 6510  
for the permit executes and files a surety bond conditioned on 6511  
completion of the dam, ~~dike~~, or levee in accordance with the terms 6512  
of the permit and the plans and specifications approved by the 6513  
chief of the division of water, in an amount equal to fifty per 6514

cent of the estimated cost of the project. 6515

If a permittee requests an extension of the time period 6516  
during which a construction permit is valid in accordance with 6517  
rules adopted under section 1521.06 of the Revised Code, the chief 6518  
shall determine whether the revised construction cost estimate 6519  
provided with the request exceeds the original construction cost 6520  
estimate that was filed with the chief by more than twenty-five 6521  
per cent. If the revised construction cost estimate exceeds the 6522  
original construction cost estimate by more than twenty-five per 6523  
cent, the chief may require an additional surety bond to be filed 6524  
so that the total amount of the surety bonds equals at least fifty 6525  
per cent of the revised construction cost estimate. 6526

The chief shall not approve any bond until it is personally 6527  
signed and acknowledged by both principal and surety, or as to 6528  
either by ~~his~~ the attorney in fact thereof, with a certified copy 6529  
of the power of attorney attached. The chief shall not approve the 6530  
bond unless there is attached a certificate of the superintendent 6531  
of insurance that the company is authorized to transact a fidelity 6532  
and surety business in this state. 6533

All bonds shall be given in a form prescribed by the chief 6534  
and shall run to the state as obligee. 6535

The applicant may deposit, in lieu of a bond, cash in an 6536  
amount equal to the amount of the bond or United States government 6537  
securities or negotiable certificates of deposit issued by any 6538  
bank organized or transacting business in this state having a par 6539  
value equal to or greater than the amount of the bond. Such cash 6540  
or securities shall be deposited upon the same terms as bonds. If 6541  
one or more certificates of deposit are deposited in lieu of a 6542  
bond, the chief shall require the bank ~~which~~ that issued any such 6543  
certificate to pledge securities of the aggregate market value 6544  
equal to the amount of the certificate ~~which~~ that is in excess of 6545  
the amount insured by the federal deposit insurance corporation. 6546

The securities to be pledged shall be those designated as eligible 6547  
under section 135.18 of the Revised Code. The securities shall be 6548  
security for the repayment of the certificate of deposit. 6549

Immediately upon a deposit of cash, securities, or 6550  
certificates of deposit, the chief shall deliver them to the 6551  
treasurer of state, who shall hold them in trust for the purposes 6552  
for which they have been deposited. The treasurer of state is 6553  
responsible for the safekeeping of such deposits. An applicant 6554  
making a deposit of cash, securities, or certificates of deposit 6555  
may withdraw and receive from the treasurer of state, on the 6556  
written order of the chief, all or any portion of the cash, 6557  
securities, or certificates of deposit, upon depositing with the 6558  
treasurer of state cash, other United States government 6559  
securities, or negotiable certificates of deposit issued by any 6560  
bank organized or transacting business in this state equal in par 6561  
value to the par value of the cash, securities, or certificates of 6562  
deposit withdrawn. An applicant may demand and receive from the 6563  
treasurer of state all interest or other income from any such 6564  
securities or certificates as it becomes due. If securities so 6565  
deposited with and in the possession of the treasurer of state 6566  
mature or are called for payment by the issuer thereof, the 6567  
treasurer of state, at the request of the applicant who deposited 6568  
them, shall convert the proceeds of the redemption or payment of 6569  
the securities into such other United States government 6570  
securities, negotiable certificates of deposit issued by any bank 6571  
organized or transacting business in this state, or cash as the 6572  
applicant designates. 6573

When the chief finds that a person or governmental agency has 6574  
failed to comply with the conditions of ~~his~~ the person's or 6575  
agency's bond, ~~he~~ the chief shall make a finding of that fact and 6576  
declare the bond, cash, securities, or certificates of deposit 6577  
forfeited in the amount set by rule of the chief. The chief shall 6578

thereupon certify the total forfeiture to the attorney general, 6579  
who shall proceed to collect that amount. 6580

In lieu of total forfeiture, the surety, at its option, may 6581  
cause the dam, ~~dike~~, or levee to be completed as required by 6582  
section 1521.06 of the Revised Code and rules of the chief, or 6583  
otherwise rendered nonhazardous, or pay to the treasurer of state 6584  
the cost thereof. 6585

All moneys collected on account of forfeitures of bonds, 6586  
cash, securities, and certificates of deposit under this section 6587  
shall be credited to the dam safety fund created in section 6588  
1521.06 of the Revised Code. The chief shall make expenditures 6589  
from the fund to complete dams, ~~dikes~~, and levees for which bonds 6590  
have been forfeited or to otherwise render them nonhazardous. 6591

Expenditures from the fund for those purposes shall be made 6592  
pursuant to contracts entered into by the chief with persons who 6593  
agree to furnish all of the materials, equipment, work, and labor 6594  
as specified and provided in the contract. 6595

A surety bond shall not be required for a permit for a dam, ~~dike~~, 6596  
~~dike~~, or levee that is to be designed and constructed by an agency 6597  
of the United States government, if the agency files with the 6598  
chief written assurance of the agency's financial responsibility 6599  
for the structure during the one-year period following the chief's 6600  
approval of the completed construction provided for under division 6601  
(E) of section 1521.06 of the Revised Code. 6602

**Sec. 1521.062.** (A) All dams, ~~dikes~~, and levees constructed in 6603  
this state and not exempted by this section or by the chief of the 6604  
division of water under section 1521.06 of the Revised Code shall 6605  
be inspected periodically by the chief, except for classes of dams 6606  
that, in accordance with rules adopted under this section, are 6607  
required to be inspected by registered professional engineers who 6608  
have been approved for that purpose by the chief. The inspection 6609

shall ensure that continued operation and use of the dam,~~dike,~~ or 6610  
levee does not constitute a hazard to life, health, or property. 6611  
Periodic inspections shall not be required of the following 6612  
structures: 6613

(1) A dam that is less than ten feet in height and has a 6614  
storage capacity of not more than fifty acre-feet at the elevation 6615  
of the top of the dam, as determined by the chief. For the 6616  
purposes of this section, the height of a dam shall be measured 6617  
from the natural stream bed or lowest ground elevation at the 6618  
downstream or outside limit of the dam to the elevation of the top 6619  
of the dam. 6620

(2) A dam, regardless of height, that has a storage capacity 6621  
of not more than fifteen acre-feet at the elevation of the top of 6622  
the dam, as determined by the chief; 6623

(3) A dam, regardless of storage capacity, that is six feet 6624  
or less in height, as determined by the chief; 6625

(4) A dam,~~dike,~~ or levee belonging to a class exempted by 6626  
the chief; 6627

(5) A dam,~~dike,~~ or levee that has been exempted in 6628  
accordance with rules adopted under section 1521.064 of the 6629  
Revised Code. 6630

(B) In accordance with rules adopted under this section, the 6631  
owner of a dam that is in a class of dams that is designated in 6632  
the rules for inspection by registered professional engineers 6633  
shall obtain the services of a registered professional engineer 6634  
who has been approved by the chief to conduct the periodic 6635  
inspection of dams pursuant to schedules and other standards and 6636  
procedures established in the rules. The registered professional 6637  
engineer shall prepare a report of the inspection in accordance 6638  
with the rules and provide the inspection report to the dam owner 6639  
who shall submit it to the chief. A dam that is designated under 6640

the rules for inspection by a registered professional engineer, 6641  
but that is not inspected within a five-year period may be 6642  
inspected by the chief at the owner's expense. 6643

(C) Intervals between periodic inspections shall be 6644  
determined by the chief, but shall not exceed five years. 6645

(D) In the case of a dam, ~~dike~~, or levee that the chief 6646  
inspects, the chief shall furnish a report of the inspection to 6647  
the owner of the dam, ~~dike~~, or levee. With regard to a dam, ~~dike~~, 6648  
or levee that has been inspected, either by the chief or by a 6649  
registered professional engineer, and that is the subject of an 6650  
inspection report prepared or received by the chief, the chief 6651  
shall inform the owner of any required repairs, maintenance, 6652  
investigations, and other remedial and operational measures. The 6653  
chief shall order the owner to perform such repairs, maintenance, 6654  
investigations, or other remedial or operational measures as the 6655  
chief considers necessary to safeguard life, health, or property. 6656  
The order shall permit the owner a reasonable time in which to 6657  
perform the needed repairs, maintenance, investigations, or other 6658  
remedial measures, and the cost thereof shall be borne by the 6659  
owner. All orders of the chief are subject to appeal as provided 6660  
in Chapter 119. of the Revised Code. The attorney general, upon 6661  
written request of the chief, may bring an action for an 6662  
injunction against any person who violates this section or to 6663  
enforce an order of the chief made pursuant to this section. 6664

(E) The owner of a dam, ~~dike~~, or levee shall monitor, 6665  
maintain, and operate the structure and its appurtenances safely 6666  
in accordance with state rules, terms and conditions of permits, 6667  
orders, and other requirements issued pursuant to this section or 6668  
section 1521.06 of the Revised Code. The owner shall fully and 6669  
promptly notify the division of water and other responsible 6670  
authorities of any condition that threatens the safety of the 6671  
structure and shall take all necessary actions to safeguard life, 6672



health, and property. 6673

(F) Before commencing the repair, improvement, alteration, or 6674  
removal of a dam,~~dike~~, or levee, the owner shall file an 6675  
application including plans, specifications, and other required 6676  
information with the division and shall secure written approval of 6677  
the application by the chief. Emergency actions by the owner 6678  
required to safeguard life, health, or property are exempt from 6679  
this requirement. The chief may, by rule, define maintenance, 6680  
repairs, or other remedial measures of a routine nature that are 6681  
exempt from this requirement. 6682

(G) The chief may remove or correct, at the expense of the 6683  
owner, any unsafe structures found to be constructed or maintained 6684  
in violation of this section or section 1521.06 of the Revised 6685  
Code. In the case of an owner other than a governmental agency, 6686  
the cost of removal or correction of any unsafe structure, 6687  
together with a description of the property on which the unsafe 6688  
structure is located, shall be certified by the chief to the 6689  
county auditor and placed by the county auditor upon the tax 6690  
duplicate. This cost is a lien upon the lands from the date of 6691  
entry and shall be collected as other taxes and returned to the 6692  
division. In the case of an owner that is a governmental agency, 6693  
the cost of removal or correction of any unsafe structure shall be 6694  
recoverable from the owner by appropriate action in a court of 6695  
competent jurisdiction. 6696

(H) If the condition of any dam,~~dike~~, or levee is found, in 6697  
the judgment of the chief, to be so dangerous to the safety of 6698  
life, health, or property as not to permit time for the issuance 6699  
and enforcement of an order relative to repair, maintenance, or 6700  
operation, the chief shall employ any of the following remedial 6701  
means necessary to protect life, health, and property: 6702

(1) Lower the water level of the lake or reservoir by 6703  
releasing water; 6704

(2) Completely drain the lake or reservoir; 6705

(3) Take such other measures or actions as the chief 6706  
considers necessary to safeguard life, health, and property. 6707

The chief shall continue in full charge and control of the 6708  
dam, ~~dike~~, or levee until the structure is rendered safe. The cost 6709  
of the remedy shall be recoverable from the owner of the structure 6710  
by appropriate action in a court of competent jurisdiction. 6711

(I) The chief may accept and expend gifts, bequests, and 6712  
grants from the United States government or from any other public 6713  
or private source and may contract with the United States 6714  
government or any other agency or entity for the purpose of 6715  
carrying out the dam safety functions set forth in this section 6716  
and section 1521.06 of the Revised Code. 6717

(J) In accordance with Chapter 119. of the Revised Code, the 6718  
chief ~~shall~~ may adopt, and may amend or rescind, rules that do all 6719  
of the following: 6720

(1) Designate classes of dams for which dam owners must 6721  
obtain the services of a registered professional engineer to 6722  
periodically inspect the dams and to prepare reports of the 6723  
inspections for submittal to the chief; 6724

(2) Establish standards in accordance with which the chief 6725  
must approve or disapprove registered professional engineers to 6726  
inspect dams together with procedures governing the approval 6727  
process; 6728

(3) Establish schedules, standards, and procedures governing 6729  
periodic inspections and standards and procedures governing the 6730  
preparation and submittal of inspection reports; 6731

(4) Establish provisions regarding the enforcement of this 6732  
section and rules adopted under it. 6733

(K) The owner of a dam or levee shall notify the chief in 6734

writing of a change in ownership of the dam or levee prior to the 6735  
exchange of the property. 6736

**Sec. 1521.064.** The chief of the division of water, in 6737  
accordance with Chapter 119. of the Revised Code, shall adopt, and 6738  
may amend and rescind, rules establishing a program under which 6739  
dams, ~~dikes,~~ and levees may be exempted from inspections under 6740  
section 1521.062 of the Revised Code if the continued operation 6741  
and use of, and any rupturing of or other structural damage to, 6742  
the dams, ~~dikes,~~ and levees will not constitute a hazard to life, 6743  
health, or property. The rules shall establish, without 6744  
limitation, all of the following: 6745

(A) A procedure by which the owner of such a dam, ~~dike,~~ or 6746  
levee may apply for an exemption under this section; 6747

(B) The standards that a dam, ~~dike,~~ or levee shall meet in 6748  
order to be exempted under this section; 6749

(C) A procedure by which the chief shall periodically review 6750  
the status of a dam, ~~dike,~~ or levee that has been exempted under 6751  
this section to determine if the exemption should be rescinded; 6752

(D) A requirement that the owner of any dam, ~~dike,~~ or levee 6753  
exempted under this section shall agree, in writing, to accept 6754  
liability for any injury, death, or loss to persons or property 6755  
caused by the rupturing of or other structural damage to the dam, 6756  
~~dike,~~ or levee. 6757

**Sec. 1521.13.** (A) Development in one-hundred-year floodplain 6758  
areas shall be protected to at least the one-hundred-year flood 6759  
level, and flood water conveyance shall be maintained, at a 6760  
minimum, in accordance with standards established under the 6761  
national flood insurance program. This division does not preclude 6762  
a state agency or political subdivision from establishing flood 6763  
protection standards that are more restrictive than this division. 6764

(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 6858  
awareness of and knowledge about flood hazards. 6859

(D)(1) Development that is funded, financed, undertaken, or 6860  
preempted by state agencies shall comply with division (A) of this 6861  
section and with rules adopted under division (C)(9) of this 6862  
section. 6863

(2) State agencies shall apply floodproofing measures in 6864  
order to reduce potential additional flood damage of existing 6865  
publicly owned facilities that have suffered flood damage. 6866

(3) Before awarding funding or financing or granting a 6867  
license, permit, or other authorization for a development that is 6868  
or is to be located within a one-hundred-year floodplain, a state 6869  
agency shall require the applicant to demonstrate to the 6870  
satisfaction of the agency that the development will comply with 6871  
division (A) of this section, rules adopted under division (C)(9) 6872  
of this section, and any applicable local floodplain management 6873  
resolution or ordinance. 6874

(4) Prior to the disbursement of any state disaster 6875  
assistance money in connection with any incident of flooding to or 6876  
within a county or municipal corporation that is not listed by the 6877  
chief as being in compliance under division (D)(1) of section 6878  
1521.18 of the Revised Code, a state agency that has authority to 6879  
disburse such money shall require the county or municipal 6880  
corporation to establish or reestablish compliance as provided in 6881  
that division. 6882

(E)(1) Subject to section 1521.18 of the Revised Code, a 6883  
county or a municipal corporation may do all of the following: 6884

(a) Adopt floodplain maps that reflect the best available 6885  
data and that indicate the areas to be regulated under a 6886  
floodplain management resolution or ordinance, as applicable; 6887

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable; 6888  
6889

(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program. 6890  
6891  
6892

(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. 6893  
6894  
6895  
6896

(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. 6897  
6898  
6899  
6900  
6901  
6902  
6903  
6904  
6905

(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. 6906  
6907  
6908  
6909  
6910  
6911  
6912

~~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~~ 6913  
6914  
6915  
6916  
6917



~~shall furnish such information as the division may reasonably  
require in order to avoid the uneconomic, hazardous, or  
unnecessary use of floodplains in connection with such facilities.~~

~~(B) With respect to existing publicly owned facilities that  
have suffered flood damage or that may be subject to flood damage,  
the chief of the division of water may conspicuously mark past and  
probable flood heights so as to assist in creating public  
awareness of and knowledge about flood hazards. Wherever  
economically feasible, state agencies and political subdivisions  
responsible for existing publicly owned facilities shall apply  
floodproofing measures in order to reduce potential flood damage.~~

~~(C)(1) Any state agency that funds or finances developments  
or that has regulatory jurisdiction that preempts the authority of  
political subdivisions to regulate development as necessary to  
establish participation in the national flood insurance program  
under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42  
U.S.C.A. 4001, as amended, before awarding funding or financing or  
granting a license, permit, or other authorization for a  
development that is or is to be located within a one hundred year  
floodplain, shall require the applicant therefor to demonstrate to  
the satisfaction of the agency that the development will comply  
with the flood damage reduction standards established in rules  
adopted under division (A)(10) of section 1521.13 of the Revised  
Code.~~

~~(2) Any state agency that undertakes any development that is  
or is to be located within a one hundred year floodplain shall  
ensure that the development complies with the minimum flood damage  
reduction standards established in rules adopted under division  
(A)(11) of section 1521.13 of the Revised Code.~~

~~(3) Prior to the disbursement of any state disaster  
assistance funds in connection with any incident of flooding to or  
within a municipal corporation or county that is not listed by the~~

~~chief as being in compliance under division (D)(1) of section  
1521.18 of the Revised Code, each state agency having the  
authority to disburse such funds shall require the municipal  
corporation or county to establish or reestablish compliance as  
provided in that division.~~

~~(D) All state agencies shall comply with this section, rules  
adopted under section 1521.13 of the Revised Code, and any  
applicable local floodplain management ordinance or resolution.  
Upon the written request of the director of natural resources, the  
attorney general ~~may~~ shall bring a ~~civil~~ an action for ~~injunctive~~  
appropriate relief, in the a court of ~~common pleas of Franklin~~  
county, competent jurisdiction against any ~~state agency that~~  
~~violates this section, rules adopted under section 1521.13 of the~~  
~~Revised Code, or any applicable local floodplain management~~  
~~ordinance or resolution. In the action, the court may enter an~~  
~~order that restrains, prevents, or abates any conduct, or abates~~  
~~any development undertaken by a state agency, in violation of this~~  
~~section, rules adopted under section 1521.13 of the Revised Code,~~  
~~or any applicable local floodplain management ordinance or~~  
~~resolution~~ development that is not in compliance with the  
standards of the national flood insurance program and that is one  
of the following:~~

(A) Located in a county or municipal corporation that is not  
listed by the chief of the division of water as being in  
compliance under division (D)(1) of section 1521.18 of the Revised  
Code;

(B) Funded, financed, undertaken, or preempted by a state  
agency.

**Sec. 1521.18.** (A) For the purposes of this section, a  
one\_hundred\_year floodplain is limited to an area identified as a  
one\_hundred\_year floodplain in accordance with the "National Flood

Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 6981  
amended. 6982

(B) Each municipal corporation or county that has within its 6983  
boundaries a one\_hundred\_year floodplain and that adopts a 6984  
floodplain management ordinance or resolution or any amendments to 6985  
such an ordinance or resolution on or after April 11, 1991, after 6986  
adopting the ordinance, resolution, or amendments and before 6987  
submitting the ordinance, resolution, or amendments to the federal 6988  
emergency management agency for final approval for compliance with 6989  
applicable standards adopted under the "National Flood Insurance 6990  
Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall 6991  
submit the ordinance, resolution, or amendments to the chief of 6992  
the division of water for ~~his~~ the chief's review for compliance 6993  
with those standards. Within forty-five days after receiving any 6994  
such ordinance, resolution, or amendments, the chief shall 6995  
complete ~~his~~ the review and notify the municipal corporation or 6996  
county as to whether the ordinance, resolution, or amendments 6997  
comply with those standards. If the chief finds that the 6998  
ordinance, resolution, or amendments comply with those standards, 6999  
~~he~~ the chief shall forward it or them to the federal emergency 7000  
management agency for final approval. 7001

(C)(1) If the chief determines that a county or municipal 7002  
corporation that has adopted a floodplain management resolution or 7003  
ordinance fails to administer or enforce the resolution or 7004  
ordinance, the chief shall send a written notice by certified mail 7005  
to the board of county commissioners of the county or the chief 7006  
executive officer of the municipal corporation stating the nature 7007  
of the noncompliance. 7008

(2) In order to maintain its compliance status in accordance 7009  
with division (D) of this section, a county or municipal 7010  
corporation that has received a notice of noncompliance under 7011  
division (C)(1) of this section may submit information to the 7012

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 7044  
of the list to the general assembly and all state agencies 7045  
annually and shall notify the general assembly and the agencies of 7046  
any changes at least quarterly. 7047

(E) Any county or municipal corporation that is adversely 7048  
affected by any determination of the chief under this section may 7049  
appeal it in accordance with Chapter 119. of the Revised Code not 7050  
later than thirty days after the final determination. 7051

**Sec. 1521.19.** (A) There is hereby created the Ohio water 7052  
resources council consisting of the directors of agriculture, 7053  
development, environmental protection, health, natural resources, 7054  
transportation, and the Ohio public works commission, the 7055  
chairperson of the public utilities commission of Ohio, the 7056  
executive ~~directors~~ director of ~~the state and local government~~ 7057  
~~commission of Ohio and~~ the Ohio water development authority, and 7058  
an executive assistant in the office of the governor appointed by 7059  
the governor. The governor shall appoint one of the members of the 7060  
council to serve as its chairperson. The council may adopt bylaws 7061  
that are necessary for the implementation of this section. The 7062  
council shall provide a forum for policy development, 7063  
collaboration and coordination among state agencies, and strategic 7064  
direction with respect to state water resource programs. The 7065  
council shall be assisted in its functions by a state agency 7066  
coordinating group and an advisory group as provided in this 7067  
section. 7068

(B) The state agency coordinating group shall consist of the 7069  
executive director of the Ohio Lake Erie commission and a member 7070  
or members from each state agency, commission, and authority 7071  
represented on the council, to be appointed by the applicable 7072  
director, chairperson, or executive director. However, the 7073  
environmental protection agency shall be represented on the group 7074

by the chiefs of the divisions within that agency having 7075  
responsibility for surface water programs and drinking and ground 7076  
water programs, and the department of natural resources shall be 7077  
represented on the group by the chief of the division of water and 7078  
the chief of the division of soil and water conservation. The 7079  
chairperson of the council shall appoint a leader of the state 7080  
agency coordinating group. The group shall provide assistance to 7081  
and perform duties on behalf of the council as directed by the 7082  
council. 7083

(C) The advisory group shall consist of not more than ~~twenty~~ 7084  
twenty-four members, each representing an organization or entity 7085  
with an interest in water resource issues. The council shall 7086  
appoint the members of the advisory group. Of the initial 7087  
appointments, not more than ten members shall be appointed for 7088  
one-year terms, and not more than ten members shall be appointed 7089  
for two-year terms. Of the four initial appointments made after 7090  
the effective date of this amendment, two of the members shall be 7091  
appointed for one-year terms, and two of the members shall be 7092  
appointed for two-year terms. Thereafter, all advisory group 7093  
members shall serve two-year terms. Members may be reappointed. 7094  
Each member shall hold office from the date of the member's 7095  
appointment until the end of the member's term. A member shall 7096  
continue in office subsequent to the expiration date of the 7097  
member's term until the member's successor takes office or until a 7098  
period of sixty days has elapsed, whichever occurs first. The 7099  
council may remove a member for misfeasance, nonfeasance, or 7100  
malfeasance in office. The council shall appoint members to fill 7101  
any vacancies on the group. A member appointed to fill a vacancy 7102  
shall hold office for the remainder of the term for which that 7103  
member was appointed. 7104

The chairperson of the council shall appoint a chairperson of 7105  
the advisory group. The advisory group shall advise the council on 7106

water resources issues addressed by the council. 7107

(D) There is hereby created in the state treasury the Ohio 7108  
water resources council fund. The department of natural resources 7109  
shall serve as the fiscal agent for the fund. The departments of 7110  
agriculture, development, environmental protection, health, 7111  
natural resources, and transportation shall transfer moneys to the 7112  
fund in equal amounts via intrastate transfer voucher. The public 7113  
utilities commission of Ohio, Ohio public works commission, ~~state~~ 7114  
~~and local government commission of Ohio,~~ and Ohio water 7115  
development authority may transfer moneys to the fund. If a 7116  
voluntary transfer of moneys is made to the fund, the portion that 7117  
is required to be transferred by the departments of agriculture, 7118  
development, environmental protection, health, natural resources, 7119  
and transportation may be equally reduced. Moneys in the fund 7120  
shall be used to pay the operating expenses of the Ohio water 7121  
resources council, including those specified in division (E) of 7122  
this section. 7123

(E) The Ohio water resources council may hire staff to 7124  
support its activities. The council may enter into contracts and 7125  
agreements with federal agencies, state agencies, political 7126  
subdivisions, and private entities to assist in accomplishing its 7127  
objectives. Advisory group members shall be reimbursed for 7128  
expenses necessarily incurred in the performance of their duties 7129  
pursuant to section 126.31 of the Revised Code and any applicable 7130  
rules pertaining to travel reimbursement adopted by the office of 7131  
budget and management. 7132

**Sec. 1521.99.** (A) Whoever violates division ~~(C)~~(E)(1) of 7133  
section 1521.05 or division (E)(1) of section 1521.16 of the 7134  
Revised Code is guilty of a misdemeanor of the fourth degree. 7135

(B) Whoever violates section 1521.06 or 1521.062 of the 7136  
Revised Code shall be fined not less than one hundred dollars nor 7137

more than one thousand dollars for each offense. Each day of violation constitutes a separate offense. 7138  
7139

(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. 7140  
7141  
7142  
7143

**Sec. 1531.01.** As used in this chapter and Chapter 1533. of the Revised Code: 7144  
7145

(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. 7146  
7147  
7148  
7149  
7150  
7151  
7152  
7153  
7154

(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. 7155  
7156  
7157

(C) "Nonresident" means any individual who does not qualify as a resident. 7158  
7159

(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. 7160  
7161  
7162

(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. 7163  
7164  
7165

(F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. 7166  
7167



of the Revised Code is permitted. 7168

(G) "Take or taking" includes pursuing, shooting, hunting, 7169  
killing, trapping, angling, fishing with a trotline, or netting 7170  
any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, 7171  
wild bird, or wild quadruped, and any lesser act, such as 7172  
wounding, or placing, setting, drawing, or using any other device 7173  
for killing or capturing any wild animal, whether it results in 7174  
killing or capturing the animal or not. "Take or taking" includes 7175  
every attempt to kill or capture and every act of assistance to 7176  
any other person in killing or capturing or attempting to kill or 7177  
capture a wild animal. 7178

(H) "Possession" means both actual and constructive 7179  
possession and any control of things referred to. 7180

(I) "Bag limit" means the number, measurement, or weight of 7181  
any kind of crayfish, aquatic insects, fish, frogs, turtles, wild 7182  
birds, and wild quadrupeds permitted to be taken. 7183

(J) "Transport and transportation" means carrying or moving 7184  
or causing to be carried or moved. 7185

(K) "Sell and sale" means barter, exchange, or offer or 7186  
expose for sale. 7187

(L) "Whole to include part" means that every provision 7188  
relating to any wild animal protected by this chapter and Chapter 7189  
1533. of the Revised Code applies to any part of the wild animal 7190  
with the same effect as it applies to the whole. 7191

(M) "Angling" means fishing with not more than two hand 7192  
lines, not more than two units of rod and line, or a combination 7193  
of not more than one hand line and one rod and line, either in 7194  
hand or under control at any time while fishing. The hand line or 7195  
rod and line shall have attached to it not more than three baited 7196  
hooks, not more than three artificial fly rod lures, or one 7197

artificial bait casting lure equipped with not more than three	7198
sets of three hooks each.	7199
(N) "Trotline" means a device for catching fish that consists	7200
of a line having suspended from it, at frequent intervals,	7201
vertical lines with hooks attached.	7202
(O) "Fish" means a cold-blooded vertebrate having fins.	7203
(P) "Measurement of fish" means length from the end of the	7204
nose to the longest tip or end of the tail.	7205
(Q) "Wild birds" includes game birds and nongame birds.	7206
(R) "Game" includes game birds, game quadrupeds, and	7207
fur-bearing animals.	7208
(S) "Game birds" includes mourning doves, ringneck pheasants,	7209
bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated	7210
grouse, wild turkey, Hungarian partridge, Chukar partridge,	7211
woodcocks, black-breasted plover, golden plover, Wilson's snipe or	7212
jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules,	7213
duck, geese, brant, and crows.	7214
(T) "Nongame birds" includes all other wild birds not	7215
included and defined as game birds <u>or migratory game birds</u> .	7216
(U) "Wild quadrupeds" includes game quadrupeds and	7217
fur-bearing animals.	7218
(V) "Game quadrupeds" includes cottontail rabbits, gray	7219
squirrels, black squirrels, fox squirrels, red squirrels, flying	7220
squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer,	7221
wild boar, and black bears.	7222
(W) "Fur-bearing animals" includes minks, weasels, raccoons,	7223
skunks, opossums, muskrats, fox, beavers, badgers, otters,	7224
coyotes, and bobcats.	7225
(X) "Wild animals" includes mollusks, crustaceans, aquatic	7226

insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, 7227  
and all other wild mammals, but does not include domestic deer. 7228

(Y) "Hunting" means pursuing, shooting, killing, following 7229  
after or on the trail of, lying in wait for, shooting at, or 7230  
wounding wild birds or wild quadrupeds while employing any device 7231  
commonly used to kill or wound wild birds or wild quadrupeds 7232  
whether or not the acts result in killing or wounding. "Hunting" 7233  
includes every attempt to kill or wound and every act of 7234  
assistance to any other person in killing or wounding or 7235  
attempting to kill or wound wild birds or wild quadrupeds. 7236

(Z) "Trapping" means securing or attempting to secure 7237  
possession of a wild bird or wild quadruped by means of setting, 7238  
placing, drawing, or using any device that is designed to close 7239  
upon, hold fast, confine, or otherwise capture a wild bird or wild 7240  
quadruped whether or not the means results in capture. "Trapping" 7241  
includes every act of assistance to any other person in capturing 7242  
wild birds or wild quadrupeds by means of the device whether or 7243  
not the means results in capture. 7244

(AA) "Muskrat spear" means any device used in spearing 7245  
muskrats. 7246

(BB) "Channels and passages" means those narrow bodies of 7247  
water lying between islands or between an island and the mainland 7248  
in Lake Erie. 7249

(CC) "Island" means a rock or land elevation above the waters 7250  
of Lake Erie having an area of five or more acres above water. 7251

(DD) "Reef" means an elevation of rock, either broken or in 7252  
place, or gravel shown by the latest United States chart to be 7253  
above the common level of the surrounding bottom of the lake, 7254  
other than the rock bottom, or in place forming the base or 7255  
foundation rock of an island or mainland and sloping from the 7256  
shore of it. "Reef" also means all elevations shown by that chart 7257

to be above the common level of the sloping base or foundation 7258  
rock of an island or mainland, whether running from the shore of 7259  
an island or parallel with the contour of the shore of an island 7260  
or in any other way and whether formed by rock, broken or in 7261  
place, or from gravel. 7262

(EE) "Fur farm" means any area used exclusively for raising 7263  
fur-bearing animals or in addition thereto used for hunting game, 7264  
the boundaries of which are plainly marked as such. 7265

(FF) "Waters" includes any lake, pond, reservoir, stream, 7266  
channel, lagoon, or other body of water, or any part thereof, 7267  
whether natural or artificial. 7268

(GG) "Crib" or "car" refers to that particular compartment of 7269  
the net from which the fish are taken when the net is lifted. 7270

(HH) "Commercial fish" means those species of fish permitted 7271  
to be taken, possessed, bought, or sold unless otherwise 7272  
restricted by the Revised Code or division rule and are alewife 7273  
(*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin 7274  
(*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), 7275  
smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus* 7276  
*cyprinellus*), black bullhead (*Ictalurus melas*), yellow bullhead 7277  
(*Ictalurus natalis*), brown bullhead (*Ictalurus nebulosus*), channel 7278  
catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis* 7279  
*olivaris*), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), 7280  
freshwater drum or sheepshead (*Aplodinotus grunniens*), gar 7281  
(*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish 7282  
(*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye 7283  
(*Hiodon tergisus*), quillback (*Carpiodes cyprinus*), smelt 7284  
(*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* 7285  
sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other 7286  
than buffalo and quillback (*Carpiodes* sp., *Catostomus* sp., 7287  
*Hypentelium* sp., *Minytrema* sp., *Moxostoma* sp.), white bass (*Morone* 7288

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 7319  
seines, except minnow seines and minnow dip nets. 7320

(QQ) "Commercial fishing gear" means seines, trap nets, fyke 7321  
nets, dip nets, carp aprons, trotlines, other similar gear, and 7322  
any boat used in conjunction with that gear, but does not include 7323  
gill nets. 7324

(RR) "Native wildlife" means any species of the animal 7325  
kingdom indigenous to this state. 7326

(SS) "Gill net" means a single section of fabric or netting 7327  
seamed to a float line at the top and a lead line at the bottom, 7328  
which is designed to entangle fish in the net openings as they 7329  
swim into it. 7330

(TT) "Tag fishing tournament" means a contest in which a 7331  
participant pays a fee, or gives other valuable consideration, for 7332  
a chance to win a prize by virtue of catching a tagged or 7333  
otherwise specifically marked fish within a limited period of 7334  
time. 7335

(UU) "Tenant" means an individual who resides on land for 7336  
which the individual pays rent and whose annual income is 7337  
primarily derived from agricultural production conducted on that 7338  
land, as "agricultural production" is defined in section 929.01 of 7339  
the Revised Code. 7340

(VV) "Nonnative wildlife" means any wild animal not 7341  
indigenous to this state, but does not include domestic deer. 7342

(WW) "Reptiles" includes common musk turtle (*sternotherus* 7343  
*odoratus*), common snapping turtle (*Chelydra serpentina* 7344  
*serpentina*), spotted turtle (*Clemmys guttata*), eastern box turtle 7345  
(*Terrapene carolina carolina*), Blanding's turtle (*Emydoidea* 7346  
*blandingii*), common map turtle (*Graptemys geographica*), ouachita 7347  
map turtle (*Graptemys pseudogeographica ouachitensis*), midland 7348

painted turtle ( <i>Chrysemys picta marginata</i> ), red-eared slider	7349
( <i>Trachemys scripta elegans</i> ), eastern spiny softshell turtle	7350
( <i>Apalone spinifera spinifera</i> ), midland smooth softshell turtle	7351
( <i>Apalone mutica mutica</i> ), northern fence lizard ( <i>Sceloporus</i>	7352
<i>undulatus hyacinthinus</i> ), ground skink ( <i>Scincella lateralis</i> ),	7353
five-lined skink ( <i>Eumeces fasciatus</i> ), broadhead skink ( <i>Eumeces</i>	7354
<i>laticeps</i> ), northern coal skink ( <i>Eumeces anthracinus anthracinus</i> ),	7355
European wall lizard ( <i>Podarcis muralis</i> ), queen snake ( <i>Regina</i>	7356
<i>septemvittata</i> ), Kirtland's snake ( <i>Clonophis kirtlandii</i> ), northern	7357
water snake ( <i>Nerodia sipedon sipedon</i> ), Lake Erie watersnake	7358
( <i>Nerodia sipedon insularum</i> ), copperbelly water snake ( <i>Nerodia</i>	7359
<i>erythrogaster neglecta</i> ), northern brown snake ( <i>Storeria dekayi</i>	7360
<i>dekayi</i> ), midland brown snake ( <i>Storeria dekayi wrightorum</i> ),	7361
northern redbelly snake ( <i>Storeria occipitomaculata</i>	7362
<i>occipitomaculata</i> ), eastern garter snake ( <i>Thamnophis sirtalis</i>	7363
<i>sirtalis</i> ), eastern plains garter snake ( <i>Thamnophis radix radix</i> ),	7364
Butler's garter snake ( <i>Thamnophis butleri</i> ), shorthead garter snake	7365
( <i>Thamnophis brachystoma</i> ), eastern ribbon snake ( <i>Thamnophis</i>	7366
<i>sauritus sauritus</i> ), northern ribbon snake ( <i>Thamnophis sauritus</i>	7367
<i>septentrionalis</i> ), eastern hognose snake ( <i>Heterodon platirhinos</i> ),	7368
eastern smooth earth snake ( <i>Virginia valeriae valeriae</i> ), northern	7369
ringneck snake ( <i>Diadophis punctatus edwardsii</i> ), midwest worm snake	7370
( <i>Carphophis amoenus helenae</i> ), eastern worm snake ( <i>Carphophis</i>	7371
<i>amoenus amoenus</i> ), black racer ( <i>Coluber constrictor constrictor</i> ),	7372
blue racer ( <i>Coluber constrictor foxii</i> ), rough green snake	7373
( <i>opheodrys aestivus</i> ), smooth green snake ( <i>opheodrys vernalis</i>	7374
<i>vernalis</i> ), black rat snake ( <i>Elaphe obsoleta obsoleta</i> ), eastern fox	7375
snake ( <i>Elaphe vulpina gloydi</i> ), black kingsnake ( <i>Lampropeltis</i>	7376
<i>getula nigra</i> ), eastern milk snake ( <i>Lampropeltis triangulum</i>	7377
<i>triangulum</i> ), northern copperhead ( <i>Agkistrodon contortrix mokasen</i> ),	7378
eastern massasauga ( <i>Sistrurus catenatus catenatus</i> ), and timber	7379
rattlesnake ( <i>Crotalus horridus horridus</i> ).	7380

(XX) "Amphibians" includes eastern hellbender ( <i>Cryptobranchus</i>	7381
<i>alleganiensis alleganiensis</i> ), mudpuppy ( <i>Necturus maculosus</i>	7382
<i>maculosus</i> ), red-spotted newt ( <i>Notophthalmus viridescens</i>	7383
<i>viridescens</i> ), Jefferson salamander ( <i>Ambystoma jeffersonianum</i> ),	7384
spotted salamander ( <i>Ambystoma maculatum</i> ), blue-spotted salamander	7385
( <i>Ambystoma laterale</i> ), smallmouth salamander ( <i>Ambystoma texanum</i> ),	7386
streamside salamander ( <i>Ambystoma barbouri</i> ), marbled salamander	7387
( <i>Ambystoma opacum</i> ), eastern tiger salamander ( <i>Ambystoma tigrinum</i>	7388
<i>tigrinum</i> ), northern dusky salamander ( <i>Desmognathus fuscus fuscus</i> ),	7389
mountain dusky salamander ( <i>Desmognathus ochrophaeus</i> ), redback	7390
salamander ( <i>Plethodon cinereus</i> ), ravine salamander ( <i>Plethodon</i>	7391
<i>richmondi</i> ), northern slimy salamander ( <i>Plethodon glutinosus</i> ),	7392
Wehrle's salamander ( <i>Plethodon wehrlei</i> ), four-toed salamander	7393
( <i>Hemidactylium scutatum</i> ), Kentucky spring salamander ( <i>Gyrinophilus</i>	7394
<i>porphyriticus duryi</i> ), northern spring salamander ( <i>Gyrinophilus</i>	7395
<i>porphyriticus porphyriticus</i> ), mud salamander ( <i>Pseudotriton</i>	7396
<i>montanus</i> ), northern red salamander ( <i>Pseudotriton ruber ruber</i> ),	7397
green salamander ( <i>Aneides aeneus</i> ), northern two-lined salamander	7398
( <i>Eurycea bislineata</i> ), longtail salamander ( <i>Eurycea longicauda</i>	7399
<i>longicauda</i> ), cave salamander ( <i>Eurycea lucifuga</i> ), southern	7400
two-lined salamander ( <i>Eurycea cirrigera</i> ), Fowler's toad ( <i>Bufo</i>	7401
<i>woodhousii fowleri</i> ), American toad ( <i>Bufo americanus</i> ), eastern	7402
spadefoot ( <i>Scaphiopus holbrookii</i> ), Blanchard's cricket frog ( <i>Acris</i>	7403
<i>crepitans blanchardi</i> ), northern spring peeper ( <i>Pseudacris crucifer</i>	7404
<i>crucifer</i> ), gray treefrog ( <i>Hyla versicolor</i> ), Cope's gray treefrog	7405
( <i>Hyla chrysoscelis</i> ), western chorus frog ( <i>Pseudacris triseriata</i>	7406
<i>triseriata</i> ), mountain chorus frog ( <i>Pseudacris brachyphona</i> ),	7407
bullfrog ( <i>Rana catesbeiana</i> ), green frog ( <i>Rana clamitans melanota</i> ),	7408
northern leopard frog ( <i>Rana pipiens</i> ), pickerel frog ( <i>Rana</i>	7409
<i>palustris</i> ), southern leopard frog ( <i>Rana utricularia</i> ), and wood	7410
frog ( <i>Rana sylvatica</i> ).	7411
(YY) "Deer" means white-tailed deer ( <i>Odocoileus</i>	7412



virginianus). 7413

(ZZ) "Domestic deer" means nonnative deer that have been 7414  
legally acquired or their offspring and that are held in private 7415  
ownership for primarily agricultural purposes. 7416

(AAA) "Migratory game bird" includes waterfowl (Anatidae); 7417  
doves (Columbidae); cranes (Gruidae); cormorants 7418  
(Phalacrocoracidea); rails, coots, and gallinules (Rallidae); and 7419  
woodcock and snipe (Scolopacidae). 7420

(BBB) "Accompany" means to go along with another person while 7421  
staying within a distance from the person that enables 7422  
uninterrupted, unaided visual and auditory communication. 7423

**Sec. 1531.02.** The ownership of and the title to all wild 7424  
animals in this state, not legally confined or held by private 7425  
ownership legally acquired, is in the state, which holds such 7426  
title in trust for the benefit of all the people. Individual 7427  
possession shall be obtained only in accordance with the Revised 7428  
Code or division rules. No person at any time of the year shall 7429  
take in any manner or possess any number or quantity of wild 7430  
animals, except wild animals that the Revised Code or division 7431  
rules permit to be taken, hunted, killed, or had in possession, 7432  
and only at the time and place and in the manner that the Revised 7433  
Code or division rules prescribe. No person shall buy, sell, or 7434  
offer any part of wild animals for sale, or transport any part of 7435  
wild animals, except as permitted by the Revised Code or division 7436  
rules. No person shall possess or transport a wild animal that has 7437  
been taken or possessed unlawfully outside the state. 7438

A person doing anything prohibited or neglecting to do 7439  
anything required by this chapter or Chapter 1533. of the Revised 7440  
Code or contrary to any division rule violates this section. A 7441  
person who counsels, aids, shields, or harbors an offender under 7442

~~such those~~ chapters or any division rule, or who knowingly shares 7443  
in the proceeds of such a violation, or receives or possesses any 7444  
wild animal in violation of the Revised Code or division rule, 7445  
violates this section. ~~No person shall use a rifle, at any time,~~ 7446  
~~in taking migratory game birds.~~ 7447

**Sec. 1531.04.** The division of wildlife, at the direction of 7448  
the chief of the division, shall do all of the following: 7449

(A) Plan, develop, and institute programs and policies based 7450  
on the best available information, including biological 7451  
information derived from professionally accepted practices in 7452  
wildlife and fisheries management, with the approval of the 7453  
director of natural resources; 7454

(B) Have and take the general care, protection, and 7455  
supervision of the wildlife in the state parks known as Lake St. 7456  
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, 7457  
Guilford Lake, such part of Pymatuning reservoir as lies in this 7458  
state, and all other state parks and lands owned by the state or 7459  
in which it is interested or may acquire or become interested, 7460  
except lands and lakes the care and supervision of which are 7461  
vested in some other officer, body, board, association, or 7462  
organization; 7463

(C) Enforce by proper legal action or proceeding the laws of 7464  
the state and division rules for the protection, preservation, 7465  
propagation, and management of wild animals and sanctuaries and 7466  
refuges for the propagation of those wild animals, and adopt and 7467  
carry into effect such measures as it considers necessary in the 7468  
performance of its duties; 7469

(D) Promote, educate, and inform the citizens of the state 7470  
about conservation and the values of fishing, hunting, and 7471  
trapping, with the approval of the director. 7472

Sec. 1531.06. (A) The chief of the division of wildlife, with 7473  
the approval of the director of natural resources, may acquire by 7474  
gift, lease, purchase, or otherwise lands or surface rights upon 7475  
lands and waters or surface rights upon waters for wild animals, 7476  
fish or game management, preservation, propagation, and 7477  
protection, outdoor and nature activities, public fishing and 7478  
hunting grounds, and flora and fauna preservation. The chief, with 7479  
the approval of the director, may receive by grant, devise, 7480  
bequest, donation, or assignment evidences of indebtedness, the 7481  
proceeds of which are to be used for the purchase of such lands or 7482  
surface rights upon lands and waters or surface rights upon 7483  
waters. 7484

(B)(1) The chief shall adopt rules for the protection of 7485  
state-owned or leased lands and waters and property under the 7486  
~~division's~~ control of the division of wildlife against wrongful 7487  
use or occupancy that will ensure the carrying out of the intent 7488  
of this section, protect those lands, waters, and property from 7489  
depredations, and preserve them from molestation, spoilation, 7490  
destruction, or any improper use or occupancy thereof, including 7491  
rules with respect to recreational activities and for the 7492  
government and use of such lands, waters, and property. 7493

(2) The chief may adopt rules benefiting wild animals, fish 7494  
or game management, preservation, propagation, and protection, 7495  
outdoor and nature activities, public fishing and hunting grounds, 7496  
and flora and fauna preservation, and regulating the taking and 7497  
possession of wild animals on any lands or waters owned or leased 7498  
or under the division's supervision and control and, for a 7499  
specified period of years, may prohibit or recall the taking and 7500  
possession of any wild animal on any portion of such lands or 7501  
waters. The division clearly shall define and mark the boundaries 7502  
of the lands and waters owned or leased or under its supervision 7503

and control upon which the taking of any wild animal is 7504  
prohibited. 7505

(C) The chief, with the approval of the director, may acquire 7506  
by gift, lease, or purchase land for the purpose of establishing 7507  
state fish hatcheries and game farms and may erect on it buildings 7508  
or structures that are necessary. 7509

The title to or lease of such lands and waters shall be taken 7510  
by the chief in the name of the state. The lease or purchase price 7511  
of all such lands and waters may be paid from hunting and trapping 7512  
and fishing licenses and any other funds. 7513

(D) To provide more public recreation, stream and lake 7514  
agreements for public fishing only may be obtained under rules 7515  
adopted by the chief. 7516

(E) The chief, with the approval of the director, may 7517  
establish user fees for the use of special public facilities or 7518  
participation in special activities on lands and waters 7519  
administered by the division. The special facilities and 7520  
activities may include hunting or fishing on special designated 7521  
public lands and waters intensively managed or stocked with 7522  
artificially propagated game birds or fish, field trial 7523  
facilities, wildlife nature centers, firearm ranges, boat mooring 7524  
facilities, camping sites, and other similar special facilities 7525  
and activities. The chief shall determine whether the user fees 7526  
are refundable and shall ensure that that information is provided 7527  
at the time the user fees are paid. 7528

(F) The chief, with the approval of the director, may enter 7529  
into lease agreements for rental of concessions or other special 7530  
projects situated on state-owned or leased lands or waters or 7531  
other property under the division's control. The chief shall set 7532  
and collect the fees for concession rentals or other special 7533  
projects; regulate through contracts between the division and 7534

concessionaires the sale of tangible objects at concessions or 7535  
other special projects; and keep a record of all such fee payments 7536  
showing the amount received, from whom received, and for what 7537  
purpose the fee was collected. 7538

(G) The chief may sell or donate conservation-related items 7539  
or items that promote wildlife conservation, including, but not 7540  
limited to, stamps, pins, badges, books, bulletins, maps, 7541  
publications, calendars, and any other educational article or 7542  
artifact pertaining to wild animals; sell confiscated or forfeited 7543  
items; and sell surplus structures and equipment, and timber or 7544  
crops from lands owned, administered, leased, or controlled by the 7545  
division. 7546

(H) The chief may sell, lease, or transfer minerals or 7547  
mineral rights, with the approval of the director, when the chief 7548  
and the director determine it to be in the best interest of the 7549  
state. Upon approval of the director, the chief may make, execute, 7550  
and deliver contracts, including leases, to mine, drill, or 7551  
excavate iron ore, stone, coal, petroleum, gas, salt, and other 7552  
minerals upon and under lands owned by the state and administered 7553  
by the division to any person who complies with the terms of such 7554  
a contract. No such contract shall be valid for more than fifty 7555  
years from its effective date. Consideration for minerals and 7556  
mineral rights shall be by rental or royalty basis as prescribed 7557  
by the chief and payable as prescribed by contract. Moneys 7558  
collected under this division shall be paid into the state 7559  
treasury to the credit of the wildlife habitat fund created in 7560  
section 1531.33 of the Revised Code. Contracts entered into under 7561  
this division also may provide for consideration for minerals or 7562  
mineral rights in the form of acquisition of lands as provided 7563  
under divisions (A) and (C) of this section. 7564

(I) All moneys received under divisions (E), (F), and (G) of 7565  
this section shall be paid into the state treasury to the credit 7566

of a fund that shall be used for the purposes outlined in section 7567  
1533.15 of the Revised Code and for the management of other wild 7568  
animals for their ecological and nonconsumptive recreational value 7569  
or benefit. 7570

(J) The chief, with the approval of the director, may barter 7571  
or sell wild animals to other states, state or federal agencies, 7572  
and conservation or zoological organizations. Moneys received from 7573  
the sale of wild animals shall be deposited into the wild animal 7574  
fund created in section 1531.34 of the Revised Code. 7575

(K) The chief shall adopt rules establishing standards and 7576  
guidelines for the administration of contraceptive chemicals to 7577  
noncaptive wild animals. The rules may specify chemical delivery 7578  
methods and devices and monitoring requirements. 7579

The chief shall establish criteria for the issuance of and 7580  
shall issue permits for the administration of contraceptive 7581  
chemicals to noncaptive wild animals. No person shall administer 7582  
contraceptive chemicals to noncaptive wild animals without a 7583  
permit issued by the chief. 7584

(L) All fees set by the chief under this section shall be 7585  
approved by the wildlife council. 7586

(M) Information contained in the wildlife diversity database 7587  
that is established pursuant to division (B)(2) of this section 7588  
and section 1531.25 of the Revised Code may be made available to 7589  
any individual or public or private agency for research, 7590  
educational, environmental, land management, or other similar 7591  
purposes that are not detrimental to the conservation of a species 7592  
or feature. Information regarding sensitive site locations of 7593  
species that are listed pursuant to section 1531.25 of the Revised 7594  
Code and of features that are included in the wildlife diversity 7595  
database is not subject to section 149.43 of the Revised Code if 7596  
the chief determines that the release of the information could be 7597

detrimental to the conservation of a species or feature.

7598

**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.

7599  
7600  
7601  
7602  
7603  
7604  
7605  
7606  
7607  
7608  
7609  
7610  
7611

**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.

7612  
7613  
7614  
7615  
7616  
7617  
7618  
7619  
7620  
7621  
7622  
7623  
7624  
7625

An action for the forfeiture of any such property shall be ~~commenced~~ initiated by the filing of an affidavit describing the

7626  
7627

property seized and stating the unlawful use made of it, the time 7628  
and place of seizure, and the name of the person owning or using 7629  
it at the time of seizure. If the name is unknown, that fact shall 7630  
be stated. Upon the filing of the affidavit, the court shall issue 7631  
a summons setting forth the facts stated in the affidavit and 7632  
fixing a time and place for the hearing of the complaint. A copy 7633  
of the summons shall be served on the owner or person using the 7634  
property at the time of its seizure, if the owner or user is 7635  
known, or by leaving a copy thereof at the owner's or user's usual 7636  
residence or place of business in the county, at least three days 7637  
before the time fixed for the hearing of the complaint. If the 7638  
owner or user is unknown or a nonresident of the county or cannot 7639  
be found therein, a copy of the summons shall be posted at a 7640  
suitable place nearest the place of seizure, but if the owner's or 7641  
user's address is known, a copy of the summons shall be mailed to 7642  
the owner or user at least three days before the time fixed for 7643  
the hearing of the complaint. On the date fixed for the hearing, 7644  
the officer making the service shall make a return of the time and 7645  
manner of making the service. Upon the proper cause shown, the 7646  
court may postpone the hearing. 7647

If A proceeding for the forfeiture of seized property that is 7648  
initiated under this section shall not progress to actual 7649  
forfeiture of the seized property unless so ordered by the court. 7650  
The court may order the actual forfeiture of the seized property 7651  
as part of the sentence that it imposes if the owner or person 7652  
unlawfully using the property at the time of its seizure is 7653  
arrested convicted, pleads guilty, and or confesses that the 7654  
property at the time of its seizure was being used by the owner or 7655  
user in violation of law or division rule, ~~no proceeding of~~ 7656  
~~forfeiture shall be instituted, but the court in imposing sentence~~ 7657  
~~shall order the. Forfeited~~ property ~~so seized forfeited to~~ shall 7658  
be the property of the state, to be disposed of ~~thereafter~~ as the 7659  
chief of the division of wildlife directs. 7660



~~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 7691  
first offense; on each subsequent offense, that person is guilty 7692  
of a misdemeanor of the first degree. 7693

(C) Whoever violates section 1531.25 of the Revised Code is 7694  
guilty of a misdemeanor of the first degree. 7695

(D) Whoever violates section 1531.02 of the Revised Code 7696  
concerning the buying, selling, or offering for sale of any wild 7697  
animals or parts of wild animals, the minimum value of which 7698  
animals or parts, in the aggregate, is ~~more than~~ one thousand 7699  
dollars or more as established under section 1531.201 of the 7700  
Revised Code, is guilty of a felony of the fifth degree. 7701

(E) A court that imposes sentence for a violation of any 7702  
section of this chapter governing the holding, taking, buying, 7703  
selling, or possession of wild animals, including, without 7704  
limitation, section 1531.11 of the Revised Code, shall require the 7705  
person who is convicted of or pleads guilty to the offense, in 7706  
addition to any fine, term of imprisonment, seizure, and 7707  
forfeiture imposed, to make restitution for the minimum value of 7708  
the wild animal illegally held, taken, bought, sold, or possessed 7709  
as established under section 1531.201 of the Revised Code. An 7710  
officer who collects moneys paid as restitution under this section 7711  
shall pay those moneys to the treasurer of state who shall deposit 7712  
them in the state treasury to the credit of the wildlife fund 7713  
established under section 1531.17 of the Revised Code. 7714

**Sec. 1533.07.** No person shall catch, kill, injure, pursue, or 7715  
have in the person's possession, either dead or alive, or 7716  
purchase, expose for sale, transport, or ship to a point within or 7717  
without the state, or receive or deliver for transportation any 7718  
bird other than a game bird, or have in the person's possession 7719  
any part of the plumage, skin, or body of any bird other than a 7720  
game bird, except as permitted in Chapter 1531. and this chapter 7721

of the Revised Code, or disturb or destroy the eggs, nest, or 7722  
young of such a bird. 7723

This section does not prohibit the lawful taking, killing, 7724  
pursuing, or possession of any game bird during the open season 7725  
for the bird. ~~Hawks or owls causing damage to domestic animals or~~ 7726  
~~fowl may be killed by the owner of the domestic animal or fowl~~ 7727  
~~while the damage is occurring.~~ Bald or golden eagles and ospreys 7728  
shall not be killed or possessed at any time, except that eagles 7729  
or ospreys may be possessed for educational purposes by 7730  
governmental or municipal zoological parks, museums, and 7731  
scientific or educational institutions. European starlings, 7732  
English sparrows, and common pigeons, other than homing pigeons, 7733  
may be killed at any time and their nests or eggs may be 7734  
destroyed, at any time. Blackbirds may be killed at any time when 7735  
doing damage to grain or other property or when they become a 7736  
nuisance. 7737

Each bird or any part thereof taken or had in possession 7738  
contrary to this section constitutes a separate offense. 7739

**Sec. 1533.08.** Except as otherwise provided by division rule, 7740  
any person desiring to collect or possess wild animals that are 7741  
protected by law or their nests or eggs for scientific study, 7742  
school instruction, other educational uses, or rehabilitation 7743  
shall make an annual application to the chief of the division of 7744  
wildlife for a wild animal ~~collecting~~ permit on a form furnished 7745  
by the chief. Each applicant for a wild animal ~~collecting~~ permit, 7746  
other than an applicant desiring to rehabilitate wild animals, 7747  
shall pay an annual fee of twenty-five dollars for each permit. No 7748  
fee shall be charged to an applicant desiring to rehabilitate wild 7749  
animals. ~~When it appears that the application is made in good~~ 7750  
~~faith, the~~ The chief ~~shall~~ may issue to the applicant a permit to 7751  
take, possess, and transport at any time and in ~~any~~ a manner that 7752

is acceptable to the chief specimens of wild animals protected by 7753  
law or their nests and eggs for scientific study, school 7754  
instruction, other educational uses, or rehabilitation and under 7755  
any additional rules recommended by the wildlife council. Upon the 7756  
receipt of a permit, the holder may take, possess, and transport 7757  
those wild animals in accordance with the permit. 7758

Each holder of a permit engaged in collecting or who 7759  
possesses such wild animals shall carry the permit at all times 7760  
and shall exhibit it upon demand to any ~~wildlife officer,~~ 7761  
~~constable, sheriff, deputy sheriff, or police~~ peace officer, as 7762  
defined in section 2935.01 of the Revised Code, or to the owner or 7763  
person in lawful control of the land upon which the permit holder 7764  
is collecting, ~~or to any other person~~ possesses the wild animals. 7765  
Failure to so carry or exhibit the permit constitutes an offense 7766  
under this section. 7767

Each permit holder shall keep a daily record of all specimens 7768  
collected or possessed under the permit and the disposition of the 7769  
specimens and shall exhibit the daily record to any official of 7770  
the division upon demand. 7771

Each permit shall remain in effect for one year from the date 7772  
of issuance unless it is revoked sooner by the chief. 7773

All moneys received as fees for the issuance of a wild animal 7774  
collecting permit shall be transmitted to the director of natural 7775  
resources to be paid into the state treasury to the credit of the 7776  
fund created by section 1533.15 of the Revised Code. 7777

**Sec. 1533.09.** Before the ~~first~~ fifteenth day of ~~February~~ 7778  
~~March~~ of each year, each wild animal ~~collecting~~ permit holder 7779  
shall file with the division of wildlife a written report of ~~his~~ 7780  
the permit holder's operations under the permit and the 7781  
disposition of the specimens collected or possessed during the 7782  
preceding calendar year on report blanks furnished by the chief of 7783

the division. Failure to file a report shall cause the permit to 7784  
be forfeited as of the ~~first~~ fifteenth day of ~~February~~ March. 7785  
Permits are not transferable. No permit holder or person 7786  
collecting or possessing wild animals under authority of such a 7787  
permit shall take, possess, or transport the wild animals for any 7788  
purpose not specified in the permit. 7789

Conviction of a violation of this section, failure to carry a 7790  
permit and exhibit it to any person requesting to see it as 7791  
provided in section 1533.08 of the Revised Code, or the violation 7792  
of any other law concerning wild animals constitutes a revocation 7793  
and forfeiture of the permit involved. The former permit holder 7794  
shall not be entitled to another permit for a period of one year 7795  
from the date of the conviction. 7796

**Sec. 1533.10.** Except as provided in this section or division 7797  
(A)(2) of section 1533.12 of the Revised Code, no person shall 7798  
hunt any wild bird or wild quadruped without a hunting license. 7799  
Each day that any person hunts within the state without procuring 7800  
such a license constitutes a separate offense. Except as otherwise 7801  
provided in this section, every applicant for a hunting license 7802  
who is a resident of the state and eighteen years of age or more 7803  
shall procure a resident hunting license or an apprentice resident 7804  
hunting license, the fee for which shall be eighteen dollars<sup>7</sup> 7805  
unless the rules adopted under division (B) of section 1533.12 of 7806  
the Revised Code provide for issuance of a resident hunting 7807  
license to the applicant free of charge. Except as provided in 7808  
rules adopted under division (B)(2) of that section, each 7809  
applicant who is a resident of this state and who at the time of 7810  
application is sixty-six years of age or older shall procure a 7811  
special senior hunting license, the fee for which shall be 7812  
one-half of the regular hunting license fee. Every applicant who 7813  
is under the age of eighteen years shall procure a special youth 7814  
hunting license or an apprentice youth hunting license, the fee 7815

for which shall be one-half of the regular hunting license fee. 7816  
The owner of lands in the state and the owner's children of any 7817  
age and grandchildren under eighteen years of age may hunt on the 7818  
lands without a hunting license. The tenant and children of the 7819  
tenant, residing on lands in the state, may hunt on them without a 7820  
hunting license. Except as otherwise provided in division (A)(1) 7821  
of section 1533.12 of the Revised Code, every applicant for a 7822  
hunting license who is a nonresident of the state and who is 7823  
eighteen years of age or older shall procure a nonresident hunting 7824  
license or an apprentice nonresident hunting license, the fee for 7825  
which shall be one hundred twenty-four dollars, unless the 7826  
applicant is a resident of a state that is a party to an agreement 7827  
under section 1533.91 of the Revised Code, in which case the fee 7828  
shall be eighteen dollars. Apprentice resident hunting licenses, 7829  
apprentice youth hunting licenses, and apprentice nonresident 7830  
hunting licenses are subject to the requirements established under 7831  
section 1533.102 of the Revised Code and rules adopted pursuant to 7832  
it. 7833

The chief of the division of wildlife may issue a small game 7834  
hunting license expiring three days from the effective date of the 7835  
license to a nonresident of the state, the fee for which shall be 7836  
thirty-nine dollars. No person shall take or possess deer, wild 7837  
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 7838  
animal while possessing only a small game hunting license. A small 7839  
game hunting license or an apprentice nonresident hunting license 7840  
does not authorize the taking or possessing of ducks, geese, or 7841  
brant without having obtained, in addition to the small game 7842  
hunting license or the apprentice nonresident hunting license, a 7843  
wetlands habitat stamp as provided in section 1533.112 of the 7844  
Revised Code. A small game hunting license or an apprentice 7845  
nonresident hunting license does not authorize the taking or 7846  
possessing of deer, wild turkeys, or fur-bearing animals. A 7847  
nonresident of the state who wishes to take or possess deer, wild 7848

turkeys, or fur-bearing animals in this state shall procure, 7849  
respectively, a ~~special~~ deer or wild turkey permit as provided in 7850  
section 1533.11 of the Revised Code or a fur taker permit as 7851  
provided in section 1533.111 of the Revised Code in addition to a 7852  
nonresident hunting license, an apprentice nonresident hunting 7853  
license, a special youth hunting license, or an apprentice youth 7854  
hunting license, as applicable, as provided in this section. 7855  
7856

No person shall procure or attempt to procure a hunting 7857  
license by fraud, deceit, misrepresentation, or any false 7858  
statement. 7859

This section does not authorize the taking and possessing of 7860  
deer or wild turkeys without first having obtained, in addition to 7861  
the hunting license required by this section, a ~~special~~ deer or 7862  
wild turkey permit as provided in section 1533.11 of the Revised 7863  
Code or the taking and possessing of ducks, geese, or brant 7864  
without first having obtained, in addition to the hunting license 7865  
required by this section, a wetlands habitat stamp as provided in 7866  
section 1533.112 of the Revised Code. 7867

This section does not authorize the hunting or trapping of 7868  
fur-bearing animals without first having obtained, in addition to 7869  
a hunting license required by this section, a fur taker permit as 7870  
provided in section 1533.111 of the Revised Code. 7871

No hunting license shall be issued unless it is accompanied 7872  
by a written explanation of the law in section 1533.17 of the 7873  
Revised Code and the penalty for its violation, including a 7874  
description of terms of imprisonment and fines that may be 7875  
imposed. 7876

No hunting license, other than an apprentice hunting license, 7877  
shall be issued unless the applicant presents to the agent 7878  
authorized to issue the license a previously held hunting license 7879

or evidence of having held such a license in content and manner 7880  
approved by the chief, a certificate of completion issued upon 7881  
completion of a hunter education and conservation course approved 7882  
by the chief, or evidence of equivalent training in content and 7883  
manner approved by the chief. A previously held apprentice hunting 7884  
license does not satisfy the requirement concerning the 7885  
presentation of a previously held hunting license or evidence of 7886  
it. 7887

No person shall issue a hunting license, except an apprentice 7888  
hunting license, to any person who fails to present the evidence 7889  
required by this section. No person shall purchase or obtain a 7890  
hunting license, other than an apprentice hunting license, without 7891  
presenting to the issuing agent the evidence required by this 7892  
section. Issuance of a hunting license in violation of the 7893  
requirements of this section is an offense by both the purchaser 7894  
of the illegally obtained hunting license and the clerk or agent 7895  
who issued the hunting license. Any hunting license issued in 7896  
violation of this section is void. 7897

The chief, with approval of the wildlife council, shall adopt 7898  
rules prescribing a hunter education and conservation course for 7899  
first-time hunting license buyers, other than buyers of apprentice 7900  
hunting licenses, and for volunteer instructors. The course shall 7901  
consist of subjects including, but not limited to, hunter safety 7902  
and health, use of hunting implements, hunting tradition and 7903  
ethics, the hunter and conservation, the law in section 1533.17 of 7904  
the Revised Code along with the penalty for its violation, 7905  
including a description of terms of imprisonment and fines that 7906  
may be imposed, and other law relating to hunting. Authorized 7907  
personnel of the division or volunteer instructors approved by the 7908  
chief shall conduct such courses with such frequency and at such 7909  
locations throughout the state as to reasonably meet the needs of 7910  
license applicants. The chief shall issue a certificate of 7911



completion to each person who successfully completes the course 7912  
and passes an examination prescribed by the chief. 7913

**Sec. 1533.11.** (A) Except as provided in this section, no 7914  
person shall hunt deer on lands of another without first obtaining 7915  
an annual ~~special~~ deer permit. Except as provided in this section, 7916  
no person shall hunt wild turkeys on lands of another without 7917  
first obtaining an annual ~~special~~ wild turkey permit. Each 7918  
applicant for a ~~special~~ deer or wild turkey permit shall pay an 7919  
annual fee of twenty-three dollars for each permit unless the 7920  
rules adopted under division (B) of section 1533.12 of the Revised 7921  
Code provide for issuance of a deer or wild turkey permit to the 7922  
applicant free of charge. Except as provided in rules adopted 7923  
under division (B)(2) of that section, each applicant who is a 7924  
resident of this state and who at the time of application is 7925  
sixty-six years of age or older shall procure a ~~special~~ senior 7926  
deer or wild turkey permit, the fee for which shall be one-half of 7927  
the regular ~~special~~ deer or wild turkey permit fee. Each applicant 7928  
who is under the age of eighteen years shall procure a ~~special~~ 7929  
youth deer or wild turkey permit, the fee for which shall be 7930  
one-half of the regular ~~special~~ deer or wild turkey permit fee. 7931  
Except as provided in division (A)(2) of section 1533.12 of the 7932  
Revised Code, a deer or wild turkey permit shall run concurrently 7933  
with the hunting license. The money received shall be paid into 7934  
the state treasury to the credit of the wildlife fund, created in 7935  
section 1531.17 of the Revised Code, exclusively for the use of 7936  
the division of wildlife in the acquisition and development of 7937  
land for deer or wild turkey management, for investigating deer or 7938  
wild turkey problems, and for the stocking, management, and 7939  
protection of deer or wild turkey. Every person, while hunting 7940  
deer or wild turkey on lands of another, shall carry the person's 7941  
~~special~~ deer or wild turkey permit and exhibit it to any 7942  
enforcement officer so requesting. Failure to so carry and exhibit 7943

such a permit constitutes an offense under this section. The chief 7944  
of the division of wildlife shall adopt any additional rules the 7945  
chief considers necessary to carry out this section and section 7946  
1533.10 of the Revised Code. 7947

The owner and the children of the owner of lands in this 7948  
state may hunt deer or wild turkey thereon without a ~~special~~ deer 7949  
or wild turkey permit. The tenant and children of the tenant may 7950  
hunt deer or wild turkey on lands where they reside without a 7951  
~~special~~ deer or wild turkey permit. 7952

(B) A ~~special~~ deer or wild turkey permit is not transferable. 7953  
No person shall carry a ~~special~~ deer or wild turkey permit issued 7954  
in the name of another person. 7955

(C) The wildlife refunds fund is hereby created in the state 7956  
treasury. The fund shall consist of money received from 7957  
application fees for ~~special~~ deer permits that are not issued. 7958  
Money in the fund shall be used to make refunds of such 7959  
application fees. 7960

**Sec. 1533.12.** (A)(1) Except as otherwise provided in division 7961  
(A)(2) of this section, every person on active duty in the armed 7962  
forces of the United States who is stationed in this state and who 7963  
wishes to engage in an activity for which a license, permit, or 7964  
stamp is required under this chapter first shall obtain the 7965  
requisite license, permit, or stamp. Such a person is eligible to 7966  
obtain a resident hunting or fishing license regardless of whether 7967  
the person qualifies as a resident of this state. To obtain a 7968  
resident hunting or fishing license, the person shall present a 7969  
card or other evidence identifying the person as being on active 7970  
duty in the armed forces of the United States and as being 7971  
stationed in this state. 7972

(2) Every person on active duty in the armed forces of the 7973  
United States, while on leave or furlough, may take or catch fish 7974

of the kind lawfully permitted to be taken or caught within the 7975  
state, may hunt any wild bird or wild quadruped lawfully permitted 7976  
to be hunted within the state, and may trap fur-bearing animals 7977  
lawfully permitted to be trapped within the state, without 7978  
procuring a fishing license, a hunting license, a fur taker 7979  
permit, or a wetlands habitat stamp required by this chapter, 7980  
provided that the person shall carry on the person when fishing, 7981  
hunting, or trapping, a card or other evidence identifying the 7982  
person as being on active duty in the armed forces of the United 7983  
States, and provided that the person is not otherwise violating 7984  
any of the hunting, fishing, and trapping laws of this state. 7985

In order to hunt deer or wild turkey, any such person shall 7986  
obtain a ~~special~~ deer or wild turkey permit, as applicable, under 7987  
section 1533.11 of the Revised Code. However, the person need not 7988  
obtain a hunting license in order to obtain such a permit. 7989

(B) The chief of the division of wildlife shall provide by 7990  
rule adopted under section 1531.10 of the Revised Code all of the 7991  
following: 7992

(1) Every resident of this state with a disability that has 7993  
been determined by the veterans administration to be permanently 7994  
and totally disabling, who receives a pension or compensation from 7995  
the veterans administration, and who received an honorable 7996  
discharge from the armed forces of the United States, and every 7997  
veteran to whom the registrar of motor vehicles has issued a set 7998  
of license plates under section 4503.41 of the Revised Code, shall 7999  
be issued ~~an annual~~ a fishing license, hunting license, fur taker 8000  
permit, deer or wild turkey permit, or wetlands habitat stamp, or 8001  
any combination of those licenses, permits, and stamp, free of 8002  
charge on an annual, multi-year, or lifetime basis as determined 8003  
appropriate by the chief when application is made to the chief in 8004  
the manner prescribed by and on forms provided by the chief. 8005

(2) Every resident of the state who was born on or before 8006  
December 31, 1937, shall be issued an annual fishing license, 8007  
hunting license, fur taker permit, deer or wild turkey permit, or 8008  
wetlands habitat stamp, or any combination of those licenses, 8009  
permits, and stamp, free of charge when application is made to the 8010  
chief in the manner prescribed by and on forms provided by the 8011  
chief. 8012

(3) Every resident of state or county institutions, 8013  
charitable institutions, and military homes in this state shall be 8014  
issued an annual fishing license free of charge when application 8015  
is made to the chief in the manner prescribed by and on forms 8016  
provided by the chief. 8017

(4) Any mobility impaired or blind person, as defined in 8018  
section 955.011 of the Revised Code, who is a resident of this 8019  
state and who is unable to engage in fishing without the 8020  
assistance of another person shall be issued an annual fishing 8021  
license free of charge when application is made to the chief in 8022  
the manner prescribed by and on forms provided by the chief. The 8023  
person who is assisting the mobility impaired or blind person may 8024  
assist in taking or catching fish of the kind permitted to be 8025  
taken or caught without procuring the license required under 8026  
section 1533.32 of the Revised Code, provided that only one line 8027  
is used by both persons. 8028

(5) As used in division (B)(5) of this section, "prisoner of 8029  
war" means any regularly appointed, enrolled, enlisted, or 8030  
inducted member of the military forces of the United States who 8031  
was captured, separated, and incarcerated by an enemy of the 8032  
United States. 8033

Any person who has been a prisoner of war, was honorably 8034  
discharged from the military forces, and is a resident of this 8035  
state shall be issued ~~an annual~~ a fishing license, hunting 8036

license, fur taker permit, or wetlands habitat stamp, or any 8037  
combination of those licenses, permits, and stamp, free of charge 8038  
on an annual, multi-year, or lifetime basis as determined 8039  
appropriate by the chief when application is made to the chief in 8040  
the manner prescribed by and on forms provided by the chief. 8041

(C) The chief shall adopt rules pursuant to section 1531.08 8042  
of the Revised Code designating not more than two days, which need 8043  
not be consecutive, in each year as "free sport fishing days" on 8044  
which any resident may exercise the privileges accorded the holder 8045  
of a fishing license issued under section 1533.32 of the Revised 8046  
Code without procuring such a license, provided that the person is 8047  
not otherwise violating any of the fishing laws of this state. 8048

**Sec. 1533.131.** The chief of the division of wildlife may sell 8049  
gift certificates that may be used to obtain hunting and fishing 8050  
licenses, fur taker, ~~special~~ deer, and ~~special~~ wild turkey 8051  
permits, and wetlands habitat stamps. For the purposes of this 8052  
section, the chief shall adopt rules in accordance with section 8053  
1531.10 of the Revised Code doing all of the following: 8054

(A) Providing that a gift certificate may be used to obtain a 8055  
resident or nonresident hunting license under section 1533.10 of 8056  
the Revised Code, a resident or nonresident fishing license under 8057  
section 1533.32 of the Revised Code, a fur taker permit under 8058  
section 1533.111 of the Revised Code, a ~~special~~ deer or wild 8059  
turkey permit under section 1533.11 of the Revised Code, a 8060  
wetlands habitat stamp under section 1533.112 of the Revised Code, 8061  
or a combination of those licenses, permits, and stamps; 8062

(B) Prescribing the form for the gift certificates; 8063

(C) Authorizing persons who are designated and authorized 8064  
under section 1533.13 of the Revised Code to sell licenses and 8065  
permits under this chapter also to sell gift certificates under 8066  
this section; 8067

(D) Establishing fees for the gift certificates, which shall 8068  
equal the total of the fee for a resident or nonresident hunting 8069  
license, a resident or nonresident fishing license, a fur taker 8070  
permit, a ~~special~~ deer or wild turkey permit, a wetlands habitat 8071  
stamp, or a combination of those licenses, permits, and ~~stamps~~ 8072  
stamp, as applicable, and the fee established under section 8073  
1533.13 of the Revised Code; 8074

(E) Requiring gift certificates to expire one year after the 8075  
date of purchase. 8076

Nothing in this section or rules adopted under it relieves an 8077  
individual who receives a gift certificate for a hunting license 8078  
from complying with the requirement established under section 8079  
1533.10 of the Revised Code to present, when applying for the 8080  
license, a previously held hunting license or evidence of having 8081  
held such a license in content and manner approved by the chief, a 8082  
certificate of completion issued upon completion of a hunter 8083  
education and conservation course approved by the chief, or 8084  
evidence of equivalent training in content and manner approved by 8085  
the chief. 8086

Nothing in this section or rules adopted under it relieves an 8087  
individual who receives a gift certificate for a fur taker permit 8088  
from complying with the requirements established under section 8089  
1533.111 of the Revised Code to present, when applying for the 8090  
permit, a previously held hunting license or trapping or fur taker 8091  
permit or evidence of having held such a license or permit in 8092  
content and manner approved by the chief, a certificate of 8093  
completion issued upon completion of a trapper education course 8094  
approved by the chief, or evidence of equivalent training in 8095  
content and manner approved by the chief. 8096

**Sec. 1533.171.** (A) No person, in the act of hunting, 8097  
pursuing, taking, or killing a wild animal, shall act in a 8098

negligent, careless, or reckless manner so as to injure persons or 8099  
property. 8100

(B) The court before whom any person is convicted of or 8101  
pleads guilty to a violation of division (A) of this section shall 8102  
report that fact, together with the violator's name and address, 8103  
to the chief of the division of wildlife not later than ten days 8104  
after the date of conviction or plea. 8105

(C) Not later than seven days after receiving a notification 8106  
under division (B) of this section, the chief shall revoke, for 8107  
not less than one year nor more than five years, each hunting 8108  
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8109  
turkey permit, and wetlands habitat stamp issued to that person 8110  
under this chapter. No fee paid for such a license, permit, or 8111  
stamp shall be returned to the person. 8112

Upon revoking a license, permit, or stamp, or a combination 8113  
thereof, under this division, the chief immediately shall send a 8114  
notice of that action by certified mail to the last known address 8115  
of the person. The notice shall state the action taken, order the 8116  
person to surrender the revoked license, permit, or stamp, or 8117  
combination thereof, and state that the department of natural 8118  
resources will not afford a hearing as required under section 8119  
119.06 of the Revised Code. 8120

(D) If, after receiving a notice under division (C) of this 8121  
section, the person decides to petition for a review of the 8122  
revocation, the person shall file a petition for such a review not 8123  
later than thirty days after receiving the notice in the municipal 8124  
court or the county court, or, if the person is under eighteen 8125  
years of age, the juvenile court, in whose jurisdiction the 8126  
violation occurred. The review shall be limited to the question of 8127  
the appropriateness of the period of revocation. The court shall 8128  
send a copy of the petition to the chief by certified mail 8129  
together with timely notice of the date, time, and place of a 8130

hearing on the petition. The filing of a petition for a review 8131  
shall not stay the revocation during the pendency of the appeal. 8132

(E) No person whose license, permit, or stamp, or a 8133  
combination thereof, has been revoked under this section shall 8134  
attempt to purchase, purchase, apply for, or receive any hunting 8135  
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8136  
turkey permit, or wetlands habitat stamp issued under this chapter 8137  
or engage in hunting during the time any such license, permit, or 8138  
stamp, or a combination thereof, is revoked. 8139

**Sec. 1533.42.** Except as otherwise provided by division rule, 8140  
every licensee taking fish with commercial fishing gear, except a 8141  
trotline of seventy hooks or less, in any of the waters mentioned 8142  
in this chapter and Chapter 1531. ~~and this chapter~~ of the Revised 8143  
Code or division rule, shall keep accurate reports for each day's 8144  
catch upon forms provided, and in the manner prescribed, by the 8145  
chief of the division of wildlife. 8146

Every commercial fishing licensee shall keep an accurate 8147  
record of each day's catch as prescribed upon a monthly report 8148  
form. The report shall include at least the number of pounds of 8149  
each kind of fish taken, the locality fished, the kind and amount 8150  
of fishing gear lifted, the number of fishing nights, the number 8151  
of lifts, and any other data the biologists employed by the 8152  
division of wildlife require in following the trend of the 8153  
fisheries. The licensee shall report each month, under oath when 8154  
requested to do so, those data to the chief. 8155

The daily catch data shall be recorded accurately on the 8156  
respective date upon a report form approved by the chief no later 8157  
than twelve noon on the day following the day in which the fish 8158  
were taken. The monthly report and any other report required 8159  
pursuant to this section shall be submitted to the division no 8160  
later than the fifteenth day of the month following the end of the 8161



calendar month in which the fish were taken. 8162

A licensee shall contact the chief or the chief's designee 8163  
when the licensee is in transit to the licensee's trap nets to 8164  
lift, move, pull, remove, clean, or maintain the trap nets for any 8165  
reason and also shall contact the chief or the chief's designee 8166  
when returning to land with a daily catch of fish from a trap net 8167  
indicating the licensee's estimated time of arrival at a specific 8168  
port and any other information required by the chief. The licensee 8169  
shall contact the chief or the chief's designee by using a 8170  
cellular telephone, radio, or other communication device in a 8171  
manner prescribed by the chief. 8172

No person shall fail to comply with any report procedure 8173  
provided for in this section, other provisions of this section, or 8174  
division rule adopted pursuant thereto. 8175

In addition to other penalties provided in the Revised Code, 8176  
the license of any person who is convicted of two violations of 8177  
this section that occurred within a twelve-month period is 8178  
suspended upon the second such conviction by operation of law for 8179  
a period of sixty fishing season days immediately following that 8180  
conviction. 8181

In addition to other penalties provided in the Revised Code, 8182  
the license of any person who is convicted of three or more 8183  
violations of this section that occurred within a twelve-month 8184  
period is suspended upon the third or subsequent such conviction 8185  
by operation of law for a period of eighteen fishing season months 8186  
immediately following that conviction. 8187

During any period of suspension, no person shall use or 8188  
engage in fishing with commercial gear owned, used, or controlled 8189  
at the time of conviction by the licensee whose license has been 8190  
suspended. 8191

Sec. 1533.632. (A) As used in this section:	8192
(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.	8193 8194 8195 8196
(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.	8197 8198 8199
(3) "Class A aquaculture species" includes <del>all of the following:</del>	8200 8201
<del>(a) Trout and salmon (Onchorhynchus sp., Salmo sp., Salvelinus sp.);</del>	8202 8203
<del>(b) Walleye (Stizostedion vitreum);</del>	8204
<del>(c) Sauger (Stizostedion canadense);</del>	8205
<del>(d) Bluegill (Lepomis macrochirus);</del>	8206
<del>(e) Redear sunfish (Lepomis microlophus);</del>	8207
<del>(f) Green sunfish (Lepomis cyanellus);</del>	8208
<del>(g) White crappie (Pomoxis annularis);</del>	8209
<del>(h) Black crappie (Pomoxis nigromaculatus);</del>	8210
<del>(i) Blue catfish (Ictalurus furcatus);</del>	8211
<del>(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></del>	8212 8213 8214 8215 8216
(4) "Class B aquaculture species" includes any species, except for class A aquaculture species, designated as such by the chief <del>of the division of wildlife</del> <u>in rules adopted under division</u>	8217 8218 8219

(B) of this section. 8220

(5) "Aquaculture production facility" means a facility ~~used~~ 8221  
~~for aquaculture that has suitable infrastructure and equipment, as~~ 8222  
~~determined by the chief, and that is solely dedicated to the~~ 8223  
~~propagation and rearing of an aquaculture species.~~ 8224

(6) "Suitable infrastructure" includes ponds, raceways, and 8225  
tanks. 8226

(B) The chief, in accordance with Chapter 119. of the Revised 8227  
Code, shall adopt rules for the regulation of aquaculture and may 8228  
issue permits to persons wishing to engage in aquaculture for the 8229  
production of aquaculture species. Rules adopted under this 8230  
section shall ensure the protection and preservation of the 8231  
wildlife and natural resources of this state. The legal length and 8232  
weight limitations established under section 1533.63 of the 8233  
Revised Code do not apply to class A or class B aquaculture 8234  
species. 8235

A permit may be issued upon application to any person who 8236  
satisfies the chief that the person ~~has suitable equipment, of~~ 8237  
~~which the person is the owner or lessee, to engage in aquaculture~~ 8238  
~~for a given aquaculture species or group of~~ owns or leases an 8239  
aquaculture ~~species~~ production facility. Each permit shall be in 8240  
such form as the chief prescribes. The permits shall be classified 8241  
as either class A or class B. A class A permit shall be required 8242  
for all class A aquaculture species that are ~~specified in this~~ 8243  
~~section or~~ designated by rule as a class A aquaculture species. 8244  
Class B permits shall be issued on a case-by-case basis. In 8245  
determining whether to issue a class B permit, the chief shall 8246  
take into account the species for which the class B permit is 8247  
requested, the location of the aquaculture production facility, 8248  
and any other information determined by the chief to be necessary 8249  
to protect the wildlife and natural resources of this state. The 8250  
annual fee for a class A permit shall be fifty dollars unless 8251

otherwise provided by rule by the chief. The annual fee for a 8252  
class B permit shall be set by the chief at a level between one 8253  
hundred and five hundred dollars. In determining the fee to be 8254  
charged for a class B permit, the chief shall take into account 8255  
the additional costs to the division for the inspection of 8256  
aquaculture facilities used to raise a given class B aquaculture 8257  
species. 8258

The chief may revoke a permit upon a determination that the 8259  
person to whom the permit was issued has violated any rule adopted 8260  
under this section. The permit shall be reissued upon a showing by 8261  
the person that the person is in compliance with the rules adopted 8262  
under this section. A holder of an aquaculture permit may receive 8263  
a permit issued under section 1533.301 or 1533.40 of the Revised 8264  
Code without payment of the fee for that permit if the conditions 8265  
for the issuance of the permit have been met. 8266

(C) No person shall knowingly sell any aquatic species under 8267  
an aquaculture permit issued under this section that was not 8268  
raised in an aquaculture production facility. In addition to any 8269  
other penalties prescribed for violation of this division, the 8270  
chief may revoke the permit of any person convicted of a violation 8271  
of this division for any period of time the chief considers 8272  
necessary. 8273

(D) No person who does not hold a current valid aquaculture 8274  
permit shall knowingly sell an aquaculture species while claiming 8275  
to possess an aquaculture permit. 8276

**Sec. 1533.68.** If a person is convicted of a violation of any 8277  
law relative to the taking, possession, protection, preservation, 8278  
or propagation of wild animals, or a violation of division (C) of 8279  
section 2909.08 of the Revised Code while hunting, or is convicted 8280  
of a violation of any rule of the division of wildlife, the court 8281  
or magistrate before whom the conviction is had, as an additional 8282

part of the penalty in each case, ~~shall~~ may suspend or revoke each 8283  
license or permit issued to the person in accordance with any 8284  
section of the Revised Code pertaining to the hunting, fishing, 8285  
trapping, breeding, and sale of wild animals or the sale of their 8286  
hides, skins, or pelts. No fee paid for such a license or permit 8287  
shall be returned to the person. 8288

No person having a license or permit suspended or revoked as 8289  
provided in this section, in the event of a hunting or trapping 8290  
violation, shall engage in hunting or trapping, in the event of a 8291  
violation of division (C) of section 2909.08 of the Revised Code 8292  
while hunting, shall engage in hunting, or in the event of a 8293  
fishing violation, shall engage in fishing, or purchase, apply 8294  
for, or receive any such license or permit for the following 8295  
periods of time, as applicable: 8296

(A) Three years after the date of conviction if the person is 8297  
convicted of taking or possessing a deer in violation of section 8298  
1531.02 of the Revised Code; 8299

(B) Not more than three years after the date of conviction if 8300  
the person is convicted of taking or possessing any other wild 8301  
animal in violation of section 1531.02 of the Revised Code, is 8302  
convicted of a misdemeanor violation of division (C) of section 8303  
2909.08 of the Revised Code while hunting, or is convicted of a 8304  
second or subsequent violation of section 1533.17 of the Revised 8305  
Code within a period of three consecutive years after the date of 8306  
conviction of the immediately preceding violation of that section; 8307

(C) Not more than five years after the date of conviction if 8308  
the person is convicted of violating section 1533.171 or of taking 8309  
or possessing an eagle or osprey in violation of section 1533.07 8310  
of the Revised Code or is convicted of a felony violation of 8311  
division (C) of section 2909.08 of the Revised Code while hunting; 8312

(D) Not more than five years after the date of conviction if 8313

the person is convicted of violating any section of this chapter 8314  
or Chapter 1531. of the Revised Code not specified in division 8315  
(A), (B), or (C) of this section. 8316

All licenses and permits suspended or revoked as provided in 8317  
this section shall be taken up by the magistrate and sent to the 8318  
department of natural resources where they shall be filed with a 8319  
record of the arrest until the person who held the suspended or 8320  
revoked license or permit is lawfully entitled to obtain another 8321  
license or permit. 8322

**Sec. 1533.86.** As used in sections 1533.86 to 1533.90 of the 8323  
Revised Code: 8324

(A) "Ginseng" means the plant *Panax quinquefolius* L., also 8325  
known as *Panax quinquefolium* L., commonly known as American 8326  
ginseng. 8327

(B) "Wild ginseng" means ginseng that grows in an 8328  
uncultivated state and in its natural habitat whether the plant 8329  
occurs naturally from that habitat or was introduced or increased 8330  
in abundance by sowing ginseng seed or transplanting ginseng 8331  
plants from other areas and performing no other cultivation 8332  
practices. 8333

(C) "Cultivated ginseng" means ginseng that grows or has been 8334  
grown in tilled beds under the shade of artificial structures or 8335  
natural shade and is cultivated according to standard ginseng 8336  
horticultural practices. 8337

(D) "Harvest" means to cut, pick, dig, root up, gather, or 8338  
otherwise collect ginseng. 8339

(E) "Person" includes any legal entity defined as a person 8340  
under section ~~1-59~~ 6111.01 of the Revised Code and any political 8341  
subdivision, instrumentality, or agency of ~~this state,~~ another 8342  
state, ~~or the United States.~~ 8343

(F) "Collector" means a person who harvests ginseng.	8344
(G) "Grower" means a person who grows cultivated ginseng.	8345
(H) "Dealer" means a person who buys or otherwise acquires or conveys ginseng for resale.	8346 8347
(I) "Buy" includes trade or barter.	8348
(J) "Sell" includes trade or barter.	8349
<b>Sec. 1533.882.</b> No person shall do any of the following:	8350
(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;	8351 8352 8353 8354
(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;	8355 8356 8357
(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>	8358 8359 8360
<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;	8361 8362 8363
<del>(D)</del> <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;	8364 8365 8366
<del>(E)</del> <u>(F)</u> Fail to keep records as established by rule adopted pursuant to section 1533.88 of the Revised Code;	8367 8368
<del>(F)</del> <u>(G)</u> Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;	8369 8370 8371

~~(G)~~(H) Knowingly provide incorrect or false information on or 8372  
in any permit application, report, export certificate, or other 8373  
document required by rules adopted pursuant to section 1533.88 of 8374  
the Revised Code; 8375

~~(H)~~(I) Violate any provision of sections 1533.86 to 1533.90 8376  
of the Revised Code or rules adopted pursuant to section 1533.88 8377  
of the Revised Code. 8378

**Sec. 1533.99.** (A) Whoever violates section 1533.17 of the 8379  
Revised Code is guilty of a misdemeanor of the third degree on a 8380  
first offense and a misdemeanor of the second degree on each 8381  
subsequent offense. In addition to any other sanction imposed 8382  
under this division, on a second or subsequent offense occurring 8383  
within a period of three consecutive years after the date of 8384  
conviction of the immediately preceding violation of that section 8385  
any firearms or other hunting implements in the possession or 8386  
under the control of the offender at the time of the violation are 8387  
subject to seizure in accordance with section 1531.20 of the 8388  
Revised Code. If the offender persists in the offense after 8389  
reasonable warning or request to desist, the offender is guilty of 8390  
a misdemeanor of the second degree. 8391

(B) Whoever violates section 1533.161, 1533.23, 1533.24, 8392  
1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511, 1533.55, 8393  
1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71, 1533.72, 8394  
1533.73, 1533.74, 1533.75, 1533.76, 1533.77, ~~1533.78~~, 1533.79, or 8395  
1533.80, division (F) of section 1533.731, or division (B) or (C) 8396  
of section 1533.97 of the Revised Code is guilty of a misdemeanor 8397  
of the third degree. 8398

(C) Whoever violates division (B) of section 1533.03, section 8399  
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 8400  
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, 1533.721, 1533.881, 8401  
or 1533.882, division (B)(2) or (3) of section 1533.731, or 8402



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;	8433
(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;	8434 8435
(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;	8436 8437 8438
(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:	8439 8440 8441 8442 8443
(1) Governing opening and closing times and dates of the parks;	8444 8445
(2) Establishing fees and charges for use of facilities in state parks;	8446 8447
(3) Governing camps, camping, and fees for camps and camping;	8448
(4) Governing the application for and rental of, rental fees for, and the use of <del>cabins</del> <u>cottages</u> ;	8449 8450
(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;	8451 8452 8453
(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;	8454 8455 8456 8457 8458
(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	8459 8460 8461 8462

the Revised Code, over waters under the control of the division 8463  
and establishing reasonable fees for the construction of and 8464  
annual use permits for those structures and devices; 8465

(8) Governing state beaches, swimming, inflatable devices, 8466  
and fees for them; 8467

(9) Governing the removal and disposition of any watercraft, 8468  
rowboat, sailboat, or powercraft, as those terms are defined in 8469  
section 1547.01 of the Revised Code, left unattended for more than 8470  
seven days on any lands or waters under the control of the 8471  
division; 8472

(10) Governing the establishment and collection of check 8473  
collection charges for checks that are returned to the division or 8474  
dishonored for any reason. 8475

The division shall adopt rules under this section 8476  
establishing a discount program for all persons who are issued a 8477  
golden buckeye card under section 173.06 of the Revised Code. The 8478  
discount program shall provide a discount for all park services 8479  
and rentals, but shall not provide a discount for the purchase of 8480  
merchandise. 8481

The division shall not adopt rules establishing fees or 8482  
charges for parking a motor vehicle in a state park or for 8483  
admission to a state park. 8484

Every resident of this state with a disability that has been 8485  
determined by the veterans administration to be permanently and 8486  
totally disabling, who receives a pension or compensation from the 8487  
veterans administration, and who received an honorable discharge 8488  
from the armed forces of the United States, and every veteran to 8489  
whom the registrar of motor vehicles has issued a set of license 8490  
plates under section 4503.41 of the Revised Code, shall be exempt 8491  
from the fees for camping, provided that the resident or veteran 8492  
carries in the state park such evidence of the resident's or 8493

veteran's disability as the chief of the division of parks and recreation prescribes by rule. 8494  
8495

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. 8496  
8497  
8498  
8499  
8500  
8501  
8502  
8503  
8504  
8505  
8506

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. 8507  
8508  
8509  
8510  
8511  
8512

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. 8513  
8514  
8515  
8516  
8517  
8518  
8519  
8520  
8521  
8522  
8523

**Sec. 1541.05.** (A) The chief of the division of parks and 8524

recreation, with the approval of the director of natural 8525  
resources, may dispose of any of the following by sale, donation, 8526  
trade, trade-in, recycling, or any other lawful means, in a manner 8527  
that will benefit the division: 8528

(1) Standing timber that as a result of wind, storm, 8529  
pestilence, or any other natural occurrence may present a hazard 8530  
to life or property, ~~or~~ timber that has weakened or fallen on 8531  
lands under the control and management of the division, or any 8532  
timber that requires management to improve wildlife habitat, 8533  
protect against wildfires, provide access to recreational 8534  
facilities, or improve the safety, quality, or appearance of any 8535  
state park area; 8536

(2) Spoils of a dredging operation conducted by the division 8537  
in waters under the control and management of the division. Prior 8538  
to the disposition of any spoils under this division, the chief 8539  
shall notify the director of environmental protection of ~~his~~ the 8540  
chief's intent so that the director may determine if the spoils 8541  
constitute solid wastes or hazardous waste, as those terms are 8542  
defined in section 3734.01 of the Revised Code, that ~~shall~~ must be 8543  
disposed of in accordance with Chapter 3734. of the Revised Code. 8544  
If the director does not notify the chief within thirty days after 8545  
receiving notice of the disposition that the spoils ~~shall~~ must be 8546  
disposed of in accordance with Chapter 3734. of the Revised Code, 8547  
the chief may proceed with the disposition. 8548

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 8549  
Code, excess supplies and surplus supplies, as those terms are 8550  
defined in section 125.12 of the Revised Code; 8551

(4) Agricultural products that are grown or raised by the 8552  
division. As used in this division, "agricultural products" 8553  
includes products of apiculture, animal husbandry, or poultry 8554  
husbandry, field crops, fruits, and vegetables. 8555

(5) Abandoned personal property, including golf balls that 8556  
are found on property under the control and management of the 8557  
division. 8558

(B) In accordance with Chapter 119. of the Revised Code, the 8559  
chief shall adopt, and may amend and rescind, such rules as are 8560  
necessary to administer this section. 8561

(C) Proceeds from the disposition of items under this section 8562  
shall be deposited in the state treasury to the credit of the 8563  
state park fund created in section 1541.22 of the Revised Code. 8564

**Sec. 1541.40.** There is hereby created in the division of 8565  
parks and recreation an Ohio parks and recreation council, which 8566  
shall consist of seven members to be appointed by the governor 8567  
with the advice and consent of the senate. By reason of his 8568  
vocation, employment, or affiliation one of ~~such~~ the members shall 8569  
be classed as a representative of municipal parks, one as a 8570  
representative of metropolitan park districts, one as a 8571  
representative of conservancy districts, one as a representative 8572  
of ~~soil conservation districts or of~~ soil and water conservation 8573  
districts, one as a representative of private recreational 8574  
facilities, and two as representatives of the public. 8575

Terms of office shall be for ~~two~~ three years, commencing on 8576  
the first day of February and ending on the thirty-first day of 8577  
January, ~~except that upon expiration of the terms ending on~~ 8578  
~~February 3, 1973, the new terms which succeed them shall commence~~ 8579  
~~on February 4, 1974 and end on January 31, 1976, and upon~~ 8580  
~~expiration of the terms ending on February 2, 1975, the new terms~~ 8581  
~~which succeed them shall commence on February 3, 1975 and end on~~ 8582  
~~January 31, 1977.~~ Each member shall hold office from the date of 8583  
~~his~~ appointment until the end of the term for which ~~he~~ the member 8584  
was appointed. Any member appointed to fill a vacancy occurring 8585  
prior to the expiration of the term for which ~~his~~ the member's 8586

predecessor was appointed shall hold office for the remainder of 8587  
~~such~~ that term. Any member shall continue in office subsequent to 8588  
the expiration date of ~~his~~ the member's term until ~~his~~ the 8589  
member's successor takes office, or until a period of sixty days 8590  
has elapsed, whichever occurs first. 8591

The council shall annually select from among its members a 8592  
~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. 8593

Members of the council shall receive no compensation, but 8594  
shall be reimbursed for their actual and necessary expenses 8595  
incurred in the performance of their official duties as members of 8596  
the council. 8597

The council shall hold at least one regular meeting in each 8598  
quarter of each calendar year, and shall keep a record of its 8599  
proceedings, which shall be open to the public for inspection. 8600  
Special meetings may be called by the ~~chairman~~ chairperson, and 8601  
shall be called by ~~him~~ the chairperson upon receipt of a written 8602  
request therefor signed by two or more members of the council. A 8603  
written notice of the time and place of each meeting shall be sent 8604  
to each member of the council. A majority of the members of the 8605  
council shall constitute a quorum. 8606

The chief of the division of parks and recreation shall act 8607  
as secretary of the council. Technical, legal, and other services 8608  
required by the council in the performance of its official duties 8609  
shall be furnished by the personnel of the division of parks and 8610  
recreation. 8611

The governor may remove any member of the council at any time 8612  
for inefficiency, neglect of duty, or malfeasance in office. 8613

**Sec. 1547.05.** No person born on or after January 1, 1982, 8614  
shall operate on the waters in this state a powercraft powered by 8615  
more than ten horsepower, unless the operator successfully has 8616

completed either a safe boater course approved by the national 8617  
association of state boating law administrators or a proctored or 8618  
nonproctored proficiency examination that tests knowledge of 8619  
information included in the curriculum of such a course, and has 8620  
received a certificate as evidence of successful completion of the 8621  
course or examination. 8622

No person shall permit a powercraft to be operated on the 8623  
waters in this state in violation of this section. 8624

**Sec. 1547.08.** (A) No person shall operate a vessel within or 8625  
through a designated bathing area or within or through any area 8626  
that has been buoyed off designating it as an area in which 8627  
vessels are prohibited. 8628

(B)(1) No person shall operate a vessel at greater than idle 8629  
speed or at a speed that creates a wake under any of the following 8630  
circumstances: 8631

(a) Within three hundred feet of any marina, boat docking 8632  
facility, boat gasoline dock, launch ramp, recreational boat 8633  
harbor, or harbor entrance on Lake Erie or on the Ohio river; 8634

(b) During the period from sunset to sunrise according to 8635  
local time within any water between the Dan Beard bridge and the 8636  
Brent Spence bridge on the Ohio river for any vessel not 8637  
documented by the United States coast guard as commercial; 8638

(c) Within any area buoyed or marked as a no wake area on the 8639  
waters in this state. 8640

(2) Division (B)(1) of this section does not apply in either 8641  
of the following places: 8642

(a) An area designated by the chief of the division of 8643  
watercraft unless it is marked by a buoy or sign as a no wake or 8644  
idle speed area; 8645

(b) Within any water between the Dan Beard bridge and the 8646



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. 8647  
8648  
8649

(C) No person shall operate a vessel in any area of restricted or controlled operation in violation of the designated restriction. 8650  
8651  
8652

(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. 8653  
8654  
8655

(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. 8656  
8657  
8658  
8659  
8660  
8661  
8662

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. 8663  
8664  
8665  
8666  
8667  
8668  
8669

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. 8670  
8671  
8672  
8673  
8674  
8675  
8676  
8677

(F) No person shall enter, operate a vessel that enters, or allow a vessel to enter a federally declared security zone as defined in 33 C.F.R. Chapter I, subparts 6.01-1, 6.01-2, 6.01-3, 6.01-4, 6.01-5, 6.04-1, 6.04-5, 6.04-6, 6.04-7, and 6.04-8.

(G) No person shall permit any vessel to be operated on the waters in this state in violation of this section.

**Sec. 1547.51.** There is hereby created within the department of natural resources the division of watercraft. The division shall administer and enforce all laws relative to the identification, numbering, registration, titling, use, and operation of vessels operated on the waters in this state and, with the approval of the director of natural resources, educate and inform the citizens of the state about, and promote, conservation, navigation, safety practices, and the benefits of recreational boating.

**Sec. 1547.54.** (A)(1) Except as otherwise provided in section 1547.542 of the Revised Code, the owner of every watercraft requiring registration under this chapter shall file an application for a triennial registration certificate with the chief of the division of watercraft on forms that shall be provided by the chief or by an electronic means approved by the chief. The application shall be signed by the following:

(a) If the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code, by both of those persons as owners of the watercraft. The signatures may be done by electronic signature if the owners themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner is renewing the registration personally and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, rowboats, and inflatable watercraft that are numbered under section 1547.53 of the Revised Code, twelve dollars;

(b) For canoes, row boats, and inflatable watercraft that are not numbered under section 1547.53 of the Revised Code, seventeen dollars;

(c) For class A watercraft, including motorized canoes, thirty dollars;

(d) For class 1 watercraft, forty-five dollars;

(e) For class 2 watercraft, sixty dollars;

(f) For class 3 watercraft, seventy-five dollars;

(g) For class 4 watercraft, ninety dollars.

(3) For the purpose of registration, any watercraft operated by means of power, sail, or any other mechanical or electrical

means of propulsion, except motorized canoes, shall be registered 8738  
by length as prescribed in this section. 8739

(4) If an application for registration is filed by two 8740  
persons as owners under division (A)(1)(a) of this section, the 8741  
person who is listed first on the title shall serve as and perform 8742  
the duties of the "owner" and shall be considered the person "in 8743  
whose name the watercraft is registered" for purposes of divisions 8744  
(B) to (Q) of this section and for purposes of all other sections 8745  
in this chapter. 8746

(B) All registration certificates issued under this section 8747  
are valid for three years and are renewable on a triennial basis 8748  
unless sooner terminated or discontinued in accordance with this 8749  
chapter. The renewal date shall be printed on the registration 8750  
certificate. A registration certificate may be renewed by the 8751  
owner in the manner prescribed by the chief. All fees shall be 8752  
charged according to a proration of the time remaining in the 8753  
registration cycle to the nearest year. 8754

(C) In addition to the fees set forth in this section, the 8755  
chief, or any authorized agent, shall charge an additional fee of 8756  
three dollars for any registration certificate the chief or 8757  
authorized agent issues. When the registration certificate is 8758  
issued by an authorized agent, the additional fee of three dollars 8759  
shall be retained by the issuing agent. When the registration 8760  
certificate is issued by the chief, the additional fee of three 8761  
dollars shall be deposited to the credit of the waterways safety 8762  
fund established in section 1547.75 of the Revised Code. 8763

(D)(1) Upon receipt of the application in approved form, the 8764  
chief shall enter the same upon the records of the office of the 8765  
division of watercraft, assign a number to the watercraft if a 8766  
number is required under section 1547.53 of the Revised Code, and 8767  
issue to the applicant a registration certificate. If a number is 8768

assigned by the chief, it shall be set forth on the certificate. 8769  
The registration certificate shall be on the watercraft for which 8770  
it is issued and available at all times for inspection whenever 8771  
the watercraft is in operation, except that livery operators may 8772  
retain the registration certificate at the livery where it shall 8773  
remain available for inspection at all times and except as 8774  
otherwise provided in division (D)(2) of this section. 8775

(2) A person who is operating on the waters of this state a 8776  
canoe, rowboat, or inflatable watercraft that has not been 8777  
numbered under section 1547.53 of the Revised Code and who is 8778  
stopped by a law enforcement officer in the enforcement of this 8779  
chapter or rules adopted under it shall present to the officer, 8780  
not later than seventy-two hours after being stopped, a 8781  
registration certificate. The registration certificate shall have 8782  
been obtained under this section for the canoe, rowboat, or 8783  
inflatable watercraft prior to the time that it was stopped. 8784  
Failure of the person to present the registration certificate 8785  
within seventy-two hours constitutes prima-facie evidence of a 8786  
violation of this section. 8787

(E) No person shall issue or be issued a registration 8788  
certificate for a watercraft that is required to be issued a 8789  
certificate of title under Chapter 1548. of the Revised Code 8790  
except upon presentation of a certificate of title for the 8791  
watercraft as provided in that chapter, proof of current 8792  
documentation by the United States coast guard, a renewal 8793  
registration form provided by the division of watercraft, or a 8794  
certificate of registration issued under this section that has 8795  
expired if there is no change in the ownership or description of 8796  
the watercraft. 8797

(F) Whenever the ownership of a watercraft changes, a new 8798  
application form together with the prescribed fee shall be filed 8799  
with the chief or the chief's agent and a new registration 8800

certificate shall be issued. The application shall be signed 8801  
manually by the person or persons specified in ~~division~~ divisions 8802  
(A)(1)(a) to (c) of this section and shall be accompanied by a 8803  
two-dollar transfer fee. Any remaining time on the registration 8804  
shall be transferred. An authorized agent of the chief shall 8805  
charge an additional fee of three dollars, which shall be retained 8806  
by the issuing agent. If the certificate is issued by the chief, 8807  
an additional fee of three dollars for each certificate issued 8808  
shall be collected. 8809

(G) If an agency of the United States has in force an overall 8810  
system of identification numbering for watercraft or certain types 8811  
of watercraft within the United States, the numbering system 8812  
employed by the division shall be in conformity with that system. 8813

(H)(1) The chief may assign any registration certificates to 8814  
any authorized agent for the assignment of the registration 8815  
certificates. If a person accepts that authorization, the person 8816  
may be assigned a block of numbers and certificates that upon 8817  
assignment, in conformity with this chapter and Chapter 1548. of 8818  
the Revised Code and with rules of the division, shall be valid as 8819  
if assigned directly by the division. Any person so designated as 8820  
an agent by the chief shall post with the division security as may 8821  
be required by the director of natural resources. The chief may 8822  
issue an order temporarily or permanently restricting or 8823  
suspending an agent's authorization without a hearing if the chief 8824  
finds that the agent has violated this chapter or Chapter 1548. of 8825  
the Revised Code, rules adopted under them, or any agreements 8826  
prescribed by the chief. 8827

(2) A clerk of the court of common pleas may apply for 8828  
designation as an authorized agent of the chief. The division 8829  
shall accept the clerk's bond that is required under section 8830  
2303.02 of the Revised Code for any security that is required for 8831  
agents under this division, provided that the bond includes a 8832

rider or other provision specifically covering the clerk's duties 8833  
as an authorized agent of the chief. 8834

(I) All records of the division made or kept pursuant to this 8835  
section shall be public records. Those records shall be available 8836  
for inspection at reasonable hours and in a manner compatible with 8837  
normal operations of the division. 8838

(J) The owner shall furnish the division notice within 8839  
fifteen days of the following: 8840

(1) The transfer, other than through the creation of a 8841  
security interest in any watercraft, of all or any part of the 8842  
owner's interest or, if the watercraft is owned by two persons 8843  
under joint ownership with right of survivorship established under 8844  
section 2131.12 of the Revised Code, of all or any part of the 8845  
joint interest of either of the two persons. The transfer shall 8846  
not terminate the registration certificate. 8847

(2) Any change in the address appearing on the certificate 8848  
~~and, as~~ As a part of the notification, the owner shall furnish 8849  
the chief with the owner's new address: 8850

(3) The destruction or abandonment of the watercraft. 8851

(K) The chief may issue duplicate registration certificates 8852  
or duplicate tags to owners of currently registered watercraft, 8853  
the fee for which shall be four dollars. 8854

(L) If the chief finds that a registration certificate 8855  
previously issued to an owner is in error to a degree that would 8856  
impair its basic purpose and use, the chief may issue a corrected 8857  
certificate to the owner without charge. 8858

(M) No authorized agent shall issue and no person shall 8859  
receive or accept from an authorized agent a registration 8860  
certificate assigned to the authorized agent under division (H) of 8861  
this section unless the exact month, day, and year of issue are 8862

plainly written on the certificate by the agent. Certificates 8863  
issued with incorrect dates of issue are void from the time they 8864  
are issued. 8865

(N) The chief, in accordance with Chapter 119. of the Revised 8866  
Code, shall adopt rules governing the renewal of watercraft 8867  
registrations by electronic means. 8868

(O) As used in this section: 8869

(1) "Disabled veteran" means a person who is included in 8870  
either of the following categories: 8871

(a) Because of a service-connected disability, has been or is 8872  
awarded funds for the purchase of a motor vehicle under the 8873  
"Disabled Veterans' and Servicemen's Automobile Assistance Act of 8874  
1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto; 8875

(b) Has a service-connected disability rated at one hundred 8876  
per cent by the veterans administration. 8877

(2) "Prisoner of war" means any regularly appointed, 8878  
enrolled, enlisted, or inducted member of the military forces of 8879  
the United States who was captured, separated, and incarcerated by 8880  
an enemy of the United States at any time, and any regularly 8881  
appointed, enrolled, or enlisted member of the military forces of 8882  
Great Britain, France, Australia, Belgium, Brazil, Canada, China, 8883  
Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, 8884  
South Africa, or the republics formerly associated with the Union 8885  
of Soviet Socialist Republics or Yugoslavia who was a citizen of 8886  
the United States at the time of the appointment, enrollment, or 8887  
enlistment, and was captured, separated, and incarcerated by an 8888  
enemy of this country during World War II. 8889

(P) Any disabled veteran, congressional medal of honor 8890  
awardee, or prisoner of war may apply to the chief for a 8891  
certificate of registration, or for a renewal of the certificate 8892



of registration, without the payment of any fee required by this 8893  
section. The application for a certificate of registration shall 8894  
be accompanied by evidence of disability or by documentary 8895  
evidence in support of a congressional medal of honor that the 8896  
chief requires by rule. The application for a certificate of 8897  
registration by any person who has been a prisoner of war shall be 8898  
accompanied by written evidence in the form of a record of 8899  
separation, a letter from one of the armed forces of a country 8900  
listed in division (O)(2) of this section, or other evidence that 8901  
the chief may require by rule, that the person was honorably 8902  
discharged or is currently residing in this state on active duty 8903  
with one of the branches of the armed forces of the United States, 8904  
or was a prisoner of war and was honorably discharged or received 8905  
an equivalent discharge or release from one of the armed forces of 8906  
a country listed in division (O)(2) of this section. 8907

(Q) Annually by the fifteenth day of January, the director of 8908  
natural resources shall determine the amount of fees that would 8909  
have been collected in the prior calendar year for each 8910  
certificate of registration issued or renewed pursuant to division 8911  
(P) of this section and shall certify the total amount of foregone 8912  
revenue to the director of budget and management for 8913  
reimbursement. The director of budget and management shall 8914  
transfer the amount certified from the general revenue fund to the 8915  
waterways safety fund created pursuant to section 1547.75 of the 8916  
Revised Code. 8917

**Sec. 1547.541.** The owner of a ~~wooden~~ watercraft that is more 8918  
than twenty-five years old, is essentially as originally 8919  
constructed, and is owned primarily as a collector's item and for 8920  
participation in club activities, exhibitions, tours, parades, and 8921  
similar uses, but is not used for general recreation may apply to 8922  
the chief of the division of watercraft for an historic watercraft 8923

identification plate. The chief, by rule, may establish additional 8924  
criteria for the registration of historic watercraft that the 8925  
chief considers necessary. 8926

The chief shall prescribe the form of application and shall 8927  
issue an historic watercraft identification plate, which shall be 8928  
securely affixed to the watercraft. The plate shall bear no date, 8929  
but shall bear the inscription "historic watercraft." A 8930  
registration number assigned by the chief shall be shown on the 8931  
plate. The plate is valid without renewal as long as the 8932  
watercraft exists and ownership does not change. The fee for the 8933  
plate is twenty-five dollars. 8934

Whenever the ownership of an historic watercraft changes, an 8935  
application for transfer of registration, together with a fee of 8936  
ten dollars, shall be filed with the division of watercraft, and a 8937  
new certificate of registration shall be issued. 8938

The historic watercraft identification plate shall be shown 8939  
on the watercraft in the same manner as a number required under 8940  
sections 1547.53 and 1547.57 of the Revised Code. 8941

If the watercraft is to be used for general recreation, it 8942  
also shall be registered as required by section 1547.54 of the 8943  
Revised Code. 8944

**Sec. 1547.99.** (A) Whoever violates section 1547.91 of the 8945  
Revised Code is guilty of a felony of the fourth degree. 8946

(B) Whoever violates division (F) of section 1547.08, section 8947  
1547.10, division (I) of section 1547.111, section 1547.13, or 8948  
section 1547.66 of the Revised Code is guilty of a misdemeanor of 8949  
the first degree. 8950

(C) Whoever violates a provision of this chapter or a rule 8951  
adopted thereunder, for which no penalty is otherwise provided, is 8952  
guilty of a minor misdemeanor. 8953

(D) Whoever violates section 1547.07 or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07 or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (M) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1)

of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, or a combination of them, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, of division (A)(1) of section 2903.06 of the Revised Code, or of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or section 2903.06 or 2903.07 of the Revised Code as they existed prior to March 23, 2000, in a case in which the jury or judge found that the offender was under the influence of

alcohol, a drug of abuse, or a combination of them, the court  
shall sentence the offender to a jail term of ten consecutive days  
and may sentence the offender pursuant to section 2929.24 of the  
Revised Code to a longer jail term. In addition, the court shall  
impose upon the offender a fine of not less than one hundred fifty  
nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the  
offender, the court may require the offender to attend a drivers'  
intervention program that is certified pursuant to section 3793.10  
of the Revised Code.

(3) If, within six years of the offense, the offender has  
been convicted of or pleaded guilty to more than one violation  
identified in division (G)(2) of this section, the court shall  
sentence the offender to a jail term of thirty consecutive days  
and may sentence the offender to a longer jail term of not more  
than one year. In addition, the court shall impose upon the  
offender a fine of not less than one hundred fifty nor more than  
one thousand dollars.

In addition to any other sentence that it imposes upon the  
offender, the court may require the offender to attend a drivers'  
intervention program that is certified pursuant to section 3793.10  
of the Revised Code.

(4) Upon a showing that serving a jail term would seriously  
affect the ability of an offender sentenced pursuant to division  
(G)(1), (2), or (3) of this section to continue the offender's  
employment, the court may authorize that the offender be granted  
work release after the offender has served the mandatory jail term  
of three, ten, or thirty consecutive days that the court is  
required by division (G)(1), (2), or (3) of this section to  
impose. No court shall authorize work release during the mandatory  
jail term of three, ten, or thirty consecutive days that the court

is required by division (G)(1), (2), or (3) of this section to 9048  
impose. The duration of the work release shall not exceed the time 9049  
necessary each day for the offender to commute to and from the 9050  
place of employment and the place in which the jail term is served 9051  
and the time actually spent under employment. 9052

(5) Notwithstanding any section of the Revised Code that 9053  
authorizes the suspension of the imposition or execution of a 9054  
sentence or the placement of an offender in any treatment program 9055  
in lieu of being imprisoned or serving a jail term, no court shall 9056  
suspend the mandatory jail term of ten or thirty consecutive days 9057  
required to be imposed by division (G)(2) or (3) of this section 9058  
or place an offender who is sentenced pursuant to division (G)(2) 9059  
or (3) of this section in any treatment program in lieu of being 9060  
imprisoned or serving a jail term until after the offender has 9061  
served the mandatory jail term of ten or thirty consecutive days 9062  
required to be imposed pursuant to division (G)(2) or (3) of this 9063  
section. Notwithstanding any section of the Revised Code that 9064  
authorizes the suspension of the imposition or execution of a 9065  
sentence or the placement of an offender in any treatment program 9066  
in lieu of being imprisoned or serving a jail term, no court, 9067  
except as specifically authorized by division (G)(1) of this 9068  
section, shall suspend the mandatory jail term of three 9069  
consecutive days required to be imposed by division (G)(1) of this 9070  
section or place an offender who is sentenced pursuant to division 9071  
(G)(1) of this section in any treatment program in lieu of 9072  
imprisonment until after the offender has served the mandatory 9073  
jail term of three consecutive days required to be imposed 9074  
pursuant to division (G)(1) of this section. 9075

(6) As used in division (G) of this section, "jail term" and 9076  
"mandatory jail term" have the same meanings as in section 2929.01 9077  
of the Revised Code. 9078

(H) Whoever violates section 1547.304 of the Revised Code is 9079

guilty of a misdemeanor of the fourth degree and also shall be 9080  
assessed any costs incurred by the state or a county, township, 9081  
municipal corporation, or other political subdivision in disposing 9082  
of an abandoned junk vessel or outboard motor, less any money 9083  
accruing to the state, county, township, municipal corporation, or 9084  
other political subdivision from that disposal. 9085

(I) Whoever violates division (B) or (C) of section 1547.49 9086  
of the Revised Code is guilty of a minor misdemeanor. 9087

(J) Whoever violates section 1547.31 of the Revised Code is 9088  
guilty of a misdemeanor of the fourth degree on a first offense. 9089  
On each subsequent offense, the person is guilty of a misdemeanor 9090  
of the third degree. 9091

(K) Whoever violates section 1547.05 or 1547.051 of the 9092  
Revised Code is guilty of a misdemeanor of the fourth degree if 9093  
the violation is not related to a collision, injury to a person, 9094  
or damage to property and a misdemeanor of the third degree if the 9095  
violation is related to a collision, injury to a person, or damage 9096  
to property. 9097

(L) The sentencing court, in addition to the penalty provided 9098  
under this section for a violation of this chapter or a rule 9099  
adopted under it that involves a powercraft powered by more than 9100  
ten horsepower and that, in the opinion of the court, involves a 9101  
threat to the safety of persons or property, shall order the 9102  
offender to complete successfully a boating course approved by the 9103  
national association of state boating law administrators before 9104  
the offender is allowed to operate a powercraft powered by more 9105  
than ten horsepower on the waters in this state. Violation of a 9106  
court order entered under this division is punishable as contempt 9107  
under Chapter 2705. of the Revised Code. 9108

**Sec. 1548.02.** The chief of the division of watercraft shall 9109

adopt such rules as the chief considers necessary to ensure 9110  
uniform and orderly operation of this chapter, and the clerks of 9111  
the courts of common pleas shall conform to those rules. The chief 9112  
shall receive and file in the chief's office all information 9113  
forwarded to the chief by the clerks under this chapter and shall 9114  
maintain indexes covering the state at large for that information. 9115  
These indexes shall be for the state at large and not for 9116  
individual counties. 9117

The chief shall check with the chief's record all duplicate 9118  
certificates of title received in the chief's office from the 9119  
clerks. 9120

If it appears that any certificate of title has been 9121  
improperly issued or is no longer required, the chief shall cancel 9122  
the certificate. Upon the cancellation of any certificate of 9123  
title, the chief shall notify the clerk who issued it, and the 9124  
clerk shall enter the cancellation in the clerk's records. The 9125  
chief also shall notify the person to whom the certificate of 9126  
title was issued, as well as any lienholders appearing on it, of 9127  
the cancellation and, if it is a physical certificate of title, 9128  
shall demand the surrender of the certificate of title, but the 9129  
cancellation shall not affect the validity of any lien noted on 9130  
it. The holder of a physical certificate of title shall return it 9131  
to the chief immediately. 9132

The clerks shall keep on hand a sufficient supply of blank 9133  
forms that, except certificate of title and memorandum certificate 9134  
forms, shall be furnished and distributed without charge to 9135  
registered manufacturers or dealers or to other persons residing 9136  
within the county. The clerks shall provide the certificates of 9137  
title, the ribbons for data processing, and removable backup media 9138  
from moneys provided to the clerks from the automated title 9139  
processing fund in accordance with division (B)(3)(b) of section 9140  
4505.09 of the Revised Code. The clerks shall furnish all other 9141



supplies from other moneys available to the clerks.

9142

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.

9143

9144

9145

9146

9147

9148

9149

9150

9151

9152

9153

9154

9155

(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.

9156

9157

9158

9159

(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.

9160

9161

9162

9163

9164

9165

9166

9167

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

9168

9169

9170

9171

dealer registered under section 1547.543 of the Revised Code, the 9172  
person is not required to obtain a physical certificate of title 9173  
to the watercraft in order to transfer ownership to the dealer. 9174  
The person shall present the dealer, in a manner approved by the 9175  
chief of the division of watercraft, with sufficient proof of the 9176  
person's identity and complete and sign a form prescribed by the 9177  
chief attesting to the person's identity and assigning the 9178  
watercraft to the dealer. Except as otherwise provided in this 9179  
section, the watercraft dealer shall present the assignment form 9180  
to any clerk of a court of common pleas together with an 9181  
application for a certificate of title and payment of the fees 9182  
prescribed by section 1548.10 of the Revised Code. 9183

In a case in which an electronic certificate of title has 9184  
been issued and either the buyer or seller of the watercraft is an 9185  
electronic watercraft dealer, the electronic watercraft dealer 9186  
instead may inform a clerk of a court of common pleas via 9187  
electronic means of the sale of the watercraft and assignment of 9188  
ownership of the watercraft. The clerk shall enter the information 9189  
relating to the assignment into the automated title processing 9190  
system, and ownership of the watercraft passes to the applicant 9191  
when the clerk enters this information into the system. The dealer 9192  
is not required to obtain a physical certificate of title to the 9193  
watercraft in the dealer's name. 9194

(2) A clerk shall charge and collect from a dealer a fee of 9195  
five dollars for each watercraft assignment sent by the dealer to 9196  
the clerk under division (A)(1) of this section. The fee shall be 9197  
distributed in accordance with section 1548.10 of the Revised 9198  
Code. 9199

(B) If a person who is not an electronic watercraft dealer 9200  
owns a watercraft for which a physical certificate of title has 9201  
not been issued by a clerk of a court of common pleas and the 9202

person sells the watercraft to a person who is not a watercraft 9203  
dealer registered under section 1547.543 of the Revised Code, the 9204  
person shall obtain a physical certificate of title to the 9205  
watercraft in order to transfer ownership of the watercraft to 9206  
that person. 9207

Sec. 1561.011. Nothing in this chapter applies to activities 9208  
that are permitted and regulated under Chapter 1514. of the 9209  
Revised Code. 9210

Sec. 1563.01. Except for section 1563.11 of the Revised Code, 9211  
nothing in this chapter applies to activities that are permitted 9212  
and regulated under Chapter 1514. of the Revised Code. 9213

Sec. 1565.01. Nothing in this chapter applies to activities 9214  
that are permitted and regulated under Chapter 1514. of the 9215  
Revised Code. 9216

Sec. 1567.01. Nothing in this chapter applies to activities 9217  
that are permitted and regulated under Chapter 1514. of the 9218  
Revised Code. 9219

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or 9220  
gas engine shall be used in a mine, except for operating pumping 9221  
machinery where electric, compressed air, or steam power is not 9222  
available or cannot be transmitted to the pump, in which case the 9223  
owner, lessee, or agent shall observe the following: 9224

(A) Notice shall be given to the chief of the division of 9225  
mineral resources management, before installing, and the 9226  
installation and operation shall be subject to the chief's 9227  
approval. 9228

(B) No wood or inflammable material shall be permitted within 9229

twenty-five feet of the engine. 9230

(C) The supply tank from which the gasoline, naphtha, 9231  
kerosene, or fuel oil is fed to the engine, shall be of metal, 9232  
with a suitable screw cap opening, fitted with a gasket, so as to 9233  
make the tank airtight and prevent the escape of gas into the 9234  
atmosphere, and the tank kept free from leaks. 9235

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed 9236  
from a tank to the carburetor or mixer by metal tubes securely 9237  
connected so as to reduce the possibility of leaks to a minimum. 9238

(E) The exhaust from the engine shall be conducted by means 9239  
of metal pipes into the return air current, so that the combustion 9240  
fumes will not enter the workings of the mine where the ~~worker's~~ 9241  
workers are required to work, or be conducted in an upcast shaft 9242  
or slope not used as a means of ingress or egress or through metal 9243  
pipes to the surface. 9244

(F) At no time shall more than five gallons of such gasoline, 9245  
naphtha, kerosene, or fuel oil be taken into the mine, including 9246  
that in the supply tank. 9247

(G) No gasoline, naphtha, kerosene, or fuel oil shall be 9248  
taken into the mine except in metallic cans, with a screw cap 9249  
opening at the top, fitted with a suitable gasket. 9250

(H) No package, can, or supply tank of an engine, containing 9251  
gasoline, naphtha, kerosene, or fuel oil, shall be opened until 9252  
ready to make the transfer from the package or can to the supply 9253  
tank, and in transferring, a funnel shall be used so as to avoid 9254  
spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap 9255  
on the supply tank shall be immediately closed. 9256

(I) In no case shall the package, can, or supply tank be 9257  
opened when an open light or other thing containing fire is within 9258  
twenty-five feet of the same, provided that subject to the 9259

approval of the chief, the restrictions in the use of fuel oil in 9260  
a mine shall not apply to mobile or portable machinery, if ~~such~~ 9261  
the mobile or portable machinery is used in a clay, limestone, 9262  
shale, or any other mine not a coal mine. 9263

Nothing in this section shall be construed to prohibit or 9264  
impede the use of diesel equipment in an underground coal mine, 9265  
provided that the chief approves the use of the equipment in 9266  
underground mines and the equipment satisfies requirements 9267  
established in rules adopted by the chief under section 1513.02 of 9268  
the Revised Code governing the use of diesel equipment in 9269  
underground mines. 9270

No owner, lessee, agent, or operator of a mine shall violate 9271  
this section. 9272

Sec. 1571.011. Nothing in this chapter applies to activities 9273  
that are permitted and regulated under Chapter 1514. of the 9274  
Revised Code. 9275

Sec. 2305.041. With respect to a lease or license by which a 9276  
right is granted to operate or to sink or drill wells on land in 9277  
this state for natural gas or petroleum and that is recorded in 9278  
accordance with section 5301.09 of the Revised Code, an action 9279  
alleging breach of any express or implied provision of the lease 9280  
or license concerning the calculation or payment of royalties 9281  
shall be brought within the time period that is specified in 9282  
section 1302.98 of the Revised Code. An action alleging a breach 9283  
with respect to any other issue that the lease or license involves 9284  
shall be brought within the time period specified in section 9285  
2305.06 of the Revised Code. 9286

**Sec. 3734.13.** (A) The director of environmental protection 9287  
may issue, modify, suspend, or revoke enforcement orders in 9288

accordance with Chapter 3745. of the Revised Code to a holder of a 9289  
registration certificate, permit, or license issued by the 9290  
director or a board of health under this chapter, or to another 9291  
person, directing the holder or person to abate a violation, or to 9292  
prevent any threatened violation, of any section of this chapter 9293  
other than sections 3734.90 to 3734.9013 of the Revised Code, a 9294  
rule adopted thereunder, or a term or condition of a permit, 9295  
license, or variance issued thereunder within a specified, 9296  
reasonable time. 9297

(B) Notwithstanding division (C) of section 3734.85 of the 9298  
Revised Code, if the director determines that an emergency exists 9299  
requiring immediate action to protect the public health or safety 9300  
or the environment, ~~he~~ the director may issue an order, without 9301  
notice or hearing, reciting the existence of the emergency and 9302  
requiring that such action be taken as necessary to meet the 9303  
emergency. The order shall take effect immediately. Any person to 9304  
whom the order is directed shall comply immediately, but on 9305  
application to the director shall be afforded a hearing as soon as 9306  
possible and not later than thirty days after application. On the 9307  
basis of the hearing, the director shall continue the order in 9308  
effect, revoke it, or modify it. No emergency order shall remain 9309  
in effect for more than one hundred twenty days after its 9310  
issuance. 9311

(C) If the director determines that any person is violating 9312  
or has violated this chapter, a rule adopted thereunder, or a term 9313  
or condition of a permit, license, variance, or order issued 9314  
thereunder, the director may request in writing that the attorney 9315  
general bring a civil action for appropriate relief, including a 9316  
temporary restraining order, preliminary or permanent injunction, 9317  
and civil penalties in any court of competent jurisdiction. Such 9318  
an action shall have precedence over all other cases. Except as 9319  
otherwise provided in this division with regard to a violation of 9320

the provisions of this chapter governing scrap tires, a rule 9321  
adopted under those provisions, a term or condition of a permit or 9322  
license issued under them, or a term or condition of an order 9323  
issued pertaining to scrap tires, the court may impose upon the 9324  
person a civil penalty of not more than ten thousand dollars for 9325  
each day of each violation of this chapter other than a violation 9326  
of section 3734.60 of the Revised Code ~~or~~, a violation of sections 9327  
3734.90 to 3734.9013 of the Revised Code or a rule adopted under 9328  
those sections, a rule adopted thereunder other than a rule 9329  
adopted under division (B) of section 3734.122 of the Revised 9330  
Code, or a term or condition of a permit, license, variance, or 9331  
order issued thereunder, or a violation of sections 3734.62 to 9332  
3734.65 of the Revised Code. The court may impose upon a person 9333  
who violates a rule adopted under division (B) of section 3734.122 9334  
of the Revised Code a civil penalty of not more than twenty-five 9335  
thousand dollars for each day of each violation of the rule. The 9336  
court may impose upon a person who violates section 3734.60 of the 9337  
Revised Code a civil penalty of not more than two hundred fifty 9338  
dollars for each day of violation of that section. The court may 9339  
impose upon a person who violates any of the provisions of this 9340  
chapter governing scrap tires, a rule adopted under those 9341  
provisions, a term or condition of a permit or license issued 9342  
under them, or a term or condition of an order issued pertaining 9343  
to scrap tires a civil penalty of not more than five thousand 9344  
dollars for each day of each violation, except that if the 9345  
violation is of a provision, rule, or term or condition that 9346  
relates to the open burning or open dumping of scrap tires, or if 9347  
the violation is of an emergency order of the director issued 9348  
under division (B) of section 3734.13 of the Revised Code that 9349  
pertains to scrap tires, the court may impose a civil penalty of 9350  
not more than ten thousand dollars for each day of each violation. 9351  
The court may impose upon a person who violates section 3734.62 of 9352  
the Revised Code a civil penalty of not more than one hundred 9353

dollars for each violation of that section. The court may impose 9354  
upon a person who violates section 3734.63, 3734.64, or 3734.65 of 9355  
the Revised Code a civil penalty of not more than five thousand 9356  
dollars for each day of each violation of the applicable section, 9357  
but the total amount of a civil penalty imposed upon a person for 9358  
a violation of the applicable section shall not exceed twenty-five 9359  
thousand dollars. 9360

Any action under this section is a civil action, governed by 9361  
the Rules of Civil Procedure. 9362

(D) No person shall violate any term or condition of any 9363  
order issued under this section. 9364

(E) Except as otherwise provided in this division, moneys 9365  
resulting from civil penalties imposed under division (C) of this 9366  
section shall be paid into the hazardous waste clean-up fund 9367  
created in section 3734.28 of the Revised Code. Moneys resulting 9368  
from civil penalties imposed under division (C) of this section 9369  
for violations of any of the provisions of this chapter governing 9370  
scrap tires, rules adopted under those provisions, terms or 9371  
conditions of permits or licenses issued under them, or terms or 9372  
conditions of orders issued pertaining to scrap tires shall be 9373  
credited to the scrap tire management fund created in section 9374  
3734.82 of the Revised Code. 9375

**Sec. 3734.61.** As used in sections 3734.61 to 3734.65 of the 9376  
Revised Code: 9377

(A) "Manufacturer" means any person that produces a 9378  
mercury-containing thermometer or serves as an importer or 9379  
domestic distributor of a mercury-containing thermometer that is 9380  
produced outside the United States. In the case of a 9381  
multicomponent mercury-containing thermometer, "manufacturer" 9382  
means the last manufacturer to produce or assemble the thermometer 9383  
unless the multicomponent mercury-containing thermometer is 9384



produced outside the United States, in which case "manufacturer" 9385  
means the importer or domestic distributor. 9386

(B) "Mercury" means elemental mercury and mercury compounds. 9387

(C) "Mercury-added measuring device" means an instrument 9388  
containing mercury that is designed to measure an amount or 9389  
quantity of humidity, pressure, temperature, or vacuum or the 9390  
force of wind, including, but not limited to, anemometers, 9391  
barometers, flow meters, hydrometers, hygrometers, manometers, 9392  
sphygmomanometers, and thermometers. 9393

(D) "Mercury-added novelty" means a product in which mercury 9394  
is present and that is intended mainly for personal or household 9395  
enjoyment or adornment, including, but not limited to, products 9396  
intended for use as practical jokes, figurines, adornments, toys, 9397  
games, cards, ornaments, yard statues and figures, candles, 9398  
jewelry, holiday decorations, footwear, other items of apparel, or 9399  
similar products. "Mercury-added novelty" does not include a 9400  
product that solely includes a fluorescent light bulb. 9401

**Sec. 3734.62.** On and after the effective date of this 9402  
section, no school district or educational service center 9403  
established under Chapter 3311. of the Revised Code, community 9404  
school established under Chapter 3314. of the Revised Code, or 9405  
nonpublic school for which the state board of education prescribes 9406  
standards under section 3301.07 of the Revised Code and no 9407  
employee of such a school district, educational service center, 9408  
community school, or nonpublic school shall purchase mercury or a 9409  
mercury-added measuring device for classroom use. 9410

If a school district, educational service center, community 9411  
school, or nonpublic school or an employee of a school district, 9412  
educational service center, community school, or nonpublic school 9413  
purchases mercury or a mercury-added measuring device for 9414

classroom use on or after the effective date of this section in 9415  
violation of this section, but properly recycles or disposes of 9416  
the mercury or mercury-added measuring device upon learning of or 9417  
being informed of the violation and creates and implements a 9418  
mercury reduction plan, the director of environmental protection 9419  
shall consider the recycling or disposal of the mercury or 9420  
mercury-added measuring device and the implementation of and 9421  
compliance with the mercury reduction plan as mitigating 9422  
circumstances for purposes of enforcement of a violation of this 9423  
section. 9424

Sec. 3734.63. (A)(1) Beginning six months after the effective 9425  
date of this section, and except as otherwise provided in division 9426  
(A)(2) of this section, no manufacturer shall offer a 9427  
mercury-containing thermometer for sale or distribute a 9428  
mercury-containing thermometer for promotional purposes in this 9429  
state unless the sale or distribution of a mercury-containing 9430  
thermometer is required in order to comply with federal law, a 9431  
person demonstrates to the director that a mercury-containing 9432  
thermometer is the only temperature measuring device that is 9433  
feasible for a research, quality control, or manufacturing 9434  
application, or the only component of the thermometer that 9435  
contains mercury is a button cell battery. 9436

(2) Division (A)(1) of this section does not apply to the 9437  
sale of a mercury-containing thermometer to a person who purchases 9438  
a mercury-containing thermometer pursuant to a valid prescription. 9439

(B) Beginning six months after the effective date of this 9440  
section, a manufacturer of a mercury-containing thermometer that 9441  
lawfully offers for sale or distributes such a thermometer in this 9442  
state shall do both of the following: 9443

(1) Provide notice in a conspicuous manner on the packaging 9444  
of the thermometer that the thermometer contains mercury; 9445

(2) Provide clear instructions with the thermometer regarding 9446  
careful handling of the thermometer to avoid breakage, proper 9447  
cleanup of mercury if the thermometer breaks, and proper 9448  
management and disposal of the thermometer. 9449

Sec. 3734.64. Beginning six months after the effective date 9450  
of this section, no person shall offer a mercury-added novelty for 9451  
sale or distribute such a novelty for promotional purposes in this 9452  
state unless the only mercury in the mercury-added novelty is a 9453  
removable button cell battery. Beginning January 1, 2011, no 9454  
person shall offer any mercury-added novelty for sale or 9455  
distribute any mercury-added novelty for promotional purposes in 9456  
this state. 9457

Sec. 3734.65. Beginning one year after the effective date of 9458  
this section, no person shall offer a mercury-containing 9459  
thermostat for sale in this state or install a mercury-containing 9460  
thermostat in this state unless the mercury-containing thermostat 9461  
is installed in the residence of a visually impaired person or the 9462  
thermostat is used to sense and control temperatures as a part of 9463  
a manufacturing process. 9464

Sec. 3745.01. There is hereby created the environmental 9465  
protection agency, headed by the director of environmental 9466  
protection. The agency, under the supervision of the director, 9467  
shall administer the laws pertaining to chemical emergency 9468  
planning, community right-to-know, and toxic chemical release 9469  
reporting; the cessation of chemical handling operations; the 9470  
prevention, control, and abatement of air and water pollution; 9471  
public water supply; comprehensive water resource management 9472  
planning; products that contain mercury as defined in section 9473  
3734.61 of the Revised Code; and the disposal and treatment of 9474  
solid wastes, infectious wastes, construction and demolition 9475

debris, hazardous waste, sewage, industrial waste, and other 9476  
wastes. The director may do all of the following: 9477

(A) Provide such methods of administration, appoint such 9478  
personnel, make such reports, and take such other action as may be 9479  
necessary to comply with the requirements of the federal laws and 9480  
regulations pertaining to chemical emergency planning, community 9481  
right-to-know, and toxic chemical release reporting; air and water 9482  
pollution control; public water supply; water resource planning; 9483  
and waste disposal and treatment; 9484

(B) Procure by contract the temporary or intermittent 9485  
services of experts or consultants, or organizations thereof, when 9486  
those services are to be performed on a part-time or 9487  
fee-for-service basis and do not involve the performance of 9488  
administrative duties; 9489

(C) Advise, consult, cooperate, and enter into contracts or 9490  
agreements with any other agencies of the state, the federal 9491  
government, other states, and interstate agencies and with 9492  
affected groups, political subdivisions, and industries in 9493  
furtherance of the purposes of this chapter and Chapters 3704., 9494  
3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code; 9495

(D) Establish advisory boards in accordance with section 9496  
121.13 of the Revised Code; 9497

(E) Accept on behalf of the state any grant, gift, or 9498  
contribution made for toxic chemical release reporting, air or 9499  
water pollution control, public water supply, water resource 9500  
planning, waste disposal or treatment, or related purposes, and 9501  
expend it for those purposes; 9502

(F) Make an annual report to the governor and the general 9503  
assembly on activities and expenditures as well as recommendations 9504  
for such additional legislation as the director considers 9505  
appropriate to carry out the director's duties or accomplish the 9506

purposes of this section;

9507

(G) Enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

9508

9509

9510

9511

9512

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

9513

9514

9515

9516

The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

9517

9518

9519

9520

9521

9522

9523

9524

9525

9526

9527

9528

9529

9530

9531

9532

9533

9534

9535

**Sec. 3745.08.** (A) An officer of an agency of the state or of a political subdivision, acting in ~~his~~ the officer's

9536

9537

representative capacity, or any person who is or will be aggrieved 9538  
or adversely affected by a violation that has occurred, is 9539  
occurring, or will occur may file a complaint, in writing and 9540  
verified by the affidavit of the complainant, ~~his~~ the 9541  
complainant's agent, or attorney, with the director of 9542  
environmental protection, in accordance with the rules of the 9543  
director adopted pursuant to Chapter 119. of the Revised Code, 9544  
alleging that another person has violated, is violating, or will 9545  
violate any law, rule, standard, or order relating to air 9546  
pollution, water pollution, solid waste, infectious wastes, 9547  
construction and demolition debris, public water supply, hazardous 9548  
waste, products that contain mercury, or cessation of chemical 9549  
handling operations, or, if the person is in possession of a valid 9550  
license, permit, variance, or plan approval relating to air 9551  
pollution, water pollution, solid waste, infectious wastes, 9552  
construction and demolition debris, public water supply, or 9553  
hazardous waste, that the person has violated, is violating, or 9554  
will violate the conditions of the license, permit, variance, or 9555  
plan approval. The affidavit verifying a complaint authorized by 9556  
this section may be made before any person authorized by law to 9557  
administer oaths and shall be signed by the person who makes it. 9558  
The person before whom it was taken shall certify that it was 9559  
sworn to before ~~him~~ that person and signed in ~~his~~ that person's 9560  
presence, and ~~his~~ that person's certificate signed officially by 9561  
~~him~~ that person shall be evidence that the affidavit was made, 9562  
that the name of the person making the affidavit was written by 9563  
~~himself~~ the maker of the affidavit, and that ~~he~~ the maker of the 9564  
affidavit was that person. 9565

(B) Upon receipt of a complaint authorized by this section, 9566  
the director shall cause a prompt investigation to be conducted 9567  
such as is reasonably necessary to determine whether a violation, 9568  
as alleged, has occurred, is occurring, or will occur. The 9569  
investigation shall include a discussion of the complaint with the 9570

alleged violator. If, upon completion of the investigation, the  
director determines that a violation, as alleged, has occurred, is  
occurring, or will occur, ~~he~~ the director may enter such order as  
may be necessary, request the attorney general to commence  
appropriate legal proceedings, or, where ~~he~~ the director  
determines that prior violations have been terminated and that  
future violations of the same kind are unlikely to occur, ~~he~~ the  
director may dismiss the complaint. If the director does not  
determine that a violation, as alleged, has occurred, is  
occurring, or will occur, ~~he~~ the director shall dismiss the  
complaint. Before taking any action under this division, the  
director may commence a hearing. Twenty days prior to any hearing,  
the director shall cause publication of notice of the hearing in a  
newspaper with general circulation in the county wherein the  
alleged violation has occurred, is occurring, or will occur, and  
also shall mail written notice by certified mail, return receipt  
requested, to the person who filed the complaint and to the  
alleged violator. If the director enters an order pursuant to this  
division without having commenced a hearing, the director or ~~his~~  
the director's delegate, prior to entry of the order, shall  
provide an opportunity to the complainant and the alleged violator  
to attend a conference with the director or ~~his~~ the director's  
delegate concerning the alleged violation.

(C) Any hearing commenced under this section shall be  
conducted before the director or a hearing examiner designated by  
the director. The agency and the alleged violator shall be  
parties. The person who filed the verified complaint may  
participate as a party by filing with the director, at any time  
prior to the hearing, a written notice of ~~his~~ the complainant's  
intent to so participate. Any other person may be permitted to  
intervene upon the granting by the director or hearing examiner of  
a motion to intervene filed in accordance with the rules of the

director adopted pursuant to Chapter 119. of the Revised Code. 9603

(D) A complaint filed under this section may be consolidated 9604  
with any other complaint filed under this section, or any finding 9605  
of the director, where the director determines that consolidation 9606  
will facilitate enforcement of any law that the agency is charged 9607  
with administering under section 3745.01 of the Revised Code and 9608  
there are one or more issues of fact or law in common. Not more 9609  
than one hearing under this section shall be conducted with 9610  
respect to each violation alleged. 9611

**Sec. 4115.04.** (A)(1) Every public authority authorized to 9612  
contract for or construct with its own forces a public 9613  
improvement, before advertising for bids or undertaking such 9614  
construction with its own forces, shall have the director of 9615  
commerce determine the prevailing rates of wages of mechanics and 9616  
laborers in accordance with section 4115.05 of the Revised Code 9617  
for the class of work called for by the public improvement, in the 9618  
locality where the work is to be performed. ~~Such~~ Except as 9619  
provided in division (A)(2) of this section, that schedule of 9620  
wages shall be attached to and made part of the specifications for 9621  
the work, and shall be printed on the bidding blanks where the 9622  
work is done by contract. A copy of the bidding blank shall be 9623  
filed with the director before ~~such~~ the contract is awarded. A 9624  
minimum rate of wages for common laborers, on work coming under 9625  
the jurisdiction of the department of transportation, shall be 9626  
fixed in each county of the state by ~~said~~ the department of 9627  
transportation, in accordance with section 4115.05 of the Revised 9628  
Code. 9629

(2) In the case of contracts that are administered by the 9630  
department of natural resources, the director of natural resources 9631  
or the director's designee shall include language in the contracts 9632  
requiring wage rate determinations and updates to be obtained 9633



directly from the department of commerce through electronic or 9634  
other means as appropriate. Contracts that include this 9635  
requirement are exempt from the requirements established in 9636  
division (A)(1) of this section that involve attaching the 9637  
schedule of wages to the specifications for the work, making the 9638  
schedule part of those specifications, and printing the schedule 9639  
on the bidding blanks where the work is done by contract. 9640

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 9641  
apply to: 9642

(1) Public improvements in any case where the federal 9643  
government or any of its agencies furnishes by loan or grant all 9644  
or any part of the funds used in constructing such improvements, 9645  
provided that the federal government or any of its agencies 9646  
prescribes predetermined minimum wages to be paid to mechanics and 9647  
laborers employed in the construction of such improvements; 9648

(2) A participant in a work activity, developmental activity, 9649  
or an alternative work activity under sections 5107.40 to 5107.69 9650  
of the Revised Code when a public authority directly uses the 9651  
labor of the participant to construct a public improvement if the 9652  
participant is not engaged in paid employment or subsidized 9653  
employment pursuant to the activity; 9654

(3) Public improvements undertaken by, or under contract for, 9655  
the board of education of any school district or the governing 9656  
board of any educational service center; 9657

(4) Public improvements undertaken by, or under contract for, 9658  
a county hospital operated pursuant to Chapter 339. of the Revised 9659  
Code or a municipal hospital operated pursuant to Chapter 749. of 9660  
the Revised Code if none of the funds used in constructing the 9661  
improvements are the proceeds of bonds or other obligations ~~which~~ 9662  
that are secured by the full faith and credit of the state, a 9663  
county, a township, or a municipal corporation and none of the 9664

funds used in constructing the improvements, including funds used 9665  
to repay any amounts borrowed to construct the improvements, are 9666  
funds that have been appropriated for that purpose by the state, a 9667  
board of county commissioners, a township, or a municipal 9668  
corporation from funds generated by the levy of a tax~~+~~<sub>1</sub> provided~~+~~ 9669  
~~however,~~ that a county hospital or municipal hospital may elect to 9670  
apply sections 4115.03 to 4115.16 of the Revised Code to a public 9671  
improvement undertaken by, or under contract for, the hospital. 9672

**Sec. 4501.01.** As used in this chapter and Chapters 4503., 9673  
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 9674  
Revised Code, and in the penal laws, except as otherwise provided: 9675

(A) "Vehicles" means everything on wheels or runners, 9676  
including motorized bicycles, but does not mean electric personal 9677  
assistive mobility devices, vehicles that are operated exclusively 9678  
on rails or tracks or from overhead electric trolley wires, and 9679  
vehicles that belong to any police department, municipal fire 9680  
department, or volunteer fire department, or that are used by such 9681  
a department in the discharge of its functions. 9682

(B) "Motor vehicle" means any vehicle, including mobile homes 9683  
and recreational vehicles, that is propelled or drawn by power 9684  
other than muscular power or power collected from overhead 9685  
electric trolley wires. "Motor vehicle" does not include utility 9686  
vehicles as defined in division (VV) of this section, motorized 9687  
bicycles, road rollers, traction engines, power shovels, power 9688  
cranes, and other equipment used in construction work and not 9689  
designed for or employed in general highway transportation, 9690  
well-drilling machinery, ditch-digging machinery, farm machinery, 9691  
trailers that are used to transport agricultural produce or 9692  
agricultural production materials between a local place of storage 9693  
or supply and the farm when drawn or towed on a public road or 9694  
highway at a speed of twenty-five miles per hour or less, 9695

threshing machinery, hay-baling machinery, corn sheller, 9696  
hammermill and agricultural tractors, machinery used in the 9697  
production of horticultural, agricultural, and vegetable products, 9698  
and trailers that are designed and used exclusively to transport a 9699  
boat between a place of storage and a marina, or in and around a 9700  
marina, when drawn or towed on a public road or highway for a 9701  
distance of no more than ten miles and at a speed of twenty-five 9702  
miles per hour or less. 9703

(C) "Agricultural tractor" and "traction engine" mean any 9704  
self-propelling vehicle that is designed or used for drawing other 9705  
vehicles or wheeled machinery, but has no provisions for carrying 9706  
loads independently of such other vehicles, and that is used 9707  
principally for agricultural purposes. 9708

(D) "Commercial tractor," except as defined in division (C) 9709  
of this section, means any motor vehicle that has motive power and 9710  
either is designed or used for drawing other motor vehicles, or is 9711  
designed or used for drawing another motor vehicle while carrying 9712  
a portion of the other motor vehicle or its load, or both. 9713

(E) "Passenger car" means any motor vehicle that is designed 9714  
and used for carrying not more than nine persons and includes any 9715  
motor vehicle that is designed and used for carrying not more than 9716  
fifteen persons in a ridesharing arrangement. 9717

(F) "Collector's vehicle" means any motor vehicle or 9718  
agricultural tractor or traction engine that is of special 9719  
interest, that has a fair market value of one hundred dollars or 9720  
more, whether operable or not, and that is owned, operated, 9721  
collected, preserved, restored, maintained, or used essentially as 9722  
a collector's item, leisure pursuit, or investment, but not as the 9723  
owner's principal means of transportation. "Licensed collector's 9724  
vehicle" means a collector's vehicle, other than an agricultural 9725  
tractor or traction engine, that displays current, valid license 9726

tags issued under section 4503.45 of the Revised Code, or a 9727  
similar type of motor vehicle that displays current, valid license 9728  
tags issued under substantially equivalent provisions in the laws 9729  
of other states. 9730

(G) "Historical motor vehicle" means any motor vehicle that 9731  
is over twenty-five years old and is owned solely as a collector's 9732  
item and for participation in club activities, exhibitions, tours, 9733  
parades, and similar uses, but that in no event is used for 9734  
general transportation. 9735

(H) "Noncommercial motor vehicle" means any motor vehicle, 9736  
including a farm truck as defined in section 4503.04 of the 9737  
Revised Code, that is designed by the manufacturer to carry a load 9738  
of no more than one ton and is used exclusively for purposes other 9739  
than engaging in business for profit. 9740

(I) "Bus" means any motor vehicle that has motor power and is 9741  
designed and used for carrying more than nine passengers, except 9742  
any motor vehicle that is designed and used for carrying not more 9743  
than fifteen passengers in a ridesharing arrangement. 9744

(J) "Commercial car" or "truck" means any motor vehicle that 9745  
has motor power and is designed and used for carrying merchandise 9746  
or freight, or that is used as a commercial tractor. 9747

(K) "Bicycle" means every device, other than a tricycle that 9748  
is designed solely for use as a play vehicle by a child, that is 9749  
propelled solely by human power upon which any person may ride, 9750  
and that has either two tandem wheels, or one wheel in front and 9751  
two wheels in the rear, any of which is more than fourteen inches 9752  
in diameter. 9753

(L) "Motorized bicycle" means any vehicle that either has two 9754  
tandem wheels or one wheel in the front and two wheels in the 9755  
rear, that is capable of being pedaled, and that is equipped with 9756  
a helper motor of not more than fifty cubic centimeters piston 9757

displacement that produces no more than one brake horsepower and 9758  
is capable of propelling the vehicle at a speed of no greater than 9759  
twenty miles per hour on a level surface. 9760

(M) "Trailer" means any vehicle without motive power that is 9761  
designed or used for carrying property or persons wholly on its 9762  
own structure and for being drawn by a motor vehicle, and includes 9763  
any such vehicle that is formed by or operated as a combination of 9764  
a semitrailer and a vehicle of the dolly type such as that 9765  
commonly known as a trailer dolly, a vehicle used to transport 9766  
agricultural produce or agricultural production materials between 9767  
a local place of storage or supply and the farm when drawn or 9768  
towed on a public road or highway at a speed greater than 9769  
twenty-five miles per hour, and a vehicle that is designed and 9770  
used exclusively to transport a boat between a place of storage 9771  
and a marina, or in and around a marina, when drawn or towed on a 9772  
public road or highway for a distance of more than ten miles or at 9773  
a speed of more than twenty-five miles per hour. "Trailer" does 9774  
not include a manufactured home or travel trailer. 9775

(N) "Noncommercial trailer" means any trailer, except a 9776  
travel trailer or trailer that is used to transport a boat as 9777  
described in division (B) of this section, but, where applicable, 9778  
includes a vehicle that is used to transport a boat as described 9779  
in division (M) of this section, that has a gross weight of no 9780  
more than three thousand pounds, and that is used exclusively for 9781  
purposes other than engaging in business for a profit. 9782

(O) "Mobile home" means a building unit or assembly of closed 9783  
construction that is fabricated in an off-site facility, is more 9784  
than thirty-five body feet in length or, when erected on site, is 9785  
three hundred twenty or more square feet, is built on a permanent 9786  
chassis, is transportable in one or more sections, and does not 9787  
qualify as a manufactured home as defined in division (C)(4) of 9788  
section 3781.06 of the Revised Code or as an industrialized unit 9789

as defined in division (C)(3) of section 3781.06 of the Revised Code. 9790  
9791

(P) "Semitrailer" means any vehicle of the trailer type that 9792  
does not have motive power and is so designed or used with another 9793  
and separate motor vehicle that in operation a part of its own 9794  
weight or that of its load, or both, rests upon and is carried by 9795  
the other vehicle furnishing the motive power for propelling 9796  
itself and the vehicle referred to in this division, and includes, 9797  
for the purpose only of registration and taxation under those 9798  
chapters, any vehicle of the dolly type, such as a trailer dolly, 9799  
that is designed or used for the conversion of a semitrailer into 9800  
a trailer. 9801

(Q) "Recreational vehicle" means a vehicular portable 9802  
structure that meets all of the following conditions: 9803

(1) It is designed for the sole purpose of recreational 9804  
travel. 9805

(2) It is not used for the purpose of engaging in business 9806  
for profit. 9807

(3) It is not used for the purpose of engaging in intrastate 9808  
commerce. 9809

(4) It is not used for the purpose of commerce as defined in 9810  
49 C.F.R. 383.5, as amended. 9811

(5) It is not regulated by the public utilities commission 9812  
pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. 9813

(6) It is classed as one of the following: 9814

(a) "Travel trailer" means a nonself-propelled recreational 9815  
vehicle that does not exceed an overall length of thirty-five 9816  
feet, exclusive of bumper and tongue or coupling, and contains 9817  
less than three hundred twenty square feet of space when erected 9818  
on site. "Travel trailer" includes a tent-type fold-out camping 9819

trailer as defined in section 4517.01 of the Revised Code. 9820

(b) "Motor home" means a self-propelled recreational vehicle 9821  
that has no fifth wheel and is constructed with permanently 9822  
installed facilities for cold storage, cooking and consuming of 9823  
food, and for sleeping. 9824

(c) "Truck camper" means a nonself-propelled recreational 9825  
vehicle that does not have wheels for road use and is designed to 9826  
be placed upon and attached to a motor vehicle. "Truck camper" 9827  
does not include truck covers that consist of walls and a roof, 9828  
but do not have floors and facilities enabling them to be used as 9829  
a dwelling. 9830

(d) "Fifth wheel trailer" means a vehicle that is of such 9831  
size and weight as to be movable without a special highway permit, 9832  
that has a gross trailer area of four hundred square feet or less, 9833  
that is constructed with a raised forward section that allows a 9834  
bi-level floor plan, and that is designed to be towed by a vehicle 9835  
equipped with a fifth-wheel hitch ordinarily installed in the bed 9836  
of a truck. 9837

(e) "Park trailer" means a vehicle that is commonly known as 9838  
a park model recreational vehicle, meets the American national 9839  
standard institute standard A119.5 (1988) for park trailers, is 9840  
built on a single chassis, has a gross trailer area of four 9841  
hundred square feet or less when set up, is designed for seasonal 9842  
or temporary living quarters, and may be connected to utilities 9843  
necessary for the operation of installed features and appliances. 9844

(R) "Pneumatic tires" means tires of rubber and fabric or 9845  
tires of similar material, that are inflated with air. 9846

(S) "Solid tires" means tires of rubber or similar elastic 9847  
material that are not dependent upon confined air for support of 9848  
the load. 9849

(T) "Solid tire vehicle" means any vehicle that is equipped 9850  
with two or more solid tires. 9851

(U) "Farm machinery" means all machines and tools that are 9852  
used in the production, harvesting, and care of farm products, and 9853  
includes trailers that are used to transport agricultural produce 9854  
or agricultural production materials between a local place of 9855  
storage or supply and the farm when drawn or towed on a public 9856  
road or highway at a speed of twenty-five miles per hour or less. 9857

(V) "Owner" includes any person or firm, other than a 9858  
manufacturer or dealer, that has title to a motor vehicle, except 9859  
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 9860  
includes in addition manufacturers and dealers. 9861

(W) "Manufacturer" and "dealer" include all persons and firms 9862  
that are regularly engaged in the business of manufacturing, 9863  
selling, displaying, offering for sale, or dealing in motor 9864  
vehicles, at an established place of business that is used 9865  
exclusively for the purpose of manufacturing, selling, displaying, 9866  
offering for sale, or dealing in motor vehicles. A place of 9867  
business that is used for manufacturing, selling, displaying, 9868  
offering for sale, or dealing in motor vehicles shall be deemed to 9869  
be used exclusively for those purposes even though snowmobiles or 9870  
all-purpose vehicles are sold or displayed for sale thereat, even 9871  
though farm machinery is sold or displayed for sale thereat, or 9872  
even though repair, accessory, gasoline and oil, storage, parts, 9873  
service, or paint departments are maintained thereat, or, in any 9874  
county having a population of less than seventy-five thousand at 9875  
the last federal census, even though a department in a place of 9876  
business is used to dismantle, salvage, or rebuild motor vehicles 9877  
by means of used parts, if such departments are operated for the 9878  
purpose of furthering and assisting in the business of 9879  
manufacturing, selling, displaying, offering for sale, or dealing 9880  
in motor vehicles. Places of business or departments in a place of 9881



business used to dismantle, salvage, or rebuild motor vehicles by 9882  
means of using used parts are not considered as being maintained 9883  
for the purpose of assisting or furthering the manufacturing, 9884  
selling, displaying, and offering for sale or dealing in motor 9885  
vehicles. 9886

(X) "Operator" includes any person who drives or operates a 9887  
motor vehicle upon the public highways. 9888

(Y) "Chauffeur" means any operator who operates a motor 9889  
vehicle, other than a taxicab, as an employee for hire; or any 9890  
operator whether or not the owner of a motor vehicle, other than a 9891  
taxicab, who operates such vehicle for transporting, for gain, 9892  
compensation, or profit, either persons or property owned by 9893  
another. Any operator of a motor vehicle who is voluntarily 9894  
involved in a ridesharing arrangement is not considered an 9895  
employee for hire or operating such vehicle for gain, 9896  
compensation, or profit. 9897

(Z) "State" includes the territories and federal districts of 9898  
the United States, and the provinces of Canada. 9899

(AA) "Public roads and highways" for vehicles includes all 9900  
public thoroughfares, bridges, and culverts. 9901

(BB) "Manufacturer's number" means the manufacturer's 9902  
original serial number that is affixed to or imprinted upon the 9903  
chassis or other part of the motor vehicle. 9904

(CC) "Motor number" means the manufacturer's original number 9905  
that is affixed to or imprinted upon the engine or motor of the 9906  
vehicle. 9907

(DD) "Distributor" means any person who is authorized by a 9908  
motor vehicle manufacturer to distribute new motor vehicles to 9909  
licensed motor vehicle dealers at an established place of business 9910  
that is used exclusively for the purpose of distributing new motor 9911

vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a

specified destination or for a particular itinerary, either agreed 9942  
upon in advance or modified by the chartered group after having 9943  
left the place of origin. 9944

(HH) "International registration plan" means a reciprocal 9945  
agreement of member jurisdictions that is endorsed by the American 9946  
association of motor vehicle administrators, and that promotes and 9947  
encourages the fullest possible use of the highway system by 9948  
authorizing apportioned registration of fleets of vehicles and 9949  
recognizing registration of vehicles apportioned in member 9950  
jurisdictions. 9951

(II) "Restricted plate" means a license plate that has a 9952  
restriction of time, geographic area, mileage, or commodity, and 9953  
includes license plates issued to farm trucks under division (J) 9954  
of section 4503.04 of the Revised Code. 9955

(JJ) "Gross vehicle weight," with regard to any commercial 9956  
car, trailer, semitrailer, or bus that is taxed at the rates 9957  
established under section 4503.042 of the Revised Code, means the 9958  
unladen weight of the vehicle fully equipped plus the maximum 9959  
weight of the load to be carried on the vehicle. 9960

(KK) "Combined gross vehicle weight" with regard to any 9961  
combination of a commercial car, trailer, and semitrailer, that is 9962  
taxed at the rates established under section 4503.042 of the 9963  
Revised Code, means the total unladen weight of the combination of 9964  
vehicles fully equipped plus the maximum weight of the load to be 9965  
carried on that combination of vehicles. 9966

(LL) "Chauffeured limousine" means a motor vehicle that is 9967  
designed to carry nine or fewer passengers and is operated for 9968  
hire on an hourly basis pursuant to a prearranged contract for the 9969  
transportation of passengers on public roads and highways along a 9970  
route under the control of the person hiring the vehicle and not 9971  
over a defined and regular route. "Prearranged contract" means an 9972

agreement, made in advance of boarding, to provide transportation 9973  
from a specific location in a chauffeured limousine at a fixed 9974  
rate per hour or trip. "Chauffeured limousine" does not include 9975  
any vehicle that is used exclusively in the business of funeral 9976  
directing. 9977

(MM) "Manufactured home" has the same meaning as in division 9978  
(C)(4) of section 3781.06 of the Revised Code. 9979

(NN) "Acquired situs," with respect to a manufactured home or 9980  
a mobile home, means to become located in this state by the 9981  
placement of the home on real property, but does not include the 9982  
placement of a manufactured home or a mobile home in the inventory 9983  
of a new motor vehicle dealer or the inventory of a manufacturer, 9984  
remanufacturer, or distributor of manufactured or mobile homes. 9985

(OO) "Electronic" includes electrical, digital, magnetic, 9986  
optical, electromagnetic, or any other form of technology that 9987  
entails capabilities similar to these technologies. 9988

(PP) "Electronic record" means a record generated, 9989  
communicated, received, or stored by electronic means for use in 9990  
an information system or for transmission from one information 9991  
system to another. 9992

(QQ) "Electronic signature" means a signature in electronic 9993  
form attached to or logically associated with an electronic 9994  
record. 9995

(RR) "Financial transaction device" has the same meaning as 9996  
in division (A) of section 113.40 of the Revised Code. 9997

(SS) "Electronic motor vehicle dealer" means a motor vehicle 9998  
dealer licensed under Chapter 4517. of the Revised Code whom the 9999  
registrar of motor vehicles determines meets the criteria 10000  
designated in section 4503.035 of the Revised Code for electronic 10001  
motor vehicle dealers and designates as an electronic motor 10002

vehicle dealer under that section. 10003

(TT) "Electric personal assistive mobility device" means a 10004  
self-balancing two non-tandem wheeled device that is designed to 10005  
transport only one person, has an electric propulsion system of an 10006  
average of seven hundred fifty watts, and when ridden on a paved 10007  
level surface by an operator who weighs one hundred seventy pounds 10008  
has a maximum speed of less than twenty miles per hour. 10009

(UU) "Limited driving privileges" means the privilege to 10010  
operate a motor vehicle that a court grants under section 4510.021 10011  
of the Revised Code to a person whose driver's or commercial 10012  
driver's license or permit or nonresident operating privilege has 10013  
been suspended. 10014

(VV) "Utility vehicle" means a self-propelled vehicle 10015  
designed with a bed, principally for the purpose of transporting 10016  
material or cargo in connection with construction, agricultural, 10017  
forestry, grounds maintenance, lawn and garden, materials 10018  
handling, or similar activities. "Utility vehicle" includes a 10019  
vehicle with a maximum attainable speed of twenty miles per hour 10020  
or less that is used exclusively within the boundaries of state 10021  
parks by state park employees or volunteers for the operation or 10022  
maintenance of state park facilities. 10023

Sec. 5577.081. (A) Except when transferring unfinished 10024  
aggregate material between facilities that are under the control 10025  
of the same owner or operator that is subject to Chapter 1514. of 10026  
the Revised Code or when unloading or loading finished aggregate 10027  
product within a ten-mile radius of a surface mining operation 10028  
that is permitted and regulated under that chapter, all vehicles 10029  
entering or leaving such an operation that have a gross vehicle 10030  
weight as defined in division (JJ) of section 4501.01 of the 10031  
Revised Code that is in excess of sixty-six thousand pounds shall 10032  
use the specific roads designated pursuant to sections 303.14 and 10033

303.141 or 519.14 and 519.141 of the Revised Code as the primary 10034  
means of ingress to and egress from the facilities or operation. 10035

(B) The owner or operator of a surface mining operation that 10036  
is permitted under Chapter 1514. of the Revised Code and that is 10037  
subject to the use of specific roads as the primary means of 10038  
ingress to and egress from the operation pursuant to sections 10039  
303.14 and 303.141 or 519.14 and 519.141 of the Revised Code shall 10040  
post a sign in a conspicuous location to inform the drivers of 10041  
trucks entering and leaving the operation of the roads to use as 10042  
the primary means of ingress to and egress from the operation. 10043

(C)(1) Whoever violates this section shall receive a written 10044  
warning in such a manner that it becomes a part of the person's 10045  
permanent record that is maintained by the bureau of motor 10046  
vehicles and assists in monitoring violations of this section. 10047

(2) A person who commits a second offense within one year 10048  
after committing the first offense is guilty of a minor 10049  
misdemeanor. 10050

(3) A person who commits a third or subsequent offense within 10051  
one year after committing the first offense is guilty of a 10052  
misdemeanor of the fourth degree. 10053

(D) Fine money that is collected under division (C) of this 10054  
section shall be deposited in the state treasury to the credit of 10055  
the surface mining fund created in section 1514.06 of the Revised 10056  
Code. 10057

**Sec. 5749.02.** (A) For the purpose of providing revenue to 10058  
administer the state's coal mining and reclamation regulatory 10059  
program, to meet the environmental and resource management needs 10060  
of this state, and to reclaim land affected by mining, an excise 10061  
tax is hereby levied on the privilege of engaging in the severance 10062  
of natural resources from the soil or water of this state. The tax 10063

shall be imposed upon the severer and shall be:	10064
(1) <del>Seven</del> <u>Ten</u> cents per ton of coal;	10065
(2) Four cents per ton of salt;	10066
(3) Two cents per ton of limestone or dolomite;	10067
(4) Two cents per ton of sand and gravel;	10068
(5) Ten cents per barrel of oil;	10069
(6) Two and one-half cents per thousand cubic feet of natural gas;	10070 10071
(7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite;	10072 10073
(8) <u>Except as otherwise provided in this division or in rules</u> <u>adopted by the reclamation forfeiture fund advisory board under</u> <u>section 1513.182 of the Revised Code, an additional fourteen cents</u> <u>per ton of coal produced from an area under a coal mining and</u> <u>reclamation permit issued under Chapter 1513. of the Revised Code</u> <u>for which the performance security is provided under division</u> <u>(C)(2) of section 1513.08 of the Revised Code. If at the end of a</u> <u>fiscal biennium the balance of the reclamation forfeiture fund</u> <u>created in section 1513.18 of the Revised Code is equal to or</u> <u>greater than ten million dollars, the rate levied shall be twelve</u> <u>cents per ton. If at the end of a fiscal biennium the balance of</u> <u>the fund is at least five million dollars, but less than ten</u> <u>million dollars, the rate levied shall be fourteen cents per ton.</u> <u>If at the end of a fiscal biennium the balance of the fund is less</u> <u>than five million dollars, the rate levied shall be sixteen cents</u> <u>per ton. Not later than thirty days after the close of a fiscal</u> <u>biennium, the chief of the division of mineral resources</u> <u>management shall certify to the tax commissioner the amount of the</u> <u>balance of the reclamation forfeiture fund as of the close of the</u> <u>fiscal biennium. Any necessary adjustment of the rate levied shall</u>	10074 10075 10076 10077 10078 10079 10080 10081 10082 10083 10084 10085 10086 10087 10088 10089 10090 10091 10092 10093

take effect on the first day of the following January and shall 10094  
remain in effect during the calendar biennium that begins on that 10095  
date. 10096

(9) An additional one and two-tenths cents per ton of coal 10097  
mined by surface mining methods. 10098

(B) Of the moneys received by the treasurer of state from the 10099  
tax levied in division (A)(1) of this section, ~~six and~~ 10100  
~~three tenths~~ four and seventy-six-hundredths per cent shall be 10101  
credited to the geological mapping fund created in section 1505.09 10102  
of the Revised Code, ~~fourteen and two tenths per cent shall be~~ 10103  
~~credited to the reclamation forfeiture fund created in section~~ 10104  
~~1513.18 of the Revised Code, fifty seven and nine tenths~~ eighty 10105  
and ninety-five-hundredths per cent shall be credited to the coal 10106  
mining administration and reclamation reserve fund created in 10107  
section 1513.181 of the Revised Code, and ~~the remainder~~ fourteen 10108  
and twenty-nine-hundredths per cent shall be credited to the 10109  
unreclaimed lands fund created in section 1513.30 of the Revised 10110  
Code. ~~When, at any time during a fiscal year, the chief of the~~ 10111  
~~division of mineral resources management finds that the balance of~~ 10112  
~~the coal mining administration and reclamation reserve fund is~~ 10113  
~~below two million dollars, the chief shall certify that fact to~~ 10114  
~~the director of budget and management. Upon receipt of the chief's~~ 10115  
~~certification, the director shall direct the tax commissioner to~~ 10116  
~~instead credit to the coal mining administration and reclamation~~ 10117  
~~reserve fund during the remainder of the fiscal year for which the~~ 10118  
~~certification is made the fourteen and two tenths per cent of the~~ 10119  
~~moneys collected from the tax levied in division (A)(1) of this~~ 10120  
~~section and otherwise required by this division to be credited to~~ 10121  
~~the reclamation forfeiture fund.~~ 10122

Fifteen per cent of the moneys received by the treasurer of 10123  
state from the tax levied in division (A)(2) of this section shall 10124  
be credited to the geological mapping fund and the remainder shall 10125



be credited to the unreclaimed lands fund. 10126

Of the moneys received by the treasurer of state from the tax 10127  
levied in divisions (A)(3) and (4) of this section, seven and 10128  
five-tenths per cent shall be credited to the geological mapping 10129  
fund, forty-two and five-tenths per cent shall be credited to the 10130  
unreclaimed lands fund, and the remainder shall be credited to the 10131  
surface mining fund created in section 1514.06 of the Revised 10132  
Code. 10133

Of the moneys received by the treasurer of state from the tax 10134  
levied in divisions (A)(5) and (6) of this section, ninety per 10135  
cent shall be credited to the oil and gas well fund created in 10136  
section 1509.02 of the Revised Code and ten per cent shall be 10137  
credited to the geological mapping fund. All of the moneys 10138  
received by the treasurer of state from the tax levied in division 10139  
(A)(7) of this section shall be credited to the surface mining 10140  
fund. 10141

All of the moneys received by the treasurer of state from the 10142  
tax levied in division (A)(8) of this section shall be credited to 10143  
the reclamation forfeiture fund. 10144

All of the moneys received by the treasurer of state from the 10145  
tax levied in division (A)(9) of this section shall be credited to 10146  
the unreclaimed lands fund. 10147

~~(C) For the purpose of paying the state's expenses for~~ 10148  
~~reclaiming mined lands that the operator failed to reclaim under a~~ 10149  
~~coal mining and reclamation permit issued under Chapter 1513. of~~ 10150  
~~the Revised Code, or under a surface mining permit issued under~~ 10151  
~~Chapter 1514. of the Revised Code, for which the operator's bond~~ 10152  
~~is not sufficient to pay the state's expense for reclamation,~~ 10153  
~~there is hereby levied an excise tax on the privilege of engaging~~ 10154  
~~in the severance of coal from the soil or water of this state in~~ 10155  
~~addition to the taxes levied by divisions (A)(1) and (D) of this~~ 10156

~~section. The tax shall be imposed at the rate of one cent per ton 10157  
of coal. Moneys received by the treasurer of state from the tax 10158  
levied under this division shall be credited to the reclamation 10159  
forfeiture fund created in section 1513.18 of the Revised Code. 10160~~

~~(D) For the purpose of paying the state's expenses for 10161  
reclaiming coal mined lands that the operator failed to reclaim in 10162  
accordance with Chapter 1513. of the Revised Code under a coal 10163  
mining and reclamation permit issued after April 10, 1972, but 10164  
before September 1, 1981, for which the operator's bond is not 10165  
sufficient to pay the state's expense for reclamation and paying 10166  
the expenses for administering the state's coal mining and 10167  
reclamation regulatory program, there is hereby levied an excise 10168  
tax on the privilege of engaging in the severance of coal from the 10169  
soil or water of this state in addition to the taxes levied by 10170  
divisions (A)(1) and (C) of this section. The tax shall be imposed 10171  
at the rate of one cent per ton of coal as prescribed in this 10172  
division. Moneys received by the treasurer of state from the tax 10173  
levied by this division shall be credited to the reclamation 10174  
forfeiture fund created in section 1513.18 of the Revised Code. 10175~~

When, at the close of any fiscal year, the chief finds that 10176  
the balance of the reclamation forfeiture fund, plus estimated 10177  
transfers to it from the coal mining administration and 10178  
reclamation reserve fund under section 1513.181 of the Revised 10179  
Code, plus the estimated revenues from the tax levied by ~~this~~ 10180  
division (A)(8) of this section for the remainder of the calendar 10181  
year that includes the close of the fiscal year, are sufficient to 10182  
complete the reclamation of ~~such~~ lands for which the performance 10183  
security has been provided under division (C)(2) of section 10184  
1513.08 of the Revised Code, the purposes for which the tax under 10185  
~~this~~ division (A)(8) of this section is levied shall be deemed 10186  
accomplished at the end of that calendar year. The chief, within 10187  
thirty days after the close of the fiscal year, shall certify 10188

those findings to the tax commissioner, and the tax levied under 10189  
division (A)(8) of this section shall cease to be imposed after 10190  
the last day of that calendar year on coal produced under a coal 10191  
mining and reclamation permit issued under Chapter 1513. of the 10192  
Revised Code if the permittee has made tax payments under division 10193  
(A)(8) of this section during each of the preceding five full 10194  
calendar years. Not later than thirty days after the close of a 10195  
fiscal year, the chief shall certify to the tax commissioner the 10196  
identity of any permittees who accordingly no longer are required 10197  
to pay the tax levied under division (A)(8) of this section. 10198

Sec. 5749.11. (A) There is hereby allowed a nonrefundable 10199  
credit against the taxes imposed under division (A)(8) of section 10200  
5749.02 of the Revised Code for any severer to which a reclamation 10201  
tax credit certificate is issued under section 1513.171 of the 10202  
Revised Code. The credit shall be claimed in the amount shown on 10203  
the certificate. The credit shall be claimed by deducting the 10204  
amount of the credit from the amount of the first tax payment due 10205  
under section 5749.06 of the Revised Code after the certificate is 10206  
issued. 10207

If the amount of the credit shown on a certificate exceeds 10208  
the amount of the tax otherwise due with that first payment, the 10209  
excess shall be claimed against the amount of tax otherwise due on 10210  
succeeding payment dates until the entire credit amount has been 10211  
deducted. The total amount of credit claimed against payments 10212  
shall not exceed the total amount of credit shown on the 10213  
certificate. 10214

(B) A severer claiming a credit under this section shall 10215  
retain a reclamation tax credit certificate for not less than four 10216  
years following the date of the last tax payment against which the 10217  
credit allowed under that certificate was applied. Severers shall 10218  
make tax credit certificates available for inspection by the tax 10219

commissioner upon the tax commissioner's request.

10220

**Section 2.** That existing sections 123.04, 303.14, 307.37, 10221  
519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 10222  
1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 10223  
1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 10224  
1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 10225  
1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 10226  
1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 10227  
1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 10228  
1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 10229  
1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 10230  
1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 10231  
1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 10232  
1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 10233  
1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 10234  
3745.08, 4115.04, 4501.01, and 5749.02 and sections 1502.11, 10235  
1513.10, 1521.08, and 1533.78 of the Revised Code are hereby 10236  
repealed. 10237

**Section 3.** It is the intent of the General Assembly to 10238  
appropriate five million dollars for the reclamation of land 10239  
affected by the surface mining of coal. Of that five million 10240  
dollars, not more than fifty thousand dollars shall be used to 10241  
study the management of the financial resources of the coal mining 10242  
regulatory program of the Division of Mineral Resources Management 10243  
in the Department of Natural Resources. The Chief of the Division 10244  
of Mineral Resources Management, in consultation with a statewide 10245  
association representing the coal mining industry and a statewide 10246  
association representing environmental advocacy, shall develop an 10247  
outline of the subjects for the study. The Chief shall select an 10248  
objective third party that has knowledge in the management of 10249  
finances to conduct the study. Upon completion of the study, the 10250

third party shall prepare a report of its findings and submit the 10251  
report to the Director of Natural Resources. 10252

**Section 4.** Not later than five years after the effective date 10253  
of this act, the Chief of the Division of Mineral Resources 10254  
Management shall submit a report to the Governor summarizing the 10255  
activities of the Division of Mineral Resources Management under 10256  
sections 1514.40 to 1514.47 of the Revised Code, as enacted by 10257  
this act, trends in miner accident rates, and the number and 10258  
causes of life-threatening accidents and fatalities since the 10259  
effective date of this act. In addition, the report shall compare 10260  
those trends and accident rates with the trends and accident rates 10261  
that occurred ten years prior to the effective date of this act 10262  
and, if necessary, recommend changes to those sections in order to 10263  
improve miner health or safety. 10264

**Section 5.** The amendment of section 1541.40 of the Revised 10265  
Code by this act applies to members appointed to the Ohio Parks 10266  
and Recreation Council on and after the effective date of this 10267  
act. 10268

**Section 6.** Section 5749.02 of the Revised Code as amended by 10269  
this act shall take effect on April 1, 2007. 10270

**Section 7.** Section 1533.10 of the Revised Code is presented 10271  
in this act as a composite of the section as amended by both Am. 10272  
Sub. H.B. 66 and H.B. 296 of the 126th General Assembly. Section 10273  
1547.54 of the Revised Code is presented in this act as a 10274  
composite of the section as amended by both Sub. H.B. 345 and Sub. 10275  
S.B. 150 of the 124th General Assembly. The General Assembly, 10276  
applying the principle stated in division (B) of section 1.52 of 10277  
the Revised Code that amendments are to be harmonized if 10278  
reasonably capable of simultaneous operation, finds that the 10279

composites are the resulting versions of the sections in effect	10280
prior to the effective date of the sections as presented in this	10281
act.	10282