

**As Reported by the House Agriculture and Natural Resources
Committee**

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

Sub. H. B. No. 443

Representatives Uecker, Aslanides, McGregor, J., Domenick, Setzer

—

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, 2923.35, 2933.43, | 19 |
| 4115.04, and 5749.02; to enact sections 303.141, | 20 |
| 519.141, 1513.075, 1513.081, 1513.171, 1513.182, | 21 |
| 1513.371, 1514.011, 1514.051, 1514.40 to 1514.47, | 22 |
| 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, | 23 |
| 1563.01, 1565.01, 1567.01, 1571.011, 2305.041, | 24 |

5577.081, and 5749.11; and to repeal sections 25
1502.11, 1513.10, 1521.08, and 1533.78 of the 26
Revised Code to revise the statutes governing the 27
Department of Natural Resources; to make changes 28
to the law governing coal mining, including 29
increasing the severance tax on coal and revising 30
the distribution of revenue from that tax; to make 31
changes to the law governing the mining of 32
industrial minerals, including revising zoning 33
provisions related to such mining; and to make 34
other changes. 35

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

Section 1. That sections 123.04, 303.14, 307.37, 519.14, 36
1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 37
1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 38
1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 39
1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 40
1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 41
1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 42
1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 43
1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 44
1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 45
1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 46
1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 47
1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 48
1547.541, 1547.99, 1548.02, 1567.35, 2923.35, 2933.43, 4115.04, 49
and 5749.02 be amended and sections 303.141, 519.141, 1513.075, 50
1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 1514.051, 51
1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 1514.46, 52
1514.47, 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 53

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

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

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

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

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

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

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

(C) Grant conditional zoning certificates for the use of

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

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

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

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

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

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

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

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

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

(4) Compliance with reasonable noise abatement measures; 133

(5) Compliance with reasonable dust abatement measures; 134

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

(7) Establishment of a complaint procedure; 137

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

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

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

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

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

(b) The present condition of each road; 165

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

promulgated by the state, any agency of this state, or any private organization that publishes a recognized or standard existing structures code. 268
269
270

(c) The board shall assign the duties of administering and enforcing any local residential building regulations or existing structures code to a county officer or employee who is trained and qualified for those duties and shall establish by resolution the minimum qualifications necessary to perform those duties. 271
272
273
274
275

(2) The board may adopt regulations for participation in the national flood insurance program ~~established in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002,~~ as amended, defined in section 1521.01 of the Revised Code and regulations ~~adopted~~ for the purposes of section 1506.04 or 1506.07 of the Revised Code governing the prohibition, location, erection, construction, redevelopment, or floodproofing of new buildings or structures, substantial improvements to existing buildings or structures, or other development in unincorporated territory within flood hazard areas identified under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion areas identified under section 1506.06 of the Revised Code, including, but not limited to, residential, commercial, institutional, or industrial buildings or structures or other permanent structures, as defined in section 1506.01 of the Revised Code. Rules adopted under division (B)(2) of this section shall not conflict with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code. 276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294

(3)(a) A board may adopt regulations that provide for a review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued 295
296
297
298
299

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

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

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

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

(iii) Completion of the review by the board of county

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

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

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

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

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

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

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

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

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

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

separate offense. 394

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

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

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

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

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

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

substantial justice done;

424

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

425

426

427

428

429

430

431

432

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

433

434

435

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

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

In exercising the above-mentioned powers, ~~such~~ the board may,
in conformity with such sections, reverse or affirm, wholly or
partly, or may modify the order, requirement, decision, or
determination appealed from, and may make such order, requirement,

451

452

453

454

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

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

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

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

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

(4) Compliance with reasonable noise abatement measures; 478

(5) Compliance with reasonable dust abatement measures; 479

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

(7) Establishment of a complaint procedure; 482

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

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

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

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

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

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

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

ingress to and egress from the operation will be the same road 516
that is used for that purpose after the expansion of the facility. 517

(D) The identification of specific roads in accordance with 518
this section and division (B) of section 303.141 of the Revised 519
Code to be used as the primary means of ingress to and egress from 520
a proposed activity becomes effective only upon the granting of a 521
conditional zoning certificate. 522

(E) As used in this section, "surface mining operation" has 523
the same meaning as in section 1514.01 of the Revised Code. 524

Sec. 1501.011. (A) The department of natural resources has 525
the following powers in addition to its other powers: to prepare, 526
or contract to be prepared, surveys, general and detailed plans, 527
specifications, bills of materials, and estimates of cost for, to 528
enter into contracts for, and to supervise the performance of 529
labor, the furnishing of materials, or the construction, repair, 530
or maintenance of any projects, improvements, or buildings, on 531
lands and waters under the control of the department, as may be 532
authorized by legislative appropriations or any other funds 533
available therefor. 534

(B) Except in cases of extreme public exigency or emergency 535
as provided in division (E) of this section, the director of 536
natural resources shall publish notice in a newspaper of general 537
circulation in the county region where the contract activity for 538
which bids are submitted is to be let occur and in any other 539
newspapers that the director determines are appropriate, at least 540
once each week for four consecutive weeks, the last publication to 541
be at least eight days preceding the day for opening bids, seeking 542
proposals on each contract for the performance of labor, the 543
furnishing of materials, or the construction, repair, or 544
maintenance of projects, improvements, or buildings, as necessary 545
for compliance with provisions of the act to make appropriations 546

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

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

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

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

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

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

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

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

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

(G) When in the opinion of the department the work under any contract made under this section or any law of the state is neglected by the contractor, the work completed is deficient in quality or materials, or such the work is not prosecuted with the diligence and force specified or intended in the contract, the department may ~~make requisition upon~~ require the contractor ~~for such additional specific force or materials to be brought into the work under such contract or to remove improper materials from the grounds as in their judgment the contract and its faithful fulfillment requires. Not less than five days' notice in writing of such action shall be served upon the contractor or his agent in charge of the work to provide, at no additional expense to the department, any additional labor and materials that are necessary to complete the improvements at the level of quality and within the time of performance specified in the contract. Procedures concerning such a requirement together with its format shall be specified in the contract.~~ If the contractor fails to comply with

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

environmental impacts+u 831

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

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

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

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

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

life of the project as stated in the application. 862

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 1502.01. As used in this chapter: 927

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 928
cans, bottles, wire, paper, cartons, boxes, automobile parts, 929
furniture, glass, or anything else of an unsightly or unsanitary 930
nature thrown, dropped, discarded, placed, or deposited by a 931
person on public property, on private property not owned by the 932
person, or in or on waters of the state unless one of the 933
following applies: 934

(1) The person has been directed to do so by a public 935
official as part of a litter collection drive~~+~~. 936

(2) The person has thrown, dropped, discarded, placed, or 937
deposited the material in a receptacle in a manner that prevented 938
its being carried away by the elements~~+~~. 939

(3) The person has been issued a permit or license covering 940
the material pursuant to Chapter 3734. or 6111. of the Revised 941
Code. 942

(B) "Recycling" means the process of collecting, sorting, 943
cleansing, treating, and reconstituting waste or other discarded 944
materials for the purpose of recovering and reusing the materials. 945

(C) "Agency of the state" includes, but is not limited to, an 946
"agency" subject to Chapter 119. of the Revised Code and a "state 947
university or college" as defined in section 3345.12 of the 948
Revised Code. 949

(D) "~~Waste~~ Source reduction" means activities that decrease 950
the initial production of waste materials at their point of 951
origin. 952

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

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

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

(H) "Recycling market development" means activities that stimulate the demand for recycled products, provide for a consistent supply of recyclables to meet the needs of recycling industries, or both.

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

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

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

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

(2) The implementation of recycling and recycling market

| | |
|--|------|
| development activities and projects, including all of the | 983 |
| following: | 984 |
| (a) Collection of recyclables; | 985 |
| (b) Separation of recyclables; | 986 |
| (c) Processing of recyclables; | 987 |
| (d) Facilitation and encouragement of the use of recyclables | 988 |
| and products made with recyclables; | 989 |
| (e) Education and training concerning recycling and products | 990 |
| manufactured with recyclables; | 991 |
| (f) Public awareness campaigns to promote recycling; | 992 |
| (g) Other activities and projects that promote recycling and | 993 |
| recycling market development. | 994 |
| (3) Litter prevention assistance to enforce antilitter laws, | 995 |
| educate the public, and stimulate collection and containment of | 996 |
| litter; | 997 |
| (4) Research and development regarding <u>waste source</u> | 998 |
| reduction, recycling, and litter prevention, including, without | 999 |
| limitation, research and development regarding materials or | 1000 |
| products manufactured with recyclables. | 1001 |
| (B) The chief, with the approval of the director of natural | 1002 |
| resources, may enter into contracts or other agreements and may | 1003 |
| execute any instruments necessary or incidental to the discharge | 1004 |
| of the chief's responsibilities under this chapter. | 1005 |
| Sec. 1502.12. (A) There is hereby created in the state | 1006 |
| treasury the scrap tire grant fund, consisting of moneys | 1007 |
| transferred to the fund under section 3734.82 of the Revised Code. | 1008 |
| The chief of the division of recycling and litter prevention, with | 1009 |
| the approval of the director of natural resources, may make grants | 1010 |
| from the fund for the purpose of supporting market development | 1011 |

activities for scrap tires and synthetic rubber from tire 1012
manufacturing processes and tire recycling processes. The grants 1013
may be awarded to individuals, businesses, and entities certified 1014
under division (A) of section 1502.04 of the Revised Code. 1015

(B) Projects and activities that are eligible for grants 1016
under this section shall be evaluated for funding using, at a 1017
minimum, the following criteria: 1018

(1) The degree to which a proposed project contributes to the 1019
increased use of scrap tires generated in this state; 1020

(2) The degree of local financial support for a proposed 1021
project; 1022

(3) The technical merit and quality of a proposed project. 1023

Sec. 1504.02. (A) The division of real estate and land 1024
management shall do all of the following: 1025

(1) Except as otherwise provided in the Revised Code, 1026
coordinate and conduct all real estate functions for the 1027
department of natural resources, including at least acquisitions 1028
by purchase, lease, gift, devise, bequest, appropriation, or 1029
otherwise; grants through sales, leases, exchanges, easements, and 1030
licenses; inventories of land; and other related general 1031
management duties; 1032

(2) Assist the department and its divisions by providing 1033
department-wide planning, including at least master planning, 1034
comprehensive planning, capital improvements planning, and special 1035
purpose planning such as trails coordination and planning under 1036
section 1519.03 of the Revised Code; 1037

(3) On behalf of the director of natural resources, 1038
administer the coastal management program established under 1039
sections 1506.01 to 1506.03 and 1506.05 to 1506.09 of the Revised 1040

Code and consult with and provide coordination among state 1041
agencies, political subdivisions, the United States and agencies 1042
of it, and interstate, regional, and areawide agencies to assist 1043
the director in executing the director's duties and 1044
responsibilities under that program and to assist the department 1045
as the lead agency for the development and implementation of the 1046
program; 1047

(4) On behalf of the director, administer sections 1506.10 1048
and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code; 1049

(5) Cooperate with the United States and agencies of it and 1050
with political subdivisions in administering federal recreation 1051
moneys under the "Land and Water Conservation Fund Act of 1965," 1052
78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and 1053
distribute the statewide comprehensive outdoor recreation plan; 1054
and administer the state recreational vehicle fund created in 1055
section 4519.11 of the Revised Code; 1056

(6)(a) Support the geographic information system needs for 1057
the department as requested by the director, which shall include, 1058
but not be limited to, all of the following: 1059

(i) Assisting in the training and education of department 1060
resource managers, administrators, and other staff in the 1061
application and use of geographic information system technology; 1062

(ii) Providing technical support to the department in the 1063
design, preparation of data, and use of appropriate geographic 1064
information system applications in order to help solve resource 1065
related problems and to improve the effectiveness and efficiency 1066
of department delivered services; 1067

(iii) Creating, maintaining, and documenting spatial digital 1068
data bases for the division and for other divisions as assigned by 1069
the director. 1070

| | |
|---|--|
| (b) Provide information to and otherwise assist government officials, planners, and resource managers in understanding land use planning and resource management; | 1071 1072 1073 |
| (c) Provide continuing assistance to local government officials and others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use value assessment, development reviews, coastal management, and other resource management activities; | 1074 1075 1076 1077 1078 1079 |
| (d) Coordinate and administer the remote sensing needs of the department, including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state; | 1080 1081 1082 1083 |
| (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; | 1084 1085 1086 |
| (f) Locate and distribute hard copy maps, digital data, aerial photography, and other resource data and information to government agencies and the public. | 1087 1088 1089 |
| (7) Prepare special studies and execute any other duties, functions, and responsibilities requested by the director. | 1090 1091 |
| (B) The division may do any of the following: | 1092 |
| (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; | 1093 1094 1095 1096 1097 1098 1099 |
| (2) On behalf of the director, administer Chapter 1520. of | 1100 |

~~the Revised Code, except divisions (B) to (F) of section 1520.03~~ 1101
~~of the Revised Code, division (A) of section 1520.04 of the~~ 1102
~~Revised Code as it pertains to those divisions, and section~~ 1103
~~1520.05 of the Revised Code~~ With the approval of the director, 1104
coordinate and administer compensatory mitigation grant programs 1105
and other programs for streams and wetlands as approved in 1106
accordance with certifications and permits issued under sections 1107
401 and 404 of the "Federal Water Pollution Control Act", 91 Stat. 1108
1566(1977), 33 U.S.C.A. 1251, as amended, by the environmental 1109
protection agency and the United States army corps of engineers; 1110

(3) Administer any state or federally funded grant program 1111
that is related to natural resources and recreation as considered 1112
necessary by the director. 1113

Sec. 1506.04. (A) No later than ~~six months after the~~ 1114
~~effective date of this section~~ September 15, 1989, each county or 1115
municipal corporation within whose jurisdiction is a coastal flood 1116
hazard area shall either participate in and remain in compliance 1117
with the national flood insurance program ~~established in the~~ 1118
~~"Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A.~~ 1119
~~4002, as amended,~~ or shall adopt resolutions or ordinances 1120
governing the coastal flood hazard area that meet or exceed the 1121
standards required for participation in the regular phase of the 1122
national flood insurance program. 1123

(B) If the director of natural resources determines at any 1124
time that a county or municipal corporation that is participating 1125
in the national flood insurance program ~~as described in division~~ 1126
~~(A) of this section~~ or has adopted resolutions or ordinances under 1127
~~that~~ division (A) of this section is not in compliance with that 1128
program or those resolutions or ordinances, as applicable, ~~he~~ the 1129
director shall so notify the legislative authority of the county 1130
or municipal corporation and shall also notify the legislative 1131

authority that it may respond to ~~his~~ the determination in 1132
accordance with the procedure for doing so established by rules 1133
adopted under section 1506.02 of the Revised Code. If after 1134
considering the legislative authority's response the director 1135
determines that the county or municipal corporation is still not 1136
in compliance with the national flood insurance program or 1137
resolutions or ordinances adopted under division (A) of this 1138
section, as applicable, ~~he~~ the director may request the attorney 1139
general in writing to, and the attorney general shall, bring an 1140
action for appropriate relief in a court of competent jurisdiction 1141
against the county or municipal corporation. 1142

(C) The attorney general, upon the written request of the 1143
director, shall bring an action for appropriate relief in a court 1144
of competent jurisdiction against any development that meets both 1145
of the following criteria: 1146

(1) Is located in a county or municipal corporation that is 1147
not in compliance with division (A) of this section; 1148

(2) Is not in compliance with the standards of the national 1149
flood insurance program ~~established in the "Flood Disaster~~ 1150
~~Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as~~ 1151
~~amended.~~ 1152

~~As used in this division, "development" means any artificial~~ 1153
~~change to improved or unimproved real estate, including, without~~ 1154
~~limitation, the construction of buildings and other structures and~~ 1155
~~mining, dredging, filling, grading, paving, excavation, and~~ 1156
~~drilling operations.~~ 1157

(D) This section does not apply to any permits or approvals 1158
issued by any state agency prior to the effective date of rules 1159
adopted under section 1506.02 of the Revised Code for the 1160
implementation of this section. 1161

(E) As used in this section, "national flood insurance 1162

program" and "development" have the same meanings as in section 1163
1521.01 of the Revised Code. 1164

Sec. 1507.01. There is hereby created in the department of 1165
natural resources the division of engineering to be administered 1166
by the chief engineer of the department, who shall be a 1167
professional engineer registered under Chapter 4733. or a 1168
professional architect certified under Chapter 4703. of the 1169
Revised Code. The chief engineer shall do all of the following: 1170

(A) Administer this chapter; 1171

(B) Provide engineering, architectural, land surveying, and 1172
related administrative and maintenance support services to the 1173
other divisions in the department; 1174

(C) Upon request of the director of natural resources, 1175
implement the department's capital improvement program and 1176
facility maintenance projects, including all associated 1177
engineering, architectural, design, contracting, surveying, 1178
inspection, and management responsibilities and requirements; 1179

(D) With the approval of the director, act as contracting 1180
officer in departmental engineering, architectural, surveying, and 1181
construction matters regarding capital improvements except for 1182
those matters otherwise specifically provided for in law; 1183

(E) Provide engineering support for the coastal management 1184
program established under Chapter 1506. of the Revised Code; 1185

(F) Coordinate the department's roadway maintenance program 1186
with the department of transportation pursuant to section 5511.05 1187
of the Revised Code and maintain the roadway inventory of the 1188
department of natural resources; 1189

(G) Coordinate the department's projects, programs, policies, 1190
procedures, and activities with the United States army corps of 1191
engineers; 1192

(H) Subject to the approval of the director, employ 1193
professional and technical assistants and such other employees as 1194
are necessary for the performance of the activities required or 1195
authorized under this chapter, other work of the division, and any 1196
other work agreed to under working agreements or contractual 1197
arrangements; prescribe their duties; and fix their compensation 1198
in accordance with such schedules as are provided by law for the 1199
compensation of state employees. 1200

Sec. 1510.04. (A) Independent producers in this state may 1201
present the technical advisory council with a petition signed by 1202
the lesser of one hundred or ten per cent of all such producers 1203
requesting that the council hold a referendum in accordance with 1204
section 1510.05 of the Revised Code to establish a marketing 1205
program for oil and natural gas or to amend an existing program. 1206

(B) At the time of presentation of the petition to the 1207
council under division (A) of this section, the petitioners also 1208
shall present the proposed program or amendment, which shall 1209
include all of the following: 1210

(1) The rate of assessment to be made on the production of 1211
oil and natural gas in this state, which shall not exceed ~~one cent~~ 1212
five cents per each gross barrel of oil and ~~one tenth of~~ one cent 1213
per thousand cubic feet of natural gas; 1214

(2) Terms, conditions, limitations, and other qualifications 1215
for assessment; 1216

(3) Procedures to refund the assessment. 1217

(C) Before making a decision under this division to approve 1218
or disapprove a proposed program or amendment, the council shall 1219
publish in at least two appropriate periodicals designated by the 1220
council a notice that the program or amendment has been proposed 1221
and informing interested persons of the procedures for submitting 1222

comments regarding the proposal. After publishing the notice, the
council shall provide interested persons with a copy of the
proposed program or amendment and an opportunity to comment on the
proposed program or amendment for thirty days after the
publication of the notice. The petitioners may make changes to the
proposed program or amendment based upon the comments received.
The council may make technical changes to the proposal to ensure
compliance with this chapter. Subsequent to any changes made by
the petitioners or any technical changes made by the council to a
proposed program or amendment, the council may approve or
disapprove the proposed program or amendment.

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

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

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

shall cause such an investigation to be conducted. 1254

(C) In a private civil action for nuisances involving 1255
agricultural pollution, it is an affirmative defense if the person 1256
owning, operating, or otherwise responsible for agricultural land 1257
or a concentrated animal feeding operation is operating under and 1258
in substantial compliance with an approved operation and 1259
management plan developed under division (A) of this section, with 1260
an operation and management plan developed by the chief under 1261
section 1511.02 of the Revised Code or by the supervisors of the 1262
local soil and water conservation district under section 1515.08 1263
of the Revised Code, or with an operation and management plan 1264
required by an order issued by the chief under division (G) of 1265
section 1511.02 of the Revised Code. Nothing in this section is in 1266
derogation of the authority granted to the chief in division (E) 1267
of section 1511.02 and in section 1511.07 of the Revised Code. 1268

Sec. 1513.01. As used in this chapter: 1269

(A) "Approximate original contour" means that surface 1270
configuration achieved by backfilling and grading of a mined area 1271
so that the reclaimed area, including any terracing or access 1272
roads, closely resembles the general surface configuration of the 1273
land prior to mining and blends into and complements the drainage 1274
pattern of the surrounding terrain, with all highwalls and spoil 1275
piles eliminated; water impoundments may be permitted where the 1276
chief of the division of mineral resources management determines 1277
that they are in compliance with division (A)(8) of section 1278
1513.16 of the Revised Code. 1279

(B) "Coal mining and reclamation operations" means coal 1280
mining operations and all activities necessary and incident to the 1281
reclamation of such operations. 1282

(C) "Degrees" means inclination from the horizontal. 1283

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

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

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

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

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

(1) Activities conducted on the surface of lands in connection with a coal mine, the removal of coal from coal refuse piles, and surface impacts incident to an underground coal mine.

Such activities include excavation for the purpose of obtaining 1315
coal, including such common methods as contour, strip, auger, 1316
mountaintop removal, box cut, open pit, and area mining; the use 1317
of explosives and blasting; in situ distillation or retorting; 1318
leaching or other chemical or physical processing; and the 1319
cleaning, concentrating, or other processing or preparation of 1320
coal. Such activities also include the loading of coal at or near 1321
the mine site. Such activities do not include any of the 1322
following: 1323

(a) The extraction of coal incidental to the extraction of 1324
other minerals if the weight of coal extracted is less than 1325
one-sixth the total weight of minerals removed, including coal; 1326

(b) The extraction of coal as an incidental part of federal, 1327
state, or local highway or other government-financed construction 1328
when approved by the chief; 1329

(c) Coal exploration subject to section 1513.072 of the 1330
Revised Code. 1331

(2) The areas upon which such activities occur or where such 1332
activities disturb the natural land surface. Such areas include 1333
any adjacent land the use of which is incidental to any such 1334
activities, all lands affected by the construction of new roads or 1335
the improvement or use of existing roads to gain access to the 1336
site of such activities, and for hauling, and excavation, 1337
workings, impoundments, dams, ventilation shafts, entryways, 1338
refuse banks, dumps, stockpiles, overburden piles, spoil banks, 1339
culm banks, holes or depressions, repair areas, storage areas, 1340
processing areas, shipping areas, and other areas upon which are 1341
sited structures, facilities, or other property or materials on 1342
the surface, resulting from or incident to such activities. 1343
Separation by a stream, roadway, or utility easement does not 1344
preclude two or more contiguous tracts of land from being 1345

considered contiguous. 1346

(I) "Operator" means any person conducting a coal mining 1347
operation. 1348

(J) "Overburden" means all of the earth and other materials, 1349
except topsoil, covering a natural deposit of coal, and also means 1350
such earth and other materials after removal from their natural 1351
state in the process of coal mining. 1352

(K) "Permit" means a permit to conduct coal mining and 1353
reclamation operations issued by the chief pursuant to section 1354
1513.07 or 1513.074 of the Revised Code. 1355

(L) "Permit area" means the area of land to be affected 1356
indicated on the approved map submitted by the operator with the 1357
application required by section 1513.07 or 1513.074 of the Revised 1358
Code. 1359

(M) "Person" has the same meaning as in section 1.59 of the 1360
Revised Code and also includes any political subdivision, 1361
instrumentality, or agency of this state or the United States. 1362

(N) "Pollution" means placing any sediments, solids, or 1363
waterborne mining related wastes, including, but not limited to, 1364
acids, metallic cations, or their salts, in excess of amounts 1365
prescribed by the chief into any waters of the state or affecting 1366
the properties of any waters of the state in a manner that renders 1367
those waters harmful or inimical to the public health, or to 1368
animal or aquatic life, or to the use of the waters for domestic 1369
water supply, industrial or agricultural purposes, or recreation. 1370

(O) "Prime farmland" has the same meaning as that previously 1371
prescribed by the secretary of the United States department of 1372
agriculture as published in the federal register on August 23, 1373
1977, or subsequent revisions thereof, on the basis of such 1374
factors as moisture availability, temperature regime, chemical 1375

balance, permeability, surface layer composition, susceptibility 1376
to flooding, and erosion characteristics and that historically has 1377
been used for intensive agricultural purposes, and as published in 1378
the rules adopted pursuant to this chapter. 1379

(P) "Reclamation" means backfilling, grading, resoiling, 1380
planting, and other work that has the effect of restoring an area 1381
of land affected by coal mining so that it may be used for forest 1382
growth, grazing, agricultural, recreational, and wildlife purpose, 1383
or some other useful purpose of equal or greater value than 1384
existed prior to any mining. 1385

(Q) "Spoil bank" means a deposit of removed overburden. 1386

(R) "Steep slope" means any slope above twenty degrees or 1387
such lesser slope as may be defined by the chief after considering 1388
soil, climate, and other characteristics of a region. 1389

(S) "Strip mining" means those coal mining and reclamation 1390
operations incident to the extraction of coal from the earth by 1391
removing the materials over a coal seam, before recovering the 1392
coal, by auger coal mining, or by recovery of coal from a deposit 1393
that is not in its original geologic location. 1394

(T) "Unwarranted failure to comply" means the failure of a 1395
permittee to prevent the occurrence of any violation of any 1396
requirement of this chapter due to indifference, lack of 1397
diligence, or lack of reasonable care, or the failure to abate any 1398
violation of the permit or this chapter due to indifference, lack 1399
of diligence, or lack of reasonable care. 1400

(U) "Waters of the state" means all streams, lakes, ponds, 1401
marshes, watercourses, waterways, wells, springs, irrigation 1402
systems, drainage systems, and other bodies or accumulations of 1403
water, surface or underground, natural or artificial, regardless 1404
of the depth of the strata in which underground water is located, 1405
that are situated wholly or partly within, or border upon, this 1406

state, or are within its jurisdiction. 1407

(V) "Public roadway" means a road that is all of the 1408
following: 1409

(1) Designated as a public road in the jurisdiction within 1410
which it is located; 1411

(2) Constructed in a manner consistent with other public 1412
roads within the jurisdiction within which it is located; 1413

(3) Regularly maintained with public funds; 1414

(4) Subject to and available for substantial use by the 1415
public. 1416

(W) "Performance security" means a form of financial 1417
assurance, including, without limitation, a surety bond issued by 1418
a surety licensed to do business in this state; an annuity; cash; 1419
a negotiable certificate of deposit; an irrevocable letter of 1420
credit that automatically renews; a negotiable bond of the United 1421
States, this state, or a municipal corporation in this state; a 1422
trust fund of which the state is named a conditional beneficiary; 1423
or other form of financial guarantee or financial assurance that 1424
is acceptable to the chief. 1425

Sec. 1513.02. (A) The division of mineral resources 1426
management shall administer, enforce, and implement this chapter. 1427
The chief of the division of mineral resources management shall do 1428
all of the following: 1429

(1) Adopt, amend, and rescind rules: 1430

(a) To administer and enforce this chapter; 1431

(b) To implement the requirements of this chapter for the 1432
reclamation of lands affected by coal mining, including such rules 1433
governing mining practices and procedures, segregation and 1434
placement of soil and topsoil, backfilling, grading, terracing, 1435

resoiling, soil conditioning and reconditioning, planting, 1436
establishment of drainage patterns, construction of impoundments, 1437
and the construction, maintenance, and disposition of haul roads, 1438
ditches, and dikes, as may be necessary or desirable, under 1439
varying conditions of slope, drainage, physical and chemical 1440
characteristics of soil and overburden, erodability of materials, 1441
season, growth characteristics of plants, and other factors 1442
affecting coal mining and reclamation, to facilitate the return of 1443
the land to a condition required by this chapter; to prevent 1444
pollution or substantial diminution of waters of the state, 1445
substantial erosion, substantial deposition of sediment, 1446
landslides, accumulation and discharge of acid water, and 1447
flooding, both during mining and reclamation and thereafter; to 1448
restore the recharge capacity of the mined area to approximate 1449
premining conditions; and to ensure full compliance with all 1450
requirements of this chapter relating to reclamation, and the 1451
attainment of those objectives in the interest of the public 1452
health, safety, and welfare to which these reclamation 1453
requirements are directed; 1454

(c) To meet the requirements of the "Surface Mining Control 1455
and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201. 1456

(2) Issue orders to enforce this chapter and rules adopted 1457
under it; 1458

(3) Adopt rules for the internal management of the division 1459
that do not affect private rights; 1460

(4) Adopt programs, rules, and procedures designed to assist 1461
the coal operator in this state with the permitting process and 1462
complying with the environmental standards of this chapter. Upon 1463
request of the applicant for a permit, the chief shall make a 1464
determination of the probable hydrologic consequences required in 1465
division (B)~~(2)~~(1)(k) of section 1513.07 of the Revised Code 1466

within sixty days after a permit has been submitted to the 1467
division for those applications requesting the chief to perform 1468
the study. The chief shall perform the chemical analysis of test 1469
borings or core samplings for operators who have a total annual 1470
production of coal at all locations that does not exceed one 1471
hundred thousand tons. 1472

(5) Adopt programs, rules, and procedures designed to ensure 1473
that reclamation is performed on operations for which the 1474
performance ~~bond~~ security has been forfeited pursuant to section 1475
1513.16 of the Revised Code; 1476

(6) Receive, administer, and expend moneys obtained from the 1477
United States department of the interior and other federal 1478
agencies to implement the state's permanent coal regulatory 1479
program; 1480

(7)(a) Regulate the beneficial use of coal combustion 1481
byproducts at coal mining and reclamation operations and abandoned 1482
mine lands that are regulated under this chapter and rules adopted 1483
under it. The beneficial use of coal combustion byproducts at such 1484
coal mining and reclamation operations and abandoned mine lands is 1485
subject to all applicable performance standards and requirements 1486
established under this chapter and rules adopted under it, 1487
including, without limitation, standards and requirements 1488
established under section 1513.16 of the Revised Code and rules 1489
adopted pursuant to it. 1490

The beneficial use of coal combustion byproducts that is 1491
authorized at coal mining and reclamation operations and abandoned 1492
mine lands that are regulated under this chapter and rules adopted 1493
under it is not subject to the following provisions of Chapters 1494
3734. and 6111. of the Revised Code and rules adopted under those 1495
provisions: 1496

(i) Permit and license requirements for solid waste 1497

| | |
|---|--|
| facilities established under sections 3734.02 and 3734.05 of the Revised Code; | 1498 1499 |
| (ii) The prohibition against the open dumping of solid wastes established in section 3734.03 of the Revised Code; | 1500 1501 |
| (iii) Solid waste generation and disposal fees established under sections 3734.57 to 3734.574 of the Revised Code; | 1502 1503 |
| (iv) Permit to install and plan approval requirements established under sections 6111.03, 6111.44, and 6111.45 of the Revised Code. | 1504 1505 1506 |
| Nothing in division (A)(7) of this section shall be construed to limit any other requirements that are applicable to the beneficial use of coal combustion byproducts and that are established under Chapter 3704., 3714., 3734., or 6111. of the Revised Code or under local or federal laws, including, without limitation, requirements governing air pollution control permits, hazardous waste, national pollutant discharge elimination system permits, and section 401 water quality certifications. | 1507 1508 1509 1510 1511 1512 1513 1514 |
| (b) As used in division (A)(7) of this section: | 1515 |
| (i) "Coal combustion byproducts" means fly ash, bottom ash, coal slag, flue gas desulphurization and fluidized bed combustion byproducts, air or water pollution control residues from the operation of a coal-fired electric or steam generation facility, and any material from a clean coal technology demonstration project or other innovative process at a coal-fired electric or steam generation facility. | 1516 1517 1518 1519 1520 1521 1522 |
| (ii) "Beneficial use" means the use of coal combustion byproducts in a manner that is not equivalent to the establishment of a disposal system or a solid waste disposal facility and that is unlikely to affect human health or safety or the environment adversely or to degrade the existing quality of the land, air, or | 1523 1524 1525 1526 1527 |

water. "Beneficial use" includes, without limitation, land 1528
application uses for agronomic value; land reclamation uses; and 1529
discrete, controlled uses for structural fill, pavement aggregate, 1530
pipe bedding aggregate, mine sealing, alternative drainage or 1531
capping material, and pilot demonstration projects. 1532

(iii) "Structural fill" means the discrete, controlled use of 1533
a coal combustion byproduct as a substitute for a conventional 1534
aggregate, raw material, or soil under or immediately adjacent to 1535
a building or structure. "Structural fill" does not include uses 1536
that involve general filling or grading operations or valley 1537
fills. 1538

(iv) "Pavement aggregate" means the discrete, controlled use 1539
of a coal combustion byproduct as a subbase material or drainage 1540
layer under or immediately adjacent to a paved road or a paved 1541
parking lot where the coal combustion byproduct is a substitute 1542
for a conventional aggregate, raw material, or soil. 1543

(v) "Pipe bedding aggregate" means the discrete, controlled 1544
use of a coal combustion byproduct as a substitute for a 1545
conventional aggregate, raw material, or soil under, around, or 1546
immediately adjacent to a water, sewer, or other pipeline. 1547

(vi) "Coal-fired electric or steam generation facility" 1548
includes any boiler that is fired with coal or with coal in 1549
combination with petroleum coke, oil, natural gas, or any other 1550
fossil fuel. 1551

(vii) "Solid waste disposal facility" means a facility for 1552
the disposal of solid wastes as provided in Chapter 3734. of the 1553
Revised Code and rules adopted under it. 1554

(viii) "Disposal system" has the same meaning as in section 1555
6111.01 of the Revised Code. 1556

(8) If this state becomes covered by a state programmatic 1557

general permit issued by the United States army corps of engineers 1558
for the discharge of dredged or fill material into the waters of 1559
the United States by operations that conduct surface and 1560
underground coal mining and reclamation operations and the 1561
restoration of abandoned mine lands, establish programs and adopt 1562
rules and procedures designed to implement the terms, limitations, 1563
and conditions of the permit. The purpose of the programs, rules, 1564
and procedures shall be to enable the state to reduce or eliminate 1565
duplicative state and federal project evaluation, simplify the 1566
regulatory approval process, provide environmental protection for 1567
aquatic resources that is equivalent to federal protection, and 1568
satisfy the requirements of the United States army corps of 1569
engineers regulatory program under which the permit is issued and 1570
that is established under section 404 of the "Federal Water 1571
Pollution Control Act," 86 Stat. 48 (1972), 33 U.S.C. 1344, as 1572
amended by the "Clean Water Act of 1977," 91 Stat. 1600, 33 U.S.C. 1573
1344; section 10 of the "Rivers and Harbors Act of 1899," 30 Stat. 1574
1151, 33 U.S.C. 403; and section 103 of the "Marine Protection, 1575
Research, and Sanctuaries Act of 1972," 86 Stat. 1055, 33 U.S.C. 1576
1413. 1577

(9) Establish programs and adopt rules and procedures 1578
governing terms, limitations, and conditions for the use of diesel 1579
equipment in an underground coal mine. 1580

(B) The chief, by rule, may designate as unsuitable for coal 1581
mining natural areas maintained on the registry of natural areas 1582
of the department of natural resources pursuant to Chapter 1517. 1583
of the Revised Code, wild, scenic, or recreational river areas 1584
designated pursuant to that chapter, publicly owned or dedicated 1585
parks, and other areas of unique and irreplaceable natural beauty 1586
or condition, or areas within specified distances of a public 1587
road, occupied dwelling, public building, school, church, 1588
community, or institutional building, public park, or cemetery. 1589

Such a designation may include land adjacent to the perimeters of 1590
those areas that may be necessary to protect their integrity. 1591

(C)(1) The adoption, amendment, and rescission of rules under 1592
divisions (A)(1), (4), and (5) and (B) of this section are subject 1593
to Chapter 119. of the Revised Code. 1594

(2) The issuance of orders under division (A)(2) of this 1595
section and appeals therefrom are not governed by or subject to 1596
Chapter 119. of the Revised Code, but are governed by this 1597
chapter. 1598

(D)(1) When the chief or an authorized representative of the 1599
chief determines that any condition or practice exists or that any 1600
permittee is in violation of any requirement of this chapter or 1601
any permit condition required by this chapter, which condition, 1602
practice, or violation creates an imminent danger to the health or 1603
safety of the public or is causing, or can reasonably be expected 1604
to cause, significant, imminent environmental harm to land, air, 1605
or water resources, the chief or the authorized representative 1606
immediately shall order the cessation of coal mining and 1607
reclamation operations or the portion thereof relevant to the 1608
condition, practice, or violation. The cessation order shall 1609
remain in effect until the chief or the authorized representative 1610
determines that the condition, practice, or violation has been 1611
abated or until the order is modified, vacated, or terminated by 1612
the chief or the authorized representative pursuant to division 1613
(D)(4) of this section or by the reclamation commission pursuant 1614
to section 1513.13 of the Revised Code. When the chief or the 1615
authorized representative finds that the ordered cessation of coal 1616
mining and reclamation operations or any portion thereof will not 1617
completely abate the imminent danger to the health or safety of 1618
the public or the significant, imminent environmental harm to 1619
land, air, or water resources, the chief or the authorized 1620
representative, in addition to the cessation order, shall order 1621

the operator to take whatever steps the chief or the authorized
representative considers necessary to abate the imminent danger or
the significant environmental harm.

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

If, upon expiration of the period of time as originally fixed
or subsequently extended for good cause shown and upon the written
finding of the chief or the authorized representative, the chief
or the authorized representative finds that the violation has not
been abated, the chief or the authorized representative
immediately shall order the cessation of coal mining and
reclamation operations or the portion thereof relevant to the
violation. The cessation order shall remain in effect until the
chief or the authorized representative determines that the
violation has been abated or until the order is modified, vacated,
or terminated by the chief or the authorized representative
pursuant to division (D)(4) of this section or by the reclamation
commission pursuant to section 1513.13 of the Revised Code. In a
cessation order issued under division (D)(2) of this section, the

chief or the authorized representative shall prescribe the steps 1654
necessary to abate the violation in the most expeditious manner 1655
possible. 1656

(3) When in the judgment of the chief or an authorized 1657
representative of the chief a pattern of violations of any 1658
requirements of this chapter or any permit conditions required by 1659
this chapter exists or has existed and the violations are caused 1660
by the unwarranted failure of the permittee to comply with any 1661
requirements of this chapter or any permit conditions or are 1662
willfully caused by the permittee, the chief or the authorized 1663
representative immediately shall issue an order to the permittee 1664
to show cause why the permit should not be suspended or revoked. 1665
If a hearing is requested, the chief shall inform all interested 1666
parties of the time and place of the hearing and conduct the 1667
hearing pursuant to division (D) of section 1513.13 of the Revised 1668
Code. Upon the permittee's failure to show cause why the permit 1669
should not be suspended or revoked, the chief or the authorized 1670
representative immediately shall suspend or revoke the permit. 1671

(4) Notices of violation and orders issued pursuant to this 1672
section shall set forth with reasonable specificity the nature of 1673
the violation and the remedial action required, the period of time 1674
established for abatement, and a reasonable description of the 1675
portion of the coal mining and reclamation operation to which the 1676
notice or order applies. Each notice or order issued under this 1677
section shall be given promptly to the alleged violator or the 1678
agent of the alleged violator by the chief or an authorized 1679
representative of the chief who issues the notice or order. 1680
Notices and orders shall be in writing and shall be signed by the 1681
chief or the authorized representative and may be modified, 1682
vacated, or terminated by the chief or the authorized 1683
representative. Any notice or order issued pursuant to this 1684
section that requires cessation of mining by the operator shall 1685

expire within thirty days after actual notice to the operator 1686
unless a public hearing pursuant to section 1513.13 of the Revised 1687
Code is held at the site or within such reasonable proximity to 1688
the site that any viewings of the site can be conducted during the 1689
course of the public hearing. 1690

(E)(1) A person who violates a permit condition or any other 1691
provision of this chapter may be assessed a civil penalty by the 1692
chief, except that if the violation leads to the issuance of a 1693
cessation order under division (D) of this section, the civil 1694
penalty shall be assessed for each day until the person initiates 1695
the necessary corrective steps. The penalty shall not exceed five 1696
thousand dollars for each violation. Each day of continuing 1697
violation may be deemed a separate violation for purposes of 1698
penalty assessments. In determining the amount of the penalty, 1699
consideration shall be given to the person's history of previous 1700
violation at the particular coal mining operation; the seriousness 1701
of the violation, including any irreparable harm to the 1702
environment and any hazard to the health or safety of the public; 1703
whether the person was negligent; and the demonstrated diligence 1704
of the person charged in attempting to achieve rapid compliance 1705
after notification of the violation. 1706

(2) A civil penalty shall be assessed by the chief only after 1707
the person charged with a violation under division (E)(1) of this 1708
section has been given an opportunity for a public hearing. If a 1709
person charged with such a violation fails to avail oneself of the 1710
opportunity for a public hearing, a civil penalty shall be 1711
assessed by the chief after the chief has determined that a 1712
violation did occur, and the amount of the penalty that is 1713
warranted, and has issued an order requiring that the penalty be 1714
paid. 1715

(3) Upon the issuance of a notice or order charging that a 1716
violation of this chapter has occurred, the chief shall inform the 1717

operator within thirty days of the proposed amount of the penalty 1718
and provide opportunity for an adjudicatory hearing pursuant to 1719
section 1513.13 of the Revised Code. The person charged with the 1720
penalty then shall have thirty days to pay the proposed penalty in 1721
full or, if the person wishes to contest either the amount of the 1722
penalty or the fact of the violation, file a petition for review 1723
of the proposed assessment with the secretary of the reclamation 1724
commission pursuant to section 1513.13 of the Revised Code. If, 1725
after the hearing, the commission affirms or modifies the proposed 1726
amount of the penalty, the person charged with the penalty then 1727
shall have thirty days after receipt of the written decision to 1728
pay the amount in full or file an appeal with the court of appeals 1729
in accordance with section 1513.14 of the Revised Code. At the 1730
time the petition for review of the proposed assessment is filed 1731
with the secretary, the person shall forward the amount of the 1732
penalty to the secretary for placement in the reclamation penalty 1733
fund, which is hereby created. The fund shall be in the custody of 1734
the treasurer of state, but shall not be a part of the state 1735
treasury. Pursuant to administrative or judicial review of the 1736
penalty, the secretary, within thirty days, shall remit the 1737
appropriate amount of the penalty to the person, with interest, if 1738
it is determined that no violation occurred or that the amount of 1739
the penalty should be reduced, and the secretary shall forward the 1740
balance of the penalty or, if the penalty was not reduced, the 1741
entire amount of the penalty, with interest, to the chief for 1742
deposit in the ~~coal mining administration and reclamation reserve~~ 1743
forfeiture fund created in section ~~1513.181~~ 1513.18 of the Revised 1744
Code. Failure to forward the money to the secretary within thirty 1745
days after the chief informs the operator of the proposed amount 1746
of the penalty shall result in a waiver of all legal rights to 1747
contest the violation or the amount of the penalty. Within fifteen 1748
days after being informed of the penalty, the person charged with 1749
the penalty may request in writing an informal assessment 1750

conference to review the amount of the penalty. The conference 1751
shall be presided over by the chief or an individual appointed by 1752
the chief other than the inspector that issued the notice of 1753
violation or order upon which the penalty is based. The chief 1754
shall adopt rules governing procedures to be followed in informal 1755
conferences. Time allowed for payment of the penalty or appeal to 1756
the commission shall be tolled while the penalty is being reviewed 1757
in an informal conference. 1758

(4) An operator who fails to correct a violation for which a 1759
notice of violation or order has been issued under division (D) of 1760
this section within the period permitted for its correction shall 1761
be assessed a civil penalty of not less than seven hundred fifty 1762
dollars for each day during which the failure or violation 1763
continues. However, a civil penalty shall not be assessed under 1764
division (E)(4) of this section if the commission orders the 1765
suspension of the abatement requirement after determining, based 1766
upon the findings of an expedited hearing held under section 1767
1513.13 of the Revised Code at the request of the operator, that 1768
the operator will suffer irreparable loss or damage from the 1769
application of the abatement requirement or if the court orders 1770
suspension of the abatement requirement pursuant to review 1771
proceedings held under section 1513.14 of the Revised Code at the 1772
request of the operator. 1773

(F) The chief may enter into a cooperative agreement with the 1774
secretary of the interior to provide for state regulation of coal 1775
mining and reclamation operations on federal lands within the 1776
state. 1777

(G) The chief may prohibit augering if necessary to maximize 1778
the utilization, recoverability, or conservation of the solid fuel 1779
resources or to protect against adverse water quality impacts. 1780

(H) The chief shall transmit copies of all schedules 1781
submitted under section 1513.07 of the Revised Code pertaining to 1782

violations of air or water quality laws and rules adopted and 1783
orders issued under those laws in connection with coal mining 1784
operations to the director of environmental protection for 1785
verification. 1786

(I) For the purposes of sections 1513.18, 1513.24, 1513.37, 1787
and 1514.06 of the Revised Code, the chief triennially shall 1788
determine the average wage rate for companies performing 1789
reclamation work for the division under those sections by 1790
averaging the wage rate paid by all companies performing such 1791
reclamation work during the three years immediately preceding the 1792
determination. However, in making the initial determination under 1793
this division, the chief shall average the wage rate paid by all 1794
companies performing such reclamation work during the ten years 1795
immediately preceding October 29, 1995. 1796

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 1797
operation without a permit for the operation issued by the chief 1798
of the division of mineral resources management. 1799

(2) All permits issued pursuant to this chapter shall be 1800
issued for a term not to exceed five years, except that, if the 1801
applicant demonstrates that a specified longer term is reasonably 1802
needed to allow the applicant to obtain necessary financing for 1803
equipment and the opening of the operation and if the application 1804
is full and complete for the specified longer term, the chief may 1805
grant a permit for the longer term. A successor in interest to a 1806
permittee who applies for a new permit within thirty days after 1807
succeeding to the interest and who is able to obtain the ~~bond~~ 1808
~~coverage~~ performance security of the original permittee may 1809
continue coal mining and reclamation operations according to the 1810
approved mining and reclamation plan of the original permittee 1811
until the successor's application is granted or denied. 1812

(3) A permit shall terminate if the permittee has not 1813

commenced the coal mining operations covered by the permit within 1814
three years after the issuance of the permit, except that the 1815
chief may grant reasonable extensions of the time upon a showing 1816
that the extensions are necessary by reason of litigation 1817
precluding the commencement or threatening substantial economic 1818
loss to the permittee or by reason of conditions beyond the 1819
control and without the fault or negligence of the permittee, and 1820
except that with respect to coal to be mined for use in a 1821
synthetic fuel facility or specified major electric generating 1822
facility, the permittee shall be deemed to have commenced coal 1823
mining operations at the time construction of the synthetic fuel 1824
or generating facility is initiated. 1825

(4)(a) Any permit issued pursuant to this chapter shall carry 1826
with it the right of successive renewal upon expiration with 1827
respect to areas within the boundaries of the permit. The holders 1828
of the permit may apply for renewal and the renewal shall be 1829
issued unless the chief determines by written findings, subsequent 1830
to fulfillment of the public notice requirements of this section 1831
and section 1513.071 of the Revised Code through demonstrations by 1832
opponents of renewal or otherwise, that one or more of the 1833
following circumstances exists: 1834

(i) The terms and conditions of the existing permit are not 1835
being satisfactorily met; 1836

(ii) The present coal mining and reclamation operation is not 1837
in compliance with the environmental protection standards of this 1838
chapter; 1839

(iii) The renewal requested substantially jeopardizes the 1840
operator's continuing responsibilities on existing permit areas; 1841

(iv) The applicant has not provided evidence that the 1842
performance ~~and~~ security in effect for the operation will 1843
continue in effect for any renewal requested in the application; 1844

(v) Any additional, revised, or updated information required 1845
by the chief has not been provided. Prior to the approval of any 1846
renewal of a permit, the chief shall provide notice to the 1847
appropriate public authorities as prescribed by rule of the chief. 1848

(b) If an application for renewal of a valid permit includes 1849
a proposal to extend the mining operation beyond the boundaries 1850
authorized in the existing permit, the portion of the application 1851
for renewal of a valid permit that addresses any new land areas 1852
shall be subject to the full standards applicable to new 1853
applications under this chapter. 1854

(c) A permit renewal shall be for a term not to exceed the 1855
period of the original permit established by this chapter. 1856
Application for permit renewal shall be made at least one hundred 1857
twenty days prior to the expiration of the valid permit. 1858

(5) A permit issued pursuant to this chapter does not 1859
eliminate the requirements for obtaining a permit to install or 1860
modify a disposal system or any part thereof or to discharge 1861
sewage, industrial waste, or other wastes into the waters of the 1862
state in accordance with Chapter 6111. of the Revised Code. 1863

~~(B)(1) Each application for a coal mining and reclamation 1864
permit or renewal of such a permit shall be accompanied by a 1865
permit or renewal fee in an amount equal to the product of 1866
seventy five dollars multiplied by the number of acres, estimated 1867
in the application, that will comprise the area of land to be 1868
affected within the permit or renewal period by the coal mining 1869
operation for which the permit or renewal is requested. 1870~~

~~(2)~~ The permit application shall be submitted in a manner 1871
satisfactory to the chief and shall contain, among other things, 1872
all of the following: 1873

(a) The names and addresses of all of the following: 1874

| | |
|---|--|
| (i) The permit applicant; | 1875 |
| (ii) Every legal owner of record of the property, surface and mineral, to be mined; | 1876 1877 |
| (iii) The holders of record of any leasehold interest in the property; | 1878 1879 |
| (iv) Any purchaser of record of the property under a real estate contract; | 1880 1881 |
| (v) The operator if different from the applicant; | 1882 |
| (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. | 1883 1884 1885 |
| (b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area; | 1886 1887 1888 |
| (c) A statement of any current or previous coal mining permits in the United States held by the applicant, the permit identification, and any pending applications; | 1889 1890 1891 |
| (d) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, the name and address of any person owning, of record, ten per cent or more of any class of voting stock of the applicant, a list of all names under which the applicant, partner, or principal shareholder previously operated a coal mining operation within the United States within the five-year period preceding the date of submission of the application, and a list of the person or persons primarily responsible for ensuring that the applicant complies with the requirements of this chapter and rules adopted pursuant thereto while mining and reclaiming under the | 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 |

permit; 1905

(e) A statement of whether the applicant, any subsidiary, 1906
affiliate, or persons controlled by or under common control with 1907
the applicant, any partner if the applicant is a partnership, any 1908
officer, principal shareholder, or director if the applicant is a 1909
corporation, or any other person who has a right to control or in 1910
fact controls the management of the applicant or the selection of 1911
officers, directors, or managers of the applicant: 1912

(i) Has ever held a federal or state coal mining permit that 1913
in the five-year period prior to the date of submission of the 1914
application has been suspended or revoked or has had a coal mining 1915
bond, performance security, or similar security deposited in lieu 1916
of bond forfeited and, if so, a brief explanation of the facts 1917
involved; 1918

(ii) Has been an officer, partner, director, principal 1919
shareholder, or person having the right to control or has in fact 1920
controlled the management of or the selection of officers, 1921
directors, or managers of a business entity that has had a coal 1922
mining or surface mining permit that in the five-year period prior 1923
to the date of submission of the application has been suspended or 1924
revoked or has had a coal mining or surface mining bond, 1925
performance security, or similar security deposited in lieu of 1926
bond forfeited and, if so, a brief explanation of the facts 1927
involved. 1928

(f) A copy of the applicant's advertisement to be published 1929
in a newspaper of general circulation in the locality of the 1930
proposed site at least once a week for four successive weeks, 1931
which shall include the ownership of the proposed mine, a 1932
description of the exact location and boundaries of the proposed 1933
site sufficient to make the proposed operation readily 1934
identifiable by local residents, and the location where the 1935

| | |
|--|--|
| application is available for public inspection; | 1936 |
| (g) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used; | 1937 1938 1939 |
| (h) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected; | 1940 1941 1942 |
| (i) An accurate map or plan, to an appropriate scale, clearly showing the land to be affected and the land upon which the applicant has the legal right to enter and commence coal mining operations, copies of those documents upon which is based the applicant's legal right to enter and commence coal mining operations, and a statement whether that right is the subject of pending litigation. This chapter does not authorize the chief to adjudicate property title disputes. | 1943 1944 1945 1946 1947 1948 1949 1950 |
| (j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged; | 1951 1952 1953 |
| (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 | 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 |

information is available and is incorporated into the application; 1967

(l) When requested by the chief, the climatological factors 1968
that are peculiar to the locality of the land to be affected, 1969
including the average seasonal precipitation, the average 1970
direction and velocity of prevailing winds, and the seasonal 1971
temperature ranges; 1972

(m) Accurate maps prepared by or under the direction of and 1973
certified by a qualified registered professional engineer, 1974
registered surveyor, or licensed landscape architect to an 1975
appropriate scale clearly showing all types of information set 1976
forth on topographical maps of the United States geological survey 1977
of a scale of not more than four hundred feet to the inch, 1978
including all artificial features and significant known 1979
archeological sites. The map, among other things specified by the 1980
chief, shall show all boundaries of the land to be affected, the 1981
boundary lines and names of present owners of record of all 1982
surface areas abutting the permit area, and the location of all 1983
buildings within one thousand feet of the permit area. 1984

(n)(i) Cross-section maps or plans of the land to be affected 1985
including the actual area to be mined, prepared by or under the 1986
direction of and certified by a qualified registered professional 1987
engineer or certified professional geologist with assistance from 1988
experts in related fields such as hydrology, hydrogeology, 1989
geology, and landscape architecture, showing pertinent elevations 1990
and locations of test borings or core samplings and depicting the 1991
following information: the nature and depth of the various strata 1992
of overburden; the nature and thickness of any coal or rider seam 1993
above the coal seam to be mined; the nature of the stratum 1994
immediately beneath the coal seam to be mined; all mineral crop 1995
lines and the strike and dip of the coal to be mined within the 1996
area to be affected; existing or previous coal mining limits; the 1997
location and extent of known workings of any underground mines, 1998

including mine openings to the surface; the location of spoil, 1999
waste, or refuse areas and topsoil preservation areas; the 2000
location of all impoundments for waste or erosion control; any 2001
settling or water treatment facility; constructed or natural 2002
drainways and the location of any discharges to any surface body 2003
of water on the land to be affected or adjacent thereto; profiles 2004
at appropriate cross sections of the anticipated final surface 2005
configuration that will be achieved pursuant to the operator's 2006
proposed reclamation plan; the location of subsurface water, if 2007
encountered; the location and quality of aquifers; and the 2008
estimated elevation of the water table. Registered surveyors shall 2009
be allowed to perform all plans, maps, and certifications under 2010
this chapter as they are authorized under Chapter 4733. of the 2011
Revised Code. 2012

(ii) A statement of the quality and locations of subsurface 2013
water. The chief shall provide by rule the number of locations to 2014
be sampled, frequency of collection, and parameters to be analyzed 2015
to obtain the statement required. 2016

(o) A statement of the results of test borings or core 2017
samplings from the permit area, including logs of the drill holes, 2018
the thickness of the coal seam found, an analysis of the chemical 2019
properties of the coal, the sulfur content of any coal seam, 2020
chemical analysis of potentially acid or toxic forming sections of 2021
the overburden, and chemical analysis of the stratum lying 2022
immediately underneath the coal to be mined, except that this 2023
division may be waived by the chief with respect to the specific 2024
application by a written determination that its requirements are 2025
unnecessary. If the test borings or core samplings from the 2026
permit area indicate the existence of potentially acid forming or 2027
toxic forming quantities of sulfur in the coal or overburden to be 2028
disturbed by mining, the application also shall include a 2029
statement of the acid generating potential and the acid 2030

neutralizing potential of the rock strata to be disturbed as 2031
calculated in accordance with section 1513.075 of the Revised 2032
Code. 2033

(p) For those lands in the permit application that a 2034
reconnaissance inspection suggests may be prime farmlands, a soil 2035
survey shall be made or obtained according to standards 2036
established by the secretary of the United States department of 2037
agriculture in order to confirm the exact location of the prime 2038
farmlands, if any; 2039

(q) A certificate issued by an insurance company authorized 2040
to do business in this state certifying that the applicant has a 2041
public liability insurance policy in force for the coal mining and 2042
reclamation operations for which the permit is sought or evidence 2043
that the applicant has satisfied other state self-insurance 2044
requirements. The policy shall provide for personal injury and 2045
property damage protection in an amount adequate to compensate any 2046
persons damaged as a result of coal mining and reclamation 2047
operations, including the use of explosives, and entitled to 2048
compensation under the applicable provisions of state law. The 2049
policy shall be maintained in effect during the term of the permit 2050
or any renewal, including the length of all reclamation 2051
operations. The insurance company shall give prompt notice to the 2052
permittee and the chief if the public liability insurance policy 2053
lapses for any reason including the nonpayment of insurance 2054
premiums. Upon the lapse of the policy, the chief may suspend the 2055
permit and all other outstanding permits until proper insurance 2056
coverage is obtained. 2057

(r) The business telephone number of the applicant; 2058

(s) If the applicant seeks an authorization under division 2059
(E)(7) of this section to conduct coal mining and reclamation 2060
operations on areas to be covered by the permit that were affected 2061
by coal mining operations before August 3, 1977, that have 2062

resulted in continuing water pollution from or on the previously
mined areas, such additional information pertaining to those
previously mined areas as may be required by the chief, including,
without limitation, maps, plans, cross sections, data necessary to
determine existing water quality from or on those areas with
respect to pH, iron, and manganese, and a pollution abatement plan
that may improve water quality from or on those areas with respect
to pH, iron, and manganese.

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

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

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

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

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

| | |
|---|--|
| this section; | 2094 |
| (iv) The collection of archaeological information required under division (B) (2) <u>(1)</u> (m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby; | 2095 2096 2097 2098 |
| (v) Pre-blast surveys required under division (E) of section 1513.161 of the Revised Code; | 2099 2100 |
| (vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter. | 2101 2102 2103 2104 |
| (b) A coal operator that has received assistance under division (B) (4) <u>(3)</u> (a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit. | 2105 2106 2107 2108 2109 2110 2111 |
| (5) <u>(4)</u> Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this chapter. | 2112 2113 2114 |
| (6) <u>(5)</u> Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur. | 2115 2116 2117 2118 2119 2120 |
| (7) <u>(6)</u> Each applicant for a coal mining and reclamation permit shall submit to the chief as part of the permit application a blasting plan that describes the procedures and standards by which the operator will comply with section 1513.161 of the | 2121 2122 2123 2124 |

| | |
|---|--|
| Revised Code. | 2125 |
| (C) Each reclamation plan submitted as part of a permit application shall include, in the detail necessary to demonstrate that reclamation required by this chapter can be accomplished, a statement of: | 2126 2127 2128 2129 |
| (1) The identification of the lands subject to coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought; | 2130 2131 2132 2133 |
| (2) The condition of the land to be covered by the permit prior to any mining including all of the following: | 2134 2135 |
| (a) The uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining; | 2136 2137 2138 |
| (b) The capability of the land prior to any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to division (B) (2) <u>(1)</u> (p) of this section; | 2139 2140 2141 2142 2143 |
| (c) The productivity of the land prior to mining, including appropriate classification as prime farmlands as well as the average yield of food, fiber, forage, or wood products obtained from the land under high levels of management. | 2144 2145 2146 2147 |
| (3) The use that is proposed to be made of the land following reclamation, including information regarding the utility and capacity of the reclaimed land to support a variety of alternative uses, the relationship of the proposed use to existing land use policies and plans, and the comments of any owner of the land and state and local governments or agencies thereof that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation; | 2148 2149 2150 2151 2152 2153 2154 2155 |

| | |
|--|------|
| (4) A detailed description of how the proposed postmining | 2156 |
| land use is to be achieved and the necessary support activities | 2157 |
| that may be needed to achieve the proposed land use; | 2158 |
| (5) The engineering techniques proposed to be used in mining | 2159 |
| and reclamation and a description of the major equipment; a plan | 2160 |
| for the control of surface water drainage and of water | 2161 |
| accumulation; a plan, where appropriate, for backfilling, soil | 2162 |
| stabilization, and compacting, grading, and appropriate | 2163 |
| revegetation; a plan for soil reconstruction, replacement, and | 2164 |
| stabilization, pursuant to the performance standards in section | 2165 |
| 1513.16 of the Revised Code, for those food, forage, and forest | 2166 |
| lands identified in that section; and an estimate of the cost per | 2167 |
| acre of the reclamation, including a statement as to how the | 2168 |
| permittee plans to comply with each of the requirements set out in | 2169 |
| section 1513.16 of the Revised Code; | 2170 |
| (6) A description of the means by which the utilization and | 2171 |
| conservation of the solid fuel resource being recovered will be | 2172 |
| maximized so that re-affecting the land in the future can be | 2173 |
| minimized; | 2174 |
| (7) A detailed estimated timetable for the accomplishment of | 2175 |
| each major step in the reclamation plan; | 2176 |
| (8) A description of the degree to which the coal mining and | 2177 |
| reclamation operations are consistent with surface owner plans and | 2178 |
| applicable state and local land use plans and programs; | 2179 |
| (9) The steps to be taken to comply with applicable air and | 2180 |
| water quality laws and regulations and any applicable health and | 2181 |
| safety standards; | 2182 |
| (10) A description of the degree to which the reclamation | 2183 |
| plan is consistent with local physical, environmental, and | 2184 |
| climatological conditions; | 2185 |

(11) A description of all lands, interests in lands, or 2186
options on such interests held by the applicant or pending bids on 2187
interests in lands by the applicant, which lands are contiguous to 2188
the area to be covered by the permit; 2189

(12) The results of test borings that the applicant has made 2190
at the area to be covered by the permit, or other equivalent 2191
information and data in a form satisfactory to the chief, 2192
including the location of subsurface water, and an analysis of the 2193
chemical properties, including acid forming properties of the 2194
mineral and overburden; except that information that pertains only 2195
to the analysis of the chemical and physical properties of the 2196
coal, excluding information regarding mineral or elemental 2197
contents that are potentially toxic in the environment, shall be 2198
kept confidential and not made a matter of public record; 2199

(13) A detailed description of the measures to be taken 2200
during the mining and reclamation process to ensure the protection 2201
of all of the following: 2202

(a) The quality of surface and ground water systems, both on- 2203
and off-site, from adverse effects of the mining and reclamation 2204
process; 2205

(b) The rights of present users to such water; 2206

(c) The quantity of surface and ground water systems, both 2207
on- and off-site, from adverse effects of the mining and 2208
reclamation process or, where such protection of quantity cannot 2209
be assured, provision of alternative sources of water. 2210

(14) Any other requirements the chief prescribes by rule. 2211

(D)(1) Any information required by division (C) of this 2212
section that is not on public file pursuant to this chapter shall 2213
be held in confidence by the chief. 2214

(2) With regard to requests for an exemption from the 2215

requirements of this chapter for coal extraction incidental to the 2216
extraction of other minerals, as described in division (H)(1)(a) 2217
of section 1513.01 of the Revised Code, confidential information 2218
includes and is limited to information concerning trade secrets or 2219
privileged commercial or financial information relating to the 2220
competitive rights of the persons intending to conduct the 2221
extraction of minerals. 2222

(E)(1) Upon the basis of a complete mining application and 2223
reclamation plan or a revision or renewal thereof, as required by 2224
this chapter, and information obtained as a result of public 2225
notification and public hearing, if any, as provided by section 2226
1513.071 of the Revised Code, the chief shall grant, require 2227
modification of, or deny the application for a permit in a 2228
reasonable time set by the chief and notify the applicant in 2229
writing. The applicant for a permit or revision of a permit has 2230
the burden of establishing that the application is in compliance 2231
with all the requirements of this chapter. Within ten days after 2232
the granting of a permit, the chief shall notify the boards of 2233
township trustees and county commissioners, the mayor, and the 2234
legislative authority in the township, county, and municipal 2235
corporation in which the area of land to be affected is located 2236
that a permit has been issued and shall describe the location of 2237
the land. However, failure of the chief to notify the local 2238
officials shall not affect the status of the permit. 2239

(2) No permit application or application for revision of an 2240
existing permit shall be approved unless the application 2241
affirmatively demonstrates and the chief finds in writing on the 2242
basis of the information set forth in the application or from 2243
information otherwise available, which shall be documented in the 2244
approval and made available to the applicant, all of the 2245
following: 2246

(a) The application is accurate and complete and all the 2247

requirements of this chapter have been complied with. 2248

(b) The applicant has demonstrated that the reclamation 2249
required by this chapter can be accomplished under the reclamation 2250
plan contained in the application. 2251

(c)(i) Assessment of the probable cumulative impact of all 2252
anticipated mining in the general and adjacent area on the 2253
hydrologic balance specified in division (B)~~(2)~~(1)(k) of this 2254
section has been made by the chief, and the proposed operation has 2255
been designed to prevent material damage to hydrologic balance 2256
outside the permit area. 2257

(ii) There shall be an ongoing process conducted by the chief 2258
in cooperation with other state and federal agencies to review all 2259
assessments of probable cumulative impact of coal mining in light 2260
of post-mining data and any other hydrologic information as it 2261
becomes available to determine if the assessments were realistic. 2262
The chief shall take appropriate action as indicated in the review 2263
process. 2264

(d) The area proposed to be mined is not included within an 2265
area designated unsuitable for coal mining pursuant to section 2266
1513.073 of the Revised Code or is not within an area under study 2267
for such designation in an administrative proceeding commenced 2268
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 2269
Revised Code unless in an area as to which an administrative 2270
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 2271
section 1513.073 of the Revised Code, the operator making the 2272
permit application demonstrates that, prior to January 1, 1977, 2273
the operator made substantial legal and financial commitments in 2274
relation to the operation for which a permit is sought. 2275

(e) In cases where the private mineral estate has been 2276
severed from the private surface estate, the applicant has 2277
submitted to the chief one of the following: 2278

| | |
|--|------|
| (i) The written consent of the surface owner to the | 2279 |
| extraction of coal by strip mining methods; | 2280 |
| (ii) A conveyance that expressly grants or reserves the right | 2281 |
| to extract the coal by strip mining methods; | 2282 |
| (iii) If the conveyance does not expressly grant the right to | 2283 |
| extract coal by strip mining methods, the surface-subsurface legal | 2284 |
| relationship shall be determined under the law of this state. This | 2285 |
| chapter does not authorize the chief to adjudicate property rights | 2286 |
| disputes. | 2287 |
| (3)(a) The applicant shall file with the permit application a | 2288 |
| schedule listing all notices of violations of any law, rule, or | 2289 |
| regulation of the United States or of any department or agency | 2290 |
| thereof or of any state pertaining to air or water environmental | 2291 |
| protection incurred by the applicant in connection with any coal | 2292 |
| mining operation during the three-year period prior to the date of | 2293 |
| application. The schedule also shall indicate the final resolution | 2294 |
| of such a notice of violation. Upon receipt of an application, the | 2295 |
| chief shall provide a schedule listing all notices of violations | 2296 |
| of this chapter pertaining to air or water environmental | 2297 |
| protection incurred by the applicant during the three-year period | 2298 |
| prior to receipt of the application and the final resolution of | 2299 |
| all such notices of violation. The chief shall provide this | 2300 |
| schedule to the applicant for filing by the applicant with the | 2301 |
| application filed for public review, as required by division | 2302 |
| (B) (6) (5) of this section. When the schedule or other information | 2303 |
| available to the chief indicates that any coal mining operation | 2304 |
| owned or controlled by the applicant is currently in violation of | 2305 |
| such laws, the permit shall not be issued until the applicant | 2306 |
| submits proof that the violation has been corrected or is in the | 2307 |
| process of being corrected to the satisfaction of the regulatory | 2308 |
| authority, department, or agency that has jurisdiction over the | 2309 |
| violation and that any civil penalties owed to the state for a | 2310 |

violation and not the subject of an appeal have been paid. No 2311
permit shall be issued to an applicant after a finding by the 2312
chief that the applicant or the operator specified in the 2313
application controls or has controlled mining operations with a 2314
demonstrated pattern of willful violations of this chapter of a 2315
nature and duration to result in irreparable damage to the 2316
environment as to indicate an intent not to comply with or a 2317
disregard of this chapter. 2318

(b) For the purposes of division (E)(3)(a) of this section, 2319
any violation resulting from an unanticipated event or condition 2320
at a surface coal mining operation on lands eligible for remining 2321
under a permit held by the person submitting an application for a 2322
coal mining permit under this section shall not prevent issuance 2323
of that permit. As used in this division, "unanticipated event or 2324
condition" means an event or condition encountered in a remining 2325
operation that was not contemplated by the applicable surface coal 2326
mining and reclamation permit. 2327

(4)(a) In addition to finding the application in compliance 2328
with division (E)(2) of this section, if the area proposed to be 2329
mined contains prime farmland as determined pursuant to division 2330
(B)~~(2)~~(1)(p) of this section, the chief, after consultation with 2331
the secretary of the United States department of agriculture and 2332
pursuant to regulations issued by the secretary of the interior 2333
with the concurrence of the secretary of agriculture, may grant a 2334
permit to mine on prime farmland if the chief finds in writing 2335
that the operator has the technological capability to restore the 2336
mined area, within a reasonable time, to equivalent or higher 2337
levels of yield as nonmined prime farmland in the surrounding area 2338
under equivalent levels of management and can meet the soil 2339
reconstruction standards in section 1513.16 of the Revised Code. 2340

(b) Division (E)(4)(a) of this section does not apply to a 2341
permit issued prior to August 3, 1977, or revisions or renewals 2342

thereof. 2343

(5) The chief shall issue an order denying a permit after 2344
finding that the applicant has misrepresented or omitted any 2345
material fact in the application for the permit. 2346

(6) The chief may issue an order denying a permit after 2347
finding that the applicant, any partner, if the applicant is a 2348
partnership, any officer, principal shareholder, or director, if 2349
the applicant is a corporation, or any other person who has a 2350
right to control or in fact controls the management of the 2351
applicant or the selection of officers, directors, or managers of 2352
the applicant has been a sole proprietor or partner, officer, 2353
director, principal shareholder, or person having the right to 2354
control or has in fact controlled the management of or the 2355
selection of officers, directors, or managers of a business entity 2356
that ever has had a coal mining license or permit issued by this 2357
or any other state or the United States suspended or revoked, ever 2358
has forfeited a coal or surface mining bond, performance security, 2359
or similar security deposited in lieu of bond in this or any other 2360
state or with the United States, or ever has substantially or 2361
materially failed to comply with this chapter. 2362

(7) When issuing a permit under this section, the chief may 2363
authorize an applicant to conduct coal mining and reclamation 2364
operations on areas to be covered by the permit that were affected 2365
by coal mining operations before August 3, 1977, that have 2366
resulted in continuing water pollution from or on the previously 2367
mined areas for the purpose of potentially reducing the pollution 2368
loadings of pH, iron, and manganese from discharges from or on the 2369
previously mined areas. Following the chief's authorization to 2370
conduct such operations on those areas, the areas shall be 2371
designated as pollution abatement areas for the purposes of this 2372
chapter. 2373

The chief shall not grant an authorization under division 2374
(E)(7) of this section to conduct coal mining and reclamation 2375
operations on any such previously mined areas unless the applicant 2376
demonstrates to the chief's satisfaction that all of the following 2377
conditions are met: 2378

(a) The applicant's pollution abatement plan for mining and 2379
reclaiming the previously mined areas represents the best 2380
available technology economically achievable+. 2381

(b) Implementation of the plan will potentially reduce 2382
pollutant loadings of pH, iron, and manganese resulting from 2383
discharges of surface waters or ground water from or on the 2384
previously mined areas within the permit area+. 2385

(c) Implementation of the plan will not cause any additional 2386
degradation of surface water quality off the permit area with 2387
respect to pH, iron, and manganese+. 2388

(d) Implementation of the plan will not cause any additional 2389
degradation of ground water+. 2390

(e) The plan meets the requirements governing mining and 2391
reclamation of such previously mined pollution abatement areas 2392
established by the chief in rules adopted under section 1513.02 of 2393
the Revised Code+. 2394

(f) Neither the applicant; any partner, if the applicant is a 2395
partnership; any officer, principal shareholder, or director, if 2396
the applicant is a corporation; any other person who has a right 2397
to control or in fact controls the management of the applicant or 2398
the selection of officers, directors, or managers of the 2399
applicant; nor any contractor or subcontractor of the applicant, 2400
has any of the following: 2401

(i) Responsibility or liability under this chapter or rules 2402
adopted under it as an operator for treating the discharges of 2403

| | |
|---|------|
| water pollutants from or on the previously mined areas for which | 2404 |
| the authorization is sought; | 2405 |
| (ii) Any responsibility or liability under this chapter or | 2406 |
| rules adopted under it for reclaiming the previously mined areas | 2407 |
| for which the authorization is sought; | 2408 |
| (iii) During the eighteen months prior to submitting the | 2409 |
| permit application requesting an authorization under division | 2410 |
| (E)(7) of this section, had a coal mining and reclamation permit | 2411 |
| suspended or revoked under division (D)(3) of section 1513.02 of | 2412 |
| the Revised Code for violating this chapter or Chapter 6111. of | 2413 |
| the Revised Code or rules adopted under them with respect to water | 2414 |
| quality, effluent limitations, or surface or ground water | 2415 |
| monitoring; | 2416 |
| (iv) Ever forfeited a coal or surface mining bond, | 2417 |
| <u>performance security</u> , or <u>similar</u> security deposited in lieu of a | 2418 |
| bond in this or any other state or with the United States. | 2419 |
| (F)(1) During the term of the permit, the permittee may | 2420 |
| submit an application for a revision of the permit, together with | 2421 |
| a revised reclamation plan, to the chief. | 2422 |
| (2) An application for a revision of a permit shall not be | 2423 |
| approved unless the chief finds that reclamation required by this | 2424 |
| chapter can be accomplished under the revised reclamation plan. | 2425 |
| The revision shall be approved or disapproved within ninety days | 2426 |
| after receipt of a complete revision application. The chief shall | 2427 |
| establish, by rule, criteria for determining the extent to which | 2428 |
| all permit application information requirements and procedures, | 2429 |
| including notice and hearings, shall apply to the revision | 2430 |
| request, except that any revisions that propose significant | 2431 |
| alterations in the reclamation plan, at a minimum, shall be | 2432 |
| subject to notice and hearing requirements. | 2433 |
| (3) Any extensions to the area covered by the permit except | 2434 |

incidental boundary revisions shall be made by application for a permit. 2435
2436

(G) No transfer, assignment, or sale of the rights granted under a permit issued pursuant to this chapter shall be made without the written approval of the chief. 2437
2438
2439

(H) The chief, within a time limit prescribed in the chief's rules, shall review outstanding permits and may require reasonable revision or modification of a permit. A revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by rule of the chief. 2440
2441
2442
2443
2444

(I)(1) If an informal conference has been held pursuant to section 1513.071 of the Revised Code, the chief shall issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections pursuant to division (B) of section 1513.071 of the Revised Code, with the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within sixty days of the conference. 2445
2446
2447
2448
2449
2450
2451
2452

(2) If there has been no informal conference held pursuant to section 1513.071 of the Revised Code, the chief shall notify the applicant for a permit within a reasonable time as provided by rule of the chief, taking into account the time needed for proper investigation of the site, the complexity of the permit application, whether or not a written objection to the application has been filed, and whether the application has been approved or disapproved in whole or in part. 2453
2454
2455
2456
2457
2458
2459
2460

(3) If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor shall be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the chief on the permit application, the applicant or any person with 2461
2462
2463
2464
2465

an interest that is or may be adversely affected may appeal the 2466
decision to the reclamation commission pursuant to section 1513.13 2467
of the Revised Code. 2468

(4) Any applicant or any person with an interest that is or 2469
may be adversely affected who has participated in the 2470
administrative proceedings as an objector and is aggrieved by the 2471
decision of the reclamation commission, or if the commission fails 2472
to act within the time limits specified in this chapter, may 2473
appeal in accordance with section 1513.14 of the Revised Code. 2474

Sec. 1513.071. (A) Simultaneously with the filing of an 2475
application for a permit or significant revision of an existing 2476
permit under section 1513.07 of the Revised Code, the applicant 2477
shall submit to the chief of the division of mineral resources 2478
management a copy of ~~his~~ the applicant's advertisement of the 2479
ownership, precise location, and boundaries of the land to be 2480
affected. At the time of submission, the advertisement shall be 2481
placed by the applicant in a newspaper of general circulation in 2482
the locality of the proposed coal mine at least once a week for 2483
four consecutive weeks. The chief shall notify, in each county or 2484
part of a county in which a proposed area to be permitted is 2485
located, the board of county commissioners, the board of township 2486
trustees, the legislative authorities of municipal corporations, 2487
private water companies, regional councils of governments, and the 2488
boards of directors of conservancy districts informing them of the 2489
operator's intention to conduct a coal mining operation on a 2490
particularly described tract of land and indicating the permit 2491
application number and where a copy of the proposed mining and 2492
reclamation plan may be inspected. The chief shall also notify the 2493
planning commissions with jurisdiction over all or part of the 2494
area to be permitted. These agencies, authorities, or companies 2495
may submit written comments on the application with respect to the 2496

effects of the proposed operation on the environment that are 2497
within their area of responsibility in quadruplicate to the chief 2498
within thirty days after notification by the chief of receipt of 2499
the application. The chief shall immediately transmit these 2500
comments to the applicant and make them available to the public at 2501
the same locations at which the mining application is available 2502
for inspection. 2503

(B) A person having an interest that is or may be adversely 2504
affected or the officer or head of any federal, state, or local 2505
governmental agency or authority may file written objections to 2506
the proposed initial or revised application for a coal mining and 2507
reclamation permit with the chief within thirty days after the 2508
last publication of the notice required by division (A) of this 2509
section. The objections shall immediately be transmitted to the 2510
applicant by the chief and shall be made available to the public. 2511
If written objections are filed and an informal conference 2512
requested, the chief or ~~his~~ the chief's representative shall then 2513
hold an informal conference on the application for a permit within 2514
a reasonable time in the county where the largest area of the area 2515
to be permitted is located. The date, time, and location of the 2516
informal conference shall be advertised by the chief in a 2517
newspaper of general circulation in the locality at least two 2518
weeks prior to the scheduled conference date. The chief may 2519
arrange with the applicant, upon request by any objecting party, 2520
access to the proposed mining area for the purpose of gathering 2521
information relevant to the proceeding. An electronic or 2522
stenographic record shall be made of the conference proceeding 2523
unless waived by all parties. The record shall be maintained and 2524
shall be accessible to the parties until final release of the 2525
applicant's performance ~~bond~~ security. If all parties requesting 2526
the informal conference stipulate agreement prior to the requested 2527
informal conference and withdraw their request, the informal 2528
conference need not be held. 2529

Sec. 1513.075. (A) As used in this section: 2530

(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. 2531
2532
2533
2534
2535

(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. 2536
2537
2538
2539
2540
2541

(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. 2542
2543
2544
2545
2546

(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 shall be calculated in accordance with this section. 2547
2548
2549
2550
2551
2552
2553
2554
2555

(C) The measurement of potential acidity shall 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 2556
2557
2558
2559

pyritic form of sulfur, the applicant may base the calculation of 2560
the potential acidity for the area on the pyritic sulfur content 2561
of the coal and overburden to be disturbed by mining rather than 2562
on the total sulfur content. 2563

(D) The tons of rock in the area represented by each core 2564
hole resulting from test boring or core sampling shall be 2565
estimated and used to calculate the tons of potential acidity and 2566
tons of neutralization potential for each rock stratum. The sum of 2567
those values across the proposed permit area shall be used to 2568
calculate the site's overall neutralization potential and 2569
potential acidity. 2570

(E) The proposed permit area shall not be considered to have 2571
the potential to create acid or other toxic mine drainage if 2572
either of the following applies: 2573

(1) The numeral that indicates the site's overall 2574
neutralization potential divided by the numeral that indicates the 2575
site's overall potential acidity results in a quotient that is 2576
equal to or greater than two. 2577

(2) The numeral that indicates the neutralization potential 2578
subtracted from the numeral that indicates the potential acidity 2579
results in a remainder that is equal to or less than either of the 2580
following: 2581

(a) Negative five in the case that the total sulfur content 2582
of rock strata is used to calculate potential acidity; 2583

(b) Negative ten in the case that the pyritic sulfur content 2584
of rock strata is used to calculate potential acidity. 2585

Sec. 1513.08. (A) After a coal mining and reclamation permit 2586
application has been approved, but before the permit is issued, 2587
the applicant shall file with the chief of the division of mineral 2588
resources management, on a form prescribed and furnished by the 2589

chief, a ~~bond for performance payable, as appropriate, to the~~ 2590
~~state and conditioned upon faithful performance of all the~~ 2591
~~requirements of this chapter and the permit the performance~~ 2592
~~security required under this section. The bond~~ 2593

(B) Using the information contained in the permit 2594
application; the requirements contained in the approved permit and 2595
reclamation plan; and, after considering the topography, geology, 2596
hydrology, and revegetation potential of the area of the approved 2597
permit, the probable difficulty of reclamation; the chief shall be 2598
in the amount of twenty five hundred dollars times the number of 2599
acres of land upon which the operator states in the application 2600
for a permit the operator will initiate and conduct coal mining 2601
and determine the estimated cost of reclamation operations within 2602
under the initial term of the permit if the reclamation has to be 2603
performed by the division of mineral resources management in the 2604
event of forfeiture of the performance security by the applicant. 2605
The minimum amount of a bond shall be ten thousand dollars. The 2606
bond The chief shall send written notice of the amount of the 2607
estimated cost of reclamation by certified mail to the applicant. 2608
The applicant shall send written notice to the chief indicating 2609
the method by which the applicant will provide the performance 2610
security pursuant to division (C) of this section. 2611

(C) The applicant shall provide the performance security in 2612
an amount using one of the following: 2613

(1) If the applicant elects to provide performance security 2614
without reliance on the reclamation forfeiture fund created in 2615
section 1513.18 of the Revised Code, the amount of the estimated 2616
cost of reclamation as determined by the chief under division (B) 2617
of this section for the increments of land on which the operator 2618
will conduct a coal mining and reclamation operation under the 2619
initial term of the permit as indicated in the application; 2620

(2) If the applicant elects to provide performance security 2621

together with reliance on the reclamation forfeiture fund through 2622
payment of the additional tax on the severance of coal that is 2623
levied under division (A)(8) of section 5749.02 of the Revised 2624
Code, an amount of twenty-five hundred dollars per acre of land on 2625
which the operator will conduct coal mining and reclamation under 2626
the initial term of the permit as indicated in the application. 2627
However, in order to be eligible to provide performance security 2628
in accordance with division (C)(2) of this section, an applicant 2629
shall have held a permit issued under this chapter for any coal 2630
mining and reclamation operation for a period of not less than 2631
five years. In the event of forfeiture of performance security 2632
that was provided in accordance with division (C)(2) of this 2633
section, the difference between the amount of that performance 2634
security and the estimated cost of reclamation as determined by 2635
the chief under division (B) of this section shall be obtained 2636
from money in the reclamation forfeiture fund as needed to 2637
complete the reclamation. 2638

The performance security provided under division (C) of this 2639
section for the entire area to be mined under one permit issued 2640
under this chapter shall not be less than ten thousand dollars. 2641

The performance security shall cover areas of land affected 2642
by mining within or immediately adjacent to the permitted area, so 2643
long as the total number of acres does not exceed the number of 2644
acres bonded for which the performance security is provided. 2645
However, the authority for bond the performance security to cover 2646
areas of land immediately adjacent to the permitted area does not 2647
authorize a permittee to mine areas outside an approved permit 2648
area. As succeeding increments of coal mining and reclamation 2649
operations are to be initiated and conducted within the permit 2650
area, the permittee shall file with the chief an additional bond 2651
or bonds performance security to cover the increments in 2652
accordance with this section. ~~In the event of forfeiture of a~~ 2653

~~bond, if the bond is insufficient to complete the reclamation, the~~ 2654
~~chief shall complete the reclamation in accordance with section~~ 2655
~~1513.18 of the Revised Code using funds from the reclamation~~ 2656
~~forfeiture fund created in that section~~ If a permittee intends to 2657
mine areas outside the approved permit area, the permittee shall 2658
provide additional performance security in accordance with this 2659
section to cover the areas to be mined. 2660

~~(B) Liability~~ An applicant shall provide performance security 2661
in accordance with division (C)(1) of this section in the full 2662
amount of the estimated cost of reclamation as determined by the 2663
chief for a permitted coal preparation plant or coal refuse 2664
disposal area that is not located within a permitted area of a 2665
mine. A permittee shall provide the performance security not later 2666
than one year after the effective date of this amendment for a 2667
permitted coal preparation plant or coal refuse disposal area that 2668
is in existence on the effective date of this amendment and that 2669
is not located within a permitted area of a mine. 2670

~~(D)~~ A permittee's liability under the performance security 2671
shall be limited to the obligations established under the permit, 2672
which include completion of the reclamation plan in order to make 2673
the land capable of supporting the postmining land use that was 2674
approved in the permit. The period of liability under the ~~bond~~ 2675
performance security shall be for the duration of the coal mining 2676
and reclamation operation and for a period coincident with the 2677
operator's responsibility for revegetation requirements under 2678
section 1513.16 of the Revised Code. ~~The bond~~ 2679

~~(E)~~ The amount of the estimated cost of reclamation 2680
determined under division (B) of this section and the amount of a 2681
permittee's performance security provided in accordance with 2682
division (C)(1) of this section may be adjusted by the chief as 2683
the land that is affected by mining increases or decreases or if 2684
the cost of reclamation increases or decreases. If the performance 2685

security was provided in accordance with division (C)(2) of this 2686
section and the chief has issued a cessation order under division 2687
(D)(2) of section 1513.02 of the Revised Code for failure to abate 2688
a violation of the contemporaneous reclamation requirement under 2689
division (A)(15) of section 1513.16 of the Revised Code, the chief 2690
may require the permittee to increase the amount of performance 2691
security from twenty-five hundred dollars per acre of land to five 2692
thousand dollars per acre of land. 2693

The chief shall notify the permittee, each surety, and any 2694
person who has a property interest in the performance security and 2695
who has requested to be notified of any proposed adjustment to the 2696
performance security. The permittee may request an informal 2697
conference with the chief concerning the proposed adjustment, and 2698
the chief shall provide such an informal conference. 2699

If the chief increases the amount of performance security 2700
under this division, the permittee shall provide additional 2701
performance security in an amount determined by the chief. If the 2702
chief decreases the amount of performance security under this 2703
division, the chief shall determine the amount of the reduction of 2704
the performance security and send written notice of the amount of 2705
reduction to the permittee. The permittee may reduce the amount of 2706
the performance security in the amount determined by the chief. 2707

(F) A permittee may request a reduction in the amount of the 2708
performance security by submitting to the chief documentation 2709
proving that the amount of the performance security provided by 2710
the permittee exceeds the estimated cost of reclamation if the 2711
reclamation would have to be performed by the division in the 2712
event of forfeiture of the performance security. The chief shall 2713
examine the documentation and determine whether the permittee's 2714
performance security exceeds the estimated cost of reclamation. If 2715
the chief determines that the performance security exceeds that 2716
estimated cost, the chief shall determine the amount of the 2717

reduction of the performance security and send written notice of 2718
the amount to the permittee. The permittee may reduce the amount 2719
of the performance security in the amount determined by the chief. 2720
Adjustments in the amount of performance security under this 2721
division shall not be considered release of performance security 2722
and are not subject to section 1513.16 of the Revised Code. 2723

(G) If the performance security is a bond, it shall be 2724
executed by the operator and a corporate surety licensed to do 2725
business in this state, ~~except that the operator may elect to~~ 2726
~~deposit. If the performance security is a cash, negotiable bonds~~ 2727
~~of the United States or this state, deposit or negotiable~~ 2728
certificates of deposit of any a bank or savings and loan 2729
association ~~organized or transacting business in the United~~ 2730
~~States, the bank or savings and loan association shall be licensed~~ 2731
and operating in this state. The cash deposit or market value of 2732
the securities shall be equal to or greater than the amount of the 2733
~~bond~~ performance security required ~~for the bonded area under this~~ 2734
section. The chief shall review any documents pertaining to the 2735
performance security and approve or disapprove the documents. The 2736
chief shall notify the applicant of the chief's determination. 2737

~~(C) The~~ (H) If the performance security is a bond, the chief 2738
may accept the bond of the applicant itself without separate 2739
surety when the applicant demonstrates to the satisfaction of the 2740
chief the existence of a suitable agent to receive service of 2741
process and a history of financial solvency and continuous 2742
operation sufficient for authorization to self-insure or bond the 2743
amount. 2744

~~(D) Cash or securities so deposited shall be deposited upon~~ 2745
~~the same terms as the terms upon which surety bonds may be~~ 2746
~~deposited. The securities shall be security for the repayment of~~ 2747
~~the negotiable certificate of deposit.~~ 2748

~~(E) The amount of the bond or deposit required and the terms~~ 2749
~~of each acceptance of the applicant's bond shall be adjusted by~~ 2750
~~the chief from time to time as affected land acreages are~~ 2751
~~increased or decreased~~ (I) Performance security provided under 2752
this section may be held in trust, provided that the state is the 2753
conditional beneficiary of the trust and the custodian of the 2754
performance security held in trust is a bank, trust company, or 2755
other financial institution that is licensed and operating in this 2756
state. The chief shall review the trust document and approve or 2757
disapprove the document. The chief shall notify the applicant of 2758
the chief's determination. 2759

(J) If a surety, bank, savings and loan association, trust 2760
company, or other financial institution that holds the performance 2761
security required under this section becomes insolvent, the 2762
permittee shall notify the chief of the insolvency, and the chief 2763
shall order the permittee to submit a plan for replacement 2764
performance security within thirty days after receipt of notice 2765
from the chief. If the permittee provided performance security in 2766
accordance with division (C)(1) of this section, the permittee 2767
shall provide the replacement performance security within ninety 2768
days after receipt of notice from the chief. If the permittee 2769
provided performance security in accordance with division (C)(2) 2770
of this section, the permittee shall provide the replacement 2771
performance security within one year after receipt of notice from 2772
the chief, and, for a period of one year after the permittee's 2773
receipt of notice from the chief or until the permittee provides 2774
the replacement performance security, whichever occurs first, 2775
money in the reclamation forfeiture fund shall be the permittee's 2776
replacement performance security in an amount not to exceed the 2777
estimated cost of reclamation as determined by the chief. 2778

(K) A permittee's responsibility for repairing material 2779
damage and replacement of water supply resulting from subsidence 2780

may be satisfied by liability insurance required under this 2781
chapter in lieu of the permittee's performance security if the 2782
liability insurance policy contains terms and conditions that 2783
specifically provide coverage for repairing material damage and 2784
replacement of water supply resulting from subsidence. 2785

(L) If the performance security provided in accordance with 2786
this section exceeds the estimated cost of reclamation, the chief 2787
may authorize the amount of the performance security that exceeds 2788
the estimated cost of reclamation together with any interest or 2789
other earnings on the performance security to be paid to the 2790
permittee. 2791

Sec. 1513.081. (A) If an operator becomes insolvent, the 2792
division of mineral resources management shall have a priority 2793
lien in front of all other interested creditors against the assets 2794
of that operator for the amount of any reclamation that is 2795
required as a result of the operator's mining activities. The 2796
chief of the division of mineral resources management shall file a 2797
statement in the office of the county recorder of each county in 2798
which the mined land lies of the estimated cost to reclaim the 2799
land. The estimated cost to reclaim the land shall include the 2800
direct and indirect costs of the development, design, 2801
construction, management, and administration of the reclamation. 2802
The statement shall constitute a lien on the assets of the 2803
operator as of the date of the filing. The lien shall continue in 2804
force so long as any portion of the lien remains unpaid or until 2805
the chief issues a certificate of release of the lien. If the 2806
chief issues a certificate of release of the lien, the chief shall 2807
file the certificate of release in the office of each applicable 2808
county recorder. 2809

(B) The chief promptly shall issue a certificate of release 2810
of a lien under any of the following circumstances: 2811

(1) Upon the repayment in full of the money that is necessary 2812
to complete the reclamation; 2813

(2) Upon the transfer of an existing permit that includes the 2814
areas of the operation for which reclamation was not completed to 2815
a different operator; 2816

(3) Any other circumstance that the chief determines to be in 2817
the best interests of the state. 2818

(C) The chief may modify the amount of a lien under this 2819
section. If the chief modifies a lien, the chief shall file a 2820
statement in the office of the county recorder of each applicable 2821
county of the new amount of the lien. 2822

(D) The chief may authorize an agent to hold a certificate of 2823
release in escrow for a period not to exceed one hundred eighty 2824
days for the purpose of facilitating the transfer of unreclaimed 2825
mine land. 2826

(E) All money from the collection of liens under this section 2827
shall be deposited in the state treasury to the credit of the 2828
reclamation forfeiture fund created in section 1513.18 of the 2829
Revised Code. 2830

Sec. 1513.13. (A)(1) Any person having an interest that is or 2831
may be adversely affected by a notice of violation, order, or 2832
decision of the chief of the division of mineral resources 2833
management, other than a show cause order or an order that adopts 2834
a rule, or by any modification, vacation, or termination of such a 2835
notice, order, or decision, may appeal by filing a notice of 2836
appeal with the reclamation commission for review of the notice, 2837
order, or decision within thirty days after the notice, order, or 2838
decision is served upon the person or within thirty days after its 2839
modification, vacation, or termination and by filing a copy of the 2840
notice of appeal with the chief within three days after filing the 2841

notice of appeal with the commission. The notice of appeal shall 2842
contain a copy of the notice of violation, order, or decision 2843
complained of and the grounds upon which the appeal is based. The 2844
commission has exclusive original jurisdiction to hear and decide 2845
such appeals. The filing of a notice of appeal under division 2846
(A)(1) of this section does not operate as a stay of any order, 2847
notice of violation, or decision of the chief. 2848

(2) The permittee, the chief, and other interested persons 2849
shall be given written notice of the time and place of the hearing 2850
at least five days prior thereto. The hearing shall be of record. 2851

(3) Any person authorized under this section to appeal to the 2852
commission may request an informal review by the chief or the 2853
chief's designee by filing a written request with the chief within 2854
thirty days after a notice, order, decision, modification, 2855
vacation, or termination is served upon the person. Filing of the 2856
written request shall toll the time for appeal before the 2857
commission, but shall not operate as a stay of any order, notice 2858
of violation, or decision of the chief. The chief's determination 2859
of an informal review is appealable to the commission under this 2860
section. 2861

(B) The commission shall affirm the notice of violation, 2862
order, or decision of the chief unless the commission determines 2863
that it is arbitrary, capricious, or otherwise inconsistent with 2864
law; in that case the commission may modify the notice of 2865
violation, order, or decision or vacate it and remand it to the 2866
chief for further proceedings that the commission may direct. 2867

The commission shall conduct hearings and render decisions in 2868
a timely fashion, except that all of the following apply: 2869

(1) When the appeal concerns an order for the cessation of 2870
coal mining and reclamation operations issued pursuant to division 2871
(D)(1) or (2) of section 1513.02 of the Revised Code, the 2872

commission shall issue its written decision within thirty days 2873
after the receipt of the appeal unless temporary relief has been 2874
granted by the chairperson pursuant to division (C) of this 2875
section. 2876

(2) When the appeal concerns an application for a permit 2877
under division (I) of section 1513.07 of the Revised Code, the 2878
commission shall hold a hearing within thirty days after receipt 2879
of the notice of appeal and issue its decision within thirty days 2880
after the hearing. 2881

(3) When the appeal concerns a decision of the chief 2882
regarding release of ~~bond~~ a performance security under division 2883
(F) of section 1513.16 of the Revised Code, the commission shall 2884
hold a hearing within thirty days after receipt of the notice of 2885
appeal and issue its decision within sixty days after the hearing. 2886

(4) When the appeal concerns a decision of the chief 2887
regarding the location of a well in a coal bearing township under 2888
section 1509.08 of the Revised Code, the commission shall hold a 2889
hearing and issue its decision within thirty days after receipt of 2890
the notice of appeal. 2891

(C) The chairperson of the commission, under conditions the 2892
chairperson prescribes, may grant temporary relief the chairperson 2893
considers appropriate pending final determination of an appeal if 2894
all of the following conditions are met: 2895

(1) All parties to the appeal have been notified and given an 2896
opportunity for a hearing to be held in the locality of the 2897
subject site on the request for temporary relief and the 2898
opportunity to be heard on the request. 2899

(2) The person requesting relief shows that there is a 2900
substantial likelihood that the person will prevail on the merits. 2901

(3) The relief will not adversely affect public health or 2902

safety or cause significant imminent environmental harm to land, 2903
air, or water resources. 2904

The chairperson shall issue a decision expeditiously, except 2905
that when the applicant requests relief from an order for the 2906
cessation of coal mining and reclamation operations issued 2907
pursuant to division (D)(1) or (2) of section 1513.02 of the 2908
Revised Code, the decision shall be issued within five days after 2909
its receipt. 2910

Any party to an appeal filed with the commission who is 2911
aggrieved or adversely affected by a decision of the chairperson 2912
to grant or deny temporary relief under this section may appeal 2913
that decision to the commission. The commission may confine its 2914
review to the record developed at the hearing before the 2915
chairperson. 2916

The appeal shall be filed with the commission within thirty 2917
days after the chairperson issues the decision on the request for 2918
temporary relief. The commission shall issue a decision as 2919
expeditiously as possible, except that when the appellant requests 2920
relief from an order for the cessation of coal mining and 2921
reclamation operations issued pursuant to division (D)(1) or (2) 2922
of section 1513.02 of the Revised Code, the decision of the 2923
commission shall be issued within five days after receipt of the 2924
notice of appeal. 2925

The commission shall affirm the decision of the chairperson 2926
granting or denying temporary relief unless it determines that the 2927
decision is arbitrary, capricious, or otherwise inconsistent with 2928
law. 2929

(D) Following the issuance of an order to show cause as to 2930
why a permit should not be suspended or revoked pursuant to 2931
division (D)(3) of section 1513.02 of the Revised Code, the chief 2932
or a representative of the chief shall hold a public adjudicatory 2933

hearing after giving written notice of the time, place, and date 2934
thereof. The hearing shall be of record. 2935

Within sixty days following the public hearing, the chief 2936
shall issue and furnish to the permittee and all other parties to 2937
the hearing a written decision, and the reasons therefor, 2938
concerning suspension or revocation of the permit. If the chief 2939
revokes the permit, the permittee immediately shall cease coal 2940
mining operations on the permit area and shall complete 2941
reclamation within a period specified by the chief, or the chief 2942
shall declare as forfeited the performance ~~bonds~~ security for the 2943
operation. 2944

(E)(1) Whenever an enforcement order or permit decision is 2945
appealed under this section or any action is filed under division 2946
(B) of section 1513.15 or 1513.39 of the Revised Code, at the 2947
request of a prevailing party, a sum equal to the aggregate amount 2948
of all costs and expenses, including attorney's fees, as 2949
determined to have been necessary and reasonably incurred by the 2950
prevailing party for or in connection with participation in the 2951
enforcement proceedings before the commission, the court under 2952
section 1513.15 of the Revised Code, or the chief under section 2953
1513.39 of the Revised Code, may be awarded, as considered proper, 2954
in accordance with divisions (E)(1)(a) to (c) of this section. In 2955
no event shall attorney's fees awarded under this section exceed, 2956
for the kind and quality of services, the prevailing market rates 2957
at the time the services were furnished under division (A) of this 2958
section. A party may be entitled to costs and expenses related 2959
solely to the preparation, defense, and appeal of a petition for 2960
costs and expenses, provided that the costs and expenses are 2961
limited and proportionate to costs and expenses otherwise allowed 2962
under division (E) of this section. 2963

(a) A party, other than the permittee or the division of 2964
mineral resources management, shall file a petition, if any, for 2965

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

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

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

(2) Whenever an order issued under this section or as a
result of any administrative proceeding under this chapter is the
subject of judicial review, at the request of any party, a sum
equal to the aggregate amount of all costs and expenses, including

attorney's fees, as determined by the court to have been necessary 2998
and reasonably incurred by the party for or in connection with 2999
participation in the proceedings, may be awarded to either party, 3000
in accordance with division (E)(1) of this section, as the court, 3001
on the basis of judicial review, considers proper. 3002

Sec. 1513.16. (A) Any permit issued under this chapter to 3003
conduct coal mining operations shall require that the operations 3004
meet all applicable performance standards of this chapter and such 3005
other requirements as the chief of the division of mineral 3006
resources management shall adopt by rule. General performance 3007
standards shall apply to all coal mining and reclamation 3008
operations and shall require the operator at a minimum to do all 3009
of the following: 3010

(1) Conduct coal mining operations so as to maximize the 3011
utilization and conservation of the solid fuel resource being 3012
recovered so that re-affecting the land in the future through coal 3013
mining can be minimized; 3014

(2) Restore the land affected to a condition capable of 3015
supporting the uses that it was capable of supporting prior to any 3016
mining, or higher or better uses of which there is reasonable 3017
likelihood, so long as the uses do not present any actual or 3018
probable hazard to public health or safety or pose any actual or 3019
probable threat of diminution or pollution of the waters of the 3020
state, and the permit applicants' declared proposed land uses 3021
following reclamation are not considered to be impractical or 3022
unreasonable, to be inconsistent with applicable land use policies 3023
and plans, to involve unreasonable delay in implementation, or to 3024
violate federal, state, or local law; 3025

(3) Except as provided in division (B) of this section, with 3026
respect to all coal mining operations, backfill, compact where 3027
advisable to ensure stability or to prevent leaching of toxic 3028

materials, and grade in order to restore the approximate original 3029
contour of the land with all highwalls, spoil piles, and 3030
depressions eliminated unless small depressions are needed in 3031
order to retain moisture to assist revegetation or as otherwise 3032
authorized pursuant to this chapter, provided that if the operator 3033
demonstrates that due to volumetric expansion the amount of 3034
overburden and the spoil and waste materials removed in the course 3035
of the mining operation are more than sufficient to restore the 3036
approximate original contour, the operator shall backfill, grade, 3037
and compact the excess overburden and other spoil and waste 3038
materials to attain the lowest grade, but not more than the angle 3039
of repose, and to cover all acid-forming and other toxic materials 3040
in order to achieve an ecologically sound land use compatible with 3041
the surrounding region in accordance with the approved mining 3042
plan. The overburden or spoil shall be shaped and graded in such a 3043
way as to prevent slides, erosion, and water pollution and shall 3044
be revegetated in accordance with this chapter. 3045

(4) Stabilize and protect all surface areas, including spoil 3046
piles affected by the coal mining and reclamation operation, to 3047
control erosion and attendant air and water pollution effectively; 3048

(5) Remove the topsoil from the land in a separate layer, 3049
replace it on the backfill area, or, if not utilized immediately, 3050
segregate it in a separate pile from the spoil, and when the 3051
topsoil is not replaced on a backfill area within a time short 3052
enough to avoid deterioration of the topsoil, maintain a 3053
successful cover by quick-growing plants or other means thereafter 3054
so that the topsoil is preserved from wind and water erosion, 3055
remains free of any contamination by acid or other toxic material, 3056
and is in a usable condition for sustaining vegetation when 3057
restored during reclamation. If the topsoil is of insufficient 3058
quantity or of poor quality for sustaining vegetation or if other 3059
strata can be shown to be more suitable for vegetation 3060

requirements, the operator shall remove, segregate, and preserve 3061
in a like manner such other strata as are best able to support 3062
vegetation. 3063

(6) Restore the topsoil or the best available subsoil that is 3064
best able to support vegetation; 3065

(7) For all prime farmlands as identified in division 3066
(B)~~(2)~~(1)(p) of section 1513.07 of the Revised Code to be mined 3067
and reclaimed, perform soil removal, storage, replacement, and 3068
reconstruction in accordance with specifications established by 3069
the secretary of the United States department of agriculture under 3070
the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 3071
445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be 3072
required to do all of the following: 3073

(a) Segregate the A horizon of the natural soil, except where 3074
it can be shown that other available soil materials will create a 3075
final soil having a greater productive capacity, and, if not 3076
utilized immediately, stockpile this material separately from the 3077
spoil and provide needed protection from wind and water erosion or 3078
contamination by acid or other toxic material; 3079

(b) Segregate the B horizon of the natural soil, or 3080
underlying C horizons or other strata, or a combination of such 3081
horizons or other strata that are shown to be both texturally and 3082
chemically suitable for plant growth and that can be shown to be 3083
equally or more favorable for plant growth than the B horizon, in 3084
sufficient quantities to create in the regraded final soil a root 3085
zone of comparable depth and quality to that which existed in the 3086
natural soil, and, if not utilized immediately, stockpile this 3087
material separately from the spoil and provide needed protection 3088
from wind and water erosion or contamination by acid or other 3089
toxic material; 3090

(c) Replace and regrade the root zone material described in 3091

division (A)(7)(b) of this section with proper compaction and 3092
uniform depth over the regraded spoil material; 3093

(d) Redistribute and grade in a uniform manner the surface 3094
soil horizon described in division (A)(7)(a) of this section. 3095

(8) Create, if authorized in the approved mining and 3096
reclamation plan and permit, permanent impoundments of water on 3097
mining sites as part of reclamation activities only when it is 3098
adequately demonstrated by the operator that all of the following 3099
conditions will be met: 3100

(a) The size of the impoundment is adequate for its intended 3101
purposes. 3102

(b) The impoundment dam construction will be so designed as 3103
to achieve necessary stability with an adequate margin of safety 3104
compatible with that of structures constructed under the 3105
"Watershed Protection and Flood Prevention Act," 68 Stat. 666 3106
(1954), 16 U.S.C. 1001, as amended. 3107

(c) The quality of impounded water will be suitable on a 3108
permanent basis for its intended use and discharges from the 3109
impoundment will not degrade the water quality below water quality 3110
standards established pursuant to applicable federal and state law 3111
in the receiving stream. 3112

(d) The level of water will be reasonably stable. 3113

(e) Final grading will provide adequate safety and access for 3114
proposed water users. 3115

(f) The water impoundments will not result in the diminution 3116
of the quality or quantity of water utilized by adjacent or 3117
surrounding landowners for agricultural, industrial, recreational, 3118
or domestic uses. 3119

(9) Conduct any augering operation associated with strip 3120
mining in a manner to maximize recoverability of mineral reserves 3121

remaining after the operation and reclamation are complete and 3122
seal all auger holes with an impervious and noncombustible 3123
material in order to prevent drainage, except where the chief 3124
determines that the resulting impoundment of water in such auger 3125
holes may create a hazard to the environment or the public health 3126
or safety. The chief may prohibit augering if necessary to 3127
maximize the utilization, recoverability, or conservation of the 3128
solid fuel resources or to protect against adverse water quality 3129
impacts. 3130

(10) Minimize the disturbances to the prevailing hydrologic 3131
balance at the mine site and in associated offsite areas and to 3132
the quality and quantity of water in surface and ground water 3133
systems both during and after coal mining operations and during 3134
reclamation by doing all of the following: 3135

(a) Avoiding acid or other toxic mine drainage by such 3136
measures as, but not limited to: 3137

(i) Preventing or removing water from contact with toxic 3138
producing deposits; 3139

(ii) Treating drainage to reduce toxic content that adversely 3140
affects downstream water upon being released to water courses in 3141
accordance with rules adopted by the chief in accordance with 3142
section 1513.02 of the Revised Code; 3143

(iii) Casing, sealing, or otherwise managing boreholes, 3144
shafts, and wells, and keeping acid or other toxic drainage from 3145
entering ground and surface waters. 3146

(b)(i) Conducting coal mining operations so as to prevent, to 3147
the extent possible using the best technology currently available, 3148
additional contributions of suspended solids to streamflow or 3149
runoff outside the permit area, but in no event shall 3150
contributions be in excess of requirements set by applicable state 3151
or federal laws; 3152

(ii) Constructing any siltation structures pursuant to 3153
division (A)(10)(b)(i) of this section prior to commencement of 3154
coal mining operations. The structures shall be certified by 3155
persons approved by the chief to be constructed as designed and as 3156
approved in the reclamation plan. 3157

(c) Cleaning out and removing temporary or large settling 3158
ponds or other siltation structures from drainways after disturbed 3159
areas are revegetated and stabilized, and depositing the silt and 3160
debris at a site and in a manner approved by the chief; 3161

(d) Restoring recharge capacity of the mined area to 3162
approximate premining conditions; 3163

(e) Avoiding channel deepening or enlargement in operations 3164
requiring the discharge of water from mines; 3165

(f) Such other actions as the chief may prescribe. 3166

(11) With respect to surface disposal of mine wastes, 3167
tailings, coal processing wastes, and other wastes in areas other 3168
than the mine working areas or excavations, stabilize all waste 3169
piles in designated areas through construction in compacted 3170
layers, including the use of noncombustible and impervious 3171
materials if necessary, and ensure that the final contour of the 3172
waste pile will be compatible with natural surroundings and that 3173
the site can and will be stabilized and revegetated according to 3174
this chapter; 3175

(12) Refrain from coal mining within five hundred feet of 3176
active and abandoned underground mines in order to prevent 3177
breakthroughs and to protect the health or safety of miners. The 3178
chief shall permit an operator to mine near, through, or partially 3179
through an abandoned underground mine or closer than five hundred 3180
feet to an active underground mine if both of the following 3181
conditions are met: 3182

(a) The nature, timing, and sequencing of the approximate 3183
coincidence of specific strip mine activities with specific 3184
underground mine activities are approved by the chief. 3185

(b) The operations will result in improved resource recovery, 3186
abatement of water pollution, or elimination of hazards to the 3187
health and safety of the public. 3188

(13) Design, locate, construct, operate, maintain, enlarge, 3189
modify, and remove or abandon, in accordance with the standards 3190
and criteria developed pursuant to rules adopted by the chief, all 3191
existing and new coal mine waste piles consisting of mine wastes, 3192
tailings, coal processing wastes, or other liquid and solid 3193
wastes, and used either temporarily or permanently as dams or 3194
embankments; 3195

(14) Ensure that all debris, acid-forming materials, toxic 3196
materials, or materials constituting a fire hazard are treated or 3197
buried and compacted or otherwise disposed of in a manner designed 3198
to prevent contamination of ground or surface waters and that 3199
contingency plans are developed to prevent sustained combustion; 3200

(15) Ensure that all reclamation efforts proceed in an 3201
environmentally sound manner and as contemporaneously as 3202
practicable with the coal mining operations, except that where the 3203
applicant proposes to combine strip mining operations with 3204
underground mining operations to ensure maximum practical recovery 3205
of the mineral resources, the chief may grant a variance for 3206
specific areas within the reclamation plan from the requirement 3207
that reclamation efforts proceed as contemporaneously as 3208
practicable to permit underground mining operations prior to 3209
reclamation if: 3210

(a) The chief finds in writing that: 3211

(i) The applicant has presented, as part of the permit 3212
application, specific, feasible plans for the proposed underground 3213

mining operations. 3214

(ii) The proposed underground mining operations are necessary 3215
or desirable to ensure maximum practical recovery of the mineral 3216
resource and will avoid multiple disturbance of the surface. 3217

(iii) The applicant has satisfactorily demonstrated that the 3218
plan for the underground mining operations conforms to 3219
requirements for underground mining in this state and that permits 3220
necessary for the underground mining operations have been issued 3221
by the appropriate authority. 3222

(iv) The areas proposed for the variance have been shown by 3223
the applicant to be necessary for the implementing of the proposed 3224
underground mining operations. 3225

(v) No substantial adverse environmental damage, either 3226
on-site or off-site, will result from the delay in completion of 3227
reclamation as required by this chapter. 3228

(vi) Provisions for the off-site storage of spoil will comply 3229
with division (A)(21) of this section. 3230

(b) The chief has adopted specific rules to govern the 3231
granting of such variances in accordance with this division and 3232
has imposed such additional requirements as the chief considers 3233
necessary. 3234

(c) Variances granted under this division shall be reviewed 3235
by the chief not more than three years from the date of issuance 3236
of the permit. 3237

(d) Liability under the ~~bond~~ performance security filed by 3238
the applicant with the chief pursuant to section 1513.08 of the 3239
Revised Code shall be for the duration of the underground mining 3240
operations and until the requirements of this section and section 3241
1513.08 of the Revised Code have been fully complied with. 3242

(16) Ensure that the construction, maintenance, and 3243

postmining conditions of access roads into and across the site of 3244
operations will control or prevent erosion and siltation, 3245
pollution of water, and damage to fish or wildlife or their 3246
habitat, or to public or private property; 3247

(17) Refrain from the construction of roads or other access 3248
ways up a stream bed or drainage channel or in such proximity to 3249
the channel as to seriously alter the normal flow of water; 3250

(18) Establish, on the regraded areas and all other lands 3251
affected, a diverse, effective, and permanent vegetative cover of 3252
the same seasonal variety native to the area of land to be 3253
affected and capable of self-regeneration and plant succession at 3254
least equal in extent of cover to the natural vegetation of the 3255
area, except that introduced species may be used in the 3256
revegetation process where desirable and necessary to achieve the 3257
approved postmining land use plan; 3258

(19)(a) Assume the responsibility for successful 3259
revegetation, as required by division (A)(18) of this section, for 3260
a period of five full years after the last year of augmented 3261
seeding, fertilizing, irrigation, or other work in order to ensure 3262
compliance with that division, except that when the chief approves 3263
a long-term intensive agricultural postmining land use, the 3264
applicable five-year period of responsibility for revegetation 3265
shall commence at the date of initial planting for that long-term 3266
intensive agricultural postmining land use, and except that when 3267
the chief issues a written finding approving a long-term intensive 3268
agricultural postmining land use as part of the mining and 3269
reclamation plan, the chief may grant an exception to division 3270
(A)(18) of this section; 3271

(b) On lands eligible for remining, assume the responsibility 3272
for successful revegetation, as required by division (A)(18) of 3273
this section, for a period of two full years after the last year 3274

of augmented seeding, fertilizing, irrigation, or other work in 3275
order to ensure compliance with that division. 3276

(20) Protect off-site areas from slides or damage occurring 3277
during the coal mining and reclamation operations and not deposit 3278
spoil material or locate any part of the operations or waste 3279
accumulations outside the permit area; 3280

(21) Place all excess spoil material resulting from coal 3281
mining and reclamation operations in such a manner that all of the 3282
following apply: 3283

(a) Spoil is transported and placed in a controlled manner in 3284
position for concurrent compaction and in such a way as to ensure 3285
mass stability and to prevent mass movement. 3286

(b) The areas of disposal are within the ~~banded~~ permit areas 3287
for which performance security has been provided. All organic 3288
matter shall be removed immediately prior to spoil placement 3289
except in the zoned concept method. 3290

(c) Appropriate surface and internal drainage systems and 3291
diversion ditches are used so as to prevent spoil erosion and mass 3292
movement. 3293

(d) The disposal area does not contain springs, natural 3294
watercourses, or wet weather seeps unless lateral drains are 3295
constructed from the wet areas to the main underdrains in such a 3296
manner that filtration of the water into the spoil pile will be 3297
prevented unless the zoned concept method is used. 3298

(e) If placed on a slope, the spoil is placed upon the most 3299
moderate slope among those slopes upon which, in the judgment of 3300
the chief, the spoil could be placed in compliance with all the 3301
requirements of this chapter and is placed, where possible, upon, 3302
or above, a natural terrace, bench, or berm if that placement 3303
provides additional stability and prevents mass movement. 3304

| | |
|---|--|
| (f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed. | 3305 3306 3307 |
| (g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses. | 3308 3309 |
| (h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards. | 3310 3311 3312 |
| (i) All other provisions of this chapter are met. | 3313 |
| (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; | 3314 3315 3316 3317 |
| (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; | 3318 3319 3320 3321 |
| (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. | 3322 3323 3324 3325 |
| (B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section. | 3326 3327 |
| (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, | 3328 3329 3330 3331 3332 3333 3334 |

except as provided in division (B)(4)(a) of this section, by 3335
removing all of the overburden and creating a level plateau or a 3336
gently rolling contour with no highwalls remaining, and capable of 3337
supporting postmining uses in accordance with this division. 3338

(3) In cases where an industrial, commercial, agricultural, 3339
residential, or public facility use, including recreational 3340
facilities, is proposed for the postmining use of the affected 3341
land, the chief may grant a permit for a mining operation of the 3342
nature described in division (B)(2) of this section when all of 3343
the following apply: 3344

(a) After consultation with the appropriate land use planning 3345
agencies, if any, the proposed postmining land use is considered 3346
to constitute an equal or better economic or public use of the 3347
affected land, as compared with premining use. 3348

(b) The applicant presents specific plans for the proposed 3349
postmining land use and appropriate assurances that the use will 3350
be all of the following: 3351

(i) Compatible with adjacent land uses; 3352

(ii) Obtainable according to data regarding expected need and 3353
market; 3354

(iii) Assured of investment in necessary public facilities; 3355

(iv) Supported by commitments from public agencies where 3356
appropriate; 3357

(v) Practicable with respect to private financial capability 3358
for completion of the proposed use; 3359

(vi) Planned pursuant to a schedule attached to the 3360
reclamation plan so as to integrate the mining operation and 3361
reclamation with the postmining land use; 3362

(vii) Designed by a registered engineer in conformity with 3363
professional standards established to ensure the stability, 3364

drainage, and configuration necessary for the intended use of the site. 3365
3366

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs. 3367
3368

(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. 3369
3370
3371
3372
3373
3374

(e) All other requirements of this chapter will be met. 3375

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met: 3376
3377

(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. 3378
3379
3380

(b) The reclaimed area is stable. 3381

(c) The resulting plateau or rolling contour drains inward from the outslopes except at specified points. 3382
3383

(d) No damage will be done to natural watercourses. 3384

(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. 3385
3386
3387
3388
3389

(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met. 3390
3391

(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of 3392
3393

this section and may impose such additional requirements as the 3394
chief considers necessary. 3395

(6) All permits granted under divisions (B)(1) to (4) of this 3396
section shall be reviewed not more than three years from the date 3397
of issuance of the permit unless the applicant affirmatively 3398
demonstrates that the proposed development is proceeding in 3399
accordance with the terms of the approved schedule and reclamation 3400
plan. 3401

(C) All of the following performance standards apply to 3402
steep-slope coal mining and are in addition to those general 3403
performance standards required by this section, except that this 3404
division does not apply to those situations in which an operator 3405
is mining on flat or gently rolling terrain on which an occasional 3406
steep slope is encountered through which the mining operation is 3407
to proceed, leaving a plain or predominantly flat area, or where 3408
an operator is in compliance with division (B) of this section: 3409

(1) The operator shall ensure that when performing coal 3410
mining on steep slopes, no debris, abandoned or disabled 3411
equipment, spoil material, or waste mineral matter is placed on 3412
the downslope below the bench or mining cut. Spoil material in 3413
excess of that required for the reconstruction of the approximate 3414
original contour under division (A)(3) or (C)(2) of this section 3415
shall be permanently stored pursuant to division (A)(21) of this 3416
section. 3417

(2) The operator shall complete backfilling with spoil 3418
material to cover completely the highwall and return the site to 3419
the approximate original contour, which material will maintain 3420
stability following mining and reclamation. 3421

(3) The operator shall not disturb land above the top of the 3422
highwall unless the chief finds that the disturbance will 3423
facilitate compliance with the environmental protection standards 3424

of this section, except that any such disturbance involving land 3425
above the highwall shall be limited to that amount of land 3426
necessary to facilitate compliance. 3427

(D)(1) The chief may permit variances for the purposes set 3428
forth in division (D)(3) of this section, provided that the 3429
watershed control of the area is improved and that complete 3430
backfilling with spoil material shall be required to cover 3431
completely the highwall, which material will maintain stability 3432
following mining and reclamation. 3433

(2) Where an applicant meets the requirements of divisions 3434
(D)(3) and (4) of this section, a variance from the requirement to 3435
restore to approximate original contour set forth in division 3436
(C)(2) of this section may be granted for the mining of coal when 3437
the owner of the surface knowingly requests in writing, as a part 3438
of the permit application, that such a variance be granted so as 3439
to render the land, after reclamation, suitable for an industrial, 3440
commercial, residential, or public use, including recreational 3441
facilities, in accordance with divisions (D)(3) and (4) of this 3442
section. 3443

(3) A variance pursuant to division (D)(2) of this section 3444
may be granted if: 3445

(a) After consultation with the appropriate land use planning 3446
agencies, if any, the potential use of the affected land is 3447
considered to constitute an equal or better economic or public 3448
use. 3449

(b) The postmining land condition is designed and certified 3450
by a registered professional engineer in conformity with 3451
professional standards established to ensure the stability, 3452
drainage, and configuration necessary for the intended use of the 3453
site. 3454

(c) After approval of the appropriate state environmental 3455

agencies, the watershed of the affected land is considered to be 3456
improved. 3457

(4) In granting a variance pursuant to division (D) of this 3458
section, the chief shall require that only such amount of spoil 3459
will be placed off the mine bench as is necessary to achieve the 3460
planned postmining land use, ensure stability of the spoil 3461
retained on the bench, and meet all other requirements of this 3462
chapter. All spoil placement off the mine bench shall comply with 3463
division (A)(21) of this section. 3464

(5) The chief shall adopt specific rules to govern the 3465
granting of variances under division (D) of this section and may 3466
impose such additional requirements as the chief considers 3467
necessary. 3468

(6) All variances granted under division (D) of this section 3469
shall be reviewed not more than three years from the date of 3470
issuance of the permit unless the permittee affirmatively 3471
demonstrates that the proposed development is proceeding in 3472
accordance with the terms of the reclamation plan. 3473

(E) The chief shall establish standards and criteria 3474
regulating the design, location, construction, operation, 3475
maintenance, enlargement, modification, removal, and abandonment 3476
of new and existing coal mine waste piles referred to in division 3477
(A)(13) of this section and division (A)(5) of section 1513.35 of 3478
the Revised Code. The standards and criteria shall conform to the 3479
standards and criteria used by the chief of the United States army 3480
corps of engineers to ensure that flood control structures are 3481
safe and effectively perform their intended function. In addition 3482
to engineering and other technical specifications, the standards 3483
and criteria developed pursuant to this division shall include 3484
provisions for review and approval of plans and specifications 3485
prior to construction, enlargement, modification, removal, or 3486

abandonment; performance of periodic inspections during 3487
construction; issuance of certificates of approval upon completion 3488
of construction; performance of periodic safety inspections; and 3489
issuance of notices for required remedial or maintenance work. 3490

(F)(1) The permittee may file a request with the chief for 3491
release of a part of a performance ~~bond or deposit~~ security under 3492
division (F)(3) of this section. Within thirty days after any 3493
request for ~~bond or deposit~~ performance security release under 3494
this section has been filed with the chief, the operator shall 3495
submit a copy of an advertisement placed at least once a week for 3496
four successive weeks in a newspaper of general circulation in the 3497
locality of the coal mining operation. The advertisement shall be 3498
considered part of any ~~bond~~ performance security release 3499
application and shall contain a notification of the precise 3500
location of the land affected, the number of acres, the permit 3501
number and the date approved, the amount of the ~~bond~~ performance 3502
security filed and the portion sought to be released, the type and 3503
appropriate dates of reclamation work performed, and a description 3504
of the results achieved as they relate to the operator's approved 3505
reclamation plan and, if applicable, the operator's pollution 3506
abatement plan. In addition, as part of any ~~bond~~ performance 3507
security release application, the applicant shall submit copies of 3508
the letters sent to adjoining property owners, local governmental 3509
bodies, planning agencies, and sewage and water treatment 3510
authorities or water companies in the locality in which the coal 3511
mining and reclamation activities took place, notifying them of 3512
the applicant's intention to seek release from the ~~bond~~ 3513
performance security. 3514

(2) Upon receipt of a copy of the advertisement and request 3515
for release of a ~~bond or deposit~~ performance security under 3516
division (F)(3)(c) of this section, the chief, within thirty days, 3517
shall conduct an inspection and evaluation of the reclamation work 3518

involved. The evaluation shall consider, among other things, the 3519
degree of difficulty to complete any remaining reclamation, 3520
whether pollution of surface and subsurface water is occurring, 3521
the probability of continuation or future occurrence of the 3522
pollution, and the estimated cost of abating the pollution. The 3523
chief shall notify the permittee in writing of the decision to 3524
release or not to release all or part of the performance ~~bond or~~ 3525
~~deposit~~ security within sixty days after the filing of the request 3526
if no public hearing is held pursuant to division (F)(6) of this 3527
section or, if there has been a public hearing held pursuant to 3528
division (F)(6) of this section, within thirty days thereafter. 3529

(3) The chief may release the ~~bond or deposit~~ performance 3530
security if the reclamation covered by the ~~bond or deposit~~ 3531
performance security or portion thereof has been accomplished as 3532
required by this chapter and rules adopted under it according to 3533
the following schedule: 3534

(a) When the operator completes the backfilling, regrading, 3535
and drainage control of a ~~bonded~~ an area for which performance 3536
security has been provided in accordance with the approved 3537
reclamation plan, and, if the area covered by the ~~bond or deposit~~ 3538
performance security is one for which an authorization was made 3539
under division (E)(7) of section 1513.07 of the Revised Code, the 3540
operator has complied with the approved pollution abatement plan 3541
and all additional requirements established by the chief in rules 3542
adopted under section 1513.02 of the Revised Code governing coal 3543
mining and reclamation operations on pollution abatement areas, 3544
the chief shall grant a release of fifty per cent of the ~~bond or~~ 3545
~~deposit~~ performance security for the applicable permit area. 3546

(b) After resoiling and revegetation have been established on 3547
the regraded mined lands in accordance with the approved 3548
reclamation plan, the chief shall grant a release in an amount not 3549
exceeding thirty-five per cent of the original ~~bond or deposit~~ 3550

performance security for all or part of the affected area under 3551
the permit. When determining the amount of ~~bond~~ performance 3552
security to be released after successful revegetation has been 3553
established, the chief shall retain that amount of ~~bond~~ 3554
performance security for the revegetated area that would be 3555
sufficient for a third party to cover the cost of reestablishing 3556
revegetation for the period specified for operator responsibility 3557
in this section for reestablishing revegetation. No part of the 3558
~~bond or deposit~~ performance security shall be released under this 3559
division so long as the lands to which the release would be 3560
applicable are contributing suspended solids to streamflow or 3561
runoff outside the permit area in excess of the requirements of 3562
this section or until soil productivity for prime farmlands has 3563
returned to equivalent levels of yield as nonmined land of the 3564
same soil type in the surrounding area under equivalent management 3565
practices as determined from the soil survey performed pursuant to 3566
section 1513.07 of the Revised Code. If the area covered by the 3567
~~bond or deposit~~ performance security is one for which an 3568
authorization was made under division (E)(7) of section 1513.07 of 3569
the Revised Code, no part of the ~~bond or deposit~~ performance 3570
security shall be released under this division until the operator 3571
has complied with the approved pollution abatement plan and all 3572
additional requirements established by the chief in rules adopted 3573
under section 1513.02 of the Revised Code governing coal mining 3574
and reclamation operations on pollution abatement areas. Where a 3575
silt dam is to be retained as a permanent impoundment pursuant to 3576
division (A)(10) of this section, the portion of ~~bond~~ performance 3577
security may be released under this division so long as provisions 3578
for sound future maintenance by the operator or the landowner have 3579
been made with the chief. 3580

(c) When the operator has completed successfully all coal 3581
mining and reclamation activities, including, if applicable, all 3582
additional requirements established in the pollution abatement 3583

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 3616
operations may file written objections to the proposed release 3617
from the ~~bond~~ performance security with the chief within thirty 3618
days after the last publication of the notice required by division 3619
(F)(1) of this section. If written objections are filed and an 3620
informal conference is requested, the chief shall inform all 3621
interested parties of the time and place of the conference. The 3622
date, time, and location of the informal conference shall be 3623
advertised by the chief in a newspaper of general circulation in 3624
the locality of the coal mining operation proposed for ~~bond~~ 3625
performance security release for at least once a week for two 3626
consecutive weeks. The informal conference shall be held in the 3627
locality of the coal mining operation proposed for ~~bond~~ 3628
performance security release or in Franklin county, at the option 3629
of the objector, within thirty days after the request for the 3630
conference. An electronic or stenographic record shall be made of 3631
the conference proceeding unless waived by all parties. The record 3632
shall be maintained and shall be accessible to the parties until 3633
final release of the performance ~~bond~~ security at issue. In the 3634
event all parties requesting the informal conference stipulate 3635
agreement prior to the requested informal conference and withdraw 3636
their request, the informal conference need not be held. 3637

(7) If an informal conference has been held pursuant to 3638
division (F)(6) of this section, the chief shall issue and furnish 3639
the applicant and persons who participated in the conference with 3640
the written decision regarding the release within sixty days after 3641
the conference. Within thirty days after notification of the final 3642
decision of the chief regarding the ~~bond~~ performance security 3643
release, the applicant or any person with an interest that is or 3644
may be adversely affected by the decision may appeal the decision 3645
to the reclamation commission pursuant to section 1513.13 of the 3646
Revised Code. 3647

(8)(a) Except as provided in division (F)(8)(c) of this 3648
section, if the chief determines that a permittee is responsible 3649
for mine drainage that requires water treatment after reclamation 3650
is completed under the terms of the permit or that a permittee 3651
must provide an alternative water supply after reclamation is 3652
completed under the terms of the permit, the permittee shall 3653
provide alternative financial security in an amount determined by 3654
the chief prior to the release of the remaining portion of 3655
performance security under division (F)(3)(c) of this section. The 3656
alternative financial security shall be in an amount that is equal 3657
to or greater than the present value of the estimated cost over 3658
time to develop and implement mine drainage plans and provide 3659
water treatment or in an amount that is necessary to provide and 3660
maintain an alternative water supply, as applicable. The 3661
alternative financial security shall include a contract, trust, or 3662
other agreement or mechanism that is enforceable under law to 3663
provide long-term water treatment or a long-term alternative water 3664
supply, or both. 3665

(b) The chief shall adopt rules in accordance with Chapter 3666
119. of the Revised Code that are necessary for the administration 3667
of division (F)(8)(a) of this section. 3668

(c) Division (F)(8)(a) of this section does not apply while 3669
the chief's determination of a permittee's responsibility under 3670
that division is the subject of a good faith administrative or 3671
judicial appeal contesting the validity of the determination. If 3672
after completion of the appeal there is an enforceable 3673
administrative or judicial decision affirming or modifying the 3674
chief's determination, the permittee shall provide the alternative 3675
financial security in an amount established in the administrative 3676
or judicial decision. 3677

(9) Final release of the performance security in accordance 3678
with division (F)(3)(c) of this section terminates the 3679

jurisdiction of the chief under this chapter over the reclaimed 3680
site of a surface coal mining and reclamation operation or 3681
applicable portion of an operation. However, the chief shall 3682
reassert jurisdiction over such a site if the release was based on 3683
fraud, collusion, or misrepresentation of a material fact and the 3684
chief, in writing, demonstrates evidence of the fraud, collusion, 3685
or misrepresentation. Any person with an interest that is or may 3686
be adversely affected by the chief's determination may appeal the 3687
determination to the reclamation commission in accordance with 3688
section 1513.13 of the Revised Code. 3689

(G) The chief shall adopt rules governing the criteria for 3690
forfeiture of ~~bond~~ performance security, the method of determining 3691
the forfeited amount, and the procedures to be followed in the 3692
event of forfeiture. Cash received as the result of such 3693
forfeiture is the property of the state. 3694

Sec. 1513.17. (A) No person shall: 3695

(1) Engage in coal mining or conduct a coal mining operation 3696
without a permit issued by the chief of the division of mineral 3697
resources management; 3698

(2) Knowingly violate a condition or exceed the limits of a 3699
permit; 3700

(3) Knowingly fail to comply with an order of the chief 3701
issued under this chapter; 3702

(4) Knowingly violate any provision of this chapter not 3703
specifically mentioned in this section; 3704

(5) Knowingly make any false statement, representation, or 3705
certification or knowingly fail to make any statement, 3706
representation, or certification in any application, record, 3707
report, plan, or other document filed or required to be maintained 3708
under this chapter or under a final order or decision issued by 3709

| | |
|--|--|
| the chief; | 3710 |
| (6) Knowingly prevent, hinder, delay, or otherwise obstruct the operator from completing backfilling, grading, resoiling, establishing successful vegetation, and meeting all other reclamation requirements of this chapter prior to the final release of the operator's bond <u>performance security</u> . | 3711 3712 3713 3714 3715 |
| (B) Division (A)(1) of this section imposes strict criminal liability. | 3716 3717 |
| <u>Sec. 1513.171. (A) For the purpose of claiming a credit under section 5749.11 of the Revised Code, an operator with a valid permit issued under section 1513.07 of the Revised Code may submit an application to the chief of the division of mineral resources management to perform reclamation on land or water resources that are not within the area of the applicant's permit and that have been adversely affected by past coal mining for which the performance security was forfeited. The chief shall provide the application form. The application shall include all of the following:</u> | 3718 3719 3720 3721 3722 3723 3724 3725 3726 3727 |
| <u>(1) The operator's name, address, and telephone number;</u> | 3728 |
| <u>(2) The valid permit number of the operator;</u> | 3729 |
| <u>(3) An identification of the area or areas to be reclaimed;</u> | 3730 |
| <u>(4) An identification of the owner of the land;</u> | 3731 |
| <u>(5) A reclamation plan that describes the work to be done to reclaim the land or water resources. The plan shall include a description of how the plan is consistent with local physical, environmental, and climatological conditions and the measures to be taken during the reclamation to ensure the protection of water systems.</u> | 3732 3733 3734 3735 3736 3737 |
| <u>(6) An estimate of the total cost of the reclamation;</u> | 3738 |

(7) An estimate of the timetables for accomplishing the reclamation; 3739
3740

(8) Any other requirements that the chief prescribes by rule. 3741

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. 3742
3743
3744
3745
3746
3747
3748
3749

(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. 3750
3751
3752
3753
3754
3755

(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: 3756
3757
3758

(1) A procedure that the chief shall use to determine the amount of the credit issued under this section; 3759
3760

(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; 3761
3762
3763

(3) A procedure for delivery of notice to the owners of land or water resources on which the reclamation work is to be performed. The rules shall require the notice to include the date on which the reclamation work is scheduled to begin. 3764
3765
3766
3767

Sec. 1513.18. (A) All money that becomes the property of the 3768

state under division (G) of section 1513.16 of the Revised Code 3769
shall be deposited in the reclamation forfeiture fund, which is 3770
hereby created in the state treasury. Disbursements from the fund 3771
shall be made by the chief of the division of mineral resources 3772
management for the purpose of reclaiming areas of land affected by 3773
coal mining under a coal mining and reclamation permit issued on 3774
or after September 1, 1981, on which an operator has defaulted. 3775

(B) The fund also shall consist of ~~any moneys transferred to~~ 3776
~~it under this division from the unreclaimed lands fund created in~~ 3777
~~section 1513.30~~ all money from the collection of liens under 3778
section 1513.081 of the Revised Code, any moneys transferred to it 3779
under section 1513.181 of the Revised Code from the coal mining 3780
and reclamation reserve fund created in that section, fin 3781
collected under division (E) of section 1513.02 and section 3782
1513.99 of the Revised Code, fines collected for a violation of 3783
section 2921.31 of the Revised Code that, prior to July 1, 1996, 3784
would have been a violation of division (G) of section 1513.17 of 3785
the Revised Code as it existed prior to that date, and moneys 3786
collected and credited to it pursuant to section 5749.02 of the 3787
Revised Code. Disbursements from the fund shall be made by the 3788
chief in accordance with division (D) of this section for the 3789
purpose of reclaiming areas that an operator has affected by 3790
mining and failed to reclaim under a coal mining and reclamation 3791
permit issued under this chapter or under a surface mining permit 3792
issued under Chapter 1514. of the Revised Code. ~~The chief's~~ 3793
~~priority for management of the fund, including the selection of~~ 3794
~~projects and transfer of moneys, shall be to ensure that~~ 3795
~~sufficient moneys are available for the reclamation of areas~~ 3796
~~affected by mining under a coal mining and reclamation permit.~~ 3797

The chief may expend moneys from the fund to pay necessary 3798
administrative costs, including engineering and design services, 3799
incurred by the division of mineral resources management in 3800

reclaiming these areas. The chief also may expend moneys from the 3801
fund to pay necessary administrative costs of the reclamation 3802
forfeiture fund advisory board created in section 1513.182 of the 3803
Revised Code as authorized by the board under that section. 3804
Expenditures from the fund to pay such administrative costs need 3805
not be made under contract. 3806

~~As moneys are spent from the fund, the director of budget and~~ 3807
~~management, upon the certification of the chief, shall transfer~~ 3808
~~additional moneys from the unreclaimed lands fund created in~~ 3809
~~section 1513.30 of the Revised Code that the chief requests,~~ 3810
~~provided that the director shall not transfer more than one~~ 3811
~~million dollars from the unreclaimed lands fund to the reclamation~~ 3812
~~forfeiture fund during any fiscal year.~~ 3813

(C) Except when paying necessary administrative costs 3814
authorized by division (B) of this section, expenditures from the 3815
fund shall be made under contracts entered into by the chief, with 3816
the approval of the director of natural resources, in accordance 3817
with procedures established by the chief, by rules adopted in 3818
accordance with section 1513.02 of the Revised Code. The chief may 3819
reclaim the land in the same manner as set forth in sections 3820
1513.21 to 1513.24 of the Revised Code. Each contract awarded by 3821
the chief shall be awarded to the lowest responsive and 3822
responsible bidder, in accordance with section 9.312 of the 3823
Revised Code, after sealed bids are received, opened, and 3824
published at the time and place fixed by the chief. The chief 3825
shall publish notice of the time and place at which bids will be 3826
received, opened, and published, at least once and at least ten 3827
days before the date of the opening of the bids, in a newspaper of 3828
general circulation in the county in which the area of land to be 3829
reclaimed under the contract is located. If, after advertising, no 3830
bids are received at the time and place fixed for receiving them, 3831
the chief may advertise again for bids, or, if the chief considers 3832

the public interest will best be served, the chief may enter into
a contract for the reclamation of the area of land without further
advertisement for bids. The chief may reject any or all bids
received and again publish notice of the time and place at which
bids for contracts will be received, opened, and published. The
chief, with the approval of the director, may enter into a
contract with the landowner, a coal mine operator or surface mine
operator mining under a current, valid permit issued under this
chapter or Chapter 1514. of the Revised Code, or a contractor
hired by the surety or trustee, if the performance security is
held in trust, to complete reclamation to carry out reclamation on
land affected by coal mining on which an operator has defaulted
without advertising for bids.

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

(2) If the performance security for the area of land was
provided under division (C)(1) of section 1513.08 of the Revised
Code, the chief shall use the money from the forfeited performance
security to complete the reclamation that the operator failed to
do under the operator's applicable coal mining and reclamation
permit issued under this chapter.

(3) If the performance security for the area of land was

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

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

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

reclamation of the land and, upon completion of the reclamation, 3897
shall certify the expenditures to the attorney general. Upon the 3898
chief's certification of the expenditures from the reclamation 3899
forfeiture fund, the attorney general shall bring an action for 3900
that amount of money. The operator is liable for that expense in 3901
addition to any other liabilities imposed by law. Moneys so 3902
recovered shall be credited to the reclamation forfeiture fund. 3903
The chief shall not postpone the reclamation because of any action 3904
brought by the attorney general under this division. Prior to 3905
completing reclamation, the chief may collect through the attorney 3906
general any additional amount that the chief believes will be 3907
necessary for reclamation in excess of the forfeited ~~bond~~ 3908
performance security amount applicable to the land that the 3909
operator should have, but failed to, reclaim. 3910

(F) ~~If~~ Except as otherwise provided in division (H) of this 3911
section, if any part of the moneys in the reclamation forfeiture 3912
fund remains in the fund after the chief has caused the area of 3913
land to be reclaimed and has paid all the reclamation costs and 3914
expenses, the chief may expend those moneys to complete other 3915
reclamation work performed under this section on forfeiture areas 3916
affected under a coal mining and reclamation permit issued on or 3917
after September 1, 1981. 3918

(G) The chief shall require every contractor performing 3919
reclamation work pursuant to this section to pay workers at the 3920
greater of their regular rate of pay, as established by contract, 3921
agreement, or prior custom or practice, or the average wage rate 3922
paid in this state for the same or similar work as determined by 3923
the chief under section 1513.02 of the Revised Code. 3924

(H) All investment earnings of the fund shall be credited to 3925
the fund and shall be used only for the reclamation of land for 3926
which performance security was provided under division (C)(2) of 3927
section 1513.08 of the Revised Code. 3928

Sec. 1513.181. There is hereby created in the state treasury 3929
the coal mining administration and reclamation reserve fund. The 3930
fund shall be used for the administration and enforcement of this 3931
chapter. The chief of the division of mineral resources management 3932
may transfer not more than one million dollars annually from the 3933
fund to the reclamation forfeiture fund created in section 1513.18 3934
of the Revised Code to complete reclamation of lands affected by 3935
coal mining under a permit issued under this chapter, ~~or by~~ 3936
~~surface mining under a surface mining permit issued under Chapter~~ 3937
~~1514. of the Revised Code,~~ that the operator failed to reclaim and 3938
for which the operator's ~~bond~~ performance security is insufficient 3939
to complete the reclamation. Within ten days before or after the 3940
beginning of each calendar quarter, the chief may certify to the 3941
director of budget and management the amount of money needed to 3942
perform such reclamation during the quarter for transfer from the 3943
coal mining administration and reclamation reserve fund to the 3944
reclamation forfeiture fund. 3945

~~Fines collected under division (E) of section 1513.02 and 3946
section 1513.99 of the Revised Code, and fines collected for a 3947
violation of section 2921.31 of the Revised Code that, prior to 3948
July 1, 1996, would have been a violation of division (G) of 3949
section 1513.17 of the Revised Code as it existed prior to that 3950
date, shall be paid into the coal mining administration and 3951
reclamation reserve fund.~~ 3952

If the director of natural resources determines it to be 3953
necessary, the director may request the controlling board to 3954
transfer an amount of money from the coal mining administration 3955
and reclamation reserve fund to the unreclaimed lands fund created 3956
in section 1513.30 of the Revised Code. 3957

Sec. 1513.182. (A) There is hereby created the reclamation 3958

forfeiture fund advisory board consisting of the director of 3959
natural resources, the director of insurance, and five members 3960
appointed by the governor with the advice and consent of the 3961
senate. Of the governor's appointments, one shall be a certified 3962
public accountant, one shall be a registered professional engineer 3963
with experience in reclamation of mined land, one shall represent 3964
agriculture, agronomy, or forestry, one shall be a representative 3965
of operators of coal mining operations that have valid permits 3966
issued under this chapter and that have provided performance 3967
security under division (C)(1) of section 1513.08 of the Revised 3968
Code, and one shall be a representative of operators of coal 3969
mining operations that have valid permits issued under this 3970
chapter and that have provided performance security under division 3971
(C)(2) of section 1513.08 of the Revised Code. 3972

Of the original members appointed by the governor, two shall 3973
serve an initial term of two years, two an initial term of three 3974
years, and one an initial term of four years. Thereafter, terms of 3975
appointed members shall be for four years, with each term ending 3976
on the same date as the original date of appointment. An appointed 3977
member shall hold office from the date of appointment until the 3978
end of the term for which the member was appointed. Vacancies 3979
shall be filled in the same manner as original appointments. A 3980
member appointed to fill a vacancy occurring prior to the 3981
expiration of the term for which the member's predecessor was 3982
appointed shall hold office for the remainder of that term. A 3983
member shall continue in office subsequent to the expiration date 3984
of the member's term until the member's successor takes office or 3985
until a period of sixty days has elapsed, whichever occurs first. 3986
The governor may remove an appointed member of the board for 3987
misfeasance, nonfeasance, or malfeasance. 3988

The directors of natural resources and insurance shall not 3989
receive compensation for serving on the board, but shall be 3990

reimbursed for the actual and necessary expenses incurred in the 3991
performance of their duties as members of the board. The members 3992
appointed by the governor shall receive per diem compensation 3993
fixed pursuant to division (J) of section 124.15 of the Revised 3994
Code and reimbursement for the actual and necessary expenses 3995
incurred in the performance of their duties. 3996

(B) The board annually shall elect from among its members a 3997
chairperson, a vice-chairperson, and a secretary to record the 3998
board's meetings. 3999

(C) The board shall hold meetings as often as necessary as 4000
the chairperson or a majority of the members determines. 4001

(D) The board shall establish procedures for conducting 4002
meetings and for the election of its chairperson, 4003
vice-chairperson, and secretary. 4004

(E) The board shall do all of the following: 4005

(1) Review the deposits into and expenditures from the 4006
reclamation forfeiture fund created in section 1513.18 of the 4007
Revised Code; 4008

(2) Authorize the expenditure of money from the reclamation 4009
forfeiture fund in accordance with section 1513.18 of the Revised 4010
Code to pay the administrative costs of the board and to pay 4011
reclamation costs specified in division (D)(3) of that section; 4012

(3) Retain periodically a qualified actuary to perform an 4013
actuarial study of the reclamation forfeiture fund; 4014

(4) Based on an actuarial study and as determined necessary 4015
by the board, adopt rules in accordance with Chapter 119. of the 4016
Revised Code to adjust the rate of the tax levied under division 4017
(A)(8) of section 5749.02 of the Revised Code and the balance of 4018
the reclamation forfeiture fund that pertains to that rate; 4019

(5) Evaluate any rules, procedures, and methods for 4020

estimating the cost of reclamation for purposes of determining the 4021
amount of performance security that is required under section 4022
1513.08 of the Revised Code; the collection of forfeited 4023
performance security; payments to the reclamation forfeiture fund; 4024
reclamation of sites for which operators have forfeited the 4025
performance security; and the compliance of operators with their 4026
reclamation plans; 4027

(6) Provide a forum for discussion of issues related to the 4028
reclamation forfeiture fund and the performance security that is 4029
required under section 1513.08 of the Revised Code; 4030

(7) Submit a report biennially to the governor that describes 4031
the financial status of the reclamation forfeiture fund and the 4032
adequacy of the amount of money in the fund to accomplish the 4033
purposes of the fund and that may discuss any matter related to 4034
the performance security that is required under section 1513.08 of 4035
the Revised Code; 4036

(8) Make recommendations to the governor, if necessary, of 4037
alternative methods of providing money for or using money in the 4038
reclamation forfeiture fund and issues related to the reclamation 4039
of land or water resources that have been adversely affected by 4040
past coal mining for which the performance security was forfeited; 4041

(9) Adopt rules in accordance with Chapter 119. of the 4042
Revised Code that are necessary to administer this section. 4043

Sec. 1513.29. There is hereby created the council on 4044
unreclaimed strip mined lands. Its members are the chief of the 4045
division of mineral resources management, four persons appointed 4046
by the director of natural resources, two members of the house of 4047
representatives appointed by the speaker of the house of 4048
representatives, one member of the house of representatives 4049
appointed by the minority leader of the house of representatives, 4050

two members of the senate appointed by the president of the 4051
senate, and one member of the senate appointed by the minority 4052
leader of the senate. 4053

Members who are members of the general assembly shall serve 4054
terms of four years or until their legislative terms end, 4055
whichever is sooner. Members appointed by the director shall serve 4056
terms of four years, except that the terms of the first four 4057
members shall be for two and four years, as designated by the 4058
director. Any vacancy in the office of a member of the council 4059
shall be filled by the appointing authority for the unexpired term 4060
of the member whose office will be vacant. The appointing 4061
authority may at any time remove a member of the council for 4062
misfeasance, nonfeasance, malfeasance, or conflict of interest in 4063
office. 4064

The council shall hold ~~at least four regular quarterly~~ 4065
~~meetings each year. Special meetings may be held as necessary~~ at 4066
the call of the chairperson or a majority of the members. The 4067
council shall annually elect from among its members a chairperson, 4068
a vice-chairperson, and a secretary to keep a record of its 4069
proceedings. 4070

The council shall gather information, study, and make 4071
recommendations concerning the number of acres, location, 4072
ownership, condition, environmental damage resulting from the 4073
condition, cost of acquiring, reclaiming, and possible future uses 4074
and value of eroded lands within the state, including land 4075
affected by strip mining for which no cash is held in the ~~strip~~ 4076
~~mining~~ reclamation forfeiture fund created in section 1513.18 of 4077
the Revised Code. 4078

The council may employ such staff and hire such consultants 4079
as necessary to perform its duties. Members appointed by the 4080
director and, notwithstanding section 101.26 of the Revised Code, 4081
members who are members of the general assembly, when engaged in 4082

their official duties as members of the council, shall be 4083
compensated on a per diem basis in accordance with division (J) of 4084
section 124.15 of the Revised Code. Members shall be reimbursed 4085
for their necessary expenses. Expenses incurred by the council and 4086
compensation provided under this section shall be paid by the 4087
chief ~~of the division of mineral resources management~~ from the 4088
unreclaimed lands fund created in section 1513.30 of the Revised 4089
Code. 4090

The council shall report its findings and recommendations to 4091
the governor and the general assembly not later than January 1, 4092
1974, and biennially thereafter. 4093

Sec. 1513.30. There is hereby created in the state treasury 4094
the unreclaimed lands fund, to be administered by the chief of the 4095
division of mineral resources management and used for the purpose 4096
of reclaiming land, public or private, affected by mining, or 4097
controlling mine drainage, for which no cash is held in the 4098
reclamation forfeiture fund created in section 1513.18 of the 4099
Revised Code or the surface mining fund created in section 1514.06 4100
of the Revised Code and also for the purpose of paying the 4101
expenses and compensation of the council on unreclaimed strip 4102
mined lands as required by section 1513.29 of the Revised Code. 4103

In order to direct expenditures from the unreclaimed lands 4104
fund toward reclamation projects that fulfill priority needs and 4105
provide the greatest public benefits, the chief periodically shall 4106
submit to the council project proposals to be financed from the 4107
unreclaimed lands fund, together with benefit and cost data and 4108
other pertinent information. For the purpose of selecting project 4109
areas and determining the boundaries of project areas, the council 4110
shall consider the feasibility, cost, and public benefits of 4111
reclaiming the areas, their potential for being mined, the 4112
availability of federal or other financial assistance for 4113

reclamation, and the geographic distribution of project areas to
ensure fair distribution among affected areas.

4114
4115

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

4116
4117
4118
4119

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

4120
4121

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

4122
4123
4124
4125
4126

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

4127
4128
4129
4130
4131
4132
4133
4134
4135
4136
4137

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

4138
4139
4140
4141
4142
4143
4144

~~The controlling board may transfer excess funds from the oil and gas well fund created in section 1509.02 of the Revised Code, after recommendation by the council on unreclaimed strip mined lands, to meet deficiencies in the unreclaimed lands fund.~~

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

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

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

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

(1) Reclamation and restoration of land and water resources

| | |
|--|------|
| adversely affected by past coal mining, including, but not limited | 4175 |
| to, reclamation and restoration of abandoned strip mine areas, | 4176 |
| abandoned coal processing areas, and abandoned coal refuse | 4177 |
| disposal areas; sealing and filling of abandoned deep mine entries | 4178 |
| and voids; planting of land adversely affected by past coal | 4179 |
| mining; prevention of erosion and sedimentation; prevention, | 4180 |
| abatement, treatment, and control of water pollution created by | 4181 |
| coal mine drainage, including restoration of streambeds and | 4182 |
| construction and operation of water treatment plants; prevention, | 4183 |
| abatement, and control of burning coal refuse disposal areas and | 4184 |
| burning coal in situ; and prevention, abatement, and control of | 4185 |
| coal mine subsidence; | 4186 |
| (2) Acquisition and filling of voids and sealing of tunnels, | 4187 |
| shafts, and entryways of noncoal lands; | 4188 |
| (3) Acquisition of land as provided for in this section; | 4189 |
| (4) Administrative expenses incurred in accomplishing the | 4190 |
| purposes of this section; | 4191 |
| (5) All other necessary expenses to accomplish the purposes | 4192 |
| of this section. | 4193 |
| (B) Expenditures of moneys from the fund on land and water | 4194 |
| eligible pursuant to division (C) of this section shall reflect | 4195 |
| the following priorities in the order stated: | 4196 |
| (1) The protection of public health, safety, general welfare, | 4197 |
| and property from extreme danger of adverse effects of coal mining | 4198 |
| practices; | 4199 |
| (2) The protection of public health, safety, and general | 4200 |
| welfare from adverse effects of coal mining practices; | 4201 |
| (3) The restoration of land and water resources and the | 4202 |
| environment previously degraded by adverse effects of coal mining | 4203 |
| practices, including measures for the conservation and development | 4204 |

| | |
|---|------|
| of soil and water (excluding channelization), woodland, fish and | 4205 |
| wildlife, recreation resources, and agricultural productivity; | 4206 |
| (4) Research and demonstration projects relating to the | 4207 |
| development of coal mining reclamation and water quality control | 4208 |
| program methods and techniques; | 4209 |
| (5) The protection, repair, replacement, construction, or | 4210 |
| enhancement of public facilities such as utilities, roads, | 4211 |
| recreation facilities, and conservation facilities adversely | 4212 |
| affected by coal mining practices; | 4213 |
| (6) The development of publicly owned land adversely affected | 4214 |
| by coal mining practices, including land acquired as provided in | 4215 |
| this section for recreation and historic purposes, conservation | 4216 |
| and reclamation purposes, and open space benefits. | 4217 |
| (C)(1) Lands and water eligible for reclamation or drainage | 4218 |
| abatement expenditures under this section are those that were | 4219 |
| mined for coal or were affected by such mining, wastebanks, coal | 4220 |
| processing, or other coal mining processes and that meet one of | 4221 |
| the following criteria: | 4222 |
| (a) Are lands that were abandoned or left in an inadequate | 4223 |
| reclamation status prior to August 3, 1977, and for which there is | 4224 |
| no continuing reclamation responsibility under state or federal | 4225 |
| laws; | 4226 |
| (b) Are lands for which the chief finds that surface coal | 4227 |
| mining operations occurred at any time between August 4, 1977, and | 4228 |
| August 16, 1982, and that any moneys for reclamation or abatement | 4229 |
| that are available pursuant to a bond, <u>performance security</u> , or | 4230 |
| other form of financial guarantee or from any other source are not | 4231 |
| sufficient to provide for adequate reclamation or abatement at the | 4232 |
| site; | 4233 |
| (c) Are lands for which the chief finds that surface coal | 4234 |

mining operations occurred at any time between August 4, 1977, and 4235
November 5, 1990, that the surety of the mining operator became 4236
insolvent during that time, and that, as of November 5, 1990, any 4237
moneys immediately available from proceedings relating to that 4238
insolvency or from any financial guarantee or other source are not 4239
sufficient to provide for adequate reclamation or abatement at the 4240
site. 4241

(2) In determining which sites to reclaim pursuant to 4242
divisions (C)(1)(b) and (c) of this section, the chief shall 4243
follow the priorities stated in divisions (B)(1) and (2) of this 4244
section and shall ensure that priority is given to those sites 4245
that are in the immediate vicinity of a residential area or that 4246
have an adverse economic impact on a local community. 4247

(3) Surface coal mining operations on lands eligible for 4248
remining shall not affect the eligibility of those lands for 4249
reclamation and restoration under this section after the release 4250
of the bond, performance security, or other form of financial 4251
guarantee for any such operation as provided under division (F) of 4252
section 1513.16 of the Revised Code. If the bond, performance 4253
security, or other form of financial guarantee for a surface coal 4254
mining operation on lands eligible for remining is forfeited, 4255
moneys available under this section may be used if the amount of 4256
the bond, performance security, or other form of financial 4257
guarantee is not sufficient to provide for adequate reclamation or 4258
abatement, except that if conditions warrant, the chief 4259
immediately shall exercise the authority granted under division 4260
(L) of this section. 4261

(D) The chief may submit to the secretary of the interior a 4262
state reclamation plan and annual projects to carry out the 4263
purposes of this section. 4264

(1) The reclamation plan generally shall identify the areas 4265

to be reclaimed, the purposes for which the reclamation is 4266
proposed, the relationship of the lands to be reclaimed and the 4267
proposed reclamation to surrounding areas, the specific criteria 4268
for ranking and identifying projects to be funded, and the legal 4269
authority and programmatic capability to perform the work in 4270
accordance with this section. 4271

(2) On an annual basis, the chief may submit to the secretary 4272
an application for support of the abandoned mine reclamation fund 4273
and implementation of specific reclamation projects. The annual 4274
requests shall include such information as may be requested by the 4275
secretary. 4276

Before submitting an annual application to the secretary, the 4277
chief first shall submit it to the council on unreclaimed strip 4278
mined lands for review and approval by the council. The chief 4279
shall not submit such an application to the secretary until it has 4280
been approved by the council. The chief shall submit applications 4281
for administrative costs, imminent hazards, or emergency projects 4282
to the council for review. 4283

(3) The costs for each proposed project under this section 4284
shall include actual construction costs, actual operation and 4285
maintenance costs of permanent facilities, planning and 4286
engineering costs, construction inspection costs, and other 4287
necessary administrative expenses. 4288

(4) Before making any expenditure of funds from the fund to 4289
implement any specific reclamation project under this section, the 4290
chief first shall submit to the council a project proposal and any 4291
other pertinent information regarding the project requested by the 4292
council for review and approval of the specific project by the 4293
council. 4294

(5) The chief may submit annual and other reports required by 4295
the secretary when funds are provided by the secretary under Title 4296

IV of the "Surface Mining Control and Reclamation Act of 1977," 91 4297
Stat. 445, 30 U.S.C.A. 1201, regulations adopted under it, and 4298
amendments to the act and regulations. 4299

(E)(1) There is hereby created in the state treasury the acid 4300
mine drainage abatement and treatment fund, which shall be 4301
administered by the chief. The fund shall consist of grants from 4302
the secretary of the interior from the federal abandoned mine 4303
reclamation fund pursuant to section 402(g)(6) of Title IV of the 4304
"Surface Mining Control and Reclamation Act of 1977," 91 Stat. 4305
445, 30 U.S.C.A. 1201. All investment earnings of the fund shall 4306
be credited to the fund. 4307

(2) The chief shall make expenditures from the fund, in 4308
consultation with the United States department of agriculture, 4309
soil conservation service, to implement acid mine drainage 4310
abatement and treatment plans approved by the secretary. The plans 4311
shall provide for the comprehensive abatement of the causes and 4312
treatment of the effects of acid mine drainage within qualified 4313
hydrologic units affected by coal mining practices and shall 4314
include at least all of the following: 4315

(a) An identification of the qualified hydrologic unit. As 4316
used in division (E) of this section, "qualified hydrologic unit" 4317
means a hydrologic unit that meets all of the following criteria: 4318

(i) The water quality in the unit has been significantly 4319
affected by acid mine drainage from coal mining practices in a 4320
manner that has an adverse impact on biological resources. 4321

(ii) The unit contains lands and waters that meet the 4322
eligibility requirements established under division (C) of this 4323
section and any of the priorities established in divisions (B)(1) 4324
to (3) of this section. 4325

(iii) The unit contains lands and waters that are proposed to 4326
be the subject of expenditures from the reclamation forfeiture 4327

| | |
|--|------|
| fund created in section 1513.18 of the Revised Code or the | 4328 |
| unreclaimed lands fund created in section 1513.30 of the Revised | 4329 |
| Code. | 4330 |
| (b) The extent to which acid mine drainage is affecting the | 4331 |
| water quality and biological resources within the hydrologic unit; | 4332 |
| (c) An identification of the sources of acid mine drainage | 4333 |
| within the hydrologic unit; | 4334 |
| (d) An identification of individual projects and the measures | 4335 |
| proposed to be undertaken to abate and treat the causes or effects | 4336 |
| of acid mine drainage within the hydrologic unit; | 4337 |
| (e) The cost of undertaking the proposed abatement and | 4338 |
| treatment measures; | 4339 |
| (f) An identification of existing and proposed sources of | 4340 |
| funding for those measures; | 4341 |
| (g) An analysis of the cost-effectiveness and environmental | 4342 |
| benefits of abatement and treatment measures. | 4343 |
| (3) The chief may make grants of moneys from the acid mine | 4344 |
| drainage abatement and treatment fund to watershed groups for | 4345 |
| conducting projects to accomplish the purposes of this section. A | 4346 |
| grant may be made in an amount equal to not more than fifty per | 4347 |
| cent of each of the following: | 4348 |
| (a) Reasonable and necessary expenses for the collection and | 4349 |
| analysis of data sufficient to do either or both of the following: | 4350 |
| (i) Identify a watershed as a qualified hydrologic unit; | 4351 |
| (ii) Monitor the quality of water in a qualified hydrologic | 4352 |
| unit before, during, and at any time after completion of the | 4353 |
| project by the watershed group. | 4354 |
| (b) Engineering design costs and construction costs involved | 4355 |
| in the project, provided that the project is conducted in a | 4356 |

qualified hydrologic unit and the chief considers the project to 4357
be a priority. 4358

A watershed group that wishes to obtain a grant under 4359
division (E)(3) of this section shall submit an application to the 4360
chief on forms provided by the division of mineral resources 4361
management, together with detailed estimates and timetables for 4362
accomplishing the stated goals of the project and any other 4363
information that the chief requires. 4364

For the purposes of establishing priorities for awarding 4365
grants under division (E)(3) of this section, the chief shall 4366
consider each project's feasibility, cost-effectiveness, and 4367
environmental benefit, together with the availability of matching 4368
funding, including in-kind services, for the project. 4369

The chief shall enter into a contract for funding with each 4370
applicant awarded a grant to ensure that the moneys granted are 4371
used for the purposes of this section and that the work that the 4372
project involves is done properly. The contract is not subject to 4373
division (B) of section 127.16 of the Revised Code. The final 4374
payment of grant moneys shall not be made until the chief inspects 4375
and approves the completed project. 4376

The chief shall require each applicant awarded a grant under 4377
this section who conducts a project involving construction work to 4378
pay workers at the greater of their regular rate of pay, as 4379
established by contract, agreement, or prior custom or practice, 4380
or the average wage rate paid in this state for the same or 4381
similar work performed in the same or a similar locality by 4382
private companies doing similar work on similar projects. 4383

As used in division (E)(3) of this section, "watershed group" 4384
means a charitable organization as defined in section 1716.01 of 4385
the Revised Code that has been established for the purpose of 4386
conducting reclamation of land and waters adversely affected by 4387

coal mining practices and specifically for conducting acid mine
drainage abatement. 4388
4389

(F)(1) If the chief makes a finding of fact that land or 4390
water resources have been adversely affected by past coal mining 4391
practices; the adverse effects are at a stage where, in the public 4392
interest, action to restore, reclaim, abate, control, or prevent 4393
the adverse effects should be taken; the owners of the land or 4394
water resources where entry must be made to restore, reclaim, 4395
abate, control, or prevent the adverse effects of past coal mining 4396
practices are not known or are not readily available; or the 4397
owners will not give permission for the state, political 4398
subdivisions, or their agents, employees, or contractors to enter 4399
upon the property to restore, reclaim, abate, control, or prevent 4400
the adverse effects of past coal mining practices; then, upon 4401
giving notice by mail to the owners, if known, or, if not known, 4402
by posting notice upon the premises and advertising once in a 4403
newspaper of general circulation in the municipal corporation or 4404
county in which the land lies, the chief or the chief's agents, 4405
employees, or contractors may enter upon the property adversely 4406
affected by past coal mining practices and any other property to 4407
have access to the property to do all things necessary or 4408
expedient to restore, reclaim, abate, control, or prevent the 4409
adverse effects. The entry shall be construed as an exercise of 4410
the police power for the protection of the public health, safety, 4411
and general welfare and shall not be construed as an act of 4412
condemnation of property nor of trespass on it. The moneys 4413
expended for the work and the benefits accruing to any such 4414
premises so entered upon shall be chargeable against the land and 4415
shall mitigate or offset any claim in or any action brought by any 4416
owner of any interest in the premises for any alleged damages by 4417
virtue of the entry, but this provision is not intended to create 4418
new rights of action or eliminate existing immunities. 4419

(2) The chief or the chief's authorized representatives may 4420
enter upon any property for the purpose of conducting studies or 4421
exploratory work to determine the existence of adverse effects of 4422
past coal mining practices and to determine the feasibility of 4423
restoration, reclamation, abatement, control, or prevention of 4424
such adverse effects. The entry shall be construed as an exercise 4425
of the police power for the protection of the public health, 4426
safety, and general welfare and shall not be construed as an act 4427
of condemnation of property nor trespass on it. 4428

(3) The chief may acquire any land by purchase, donation, or 4429
condemnation that is adversely affected by past coal mining 4430
practices if the chief determines that acquisition of the land is 4431
necessary to successful reclamation and that all of the following 4432
apply: 4433

(a) The acquired land, after restoration, reclamation, 4434
abatement, control, or prevention of the adverse effects of past 4435
coal mining practices, will serve recreation and historic 4436
purposes, serve conservation and reclamation purposes, or provide 4437
open space benefits. 4438

(b) Permanent facilities such as a treatment plant or a 4439
relocated stream channel will be constructed on the land for the 4440
restoration, reclamation, abatement, control, or prevention of the 4441
adverse effects of past coal mining practices. 4442

(c) Acquisition of coal refuse disposal sites and all coal 4443
refuse thereon will serve the purposes of this section or public 4444
ownership is desirable to meet emergency situations and prevent 4445
recurrences of the adverse effects of past coal mining practices. 4446

(4)(a) Title to all lands acquired pursuant to this section 4447
shall be in the name of the state. The price paid for land 4448
acquired under this section shall reflect the market value of the 4449
land as adversely affected by past coal mining practices. 4450

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

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

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

(6) In addition to the authority to acquire land under division (F)(3) of this section, the chief may use money in the fund to acquire land by purchase, donation, or condemnation, and to reclaim and transfer acquired land to a political subdivision, or to any person, if the chief determines that it is an integral and necessary element of an economically feasible plan for the construction or rehabilitation of housing for persons disabled as the result of employment in the mines or work incidental to that employment, persons displaced by acquisition of land pursuant to this section, persons dislocated as the result of adverse effects of coal mining practices that constitute an emergency as provided in the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 466, 30 U.S.C.A. 1240, or amendments to it, or persons

dislocated as the result of natural disasters or catastrophic 4483
failures from any cause. Such activities shall be accomplished 4484
under such terms and conditions as the chief requires, which may 4485
include transfers of land with or without monetary consideration, 4486
except that to the extent that the consideration is below the fair 4487
market value of the land transferred, no portion of the difference 4488
between the fair market value and the consideration shall accrue 4489
as a profit to those persons. No part of the funds provided under 4490
this section may be used to pay the actual construction costs of 4491
housing. The chief may carry out the purposes of division (F)(6) 4492
of this section directly or by making grants and commitments for 4493
grants and may advance money under such terms and conditions as 4494
the chief may require to any agency or instrumentality of the 4495
state or any public body or nonprofit organization designated by 4496
the chief. 4497

(G)(1) Within six months after the completion of projects to 4498
restore, reclaim, abate, control, or prevent adverse effects of 4499
past coal mining practices on privately owned land, the chief 4500
shall itemize the moneys so expended and may file a statement of 4501
the expenditures in the office of the county recorder of the 4502
county in which the land lies, together with a notarized appraisal 4503
by an independent appraiser of the value of the land before the 4504
restoration, reclamation, abatement, control, or prevention of 4505
adverse effects of past coal mining practices if the moneys so 4506
expended result in a significant increase in property value. The 4507
statement shall constitute a lien upon the land as of the date of 4508
the expenditures of the moneys and shall have priority as a lien 4509
second only to the lien of real property taxes imposed upon the 4510
land. The lien shall not exceed the amount determined by the 4511
appraisal to be the increase in the fair market value of the land 4512
as a result of the restoration, reclamation, abatement, control, 4513
or prevention of the adverse effects of past coal mining 4514

practices. No lien shall be filed under division (G) of this 4515
section against the property of any person who owned the surface 4516
prior to May 2, 1977, and did not consent to, participate in, or 4517
exercise control over the mining operation that necessitated the 4518
reclamation performed. 4519

(2) The landowner may petition, within sixty days after the 4520
filing of the lien, to determine the increase in the fair market 4521
value of the land as a result of the restoration, reclamation, 4522
abatement, control, or prevention of the adverse effects of past 4523
coal mining practices. The amount reported to be the increase in 4524
value of the premises shall constitute the amount of the lien and 4525
shall be recorded with the statement provided in this section. Any 4526
party aggrieved by the decision may appeal as provided by state 4527
law. 4528

(3) The lien provided in division (G) of this section shall 4529
be recorded and indexed, under the name of the state and the 4530
landowner, in a lien index in the office of the county recorder of 4531
the county in which the land lies. The county recorder shall 4532
impose no charge for the recording or indexing of the lien. If the 4533
land is registered, the county recorder shall make a notation and 4534
enter a memorial of the lien upon the page of the register in 4535
which the last certificate of title to the land is registered, 4536
stating the name of the claimant, amount claimed, volume and page 4537
of the record where recorded, and exact time the memorial was 4538
entered. 4539

(4) The lien shall continue in force so long as any portion 4540
of the amount of the lien remains unpaid. If the lien remains 4541
unpaid at the time of conveyance of the land on which the lien was 4542
placed, the conveyance may be set aside. Upon repayment in full of 4543
the moneys expended under this section, the chief promptly shall 4544
issue a certificate of release of the lien. Upon presentation of 4545
the certificate of release, the county recorder of the county in 4546

which the lien is recorded shall record the lien as having been 4547
discharged. 4548

(5) A lien imposed under this section shall be foreclosed 4549
upon the substantial failure of a landowner to pay any portion of 4550
the amount of the lien. Before foreclosing any lien under this 4551
section, the chief shall make a written demand upon the landowner 4552
for payment. If the landowner does not pay the amount due within 4553
sixty days, the chief shall refer the matter to the attorney 4554
general, who shall institute a civil action to foreclose the lien. 4555

(H)(1) The chief may fill voids, seal abandoned tunnels, 4556
shafts, and entryways, and reclaim surface impacts of underground 4557
or strip mines that the chief determines could endanger life and 4558
property, constitute a hazard to the public health and safety, or 4559
degrade the environment. 4560

(2) In those instances where mine waste piles are being 4561
reworked for conservation purposes, the incremental costs of 4562
disposing of the wastes from those operations by filling voids and 4563
sealing tunnels may be eligible for funding, provided that the 4564
disposal of these wastes meets the purposes of this section. 4565

(3) The chief may acquire by purchase, donation, easement, or 4566
otherwise such interest in land as the chief determines necessary 4567
to carry out division (H) of this section. 4568

(I) The chief shall report annually to the secretary of the 4569
interior on operations under the fund and include recommendations 4570
as to its future uses. 4571

(J)(1) The chief may engage in any work and do all things 4572
necessary or expedient, including the adoption of rules, to 4573
implement and administer this section. 4574

(2) The chief may engage in cooperative projects under this 4575
section with any agency of the United States, any other state, or 4576

their governmental agencies or with any state university or 4577
college as defined in section 3345.27 of the Revised Code. The 4578
cooperative projects are not subject to division (B) of section 4579
127.16 of the Revised Code. 4580

(3) The chief may request the attorney general to initiate in 4581
any court of competent jurisdiction an action in equity for an 4582
injunction to restrain any interference with the exercise of the 4583
right to enter or to conduct any work provided in this section, 4584
which remedy is in addition to any other remedy available under 4585
this section. 4586

(4) The chief may construct or operate a plant or plants for 4587
the control and treatment of water pollution resulting from mine 4588
drainage. The extent of this control and treatment may be 4589
dependent upon the ultimate use of the water. Division (J)(4) of 4590
this section does not repeal or supersede any portion of the 4591
"Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 4592
U.S.C.A. 1151, as amended, and no control or treatment under 4593
division (J)(4) of this section, in any way, shall be less than 4594
that required by that act. The construction of a plant or plants 4595
may include major interceptors and other facilities appurtenant to 4596
the plant. 4597

(5) The chief may transfer money from the abandoned mine 4598
reclamation fund and the acid mine drainage abatement and 4599
treatment fund to other appropriate state agencies or to state 4600
universities or colleges in order to carry out the reclamation 4601
activities authorized by this section. 4602

(K) The chief may contract for any part of work to be 4603
performed under this section, with or without advertising for 4604
bids, if the chief determines that a condition exists that could 4605
reasonably be expected to cause substantial physical harm to 4606
persons, property, or the environment and to which persons or 4607

improvements on real property are currently exposed.

4608

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

4609

4610

4611

4612

4613

4614

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

4615

4616

4617

4618

4619

4620

4621

4622

4623

4624

4625

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

4626

4627

4628

4629

4630

4631

4632

4633

4634

4635

4636

4637

4638

4639

immunities.

4640

Sec. 1513.371. There is hereby created in the state treasury
the mined land set aside fund consisting of grants made by the
United States secretary of the interior from the federal abandoned
mine reclamation fund pursuant to section 402 of the "Surface
Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30
U.S.C. 1232. The chief of the division of mineral resources
management shall administer the fund. Money in the fund shall be
used solely for the purposes specified in divisions (B)(1) to (4)
of section 1513.37 of the Revised Code. All investment earnings of
the fund shall be credited to the fund.

4641

4642

4643

4644

4645

4646

4647

4648

4649

4650

Sec. 1514.01. As used in this chapter:

4651

(A) "Surface mining" means all or any part of a process
followed in the production of minerals from the earth or from the
surface of the land by surface excavation methods, such as open
pit mining, dredging, placering, or quarrying, and includes the
removal of overburden for the purpose of determining the location,
quantity, or quality of mineral deposits, and the incidental
removal of coal at a rate less than one-sixth the total weight of
minerals and coal removed during the year, but does not include:
test or exploration boring; mining operations carried out beneath
the surface by means of shafts, tunnels, or similar mine openings;
the extraction of minerals, other than coal, by a landowner for
the landowner's own noncommercial use where such material is
extracted and used in an unprocessed form on the same tract of
land; the extraction of minerals, other than coal, from borrow
pits for highway construction purposes, provided that the
extraction is performed under a bond, a contract, and
specifications that substantially provide for and require
reclamation practices consistent with the requirements of this

4652

4653

4654

4655

4656

4657

4658

4659

4660

4661

4662

4663

4664

4665

4666

4667

4668

4669

chapter; the removal of minerals incidental to construction work, 4670
provided that the owner or person having control of the land upon 4671
which the construction occurs, the contractor, or the construction 4672
firm possesses a valid building permit; the removal of minerals to 4673
a depth of not more than five feet, measured from the highest 4674
original surface elevation of the area to be excavated, where not 4675
more than one acre of land is excavated during twelve successive 4676
calendar months; routine dredging of a watercourse for purely 4677
navigational or flood control purposes during which materials are 4678
removed for noncommercial purposes; or the extraction or movement 4679
of soil or minerals within a solid waste facility, as defined in 4680
section 3734.01 of the Revised Code, that is a sanitary landfill 4681
when the soil or minerals are used exclusively for the 4682
construction, operation, closure, and post-closure care of the 4683
facility or for maintenance activities at the facility. 4684

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 4685
halite, limestone, dolomite, sandstone, other stone, metalliferous 4686
or nonmetalliferous ore, or other material or substance of 4687
commercial value excavated in a solid state from natural deposits 4688
on or in the earth, but does not include coal or peat. 4689

(C) "Overburden" means all of the earth and other materials 4690
that cover a natural deposit of minerals and also means such earth 4691
and other materials after removal from their natural state in the 4692
process of surface mining. 4693

(D) "Spoil bank" means a pile of removed overburden. 4694

(E) "Area of land affected" means the area of land that has 4695
been excavated, or upon which a spoil bank exists, or both. 4696

(F)(1) "Operation" or "surface mining operation" means all of 4697
the premises, facilities, and equipment used in the process of 4698
removing minerals, or minerals and incidental coal, by surface 4699
mining from a mining area in the creation of which mining area 4700

overburden or minerals, or minerals and incidental coal, are 4701
disturbed or removed, such surface mining area being located upon 4702
a single tract of land or upon two or more contiguous tracts of 4703
land. Separation by a stream or roadway shall not preclude the 4704
tracts from being considered contiguous. 4705

(2) When the context indicates, "operation" or "in-stream 4706
mining operation" means all of the premises, facilities, and 4707
equipment used in the process of removing minerals by in-stream 4708
mining from a mining area. 4709

(G) "Operator" means any person engaged in surface mining who 4710
removes minerals, or minerals and incidental coal, from the earth 4711
by surface mining or who removes overburden for the purpose of 4712
determining the location, quality, or quantity of a mineral 4713
deposit. "Operator" also means any person engaged in in-stream 4714
mining who removes minerals from the bottom of the channel of a 4715
watercourse by in-stream mining. 4716

(H) "Performance bond" means the surety bond required to be 4717
filed under section 1514.04 of the Revised Code and includes cash, 4718
an irrevocable letter of credit, and negotiable certificates of 4719
deposit authorized to be deposited in lieu of the surety bond 4720
under that section. 4721

(I) "Dewatering" means the withdrawal of ground water from an 4722
aquifer or saturated zone that may result in the lowering of the 4723
water level within the aquifer or saturated zone or a decline of 4724
the potentiometric surface within that aquifer or saturated zone. 4725

(J) "Ground water" means all water occurring in an aquifer. 4726

(K) "Cone of depression" means a depression or low point in 4727
the water table or potentiometric surface of a body of ground 4728
water that develops around a location from which ground water is 4729
being withdrawn. 4730

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

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

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

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

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

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

watercourse. 4762

(O) "Watercourse" means any naturally occurring perennial or 4763
intermittent stream, river, or creek flowing within a defined 4764
stream bed and banks. 4765

(P) "Certified mine foreperson" means the person whom the 4766
operator of a surface mining operation places in charge of the 4767
conditions and practices at the mine, who is responsible for 4768
conducting workplace examinations under 30 C.F.R. part 56, as 4769
amended, and who has passed an examination for the position 4770
administered by the division of mineral resources management. 4771

Sec. 1514.011. The division of mineral resources management 4772
has authority over all surface mining operations located in the 4773
state and shall exercise that authority as provided in this 4774
chapter. 4775

Sec. 1514.03. Within thirty days after each anniversary date 4777
of issuance of a surface or in-stream mining permit, the operator 4778
shall file with the chief of the division of mineral resources 4779
management an annual report, on a form prescribed and furnished by 4780
the chief, that, for the period covered by the report, shall state 4781
the amount of and identify the types of minerals and coal, if any 4782
coal, produced and shall state the number of acres affected and 4783
the number of acres estimated to be affected during the next year 4784
of operation. An annual report is not required to be filed if a 4785
final report is filed in lieu thereof. 4786

Each annual report for a surface mining operation shall 4787
include a progress map indicating the location of areas of land 4788
affected during the period of the report and the location of the 4789
area of land estimated to be affected during the next year. The 4790
map shall be prepared in accordance with division (A)(11) or (12) 4791

of section 1514.02 of the Revised Code, as appropriate, except
that a map prepared in accordance with division (A)(12) of that
section may be certified by the operator or authorized agent of
the operator in lieu of certification by a professional engineer
or surveyor registered under Chapter 4733. of the Revised Code.
However, the chief may require that an annual progress map or a
final map be prepared by a registered professional engineer or
registered surveyor if the chief has reason to believe that the
operator exceeded the boundaries of the permit area or, if the
operator filed the map required under division (A)(11) of section
1514.02 of the Revised Code, that the operator extracted ten
thousand tons or more of minerals during the period covered by the
report.

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

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

4792
4793
4794
4795
4796
4797
4798
4799
4800
4801
4802
4803
4804
4805
4806
4807
4808
4809
4810
4811
4812
4813
4814
4815
4816
4817
4818
4819
4820
4821
4822
4823

by subtracting a credit of seventy-five dollars per excess acre 4824
paid for the preceding year if the acreage paid for the preceding 4825
year exceeds the acreage actually affected or by adding an 4826
additional amount of seventy-five dollars per excess acre affected 4827
if the acreage actually affected exceeds the acreage paid for the 4828
preceding year. 4829

With each annual report the operator shall file a performance 4830
bond in the amount, unless otherwise provided by rule, of ~~one~~ 4831
~~thousand~~ five hundred dollars multiplied by the number of acres 4832
estimated to be affected during the next year of operation under 4833
the permit for which no performance bond previously was filed. 4834
Unless otherwise provided by rule, the bond shall be adjusted by 4835
subtracting a credit of ~~one thousand~~ five hundred dollars per 4836
excess acre for which bond was filed for the preceding year if the 4837
acreage for which the bond was filed for the preceding year 4838
exceeds the acreage actually affected, or by adding an amount of 4839
~~one thousand~~ five hundred dollars per excess acre affected if the 4840
acreage actually affected exceeds the acreage for which bond was 4841
filed for the preceding year. 4842

Within thirty days after the expiration of the surface or 4843
in-stream mining permit, or completion or abandonment of the 4844
operation, whichever occurs earlier, the operator shall submit a 4845
final report containing the same information required in an annual 4846
report, but covering the time from the last annual report to the 4847
expiration of the permit, or completion or abandonment of the 4848
operation, whichever occurs earlier. 4849

Each final report shall include a map indicating the location 4850
of the area of land affected during the period of the report and 4851
the location of the total area of land affected under the permit. 4852
The map shall be prepared in accordance with division (A)(11) or 4853
(12) of section 1514.02 of the Revised Code, as appropriate. 4854

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

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

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

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

If upon inspection the chief finds that any filing fee, 4886
acreage fee, performance bond, or part thereof is not paid when 4887
due or is paid on the basis of false or substantially inaccurate 4888
reports, the chief may request the attorney general to recover the 4889
unpaid amounts that are due the state, and the attorney general 4890
shall commence appropriate legal proceedings to recover the unpaid 4891
amounts. 4892

Sec. 1514.04. (A) Upon receipt of notification from the chief 4893
of the division of mineral resources management of the chief's 4894
intent to issue an order granting a surface or in-stream mining 4895
permit to the applicant, the applicant shall file a surety bond, 4896
cash, an irrevocable letter of credit, or certificates of deposit 4897
in the amount, unless otherwise provided by rule, of ten thousand 4898
dollars ~~plus one thousand~~. If the amount of land to be affected is 4899
more than twenty acres, the applicant also shall file a surety 4900
bond, cash, an irrevocable letter of credit, or certificates of 4901
deposit in the amount of five hundred dollars per acre of land to 4902
be affected that exceeds twenty acres. Upon receipt of 4903
notification from the chief of the chief's intent to issue an 4904
order granting an amendment to a surface or in-stream mining 4905
permit, the applicant shall file a surety bond, cash, an 4906
irrevocable letter of credit, or certificates of deposit in the 4907
amount, ~~unless otherwise provided by rule, of one thousand dollars~~ 4908
~~per acre of land to be affected~~ required in this division. 4909

In the case of a surface mining permit, the bond shall be 4910
filed ~~for~~ based on the number of acres estimated to be affected 4911
during the first year of operation under the permit. In the case 4912
of an amendment to a surface mining permit, the bond shall be 4913
filed ~~for~~ based on the number of acres estimated to be affected 4914
during the balance of the period until the next anniversary date 4915
of the permit. 4916

In the case of an in-stream mining permit, the bond shall be 4917
filed ~~for~~ based on the number of acres of land within the limits 4918
of the in-stream mining permit for the entire permit period. In 4919
the case of an amendment to an in-stream mining permit, the bond 4920
shall be filed ~~for~~ based on the number of any additional acres of 4921
land to be affected within the limits of the in-stream mining 4922
permit. 4923

(B) A surety bond filed pursuant to this section and sections 4924
1514.02 and 1514.03 of the Revised Code shall be upon the form 4925
that the chief prescribes and provides and shall be signed by the 4926
operator as principal and by a surety company authorized to 4927
transact business in the state as surety. The bond shall be 4928
payable to the state and shall be conditioned upon the faithful 4929
performance by the operator of all things to be done and performed 4930
by the operator as provided in this chapter and the rules and 4931
orders of the chief adopted or issued pursuant thereto. 4932

The operator may deposit with the chief, in lieu of a surety 4933
bond, cash in an amount equal to the surety bond as prescribed in 4934
this section, an irrevocable letter of credit or negotiable 4935
certificates of deposit issued by any bank organized or 4936
transacting business in this state, or an irrevocable letter of 4937
credit or certificates of deposit issued by any savings and loan 4938
association as defined in section 1151.01 of the Revised Code, 4939
having a cash value equal to or greater than the amount of the 4940
surety bond as prescribed in this section. Cash or certificates of 4941
deposit shall be deposited upon the same terms as the terms upon 4942
which surety bonds may be deposited. If one or more certificates 4943
of deposit are deposited with the chief in lieu of a surety bond, 4944
the chief shall require the bank or savings and loan association 4945
that issued any such certificate to pledge securities of a cash 4946
value equal to the amount of the certificate, or certificates, 4947
that is in excess of the amount insured by the federal deposit 4948

insurance corporation. The securities shall be security for the
repayment of the certificate of deposit.

4949
4950

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

4951
4952
4953
4954
4955
4956
4957
4958
4959
4960
4961
4962
4963
4964
4965
4966
4967
4968
4969
4970
4971
4972
4973
4974
4975
4976

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

4977
4978
4979
4980

bond or any other form of financial assurance for the reclamation 4981
of land to be affected by a surface or in-stream mining operation 4982
authorized under this chapter. 4983

Sec. 1514.05. (A) At any time within the period allowed an 4984
operator by section 1514.02 of the Revised Code to reclaim an area 4985
of land affected by surface or in-stream mining, the operator may 4986
file a request, on a form provided by the chief of the division of 4987
mineral resources management, for inspection of the area of land 4988
upon which ~~a phase of the reclamation, other than any required~~ 4989
~~planting,~~ is completed. ~~For purposes of inspections and subsequent~~ 4990
~~releases of performance bonds or cash, irrevocable letters of~~ 4991
~~credit, or certificates of deposit deposited in lieu of bonds~~ 4992
~~under this section, reclamation shall be considered to occur in~~ 4993
~~two phases. The first phase involves grading, contouring,~~ 4994
~~terracing, resoiling, and initial planting. The second phase~~ 4995
~~involves the establishment of vegetative cover together with the~~ 4996
~~maintenance and the completion of all reclamation required under~~ 4997
~~this chapter or rules adopted under it. The~~ 4998

~~A request for inspection at the completion of a phase of~~ 4999
~~reclamation shall include all of the following:~~ 5000

(1) The location of the area and number of acres; 5001

(2) The permit number; 5002

(3) ~~The amount of performance bond on deposit at the time of~~ 5003
~~the request to ensure reclamation of the area;~~ 5004

~~(4)~~ A map showing the location of the acres reclaimed, 5005
prepared and certified in accordance with division (A)(11) or (12) 5006
of section 1514.02 of the Revised Code, as appropriate. In the 5007
case of an in-stream mining operation, the map also shall include 5008
the information required under division (A)(18) of section 1514.02 5009
of the Revised Code. 5010

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

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

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

~~If the operator has deposited cash, an irrevocable letter of credit, or certificates of deposit in lieu of a surety bond to ensure reclamation, the chief shall issue an order to the operator~~

releasing one-half of the amount so held ~~in the same manner and in~~ 5043
~~the same percentages that apply to the release of a surety bond~~ 5044
and promptly shall transmit a certified copy of the order to the 5045
treasurer of state. Upon presentation of the order to the 5046
treasurer of state by the operator to whom it was issued, or by 5047
the operator's authorized agent, the treasurer of state shall 5048
deliver to the operator or the operator's authorized agent the 5049
cash, irrevocable letter of credit, or certificates of deposit 5050
designated in the order. 5051

~~(C)~~ If the chief does not approve ~~a phase of~~ the reclamation, 5052
other than any required planting, the chief shall notify the 5053
operator by certified mail. The notice shall be an order stating 5054
the reasons for unacceptability, ordering further actions to be 5055
taken, and setting a time limit for compliance. If the operator 5056
does not comply with the order within the time limit specified, 5057
the chief may order an extension of time for compliance after 5058
determining that the operator's noncompliance is for good cause, 5059
resulting from developments partially or wholly beyond the 5060
operator's control. If the operator complies within the time limit 5061
or the extension of time granted for compliance, the chief shall 5062
order release of the performance bond in the same manner as in the 5063
case of approval of reclamation, other than any required planting, 5064
by the chief, and the treasurer of state shall proceed as in that 5065
case. If the operator does not comply within the time limit and 5066
the chief does not order an extension, or if the chief orders an 5067
extension of time and the operator does not comply within the 5068
extension of time granted for compliance, the chief shall issue 5069
another order declaring that the operator has failed to reclaim 5070
and, if the operator's permit has not already expired or been 5071
revoked, revoking the operator's permit. The chief shall thereupon 5072
proceed under division ~~(D)~~(C) of this section. 5073

~~(D)~~(B) At any time within the period allowed an operator by 5074

section 1514.02 of the Revised Code to reclaim an area affected by 5075
surface mining, the operator may file a request, on a form 5076
provided by the chief, for inspection of the area of land on which 5077
all reclamation, including the successful establishment of any 5078
required planting, is completed. The request shall include all of 5079
the following: 5080

(1) The location of the area and number of acres; 5081

(2) The permit number; 5082

(3) The type and date of any required planting of vegetative 5083
cover and the degree of success of growth; 5084

(4) A map showing the location of the acres reclaimed, 5085
prepared and certified in accordance with division (A)(11) or (12) 5086
of section 1514.02 of the Revised Code, as appropriate. In the 5087
case of an in-stream mining operation, the map also shall include 5088
the information required under division (A)(18) of section 1514.02 5089
of the Revised Code. 5090

The chief shall make an inspection and evaluation of the 5091
reclamation of the area of land for which the request was 5092
submitted within ninety days after receipt of the request or, if 5093
the operator fails to complete the reclamation or file the request 5094
as required, as soon as the chief learns of the default. 5095
Thereupon, if the chief finds that the reclamation meets the 5096
requirements of this chapter, rules adopted under it, any orders 5097
issued during the mining and reclamation, and the specifications 5098
of the plan for mining and reclaiming and decides to release any 5099
remaining performance bond on deposit to ensure reclamation of the 5100
area on which reclamation is completed, within ten days of 5101
completing the inspection and evaluation, the chief shall order 5102
release of the remaining performance bond in the same manner as in 5103
the case of approval of reclamation other than required planting, 5104
and the treasurer of state shall proceed as in that case. 5105

If the chief does not approve the reclamation performed by 5106
the operator, the chief shall notify the operator by certified 5107
mail within ninety days of the filing of the application for 5108
inspection or of the date when the chief learns of the default. 5109
The notice shall be an order stating the reasons for 5110
unacceptability, ordering further actions to be taken, and setting 5111
a time limit for compliance. If the operator does not comply with 5112
the order within the time limit specified, the chief may order an 5113
extension of time for compliance after determining that the 5114
operator's noncompliance is for good cause, resulting from 5115
developments partially or wholly beyond the operator's control. If 5116
the operator complies within the time limit or the extension of 5117
time granted for compliance, the chief shall order release of the 5118
remaining performance bond in the same manner as in the case of 5119
approval of reclamation by the chief, and the treasurer of state 5120
shall proceed as in that case. If the operator does not comply 5121
within the time limit and the chief does not order an extension, 5122
or if the chief orders an extension of time and the operator does 5123
not comply within the extension of time granted for compliance, 5124
the chief shall issue another order declaring that the operator 5125
has failed to reclaim and, if the operator's permit has not 5126
already expired or been revoked, revoking the operator's permit. 5127
The chief then shall proceed under division (C) of this section. 5128

(C) Upon issuing an order under division ~~(C)~~(A) or (B) of 5129
this section declaring that the operator has failed to reclaim, 5130
the chief shall ~~retain all or part of the performance bond on~~ 5131
~~deposit for reclamation of the affected surface or in stream mine~~ 5132
~~site. The~~ make a finding as to the number and location of the 5133
acres of land that the operator has failed to reclaim in the 5134
manner required by this chapter. The chief shall order the release 5135
of the performance bond in the amount of five hundred dollars per 5136
acre for those acres that the chief finds to have been reclaimed 5137

in the manner required by this chapter. The release shall be 5138
ordered in the same manner as in the case of other approval of 5139
reclamation by the chief, and the treasurer of state shall proceed 5140
as in that case. If the operator has on deposit cash, an 5141
irrevocable letter of credit, or certificates of deposit to ensure 5142
reclamation of the area of the land affected, the chief at the 5143
same time shall issue an order declaring that the remaining cash, 5144
irrevocable letter of credit, or certificates of deposit, ~~if any,~~ 5145
are the property of the state and are available for use by the 5146
chief in performing reclamation of the area and shall proceed in 5147
accordance with section 1514.06 of the Revised Code. 5148

If the operator has on deposit a surety bond to ensure 5149
reclamation of the area of land affected, the chief shall notify 5150
the surety in writing of the operator's default and shall request 5151
the surety to perform the surety's obligation and that of the 5152
operator. The surety, within ten days after receipt of the notice, 5153
shall notify the chief as to whether it intends to perform those 5154
obligations. 5155

If the surety chooses to perform, it shall arrange for work 5156
to begin within thirty days of the day on which it notifies the 5157
chief of its decision. If the surety completes the work as 5158
required by this chapter, the chief shall issue an order to the 5159
surety releasing the surety from liability under the bond in the 5160
same manner as if the surety were an operator proceeding under 5161
this section. If, after the surety begins the work, the chief 5162
determines that the surety is not carrying the work forward with 5163
reasonable progress, or that it is improperly performing the work, 5164
or that it has abandoned the work or otherwise failed to perform 5165
its obligation and that of the operator, the chief shall issue an 5166
order terminating the right of the surety to perform the work and 5167
demanding payment of the amount due as required by this chapter. 5168

If the surety chooses not to perform and so notifies the 5169

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

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

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

release of the lien. If the chief issues a certificate of release 5201
of the lien, the chief shall file a certificate of release in the 5202
office of each applicable county recorder. 5203

(B) The chief promptly shall issue a certificate of release 5204
under any of the following circumstances: 5205

(1) Upon the repayment in full of the money that is necessary 5206
to complete the reclamation; 5207

(2) Upon the transfer of an existing permit that includes the 5208
areas of the surface mine for which reclamation was not completed 5209
from the operator that forfeited the performance bond to a new 5210
operator; 5211

(3) Any other circumstance that the chief determines to be in 5212
the best interests of the state. 5213

(C) The chief may modify the amount of a lien under this 5214
section. If the chief modifies a lien, the chief shall file a 5215
statement in the office of the county recorder of each applicable 5216
county of the new amount of the lien. 5217

(D) The chief may authorize a closing agent to hold a 5218
certificate of release in escrow for a period not to exceed one 5219
hundred eighty days for the purpose of facilitating the transfer 5220
of unreclaimed mine land. 5221

(E) All money from the collection of liens under this section 5222
shall be deposited in the state treasury to the credit of the 5223
surface mining fund created in section 1514.06 of the Revised 5224
Code. 5225

Sec. 1514.06. (A) There is hereby created in the state 5226
treasury the surface mining fund. ~~All cash~~ consisting of all money 5227
that becomes the property of the state pursuant to ~~section~~ 5228
sections 1514.05 and 1514.051 of the Revised Code ~~shall be~~ 5229

deposited in the fund, and expenditures, money credited to the 5230
fund under divisions (C)(1) and (2) of section 1514.071, and other 5231
money specified in section 1514.11 of the Revised Code. All 5232
investment earnings of the fund shall be credited to the fund. 5233
Expenditures from the fund shall be made by the chief of the 5234
division of mineral resources management ~~only~~ for the purpose of 5235
reclaiming areas of land affected by surface or in-stream mining 5236
~~operations on which an~~ under a permit issued under this chapter 5237
that the operator has defaulted failed to reclaim and for other 5238
purposes specified in section 1514.11 of the Revised Code. 5239

(B) Expenditures of moneys from the fund, except as otherwise 5240
provided by this section, shall be made pursuant to contracts 5241
entered into by the chief with persons who agree to furnish all of 5242
the materials, equipment, work, and labor, as specified and 5243
provided in the contracts, for the prices stipulated therein. With 5244
the approval of the director of natural resources, the chief may 5245
reclaim the land in the same manner as the chief required of the 5246
operator who ~~defaulted~~ failed to reclaim the land. Each contract 5247
awarded by the chief shall be awarded to the lowest responsive and 5248
responsible bidder, in accordance with section 9.312 of the 5249
Revised Code, after sealed bids are received, opened, and 5250
published at the time and place fixed by the chief. The chief 5251
shall publish notice of the time and place at which bids will be 5252
received, opened, and published, at least once at least ten days 5253
before the date of the opening of the bids, in a newspaper of 5254
general circulation in the county in which the area of land to be 5255
reclaimed under the contract is located. If, after so advertising 5256
for bids, no bids are received by the chief at the time and place 5257
fixed for receiving them, the chief may advertise again for bids, 5258
or, if the chief considers the public interest will be best 5259
served, the chief may enter into a contract for the reclamation of 5260
the area of land without further advertisement for bids. The chief 5261
may reject any or all bids received and again publish notice of 5262

the time and place at which bids for contracts will be received, 5263
opened, and published. 5264

(C) With the approval of the director, the chief, without 5265
advertising for bids, may enter into a contract with the 5266
landowner, a surface or in-stream mine operator or coal mine 5267
operator mining under a current, valid permit issued under this 5268
chapter or Chapter 1513. of the Revised Code, or a contractor 5269
hired by a surety to complete reclamation, to carry out 5270
reclamation on land affected by surface or in-stream mining 5271
operations ~~on which~~ that an operator has ~~defaulted~~ failed to 5272
reclaim. 5273

(D) With the approval of the director, the chief may carry 5274
out all or part of the reclamation work on land affected by 5275
surface or in-stream mining operations ~~on which~~ that the operator 5276
has ~~defaulted~~ failed to reclaim using the employees and equipment 5277
of any division of the department of natural resources. 5278

(E) The chief shall require every contractor performing 5279
reclamation work under this section to pay workers at the greater 5280
of their regular rate of pay, as established by contract, 5281
agreement, or prior custom or practice, or the average wage rate 5282
paid in this state for the same or similar work, as determined by 5283
the chief under section 1513.02 of the Revised Code. 5284

(F) Each contract entered into by the chief under this 5285
section shall provide only for the reclamation of land affected by 5286
the surface or in-stream mining operation or operations of one 5287
operator and not reclaimed by the operator as required by this 5288
chapter. If there is money in the fund derived from the 5289
performance bond deposited with the chief by one operator to 5290
ensure the reclamation of two or more areas of land affected by 5291
the surface or in-stream mining operation or operations of one 5292
operator and not reclaimed by the operator as required by this 5293
chapter, the chief may award a single contract for the reclamation 5294

of all such areas of land. 5295

(G) The cost of the reclamation work done under this section 5296
on each area of land affected by surface or in-stream mining 5297
operations ~~on which~~ that an operator has ~~defaulted~~ failed to 5298
reclaim shall be paid out of the money in the fund derived from 5299
the performance bond that was deposited with the chief to ensure 5300
the reclamation of that area of land. If the amount of money is 5301
not sufficient to pay the cost of doing all of the reclamation 5302
work on the area of land that the operator should have done, but 5303
failed to do, the chief may expend from the reclamation forfeiture 5304
fund created in section 1513.18 of the Revised Code or the surface 5305
mining fund created in this section the amount of money needed to 5306
complete reclamation to the standards required by this chapter. 5307
The operator is liable for that expense in addition to any other 5308
liabilities imposed by law. At the request of the chief, the 5309
attorney general shall bring an action against the operator for 5310
the amount of the expenditures from either fund. Moneys so 5311
recovered shall be deposited in the state treasury to the 5312
appropriate credit of the fund from which the expenditures were 5313
made. 5314

(H) If any part of the money in the surface mining fund 5315
remains in the fund after the chief has caused the area of land to 5316
be reclaimed and has paid all the reclamation costs and expenses, 5317
or if any money remains because the area of land has been 5318
repermitted under this chapter or reclaimed by a person other than 5319
the chief, the chief may expend the remaining money to complete 5320
other reclamation work performed under this section. The chief 5321
shall prepare an annual report that summarizes the money credited 5322
to the fund and expenditures made from the fund and post the 5323
report on the division of mineral resources management's web site. 5324

Sec. 1514.09. The reclamation commission established pursuant 5325

to section 1513.05 of the Revised Code shall serve as the 5326
reclamation commission pursuant to this chapter. However, whenever 5327
the commission is considering any appeal pertaining to surface or 5328
in-stream mining, as distinguished from coal strip mining, the 5329
member representing the coal strip mine operators shall be 5330
replaced by a person who, by reason of the person's previous 5331
vocation, employment, or affiliations, can be classed as a 5332
representative of surface or in-stream mine operators, as 5333
applicable. The appointment of that person shall be made in 5334
accordance with section 1513.05 of the Revised Code, and the 5335
person's term shall be concurrent with that of the representative 5336
of the coal strip mine operators. 5337

No party to an appeal brought under this section shall be 5338
eligible for an award of attorney's fees, costs, or expenses from 5339
the commission or any court. 5340

Notwithstanding section 1513.13 of the Revised Code, an 5341
operator may appeal the determination of the chief of the division 5342
of mineral resources management that is made under division (D) of 5343
section 1514.43 of the Revised Code within ten days after the 5344
operator receives a copy of the determination. 5345

Notwithstanding section 1513.14 of the Revised Code, appeals 5346
from an order of the commission pertaining to surface or in-stream 5347
mining may be taken to the court of common pleas of the county in 5348
which the operation is located, or to the court of common pleas of 5349
Franklin county. 5350

Sec. 1514.11. In addition to the purposes authorized in 5351
section 1514.06 of the Revised Code, the chief of the division of 5352
mineral resources management may use moneys in the surface mining 5353
fund created under that section for the administration and 5354
enforcement of this chapter, for the reclamation of land affected 5355
by surface or in-stream mining under a permit issued under this 5356

chapter that the operator failed to reclaim and for which the 5357
performance bond filed by the operator is insufficient to complete 5358
the reclamation, and for the reclamation of land affected by 5359
surface or in-stream mining that was abandoned and left 5360
unreclaimed and for which no permit was issued or bond filed under 5361
this chapter. Also, the chief may use the portion of the surface 5362
mining fund that consists of moneys collected from the severance 5363
taxes levied under section 5749.02 of the Revised Code for ~~the~~ 5364
~~mine safety and first aid classes provided under division (C) of~~ 5365
~~section 1561.26 of the Revised Code~~ training. For purposes of this 5366
section, the chief shall expend moneys in the fund in accordance 5367
with the procedures and requirements established in section 5368
1514.06 of the Revised Code and may enter into contracts and 5369
perform work in accordance with that section. 5370

Fees collected under sections 1514.02 and 1514.03 of the 5371
Revised Code, one-half of the moneys collected from the severance 5372
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 5373
the Revised Code, and all of the moneys collected from the 5374
severance tax levied under division (A)(7) of section 5749.02 of 5375
the Revised Code shall be credited to the fund in accordance with 5376
those sections. Notwithstanding any section of the Revised Code 5377
relating to the distribution or crediting of fines for violations 5378
of the Revised Code, all fines imposed under section 1514.99 of 5379
the Revised Code shall be credited to the fund. 5380

Sec. 1514.40. In accordance with Chapter 119. of the Revised 5381
Code, the chief of the division of mineral resources management, 5382
in consultation with a statewide association that represents the 5383
surface mining industry, shall adopt rules that do all of the 5384
following: 5385

(A) For the purpose of establishing safety standards 5386
governing surface mining operations, incorporate by reference 30 5387

| | |
|--|--|
| <u>C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended;</u> | 5388 |
| <u>(B) Establish criteria, standards, and procedures governing safety performance evaluations conducted under section 1514.45 of the Revised Code, including requirements for the notification of operators and the identification of authorized representatives of miners at surface mining operations for purposes of inspections conducted under sections 1541.41 to 1541.47 of the Revised Code;</u> | 5389 5390 5391 5392 5393 5394 |
| <u>(C) Establish requirements governing the reporting and investigation of accidents at surface mining operations. In adopting the rules, the chief shall establish requirements that minimize duplication with any reporting and investigations of accidents that are conducted by the mine safety and health administration in the United States department of labor.</u> | 5395 5396 5397 5398 5399 5400 |
| <u>(D) Establish the time, place, and frequency of mine safety training conducted under section 1514.06 of the Revised Code and a fee, if any, for the purpose of that section. The amount of the fee shall not exceed the costs of conducting the training that is required under that section.</u> | 5401 5402 5403 5404 5405 |
| <u>(E) Establish the minimum qualifications necessary to take the examination that is required for certification of certified mine forepersons under division (B) of section 1514.47 of the Revised Code and requirements, fees, and procedures governing the taking of the examination;</u> | 5406 5407 5408 5409 5410 |
| <u>(F) Establish requirements and fees governing the renewal of certificates under division (C) of that section;</u> | 5411 5412 |
| <u>(G) Establish requirements and procedures for the approval of training plans submitted under division (E) of that section for the use of qualified persons to conduct examinations of surface mining operations in lieu of certified mine forepersons and minimum qualifications of those persons. The rules shall include requirements governing training frequency and curriculum that must</u> | 5413 5414 5415 5416 5417 5418 |

be provided for qualified persons under such plans and shall 5419
establish related reporting and record keeping requirements. 5420

As used in sections 1514.41 to 1514.47 of the Revised Code, 5421
"rule" means a rule adopted under this section unless the context 5422
indicates otherwise. 5423

Sec. 1514.41. (A) If a surface mining operation is not 5424
inspected by the mine safety and health administration in the 5425
United States department of labor, the chief of the division of 5426
mineral resources management annually shall conduct a minimum of 5427
two inspections of the operation. 5428

(B) If a surface mining operation is identified through a 5429
safety performance evaluation conducted under section 1514.45 of 5430
the Revised Code and rules as having lost-time accidents in an 5431
amount greater than the national average, the chief shall conduct 5432
a minimum of two inspections of the operation for one year 5433
following the identification. 5434

(C) If a fatality of a miner occurs at a surface mining 5435
operation as a result of an unsafe condition or a practice at the 5436
operation, the chief shall conduct a minimum of one inspection 5437
every three months at the operation for two years following the 5438
fatality. 5439

(D) If a life-threatening injury of a miner occurs at a 5440
surface mining operation as a result of an unsafe condition or a 5441
practice at the operation, the chief shall conduct a minimum of 5442
one inspection every three months at the operation for one year 5443
following the injury. 5444

Sec. 1514.42. The chief of the division of mineral resources 5445
management shall conduct a safety audit at a surface mining 5446
operation if the operator of the operation has requested the 5447
division of mineral resources management to conduct mine safety 5448

training. The chief shall conduct additional safety audits at any 5449
surface mining operation if requested by the operator of the 5450
operation. If the chief conducts a safety audit, the operator 5451
shall ensure that the chief has a copy of the training plan that 5452
is required by 30 C.F.R. part 46, as amended, at the time of the 5453
audit. 5454

After completion of an audit, the chief shall prepare a 5455
report that describes the general conditions of the surface mining 5456
operation, lists any hazardous conditions at the operation, lists 5457
any violations of the safety standards established in rules, and 5458
describes the nature and extent of any hazardous condition or 5459
violation found and the corresponding remedy for each hazardous 5460
condition or violation. The chief shall provide two copies of the 5461
report to the operator of the operation. The operator shall post 5462
one copy of the report at the operation for review by the 5463
employees of the operation. 5464

Sec. 1514.43. (A) The chief of the division of mineral 5465
resources management shall enforce the safety standards 5466
established in rules when conducting inspections under section 5467
1514.41 of the Revised Code. 5468

(B) Except as otherwise provided in section 1514.44 of the 5469
Revised Code or pursuant to a safety audit conducted under section 5470
1514.42 of the Revised Code, if during an inspection the chief 5471
finds a violation of a safety standard, the chief shall require 5472
the operator to comply with the standard that is being violated 5473
within a reasonable period of time. If the chief finds a violation 5474
of a safety standard, the chief shall return to the surface mining 5475
operation after a reasonable period of time to determine if the 5476
operator has complied with the standard that was being violated. 5477
If the operator has failed to comply with the standard, the chief 5478

shall take appropriate action to obtain compliance if necessary. 5479

(C) Except as otherwise provided in section 1514.44 of the 5480
Revised Code or pursuant to a safety audit conducted under section 5481
1514.42 of the Revised Code, after completion of an inspection of 5482
a surface mining operation, the chief shall prepare a report that 5483
describes the general conditions of the surface mining operation, 5484
lists any hazardous conditions at the operation, lists any 5485
violations of the safety standards established in rules, and 5486
describes the nature and extent of any hazardous condition or 5487
violation found and the corresponding remedy for each hazardous 5488
condition or violation. The chief shall provide two copies of the 5489
report to the operator of the operation. The operator shall post 5490
one copy of the report at the operation for review by the 5491
employees of the operation. 5492

(D) Except pursuant to a safety audit conducted under section 5493
1514.42 of the Revised Code, not later than ten days after receipt 5494
of a report under this section, the operator may submit a written 5495
request to the chief for a meeting with the chief to review the 5496
findings contained in the report. Upon receipt of a request, the 5497
chief shall review the report and schedule a meeting with the 5498
operator. Within a reasonable period of time after the meeting, 5499
the chief shall make a written determination concerning the 5500
findings contained in the report and provide one copy of the 5501
determination to the operator of the surface mining operation and 5502
one copy of the determination to an authorized representative of 5503
the miners at the operation. If the chief makes a determination 5504
that affirms the findings contained in the report, the chief's 5505
determination constitutes an order for purposes of this chapter 5506
and rules adopted under it. 5507

(E) An operator shall not appeal the contents of a report 5508
prepared under division (C) of this section. However, an operator 5509
may appeal a determination of the chief made under division (D) of 5510

this section. 5511

(F) No operator shall violate or fail to comply with an order 5512

issued pursuant to this section. 5513

Sec. 1514.44. If during an inspection conducted under section 5514
1514.41 of the Revised Code or a safety audit conducted under 5515
section 1514.42 of the Revised Code, the chief of the division of 5516
mineral resources management finds a condition or practice at a 5517
surface mining operation that could reasonably be expected to 5518
cause the death of or imminent serious physical harm to an 5519
employee of the operation, the chief immediately shall issue 5520
orders to safeguard the employees, notify the operator of the 5521
condition or practice, and require the operator to abate the 5522
condition or practice within a reasonable period of time. In all 5523
such situations, the chief may require the operation to cease in 5524
the area in which the condition or practice is occurring or may 5525
require the entire operation to cease, if necessary, until the 5526
condition or practice that could reasonably be expected to cause 5527
death or serious physical harm is eliminated. 5528

The chief shall complete a report that describes the 5529
condition or practice and the action taken to eliminate it. The 5530
chief shall provide two copies of the report to the operator of 5531
the operation. The operator shall post one copy of the report at 5532
the operation for review by the employees of the operation. 5533

Sec. 1514.45. The chief of the division of mineral resources 5534
management annually shall conduct a safety performance evaluation 5535
of all surface mining operations in the state in accordance with 5536
rules. The operator of a surface mining operation shall provide to 5537
the chief a copy of the notification of legal identity required 5538
under 30 C.F.R. part 41, as amended, at the same time that the 5539
notice is filed with the mine safety and health administration in 5540

the United States department of labor.

5541

Sec. 1514.46. If the operator of a surface mining operation requests the division of mineral resources management to conduct mine safety training, the chief of the division of mineral resources management shall conduct mine safety training for the employees of that operator. For persons who are not employed by a holder of a surface mining permit issued under this chapter and who seek the training, the chief may charge a fee in an amount established in rules for conducting it. The safety training shall be conducted in accordance with rules and shall emphasize the standards adopted in rules and include any other content that the chief determines is beneficial. Any fees collected under this section shall be deposited in the state treasury to the credit of the surface mining fund created in section 1514.06 of the Revised Code.

5542
5543
5544
5545
5546
5547
5548
5549
5550
5551
5552
5553
5554
5555

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

5556
5557
5558
5559
5560

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

5561
5562
5563
5564
5565
5566
5567

(C) A certificate issued under this section shall expire five years after the date of issuance. A certificate may be renewed, provided that the applicant verifies that all required training

5568
5569
5570

pursuant to 30 C.F.R. part 46, as amended, has been completed and 5571
any other requirements for renewal have been satisfied. 5572

(D) If a certificate issued under this section is suspended, 5573
the certificate shall not be renewed until the suspension period 5574
expires and the person whose certificate is suspended successfully 5575
completes all actions required by the chief. If an applicant's 5576
license, certificate, or similar authority that is issued by 5577
another state to perform specified mining duties is suspended or 5578
revoked by that state, the applicant shall be ineligible for 5579
examination for or renewal of a certificate in this state during 5580
that period of suspension or revocation. A certificate that has 5581
been revoked shall not be renewed. 5582

If a person who has been certified by the chief under this 5583
section purposely violates this chapter, the chief may suspend or 5584
revoke the certificate after an investigation and hearing 5585
conducted in accordance with Chapter 119. of the Revised Code are 5586
completed. 5587

(E) In lieu of employing a certified mine foreperson, the 5588
operator of a surface mining operation may submit to the chief a 5589
detailed training plan under which persons who qualify under the 5590
plan may conduct and document examinations at the surface mining 5591
operation for purposes of 30 C.F.R. part 56, as amended. The chief 5592
shall review the plan and determine if the plan complies with the 5593
requirements established in rules. The chief shall approve or deny 5594
the plan and notify in writing the operator who submitted the plan 5595
of the chief's decision. 5596

Sec. 1514.50. (A) The chief of the division of mineral 5597
resources management or an authorized employee of the division of 5598
mineral resources management may enter on lands to make 5599
inspections in accordance with this chapter and rules adopted 5600
under it when necessary in the discharge of the duties specified 5601

in this chapter and the rules. No person shall prevent or hinder 5602
the chief or an authorized employee of the division in the 5603
performance of those duties. 5604

(B) For purposes of performing reclamation of land affected 5605
by surface mining operations on which the holder of a permit 5606
issued under this chapter has defaulted or otherwise failed to 5607
timely conduct the reclamation required by section 1514.05 of the 5608
Revised Code, the chief may enter on the land and perform 5609
reclamation that the chief determines is necessary to protect 5610
public health or safety or the environment. In order to perform 5611
the reclamation, the chief may enter on adjoining land or other 5612
land that is necessary to access the land on which the surface 5613
mining occurred and on which the reclamation is to be performed. 5614
The chief shall provide reasonable advance notice to the owner of 5615
any land to be entered for the purpose of access for reclamation 5616
under this chapter. The division shall return the land that was 5617
used to access the former surface mining operation to the same or 5618
an improved grade, topography, and condition that existed prior to 5619
its use by the division. 5620

(C) When conducting investigations pursuant to section 5621
1514.13 of the Revised Code, the chief or an authorized employee 5622
of the division may enter on lands to conduct water supply 5623
surveys, measure ground water levels and collect data when 5624
necessary to define the cone of depression, or perform other 5625
duties for the purposes of that section. 5626

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 5627
section 1514.10 of the Revised Code may be fined not more than 5628
five thousand dollars plus not more than one thousand dollars per 5629
acre of land affected, and is responsible for achieving 5630
reclamation of the land as required pursuant to this chapter. 5631

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

(C) Whoever violates division (C) of section 1514.10 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars, or imprisoned not more than six months, or both.

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

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

Sec. 1515.093. The supervisors of a soil and water conservation district may hold one or more credit cards on behalf of the district and may authorize any supervisor or employee of the district to use such a credit card to pay for expenses related to the purposes of the district. The supervisors shall pay the

debt incurred as a result of the use of such a credit card from 5663
money accepted by the supervisors as authorized under division (E) 5664
of section 1515.08 of the Revised Code or from the special fund 5665
established for the district under section 1515.10 of the Revised 5666
Code. 5667

The misuse of a credit card held on behalf of a soil and 5668
water conservation district is a violation of section 2913.21 of 5669
the Revised Code. In addition, a supervisor or employee of a 5670
district who makes unauthorized use of such a credit card may be 5671
held personally liable to the district for the unauthorized use. 5672
This section does not limit any other liability of a supervisor or 5673
employee of a district for the unauthorized use of such a credit 5674
card. 5675

A supervisor or employee of a soil and water conservation 5676
district who is authorized to use a credit card that is held on 5677
behalf of the district and who suspects the loss, theft, or 5678
possibility of another person's unauthorized use of the credit 5679
card immediately shall notify the supervisors in writing of the 5680
suspected loss, theft, or possible unauthorized use. 5681

Sec. 1515.10. The board of county commissioners of each 5682
county in which there is a soil and water conservation district 5683
may levy a tax within the ten-mill limitation and may appropriate 5684
money from the proceeds of ~~such the~~ levy or from the general fund 5685
of the county, ~~which.~~ The money shall be held in a special fund 5686
for the credit of the district, to be expended for the purposes 5687
prescribed in ~~section~~ sections 1515.09 and 1515.093 of the Revised 5688
Code, for construction and maintenance of improvements by the 5689
district, and for other expenses incurred in carrying out the 5690
program of the district upon the written order of the fiscal agent 5691
for the district after authorization by a majority of the 5692
supervisors of the district. 5693

Sec. 1515.211. (A) A board of county commissioners that 5694
approves construction of a proposed improvement or the board's 5695
designee shall prepare a schedule of estimated assessments on 5696
property within the area that is to be benefited by the 5697
improvement. In preparing the schedule, the board or its designee 5698
shall use information concerning the proposed improvement that 5699
must be submitted to the board by the supervisors of a soil and 5700
water conservation district. The information includes plans for 5701
the proposed improvement, including surveys, maps, and 5702
specifications, together with schedules of damages, cost 5703
estimates, and any related reports that the supervisors or their 5704
designee prepared. 5705

The schedule of estimated assessments that must be prepared 5706
shall include the name and address of each owner of land believed 5707
to be benefited by the proposed improvement together with a 5708
description of the land. The names and descriptions shall be 5709
obtained from the tax duplicates of the county. The board or its 5710
designee shall enter in the schedule the amount of each estimated 5711
assessment, which shall be determined using considerations 5712
established in section 1515.24 of the Revised Code. In no case 5713
shall an assessment be less than twenty-five dollars for each 5714
parcel of land, except in the case of a multi-parcel lot, in which 5715
case the board may charge a minimum of twenty-five dollars with 5716
respect to all of the parcels comprising the multi-parcel lot. In 5717
addition, the board may charge an assessment of less than 5718
twenty-five dollars if the board determines that a lower amount is 5719
appropriate, provided that the lower amount includes the cost of 5720
preparing and mailing the notice required under division (D)(1) of 5721
section 1515.24 of the Revised Code. The total of the estimated 5722
assessments, including the total estimated assessments allocated 5723
to public corporations and the state, shall equal the estimated 5724
cost of the proposed improvement. The board shall use the schedule 5725

of estimated assessments for purposes of levying final assessments 5726
under section 1515.24 of the Revised Code. 5727

(B) As used in this section, "multi-parcel lot" means a site 5728
on which a dwelling is located and that comprises two or more 5729
contiguous parcels of land. 5730

Sec. 1517.02. There is hereby created in the department of 5731
natural resources the division of natural areas and preserves, 5732
which shall be administered by the chief of natural areas and 5733
preserves. The chief shall take an oath of office and shall file 5734
in the office of the secretary of state a bond signed by the chief 5735
and by a surety approved by the governor for a sum fixed pursuant 5736
to section 121.11 of the Revised Code. 5737

The chief shall administer a system of nature preserves and 5738
wild, scenic, and recreational river areas. The chief shall 5739
establish a system of nature preserves through acquisition and 5740
dedication of natural areas of state or national significance, 5741
which shall include, but not be limited to, areas that represent 5742
characteristic examples of Ohio's natural landscape types and its 5743
natural vegetation and geological history. The chief shall 5744
encourage landowners to dedicate areas of unusual significance as 5745
nature preserves, and shall establish and maintain a registry of 5746
natural areas of unusual significance. 5747

The chief may supervise, operate, protect, and maintain wild, 5748
scenic, and recreational river areas, as designated by the 5749
director of natural resources. The chief may cooperate with 5750
federal agencies administering any federal program concerning 5751
wild, scenic, or recreational river areas. 5752

The chief shall do the following: 5753

(A) Formulate policies and plans for the acquisition, use, 5754
management, and protection of nature preserves; 5755

- (B) Formulate policies for the selection of areas suitable for registration; 5756
5757
- (C) Formulate policies for the dedication of areas as nature preserves; 5758
5759
- (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. 5760
5761
5762
5763
5764
5765
5766
5767
5768
5769
5770
5771
5772
5773
5774
- (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; 5775
5776
5777
5778
5779
5780
5781
- (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; 5782
5783
5784
5785
- (G) Provide interpretive programs and publish and disseminate 5786

| | |
|--|------|
| information pertaining to nature preserves and natural areas for | 5787 |
| their visitation and use; | 5788 |
| (H) Conduct and grant permits to qualified persons for the | 5789 |
| conduct of scientific research and investigations within nature | 5790 |
| preserves; | 5791 |
| (I) Establish an appropriate system for marking nature | 5792 |
| preserves; | 5793 |
| (J) Publish and submit to the governor and the general | 5794 |
| assembly a biennial report of the status and condition of each | 5795 |
| nature preserve, activities conducted within each preserve, and | 5796 |
| plans and recommendations for natural area preservation. | 5797 |
| Sec. 1517.10. (A) As used in this section, "felony" has the | 5798 |
| same meaning as in section 109.511 of the Revised Code. | 5799 |
| (B)(1) Any person selected by the chief of the division of | 5800 |
| natural areas and preserves for custodial or patrol service on the | 5801 |
| lands and waters operated or administered by the division shall be | 5802 |
| employed in conformity with the law applicable to the classified | 5803 |
| civil service of the state. Subject to division (C) of this | 5804 |
| section, the chief may designate that person as a preserve | 5805 |
| officer. A preserve officer, in any nature preserve, in any | 5806 |
| natural area owned or managed through easement, license, or lease | 5807 |
| by the department of natural resources and administered by the | 5808 |
| division, and on lands owned or managed through easement, license, | 5809 |
| or lease by the department and administered by the division that | 5810 |
| are within or adjacent to any wild, scenic, or recreational river | 5811 |
| area established under this chapter and along any trail | 5812 |
| established under Chapter 1519. of the Revised Code, has the | 5813 |
| authority specified under section 2935.03 of the Revised Code for | 5814 |
| peace officers of the department of natural resources to keep the | 5815 |
| peace, to enforce all laws and rules governing those lands and | 5816 |

waters, and to make arrests for violation of those laws and rules, 5817
provided that the authority shall be exercised on lands or waters 5818
administered by another division of the department only pursuant 5819
to an agreement with the chief of that division or to a request 5820
for assistance by an enforcement officer of that division in an 5821
emergency. A preserve officer, in or along any watercourse within, 5822
abutting, or upstream from the boundary of any area administered 5823
by the department, has the authority to enforce section 3767.32 of 5824
the Revised Code and any other laws prohibiting the dumping of 5825
refuse into or along waters and to make arrests for violation of 5826
those laws. The jurisdiction of a preserve officer shall be 5827
concurrent with that of the peace officers of the county, 5828
township, or municipal corporation in which the violation occurs. 5829

The governor, upon the recommendation of the chief, shall 5830
issue to each preserve officer a commission indicating authority 5831
to make arrests as provided in this section. 5832

The chief shall furnish a suitable badge to each commissioned 5833
preserve officer as evidence of the preserve officer's authority. 5834

(2) If any person employed under this section is designated 5835
by the chief to act as an agent of the state in the collection of 5836
money resulting from the sale of licenses, fees of any nature, or 5837
other money belonging to the state, the chief shall require a 5838
surety bond from the person in an amount not less than one 5839
thousand dollars. 5840

(3) A preserve officer may render assistance to a state or 5841
local law enforcement officer at the request of the officer or in 5842
the event of an emergency. Preserve officers serving outside the 5843
division of natural areas and preserves under this section or 5844
serving under the terms of a mutual aid compact authorized under 5845
section 1501.02 of the Revised Code shall be considered as 5846
performing services within their regular employment for the 5847

purposes of compensation, pension or indemnity fund rights, 5848
workers' compensation, and other rights or benefits to which they 5849
may be entitled as incidents of their regular employment. 5850

Preserve officers serving outside the division of natural 5851
areas and preserves under this section or under the terms of a 5852
mutual aid compact retain personal immunity from civil liability 5853
as specified in section 9.86 of the Revised Code and shall not be 5854
considered an employee of a political subdivision for purposes of 5855
Chapter 2744. of the Revised Code. A political subdivision that 5856
uses preserve officers under this section or under the terms of a 5857
mutual aid compact authorized under section 1501.02 of the Revised 5858
Code is not subject to civil liability under Chapter 2744. of the 5859
Revised Code as a result of any action or omission of any preserve 5860
officer acting under this section or under a mutual aid compact. 5861

(C)(1) The chief of the division of natural areas and 5862
preserves shall not designate a person as a preserve officer 5863
pursuant to division (B)(1) of this section on a permanent basis, 5864
on a temporary basis, for a probationary term, or on other than a 5865
permanent basis if the person previously has been convicted of or 5866
has pleaded guilty to a felony. 5867

(2)(a) The chief of the division of natural areas and 5868
preserves shall terminate the employment as a preserve officer of 5869
a person designated as a preserve officer under division (B)(1) of 5870
this section if that person does either of the following: 5871

(i) Pleads guilty to a felony; 5872

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 5873
plea agreement as provided in division (D) of section 2929.43 of 5874
the Revised Code in which the preserve officer agrees to surrender 5875
the certificate awarded to the preserve officer under section 5876
109.77 of the Revised Code. 5877

(b) The chief shall suspend from employment as a preserve 5878

officer a person designated as a preserve officer under division 5879
(B)(1) of this section if that person is convicted, after trial, 5880
of a felony. If the preserve officer files an appeal from that 5881
conviction and the conviction is upheld by the highest court to 5882
which the appeal is taken or if the preserve officer does not file 5883
a timely appeal, the chief shall terminate the employment of that 5884
preserve officer. If the preserve officer files an appeal that 5885
results in the preserve officer's acquittal of the felony or 5886
conviction of a misdemeanor, or in the dismissal of the felony 5887
charge against the preserve officer, the chief shall reinstate 5888
that preserve officer. A preserve officer who is reinstated under 5889
division (C)(2)(b) of this section shall not receive any back pay 5890
unless that preserve officer's conviction of the felony was 5891
reversed on appeal, or the felony charge was dismissed, because 5892
the court found insufficient evidence to convict the preserve 5893
officer of the felony. 5894

(3) Division (C) of this section does not apply regarding an 5895
offense that was committed prior to January 1, 1997. 5896

(4) The suspension from employment, or the termination of the 5897
employment, of a preserve officer under division (C)(2) of this 5898
section shall be in accordance with Chapter 119. of the Revised 5899
Code. 5900

Sec. 1517.11. There is hereby created in the state treasury 5901
the natural areas and preserves fund, which shall consist of 5902
moneys transferred into it under section 5747.113 of the Revised 5903
Code and of contributions made directly to it. Any person may 5904
contribute directly to the fund in addition to or independently of 5905
the income tax refund contribution system established in that 5906
section. 5907

Moneys in the fund shall be disbursed pursuant to vouchers 5908
approved by the director of natural resources for use by the 5909

division of natural areas and preserves solely for the following 5910
purposes: 5911

(A) The acquisition of new or expanded natural areas, nature 5912
preserves, and wild, scenic, and recreational river areas; 5913

(B) Facility development in natural areas, nature preserves, 5914
and wild, scenic, and recreational river areas; 5915

(C) Special projects, including, but not limited to, 5916
biological inventories, research grants, and the production of 5917
interpretive material related to natural areas, nature preserves, 5918
and wild, scenic, and recreational river areas; 5919

(D) Routine maintenance for health and safety purposes. 5920

Moneys appropriated from the fund shall not be used to fund 5921
salaries of permanent employees, or administrative costs, ~~or~~ 5922
~~routine maintenance.~~ 5923

All investment earnings of the fund shall be credited to the 5924
fund. 5925

Sec. 1520.02. (A) The director of natural resources has 5926
exclusive authority to administer, manage, and establish policies 5927
governing canal lands. 5928

(B)(1) ~~Except as provided in division (C) of this section,~~ 5929
~~the~~ The director may sell, lease, exchange, give, or grant all or 5930
part of the state's interest in any canal lands in accordance with 5931
section 1501.01 of the Revised Code. The director may stipulate 5932
that an appraisal or survey need not be conducted for, and may 5933
establish any terms or conditions that the director determines 5934
appropriate for, any such conveyance. 5935

(2) With regard to canal lands, the chief of the division of 5936
water, with the approval of the director, may sell, lease, or 5937
transfer minerals or mineral rights when the chief ~~and~~, with the 5938

approval of the director ~~determine, determines~~ that the sale, 5939
lease, or transfer is in the best interest of the state. 5940
Consideration for minerals and mineral rights shall be by rental 5941
or on a royalty basis as prescribed by the chief, with the 5942
approval of the director, and payable as prescribed by contract. 5943
Moneys collected under division (B)(2) of this section shall be 5944
paid into the state treasury to the credit of the canal lands fund 5945
created in section 1520.05 of the Revised Code. 5946

~~(C)(1) Not later than one year after July 1, 1989, the 5947
director of transportation and the director of the Ohio historical 5948
society shall identify all canal lands that are or may be of use 5949
to any program operated by the department of transportation or the 5950
Ohio historical society, respectively, and shall notify the 5951
director of natural resources of those lands. The director of 5952
natural resources may transfer any canal lands so identified to 5953
the exclusive care, custody, and control of the department of 5954
transportation or the Ohio historical society, as applicable, by 5955
means of a departmental transfer not later than six months after 5956
receiving notification under division (C)(1) of this section. 5957~~

~~(2) The director of natural resources may transfer to the 5958
Ohio historical society any equipment, maps, and records used on 5959
or related to canal lands that are of historical interest and that 5960
are not needed by the director to administer this chapter. 5961~~

(D) If the director ~~of natural resources~~ determines that any 5962
canal lands are a necessary part of a county's drainage or ditch 5963
system and are not needed for any purpose of the department of 5964
natural resources, the director may sell, grant, or otherwise 5965
convey those canal lands to that county in accordance with 5966
division (B) of this section. The board of county commissioners 5967
shall accept the transfer of canal lands. 5968

(E) Notwithstanding any other section of the Revised Code, 5969
the county auditor shall transfer any canal lands conveyed under 5970

this section, and the county recorder shall record the deed for 5971
those lands in accordance with section 317.12 of the Revised Code. 5972
~~This division does not apply to canal lands transferred under 5973~~
~~division (C)(1) of this section. 5974~~

Sec. 1520.03. (A) The director of natural resources may 5975
appropriate real property in accordance with Chapter 163. of the 5976
Revised Code for the purpose of administering this chapter. 5977

(B)(1) The director shall operate and maintain all canals and 5978
canal reservoirs owned by the state except those canals that are 5979
operated by the Ohio historical society on July 1, 1989. 5980

(2) On behalf of the director, the division of water shall 5981
have the care and control of all canals and canal reservoirs owned 5982
by the state, the water in them, and canal lands and shall 5983
protect, operate, and maintain them and keep them in repair. The 5984
chief of the division of water may remove obstructions from or on 5985
them and shall make any alterations or changes in or to them and 5986
construct any feeders, dikes, reservoirs, dams, locks, or other 5987
works, devices, or improvements in or on them that are necessary 5988
in the discharge of the chief's duties. 5989

In accordance with Chapter 119. of the Revised Code, the 5990
chief may adopt, amend, and rescind rules that are necessary for 5991
the administration of this division. 5992

(C) The director may sell or lease water from any canal or 5993
canal reservoir that the director operates and maintains only to 5994
the extent that the water is in excess of the quantity that is 5995
required for navigation, recreation, and wildlife purposes. The 5996
director may adopt, amend, and rescind rules in accordance with 5997
Chapter 119. of the Revised Code necessary to administer this 5998
division. 5999

The withdrawal of water from any canal or canal reservoir for 6000

domestic use is exempt from this division. However, the director
may require water conservation measures for water that is
withdrawn from any canal or canal reservoir for domestic use
during drought conditions or other emergencies declared by the
governor.

(D) No person shall take or divert water from any canal or
canal reservoir operated and maintained by the director except in
accordance with division (C) of this section.

(E) At the request of the director, the attorney general may
commence a civil action for civil penalties and injunctions, in a
court of common pleas, against any person who has violated or is
violating division (D) of this section. The court of common pleas
in which an action for injunctive relief is filed has jurisdiction
to and shall grant preliminary and permanent injunctive relief
upon a showing that the person against whom the action is brought
has violated or is violating that division.

Upon a finding of a violation, the court shall assess a civil
penalty of not more than one thousand dollars for each day of each
violation if the violator is an individual who took or diverted
the water in question for residential or agricultural use. The
court shall assess a civil penalty of not more than five thousand
dollars for each day of each violation if the violator is any
other person who took or diverted the water in question for
industrial or commercial use excluding agricultural use. Moneys
from civil penalties assessed under this division shall be paid
into the state treasury to the credit of the canal lands fund
created in section 1520.05 of the Revised Code.

Any action under this division is a civil action, governed by
the rules of civil procedure and other rules of practice and
procedure applicable to civil actions.

(F) As used in this section, "person" means any agency of

this state, any political subdivision of this state or of the 6032
United States, or any legal entity defined as a person under 6033
section 1.59 of the Revised Code. 6034

Sec. 1520.05. There is hereby created in the state treasury 6035
the canal lands fund, which shall be composed of all moneys 6036
received by the director of natural resources under sections 6037
1520.02 and 1520.03 of the Revised Code, all civil penalties 6038
assessed under section 1520.03 of the Revised Code, and any moneys 6039
appropriated to it. The fund shall be administered by the 6040
director, who shall spend moneys in the fund for the purposes of 6041
administering and enforcing this chapter ~~and section 1521.08 of~~ 6042
~~the Revised Code.~~ The director may spend any surplus moneys in the 6043
fund, as determined by ~~him~~ the director, for any other programs 6044
operated by the department of natural resources. 6045

Sec. 1520.07. (A) The director of natural resources may give 6046
away or sell timber that has fallen on or been removed for 6047
maintenance reasons from canal lands. 6048

(B) The director may give away or sell the spoils of a 6049
dredging operation conducted by the department of natural 6050
resources in waters under the control and management of the 6051
~~division of water~~ department. Prior to giving away or selling any 6052
spoils under this division, the director shall notify the director 6053
of environmental protection of ~~his~~ that intent so that the 6054
director of environmental protection may determine whether the 6055
spoils constitute solid wastes or hazardous waste, as those terms 6056
are defined in section 3734.01 of the Revised Code, that shall be 6057
disposed of in accordance with Chapter 3734. of the Revised Code. 6058
If the director of environmental protection does not notify the 6059
director of natural resources within thirty days after receiving 6060
notice of the gift or sale that the spoils shall be disposed of in 6061

accordance with Chapter 3734. of the Revised Code, the director of 6062
natural resources may proceed with the gift or sale. 6063

(C) Proceeds from the sale of timber or dredge spoils under 6064
this section shall be deposited into the state treasury to the 6065
credit of the canal lands fund created in section 1520.05 of the 6066
Revised Code. 6067

Sec. 1521.01. As used in sections 1521.01 to 1521.05, 1521.13 6068
to 1521.18, and 1521.20 to 1521.30 of the Revised Code: 6069

(A) "Consumptive use," "diversion," "Lake Erie drainage 6070
basin," "other great lakes states and provinces," "water 6071
resources," and "waters of the state" have the same meanings as in 6072
section 1501.30 of the Revised Code. 6073

(B) "Well" means any excavation, regardless of design or 6074
method of construction, created for any of the following purposes: 6075

(1) Removing ground water from or recharging water into an 6076
aquifer, excluding subsurface drainage systems installed to 6077
enhance agricultural crop production or urban or suburban 6078
landscape management or to control seepage in dams, dikes, and 6079
levees; 6080

(2) Determining the quantity, quality, level, or movement of 6081
ground water in or the stratigraphy of an aquifer, excluding 6082
borings for instrumentation in dams, dikes, levees, or highway 6083
embankments; 6084

(3) Removing or exchanging heat from ground water, excluding 6085
horizontal trenches that are installed for water source heat pump 6086
systems. 6087

(C) "Aquifer" means a consolidated or unconsolidated geologic 6088
formation or series of formations that are hydraulically 6089
interconnected and that have the ability to receive, store, or 6090
transmit water. 6091

- (D) "Ground water" means all water occurring in an aquifer. 6092
- (E) "Ground water stress area" means a definable geographic 6093
area in which ground water quantity is being affected by human 6094
activity or natural forces to the extent that continuous 6095
availability of supply is jeopardized by withdrawals. 6096
- (F) "Person" has the same meaning as in section 1.59 of the 6097
Revised Code and also includes the United States, the state, any 6098
political subdivision of the state, and any department, division, 6099
board, commission, agency, or instrumentality of the United 6100
States, the state, or a political subdivision of the state. 6101
- (G) "State agency" or "agency of the state" has the same 6102
meaning as "agency" in section 111.15 of the Revised Code. 6103
- (H) "Development" means any artificial change to improved or 6104
unimproved real estate, including the construction of buildings 6105
and other structures, any substantial improvement of a structure, 6106
~~and~~ mining, dredging, filling, grading, paving, excavating, and 6107
drilling operations, and storage of equipment or materials. 6108
- (I) "Floodplain" means the area adjoining any river, stream, 6109
watercourse, or lake that has been or may be covered by flood 6110
water. 6111
- (J) "Floodplain management" means the implementation of an 6112
overall program of corrective and preventive measures for reducing 6113
flood damage, including the collection and dissemination of flood 6114
information, construction of flood control works, nonstructural 6115
flood damage reduction techniques, and adoption of rules, 6116
ordinances, or resolutions governing development in floodplains. 6117
- (K) "One-hundred-year flood" means a flood having a one per 6118
cent chance of being equaled or exceeded in any given year. 6119
- (L) "One-hundred-year floodplain" means that portion of a 6120
floodplain inundated by a one-hundred-year flood. 6121

(M) "Structure" means a walled and roofed building, 6122
including, without limitation, gas or liquid storage tanks, mobile 6123
homes, and manufactured homes. 6124

(N) "Substantial improvement" means any reconstruction, 6125
rehabilitation, addition, or other improvement of a structure, the 6126
cost of which equals or exceeds fifty per cent of the market value 6127
of the structure before the start of construction of the 6128
improvement. "Substantial improvement" includes repairs to 6129
structures that have incurred substantial damage regardless of the 6130
actual repair work performed. "Substantial improvement" does not 6131
include either of the following: 6132

(1) Any project for the improvement of a structure to correct 6133
existing violations of state or local health, sanitary, or safety 6134
code specifications that have been identified by the state or 6135
local code enforcement official having jurisdiction and that are 6136
the minimum necessary to ensure safe living conditions; 6137

(2) Any alteration of an historic structure designated or 6138
listed pursuant to federal or state law, provided that the 6139
alteration will not preclude the structure's continued listing or 6140
designation as an historic structure. 6141

(O) "Shore structure" includes, but is not limited to: 6142
beaches; groins; revetments; bulkheads; seawalls; breakwaters; 6143
certain dikes designated by the chief of the division of water; 6144
piers; docks; jetties; wharves; marinas; boat ramps; any 6145
associated fill or debris used as part of the construction of 6146
shore structures that may affect shore erosion, wave action, or 6147
inundation; and fill or debris placed along or near the shore, 6148
including bluffs, banks, or beach ridges, for the purpose of 6149
stabilizing slopes. 6150

(P) "Substantial damage" means damage of any origin that is 6151
sustained by a structure if the cost of restoring the structure to 6152

its condition prior to the damage would equal or exceed fifty per cent of the market value of the structure before the damage occurred. 6153
6154
6155

(Q) "National flood insurance program" means the national flood insurance program established in the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as amended, and regulations adopted under it. 6156
6157
6158
6159

(R) "Conservancy district" means a conservancy district established under Chapter 6101. of the Revised Code. 6160
6161

~~(Q)~~(S) "Park board" means the board of park commissioners of a park district created under Chapter 1545. of the Revised Code. 6162
6163

~~(R)~~(T) "Erosion control structure" means anything that is designed primarily to reduce or control erosion of the shore along or near lake erie, including, but not limited to, revetments, seawalls, bulkheads, certain breakwaters designated by the chief, and similar structures. "Erosion control structure" does not include wharves, piers, docks, marinas, boat ramps, and other similar structures. 6164
6165
6166
6167
6168
6169
6170

Sec. 1521.04. The chief of the division of water, with the approval of the director of natural resources, may make loans and grants from the water management fund created in section 1501.32 of the Revised Code to governmental agencies for water management, water supply improvements, and planning and may administer grants from the federal government and from other public or private sources for carrying out those functions and for the performance of any acts that may be required by the United States or by any agency or department thereof as a condition for the participation by any governmental agency in any federal financial or technical assistance program. Direct and indirect costs of administration may be paid from the ~~water management~~ fund. 6171
6172
6173
6174
6175
6176
6177
6178
6179
6180
6181
6182

The chief may use the water management fund for the purposes 6183
of administering the water diversion and consumptive use permit 6184
programs established in sections 1501.30 to 1501.35 of the Revised 6185
Code; to perform watershed and water resources studies for the 6186
purposes of water management planning; and to acquire, construct, 6187
reconstruct, improve, equip, maintain, operate, and dispose of 6188
water management improvements. The chief may fix, alter, charge, 6189
and collect rates, fees, rentals, and other charges to be paid 6190
into the ~~water management~~ fund by governmental agencies and 6191
persons who are supplied with water by facilities constructed or 6192
operated by the department of natural resources in order to 6193
amortize and defray the cost of the construction, maintenance, and 6194
operation of those facilities. 6195

Sec. 1521.05. (A) As used in this section: 6196

(1) "Construct" or "construction" includes drilling, boring, 6197
digging, deepening, altering, and logging. 6198

(2) "Altering" means changing the configuration of a well, 6199
including, without limitation, deepening a well, extending or 6200
replacing any portion of the inside or outside casing or wall of a 6201
well that extends below ground level, plugging a portion of a well 6202
back to a certain depth, and reaming out a well to enlarge its 6203
original diameter. 6204

(3) "Logging" means describing the lithology, grain size, 6205
color, and texture of the formations encountered during the 6206
drilling, boring, digging, deepening, or altering of a well. 6207

(4) "Grouting" means neat cement; bentonite products in 6208
slurry, granular, or pelletized form, excluding drilling mud or 6209
fluids; or any combination of neat cement and bentonite products 6210
that is placed within a well to seal the annular space or to seal 6211
an abandoned well and that is impervious to and capable of 6212

preventing the movement of water. 6213

(5) "Abandoned well" means a well whose use has been 6214
permanently discontinued and that poses potential health and 6215
safety hazards or that has the potential to transmit surface 6216
contaminants into the aquifer in which the well has been 6217
constructed. 6218

(6) "Sealing" means the complete filling of an abandoned well 6219
with grouting or other approved materials in order to permanently 6220
prevent the vertical movement of water in the well and thus 6221
prevent the contamination of ground water or the intermixing of 6222
water between aquifers. 6223

(B) Any person that constructs a well shall keep a careful 6224
and accurate log of the construction of the well. The log shall 6225
show all of the following: 6226

(1) The character, including, without limitation, the 6227
lithology, color, texture, and grain size, the name, if known, and 6228
the depth of all formations passed through or encountered; 6229

(2) The depths at which water is encountered; 6230

(3) The static water level of the completed well; 6231

(4) A copy of the record of all pumping tests and analyses 6232
related to those tests, if any; 6233

(5) Construction details, including lengths, diameters, and 6234
thicknesses of casing and screening and the volume, type of 6235
material, and method of introducing gravel packing and grouting 6236
into the well; 6237

(6) The type of pumping equipment installed, if any; 6238

(7) The name of the owner of the well, the address of the 6239
location where the well was constructed, and ~~a description of the~~ 6240
~~location of~~ either the property where state plane coordinates or 6241
the latitude and longitude of the well was constructed; 6242

(8) The signature of the individual who constructed the well 6243
and filed the well log; 6244

(9) Any other information required by the chief of the 6245
division of water. 6246

The log shall be furnished to the division of water within 6247
thirty days after the completion of construction of the well on 6248
forms prescribed and prepared by the division. The log shall be 6249
kept on file by the division. 6250

(C) Any person that seals a well shall keep a careful and 6251
accurate report of the sealing of the well. The sealing report 6252
shall show all of the following: 6253

(1) The name of the owner of the well, the address of the 6254
location where the well was constructed, and either the state 6255
plane coordinates or the latitude and longitude of the well; 6256

(2) The depth of the well, the size and length of its casing, 6257
and the static water level of the well; 6258

(3) The sealing procedures, including the volume and type of 6259
sealing material or materials and the method and depth of 6260
placement of each material; 6261

(4) The date on which the sealing was performed; 6262

(5) The signature of the individual who sealed the well and 6263
filed the sealing report; 6264

(6) Any other information required by the chief. 6265

The sealing report shall be furnished to the division within 6266
thirty days after the completion of the sealing of the well on 6267
forms prescribed and prepared by the division. 6268

(D) In accordance with Chapter 119. of the Revised Code, the 6269
chief may adopt, amend, and rescind rules requiring other persons 6270
that are involved in the construction or subsequent development of 6271

a well to submit well logs under ~~this~~ division (B) of this section 6272
containing any or all of the information specified in divisions 6273
(B)(1) to (9) of this section and ~~requiring any person that seals~~ 6274
~~an abandoned well to submit a well sealing report under this~~ 6275
~~division containing any or all of the information specified in~~ 6276
~~those divisions and any~~ specifying additional information 6277
~~specified in the rules~~ to be included in sealing reports required 6278
under division (C) of this section. 6279

~~(C)~~(E)(1) No person shall fail to keep and submit a well log 6280
or a sealing report as required by this section. 6281

(2) No person shall make a false statement in any well log or 6282
sealing report required to be kept and submitted under this 6283
section. Violation of division ~~(C)~~(E)(2) of this section is 6284
falsification under section 2921.13 of the Revised Code. 6285

~~(D)~~(F) For the purposes of prosecution of a violation of 6286
division ~~(C)~~(E)(1) of this section, a prima-facie case is 6287
established when the division obtains either of the following: 6288

(1) A certified copy of a permit for a private water system 6289
issued in accordance with rules adopted under section 3701.344 of 6290
the Revised Code, or a certified copy of the invoice or a canceled 6291
check from the owner of a well indicating the construction or 6292
sealing services performed; 6293

(2) A certified copy of any permit issued under Chapter 3734. 6294
or 6111. of the Revised Code or plan approval granted under 6295
Chapter 6109. of the Revised Code for any activity that includes 6296
the construction or sealing of a well as applicable. 6297

Sec. 1521.06. (A) No dam may be constructed for the purpose 6298
of storing, conserving, or retarding water, or for any other 6299
purpose, nor shall any ~~dike or~~ levee be constructed for the 6300
purpose of diverting or retaining flood water, unless the person 6301

or governmental agency desiring the construction has a 6302
construction permit for the dam,~~dike~~, or levee issued by the 6303
chief of the division of water. 6304

A construction permit is not required under this section for: 6305

(1) A dam that is or will be less than ten feet in height and 6306
that has or will have a storage capacity of not more than fifty 6307
acre-feet at the elevation of the top of the dam, as determined by 6308
the chief. For the purposes of this section, the height of a dam 6309
shall be measured from the natural stream bed or lowest ground 6310
elevation at the downstream or outside limit of the dam to the 6311
elevation of the top of the dam. 6312

(2) A dam, regardless of height, that has or will have a 6313
storage capacity of not more than fifteen acre-feet at the 6314
elevation of the top of the dam, as determined by the chief; 6315

(3) A dam, regardless of storage capacity, that is or will be 6316
six feet or less in height, as determined by the chief; 6317

(4) A dam,~~dike~~, or levee that belongs to a class exempted by 6318
the chief; 6319

(5) The repair, maintenance, improvement, alteration, or 6320
removal of a dam,~~dike~~, or levee that is subject to section 6321
1521.062 of the Revised Code, unless the construction constitutes 6322
an enlargement or reconstruction of the structure as determined by 6323
the chief; 6324

(6) A dam or impoundment constructed under Chapter 1513. of 6325
the Revised Code. 6326

(B) Before a construction permit may be issued, three copies 6327
of the plans and specifications, including a detailed cost 6328
estimate, for the proposed construction, prepared by a registered 6329
professional engineer, together with the filing fee specified by 6330
this section and the bond or other security required by section 6331

1521.061 of the Revised Code, shall be filed with the chief. The
detailed estimate of the cost shall include all costs associated
with the construction of the dam, ~~dike~~, or levee, including
supervision and inspection of the construction by a registered
professional engineer. The filing fee shall be based on the
detailed cost estimate for the proposed construction as filed with
and approved by the chief, and shall be determined by the
following schedule unless otherwise provided by rules adopted
under this section:

(1) For the first one hundred thousand dollars of estimated
cost, a fee of four per cent;

(2) For the next four hundred thousand dollars of estimated
cost, a fee of three per cent;

(3) For the next five hundred thousand dollars of estimated
cost, a fee of two per cent;

(4) For all costs in excess of one million dollars, a fee of
one-half of one per cent.

In no case shall the filing fee be less than one thousand
dollars or more than one hundred thousand dollars. If the actual
cost exceeds the estimated cost by more than fifteen per cent, an
additional filing fee shall be required equal to the fee
determined by the preceding schedule less the original filing fee.
All fees collected pursuant to this section, and all fines
collected pursuant to section 1521.99 of the Revised Code, shall
be deposited in the state treasury to the credit of the dam safety
fund, which is hereby created. Expenditures from the fund shall be
made by the chief for the purpose of administering this section
and sections 1521.061 and 1521.062 of the Revised Code.

(C) The chief shall, within thirty days from the date of the
receipt of the application, fee, and bond or other security, issue
or deny a construction permit for the construction or may issue a

construction permit conditioned upon the making of such changes in
the plans and specifications for the construction as the chief
considers advisable if the chief determines that the construction
of the proposed dam,~~dike~~, or levee, in accordance with the plans
and specifications filed, would endanger life, health, or
property.

(D) The chief may deny a construction permit after finding
that a dam,~~dike~~, or levee built in accordance with the plans and
specifications would endanger life, health, or property, because
of improper or inadequate design, or for such other reasons as the
chief may determine.

In the event the chief denies a permit for the construction
of the dam,~~dike~~, or levee, or issues a permit conditioned upon a
making of changes in the plans or specifications for the
construction, the chief shall state the reasons therefor and so
notify, in writing, the person or governmental agency making the
application for a permit. If the permit is denied, the chief shall
return the bond or other security to the person or governmental
agency making application for the permit.

The decision of the chief conditioning or denying a
construction permit is subject to appeal as provided in Chapter
119. of the Revised Code. A dam,~~dike~~, or levee built
substantially at variance from the plans and specifications upon
which a construction permit was issued is in violation of this
section. The chief may at any time inspect any dam,~~dike~~, or
levee, or site upon which any dam,~~dike~~, or levee is to be
constructed, in order to determine whether it complies with this
section.

(E) A registered professional engineer shall inspect the
construction for which the permit was issued during all phases of
construction and shall furnish to the chief such regular reports

of the engineer's inspections as the chief may require. When the
chief finds that construction has been fully completed in
accordance with the terms of the permit and the plans and
specifications approved by the chief, the chief shall approve the
construction. When one year has elapsed after approval of the
completed construction, and the chief finds that within this
period no fact has become apparent to indicate that the
construction was not performed in accordance with the terms of the
permit and the plans and specifications approved by the chief, or
that the construction as performed would endanger life, health, or
property, the chief shall release the bond or other security. No
bond or other security shall be released until one year after
final approval by the chief, unless the dam, ~~dike~~, or levee has
been modified so that it will not retain water and has been
approved as nonhazardous after determination by the chief that the
dam, ~~dike~~, or levee as modified will not endanger life, health, or
property.

(F) When inspections required by this section are not being
performed, the chief shall notify the person or governmental
agency to which the permit has been issued that inspections are
not being performed by the registered professional engineer and
that the chief will inspect the remainder of the construction.
Thereafter, the chief shall inspect the construction and the cost
of inspection shall be charged against the owner. Failure of the
registered professional engineer to submit required inspection
reports shall be deemed notice that the engineer's inspections are
not being performed.

(G) The chief may order construction to cease on any dam, ~~dike~~,
~~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 6426
section or to enforce an order or prohibition of the chief made 6427
pursuant to this section. 6428

(H) The chief may adopt rules in accordance with Chapter 119. 6429
of the Revised Code, for the design and construction of dams, 6430
~~dikes~~, and levees for which a construction permit is required by 6431
this section or for which periodic inspection is required by 6432
section 1521.062 of the Revised Code, for establishing a filing 6433
fee schedule in lieu of the schedule established under division 6434
(B) of this section, for deposit and forfeiture of bonds and other 6435
securities required by section 1521.061 of the Revised Code, for 6436
the periodic inspection, operation, repair, improvement, 6437
alteration, or removal of all dams, ~~dikes~~, and levees, as 6438
specified in section 1521.062 of the Revised Code, and for 6439
establishing classes of dams, ~~dikes~~, or levees that are exempt 6440
from the requirements of ~~sections 1521.06~~ this section and section 6441
1521.062 of the Revised Code as being of a size, purpose, or 6442
situation that does not present a substantial hazard to life, 6443
health, or property. The chief may, by rule, limit the period 6444
during which a construction permit issued under this section is 6445
valid. The rules may allow for the extension of the period during 6446
which a permit is valid upon written request, provided that the 6447
written request includes a revised construction cost estimate, and 6448
may require the payment of an additional filing fee for the 6449
requested extension. If a construction permit expires without an 6450
extension before construction is completed, the person or agency 6451
shall apply for a new permit, and shall not continue construction 6452
until the new permit is issued. 6453

Sec. 1521.061. Except as otherwise provided in this section, 6454
a construction permit shall not be issued under section 1521.06 of 6455
the Revised Code unless the person or governmental agency applying 6456
for the permit executes and files a surety bond conditioned on 6457

completion of the dam, ~~dike,~~ or levee in accordance with the terms 6458
of the permit and the plans and specifications approved by the 6459
chief of the division of water, in an amount equal to fifty per 6460
cent of the estimated cost of the project. 6461

If a permittee requests an extension of the time period 6462
during which a construction permit is valid in accordance with 6463
rules adopted under section 1521.06 of the Revised Code, the chief 6464
shall determine whether the revised construction cost estimate 6465
provided with the request exceeds the original construction cost 6466
estimate that was filed with the chief by more than twenty-five 6467
per cent. If the revised construction cost estimate exceeds the 6468
original construction cost estimate by more than twenty-five per 6469
cent, the chief may require an additional surety bond to be filed 6470
so that the total amount of the surety bonds equals at least fifty 6471
per cent of the revised construction cost estimate. 6472

The chief shall not approve any bond until it is personally 6473
signed and acknowledged by both principal and surety, or as to 6474
either by ~~his~~ the attorney in fact thereof, with a certified copy 6475
of the power of attorney attached. The chief shall not approve the 6476
bond unless there is attached a certificate of the superintendent 6477
of insurance that the company is authorized to transact a fidelity 6478
and surety business in this state. 6479

All bonds shall be given in a form prescribed by the chief 6480
and shall run to the state as obligee. 6481

The applicant may deposit, in lieu of a bond, cash in an 6482
amount equal to the amount of the bond or United States government 6483
securities or negotiable certificates of deposit issued by any 6484
bank organized or transacting business in this state having a par 6485
value equal to or greater than the amount of the bond. Such cash 6486
or securities shall be deposited upon the same terms as bonds. If 6487
one or more certificates of deposit are deposited in lieu of a 6488
bond, the chief shall require the bank ~~which~~ that issued any such 6489

certificate to pledge securities of the aggregate market value 6490
equal to the amount of the certificate ~~which~~ that is in excess of 6491
the amount insured by the federal deposit insurance corporation. 6492
The securities to be pledged shall be those designated as eligible 6493
under section 135.18 of the Revised Code. The securities shall be 6494
security for the repayment of the certificate of deposit. 6495

Immediately upon a deposit of cash, securities, or 6496
certificates of deposit, the chief shall deliver them to the 6497
treasurer of state, who shall hold them in trust for the purposes 6498
for which they have been deposited. The treasurer of state is 6499
responsible for the safekeeping of such deposits. An applicant 6500
making a deposit of cash, securities, or certificates of deposit 6501
may withdraw and receive from the treasurer of state, on the 6502
written order of the chief, all or any portion of the cash, 6503
securities, or certificates of deposit, upon depositing with the 6504
treasurer of state cash, other United States government 6505
securities, or negotiable certificates of deposit issued by any 6506
bank organized or transacting business in this state equal in par 6507
value to the par value of the cash, securities, or certificates of 6508
deposit withdrawn. An applicant may demand and receive from the 6509
treasurer of state all interest or other income from any such 6510
securities or certificates as it becomes due. If securities so 6511
deposited with and in the possession of the treasurer of state 6512
mature or are called for payment by the issuer thereof, the 6513
treasurer of state, at the request of the applicant who deposited 6514
them, shall convert the proceeds of the redemption or payment of 6515
the securities into such other United States government 6516
securities, negotiable certificates of deposit issued by any bank 6517
organized or transacting business in this state, or cash as the 6518
applicant designates. 6519

When the chief finds that a person or governmental agency has 6520
failed to comply with the conditions of ~~his~~ the person's or 6521

agency's bond, ~~he~~ the chief shall make a finding of that fact and 6522
declare the bond, cash, securities, or certificates of deposit 6523
forfeited in the amount set by rule of the chief. The chief shall 6524
thereupon certify the total forfeiture to the attorney general, 6525
who shall proceed to collect that amount. 6526

In lieu of total forfeiture, the surety, at its option, may 6527
cause the dam, ~~dike~~, or levee to be completed as required by 6528
section 1521.06 of the Revised Code and rules of the chief, or 6529
otherwise rendered nonhazardous, or pay to the treasurer of state 6530
the cost thereof. 6531

All moneys collected on account of forfeitures of bonds, 6532
cash, securities, and certificates of deposit under this section 6533
shall be credited to the dam safety fund created in section 6534
1521.06 of the Revised Code. The chief shall make expenditures 6535
from the fund to complete dams, ~~dikes~~, and levees for which bonds 6536
have been forfeited or to otherwise render them nonhazardous. 6537

Expenditures from the fund for those purposes shall be made 6538
pursuant to contracts entered into by the chief with persons who 6539
agree to furnish all of the materials, equipment, work, and labor 6540
as specified and provided in the contract. 6541

A surety bond shall not be required for a permit for a dam, ~~dike~~, 6542
~~dike~~, or levee that is to be designed and constructed by an agency 6543
of the United States government, if the agency files with the 6544
chief written assurance of the agency's financial responsibility 6545
for the structure during the one-year period following the chief's 6546
approval of the completed construction provided for under division 6547
(E) of section 1521.06 of the Revised Code. 6548

Sec. 1521.062. (A) All dams, ~~dikes~~, and levees constructed in 6549
this state and not exempted by this section or by the chief of the 6550
division of water under section 1521.06 of the Revised Code shall 6551
be inspected periodically by the chief, except for classes of dams 6552

that, in accordance with rules adopted under this section, are 6553
required to be inspected by registered professional engineers who 6554
have been approved for that purpose by the chief. The inspection 6555
shall ensure that continued operation and use of the dam, ~~dike,~~ or 6556
levee does not constitute a hazard to life, health, or property. 6557
Periodic inspections shall not be required of the following 6558
structures: 6559

(1) A dam that is less than ten feet in height and has a 6560
storage capacity of not more than fifty acre-feet at the elevation 6561
of the top of the dam, as determined by the chief. For the 6562
purposes of this section, the height of a dam shall be measured 6563
from the natural stream bed or lowest ground elevation at the 6564
downstream or outside limit of the dam to the elevation of the top 6565
of the dam. 6566

(2) A dam, regardless of height, that has a storage capacity 6567
of not more than fifteen acre-feet at the elevation of the top of 6568
the dam, as determined by the chief; 6569

(3) A dam, regardless of storage capacity, that is six feet 6570
or less in height, as determined by the chief; 6571

(4) A dam, ~~dike,~~ or levee belonging to a class exempted by 6572
the chief; 6573

(5) A dam, ~~dike,~~ or levee that has been exempted in 6574
accordance with rules adopted under section 1521.064 of the 6575
Revised Code. 6576

(B) In accordance with rules adopted under this section, the 6577
owner of a dam that is in a class of dams that is designated in 6578
the rules for inspection by registered professional engineers 6579
shall obtain the services of a registered professional engineer 6580
who has been approved by the chief to conduct the periodic 6581
inspection of dams pursuant to schedules and other standards and 6582
procedures established in the rules. The registered professional 6583

engineer shall prepare a report of the inspection in accordance 6584
with the rules and provide the inspection report to the dam owner 6585
who shall submit it to the chief. A dam that is designated under 6586
the rules for inspection by a registered professional engineer, 6587
but that is not inspected within a five-year period may be 6588
inspected by the chief at the owner's expense. 6589

(C) Intervals between periodic inspections shall be 6590
determined by the chief, but shall not exceed five years. 6591

(D) In the case of a dam, ~~dike~~, or levee that the chief 6592
inspects, the chief shall furnish a report of the inspection to 6593
the owner of the dam, ~~dike~~, or levee. With regard to a dam, ~~dike~~, 6594
or levee that has been inspected, either by the chief or by a 6595
registered professional engineer, and that is the subject of an 6596
inspection report prepared or received by the chief, the chief 6597
shall inform the owner of any required repairs, maintenance, 6598
investigations, and other remedial and operational measures. The 6599
chief shall order the owner to perform such repairs, maintenance, 6600
investigations, or other remedial or operational measures as the 6601
chief considers necessary to safeguard life, health, or property. 6602
The order shall permit the owner a reasonable time in which to 6603
perform the needed repairs, maintenance, investigations, or other 6604
remedial measures, and the cost thereof shall be borne by the 6605
owner. All orders of the chief are subject to appeal as provided 6606
in Chapter 119. of the Revised Code. The attorney general, upon 6607
written request of the chief, may bring an action for an 6608
injunction against any person who violates this section or to 6609
enforce an order of the chief made pursuant to this section. 6610

(E) The owner of a dam, ~~dike~~, or levee shall monitor, 6611
maintain, and operate the structure and its appurtenances safely 6612
in accordance with state rules, terms and conditions of permits, 6613
orders, and other requirements issued pursuant to this section or 6614
section 1521.06 of the Revised Code. The owner shall fully and 6615

promptly notify the division of water and other responsible 6616
authorities of any condition that threatens the safety of the 6617
structure and shall take all necessary actions to safeguard life, 6618
health, and property. 6619

(F) Before commencing the repair, improvement, alteration, or 6620
removal of a dam,~~dike~~, or levee, the owner shall file an 6621
application including plans, specifications, and other required 6622
information with the division and shall secure written approval of 6623
the application by the chief. Emergency actions by the owner 6624
required to safeguard life, health, or property are exempt from 6625
this requirement. The chief may, by rule, define maintenance, 6626
repairs, or other remedial measures of a routine nature that are 6627
exempt from this requirement. 6628

(G) The chief may remove or correct, at the expense of the 6629
owner, any unsafe structures found to be constructed or maintained 6630
in violation of this section or section 1521.06 of the Revised 6631
Code. In the case of an owner other than a governmental agency, 6632
the cost of removal or correction of any unsafe structure, 6633
together with a description of the property on which the unsafe 6634
structure is located, shall be certified by the chief to the 6635
county auditor and placed by the county auditor upon the tax 6636
duplicate. This cost is a lien upon the lands from the date of 6637
entry and shall be collected as other taxes and returned to the 6638
division. In the case of an owner that is a governmental agency, 6639
the cost of removal or correction of any unsafe structure shall be 6640
recoverable from the owner by appropriate action in a court of 6641
competent jurisdiction. 6642

(H) If the condition of any dam,~~dike~~, or levee is found, in 6643
the judgment of the chief, to be so dangerous to the safety of 6644
life, health, or property as not to permit time for the issuance 6645
and enforcement of an order relative to repair, maintenance, or 6646
operation, the chief shall employ any of the following remedial 6647

means necessary to protect life, health, and property: 6648

(1) Lower the water level of the lake or reservoir by 6649
releasing water; 6650

(2) Completely drain the lake or reservoir; 6651

(3) Take such other measures or actions as the chief 6652
considers necessary to safeguard life, health, and property. 6653

The chief shall continue in full charge and control of the 6654
dam, ~~dike~~, or levee until the structure is rendered safe. The cost 6655
of the remedy shall be recoverable from the owner of the structure 6656
by appropriate action in a court of competent jurisdiction. 6657

(I) The chief may accept and expend gifts, bequests, and 6658
grants from the United States government or from any other public 6659
or private source and may contract with the United States 6660
government or any other agency or entity for the purpose of 6661
carrying out the dam safety functions set forth in this section 6662
and section 1521.06 of the Revised Code. 6663

(J) In accordance with Chapter 119. of the Revised Code, the 6664
chief ~~shall~~ may adopt, and may amend or rescind, rules that do all 6665
of the following: 6666

(1) Designate classes of dams for which dam owners must 6667
obtain the services of a registered professional engineer to 6668
periodically inspect the dams and to prepare reports of the 6669
inspections for submittal to the chief; 6670

(2) Establish standards in accordance with which the chief 6671
must approve or disapprove registered professional engineers to 6672
inspect dams together with procedures governing the approval 6673
process; 6674

(3) Establish schedules, standards, and procedures governing 6675
periodic inspections and standards and procedures governing the 6676
preparation and submittal of inspection reports; 6677

(4) Establish provisions regarding the enforcement of this 6678
section and rules adopted under it. 6679

(K) The owner of a dam or levee shall notify the chief in 6680
writing of a change in ownership of the dam or levee prior to the 6681
exchange of the property. 6682

Sec. 1521.064. The chief of the division of water, in 6683
accordance with Chapter 119. of the Revised Code, shall adopt, and 6684
may amend and rescind, rules establishing a program under which 6685
dams, ~~dikes~~, and levees may be exempted from inspections under 6686
section 1521.062 of the Revised Code if the continued operation 6687
and use of, and any rupturing of or other structural damage to, 6688
the dams, ~~dikes~~, and levees will not constitute a hazard to life, 6689
health, or property. The rules shall establish, without 6690
limitation, all of the following: 6691

(A) A procedure by which the owner of such a dam, ~~dike~~, or 6692
levee may apply for an exemption under this section; 6693

(B) The standards that a dam, ~~dike~~, or levee shall meet in 6694
order to be exempted under this section; 6695

(C) A procedure by which the chief shall periodically review 6696
the status of a dam, ~~dike~~, or levee that has been exempted under 6697
this section to determine if the exemption should be rescinded; 6698

(D) A requirement that the owner of any dam, ~~dike~~, or levee 6699
exempted under this section shall agree, in writing, to accept 6700
liability for any injury, death, or loss to persons or property 6701
caused by the rupturing of or other structural damage to the dam, 6702
~~dike~~, or levee. 6703

Sec. 1521.13. (A) Development in one-hundred-year floodplain 6704
areas shall be protected to at least the one-hundred-year flood 6705
level, and flood water conveyance shall be maintained, at a 6706

minimum, in accordance with standards established under the 6707
national flood insurance program. This division does not preclude 6708
a state agency or political subdivision from establishing flood 6709
protection standards that are more restrictive than this division. 6710

(B) Prior to the expenditure of money for or the construction 6711
of buildings, structures, roads, bridges, or other facilities in 6712
locations that may be subject to flooding or flood damage, all 6713
state agencies and political subdivisions shall notify and consult 6714
with the division of water and shall furnish information that the 6715
division reasonably requires in order to avoid the uneconomic, 6716
hazardous, or unnecessary use of floodplains in connection with 6717
such facilities. 6718

(C) The chief of the division of water shall do all of the 6719
following: 6720

(1) Coordinate the floodplain management activities of state 6721
agencies and political subdivisions with the floodplain management 6722
activities of the United States, including the national flood 6723
insurance program ~~established in the "National Flood Insurance Act~~ 6724
~~of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and~~ 6725
~~regulations adopted under that act;~~ 6726

(2) Collect, prepare, and maintain technical data and 6727
information on floods and floodplain management and make the data 6728
and information available to the public, state agencies, political 6729
subdivisions, and agencies of the United States; 6730

(3) Cooperate and enter into agreements with persons for the 6731
preparation of studies and reports on floods and floodplain 6732
management; 6733

(4) Assist any county, municipal corporation, or state agency 6734
in developing comprehensive floodplain management programs; 6735

(5) Provide technical assistance to any county, municipal 6736
corporation, or state agency through engineering assistance, data 6737

collection, preparation of model laws, training, and other 6738
activities relating to floodplain management; 6739

(6) For the purpose of reducing damages and the threat to 6740
life, health, and property in the event of a flood, cooperate with 6741
state agencies, political subdivisions, and the United States in 6742
the development of flood warning systems, evacuation plans, and 6743
flood emergency preparedness plans; 6744

(7) Upon request, assist the emergency management agency 6745
established by section 5502.22 of the Revised Code in the 6746
preparation of flood hazard mitigation reports required as a 6747
condition for receiving federal disaster aid under the "Disaster 6748
Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, 6749
~~"The Robert T. Stafford Disaster Relief and Emergency Assistance~~ 6750
~~Act of 1994," Pub. L. No. 93-288, as amended,~~ and regulations 6751
adopted under ~~those acts~~ it; 6752

(8) Adopt, and may amend or rescind, rules in accordance with 6753
Chapter 119. of the Revised Code for the administration, 6754
implementation, and enforcement of this section and sections 6755
1521.14 and 1521.18 of the Revised Code; 6756

(9) Establish, by rule, technical standards for the 6757
delineation and mapping of floodplains and for the conduct of 6758
engineering studies to determine the vertical and horizontal 6759
limits of floodplains and for the assessment of development 6760
impacts on flood heights and flood conveyance. The standards 6761
established in rules adopted under this division shall be 6762
consistent with and no more stringent than the analogous standards 6763
established under the national flood insurance program ~~adopted~~ 6764
~~pursuant to the "National Flood Insurance Act of 1968," 82 Stat.~~ 6765
~~572, 42 U.S.C.A. 4001, as amended.~~ 6766

(10) ~~Establish, by rule, flood damage reduction standards~~ 6767
~~governing development within one hundred year floodplains other~~ 6768

~~than development subject to the rules adopted under division 6769
(A)(11) of this section. The standards shall include provisions to 6770
ensure that structures are protected at least to the one hundred 6771
year flood level and that any increase in the one hundred year 6772
flood level will not exceed one foot as determined by engineering 6773
studies conducted in accordance with the technical standards 6774
established in rules adopted under division (A)(9) of this 6775
section. The standards adopted under this division shall be no 6776
more stringent than the minimum floodplain management criteria of 6777
the national flood insurance program adopted under the "National 6778
Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 6779
amended. 6780~~

~~(11) Establish, by rule, minimum flood damage reduction 6781
standards governing development undertaken by state agencies 6782
within one hundred year floodplains. The standards shall include 6783
provisions to ensure that structures are protected at least to the 6784
one hundred year flood level and that any increase in the one 6785
hundred year flood level will not exceed one foot as determined by 6786
engineering studies conducted in accordance with the technical 6787
standards established in rules adopted under division (A)(9) of 6788
this section. The standards adopted under this division shall be 6789
consistent with and no less stringent than the minimum floodplain 6790
management criteria of the national flood insurance program 6791
adopted under the "National Flood Insurance Act of 1968," 82 Stat. 6792
572, 42 U.S.C.A. 4001, as amended. 6793~~

~~(12) On behalf of the director of natural resources, 6794
administer section 1506.04 of the Revised Code. 6795~~

~~(B) Rules adopted under division (A)(10) of this section and 6796
standards established under those rules apply only to developments 6797
for which a demonstration of compliance is required under division 6798
(C)(1) of section 1521.14 of the Revised Code 6799~~

In addition to the duties imposed in divisions (C)(1) to (10) 6800

of this section, and with respect to existing publicly owned 6801
facilities that have suffered flood damage or that may be subject 6802
to flood damage, the chief may conspicuously mark past and 6803
probable flood heights in order to assist in creating public 6804
awareness of and knowledge about flood hazards. 6805

(D)(1) Development that is funded, financed, undertaken, or 6806
preempted by state agencies shall comply with division (A) of this 6807
section and with rules adopted under division (C)(9) of this 6808
section. 6809

(2) State agencies shall apply floodproofing measures in 6810
order to reduce potential additional flood damage of existing 6811
publicly owned facilities that have suffered flood damage. 6812

(3) Before awarding funding or financing or granting a 6813
license, permit, or other authorization for a development that is 6814
or is to be located within a one-hundred-year floodplain, a state 6815
agency shall require the applicant to demonstrate to the 6816
satisfaction of the agency that the development will comply with 6817
division (A) of this section, rules adopted under division (C)(9) 6818
of this section, and any applicable local floodplain management 6819
resolution or ordinance. 6820

(4) Prior to the disbursement of any state disaster 6821
assistance money in connection with any incident of flooding to or 6822
within a county or municipal corporation that is not listed by the 6823
chief as being in compliance under division (D)(1) of section 6824
1521.18 of the Revised Code, a state agency that has authority to 6825
disburse such money shall require the county or municipal 6826
corporation to establish or reestablish compliance as provided in 6827
that division. 6828

(E)(1) Subject to section 1521.18 of the Revised Code, a 6829
county or a municipal corporation may do all of the following: 6830

(a) Adopt floodplain maps that reflect the best available 6831

data and that indicate the areas to be regulated under a 6832
floodplain management resolution or ordinance, as applicable; 6833

(b) Develop and adopt a floodplain management resolution or 6834
ordinance, as applicable; 6835

(c) Adopt floodplain management standards that exceed the 6836
standards that are established under the national flood insurance 6837
program. 6838

(2) A county or municipal corporation shall examine and 6839
apply, where economically feasible, floodproofing measures in 6840
order to reduce potential additional flood damage of existing 6841
publicly owned facilities that have suffered flood damage. 6842

(3) A county that adopts a floodplain management resolution 6843
shall do so in accordance with the procedures established in 6844
section 307.37 of the Revised Code. The county may enforce the 6845
resolution by issuing stop work orders, seeking injunctive relief, 6846
or pursuing other civil actions that the county considers 6847
necessary to ensure compliance with the resolution. In addition, 6848
failure to comply with the floodplain management resolution 6849
constitutes a violation of division (D) of section 307.37 of the 6850
Revised Code. 6851

(4) No action challenging the validity of a floodplain 6852
management resolution adopted by a county or a floodplain 6853
management ordinance adopted by a municipal corporation, or an 6854
amendment to such a resolution or ordinance, because of a 6855
procedural error in the adoption of the resolution, ordinance, or 6856
amendment shall be brought more than two years after the adoption 6857
of the resolution, ordinance, or amendment. 6858

Sec. 1521.14. ~~(A) All state agencies and political~~ 6859
~~subdivisions, prior to the expenditure of funds for or the~~ 6860
~~construction of buildings, structures, roads, bridges, or other~~ 6861

~~facilities in locations that may be subject to flooding or flood 6862
damage, shall notify and consult with the division of water and 6863
shall furnish such information as the division may reasonably 6864
require in order to avoid the uneconomic, hazardous, or 6865
unnecessary use of floodplains in connection with such facilities. 6866~~

~~(B) With respect to existing publicly owned facilities that 6867
have suffered flood damage or that may be subject to flood damage, 6868
the chief of the division of water may conspicuously mark past and 6869
probable flood heights so as to assist in creating public 6870
awareness of and knowledge about flood hazards. Wherever 6871
economically feasible, state agencies and political subdivisions 6872
responsible for existing publicly owned facilities shall apply 6873
floodproofing measures in order to reduce potential flood damage. 6874~~

~~(C)(1) Any state agency that funds or finances developments 6875
or that has regulatory jurisdiction that preempts the authority of 6876
political subdivisions to regulate development as necessary to 6877
establish participation in the national flood insurance program 6878
under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 6879
U.S.C.A. 4001, as amended, before awarding funding or financing or 6880
granting a license, permit, or other authorization for a 6881
development that is or is to be located within a one hundred year 6882
floodplain, shall require the applicant therefor to demonstrate to 6883
the satisfaction of the agency that the development will comply 6884
with the flood damage reduction standards established in rules 6885
adopted under division (A)(10) of section 1521.13 of the Revised 6886
Code. 6887~~

~~(2) Any state agency that undertakes any development that is 6888
or is to be located within a one hundred year floodplain shall 6889
ensure that the development complies with the minimum flood damage 6890
reduction standards established in rules adopted under division 6891
(A)(11) of section 1521.13 of the Revised Code. 6892~~

~~(3) Prior to the disbursement of any state disaster 6893~~

~~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

hundred_year floodplain is limited to an area identified as a 6925
one_hundred_year floodplain in accordance with the "National Flood 6926
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 6927
amended. 6928

(B) Each municipal corporation or county that has within its 6929
boundaries a one_hundred_year floodplain and that adopts a 6930
floodplain management ordinance or resolution or any amendments to 6931
such an ordinance or resolution on or after April 11, 1991, after 6932
adopting the ordinance, resolution, or amendments and before 6933
submitting the ordinance, resolution, or amendments to the federal 6934
emergency management agency for final approval for compliance with 6935
applicable standards adopted under the "National Flood Insurance 6936
Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall 6937
submit the ordinance, resolution, or amendments to the chief of 6938
the division of water for ~~his~~ the chief's review for compliance 6939
with those standards. Within forty-five days after receiving any 6940
such ordinance, resolution, or amendments, the chief shall 6941
complete ~~his~~ the review and notify the municipal corporation or 6942
county as to whether the ordinance, resolution, or amendments 6943
comply with those standards. If the chief finds that the 6944
ordinance, resolution, or amendments comply with those standards, 6945
~~he~~ the chief shall forward it or them to the federal emergency 6946
management agency for final approval. 6947

(C)(1) If the chief determines that a county or municipal 6948
corporation that has adopted a floodplain management resolution or 6949
ordinance fails to administer or enforce the resolution or 6950
ordinance, the chief shall send a written notice by certified mail 6951
to the board of county commissioners of the county or the chief 6952
executive officer of the municipal corporation stating the nature 6953
of the noncompliance. 6954

(2) In order to maintain its compliance status in accordance 6955
with division (D) of this section, a county or municipal 6956

corporation that has received a notice of noncompliance under 6957
division (C)(1) of this section may submit information to the 6958
chief not later than thirty days after receiving the notice that 6959
demonstrates compliance or indicates the actions that the county 6960
or municipal corporation is taking to administer or enforce the 6961
resolution or ordinance. The chief shall review the information 6962
and shall issue a final determination by certified mail to the 6963
county or municipal corporation of the compliance or noncompliance 6964
status of the county or municipal corporation. If the chief issues 6965
a final determination of noncompliance, ~~he~~ the chief shall send a 6966
copy of that determination to the federal emergency management 6967
agency concurrently with mailing the notice to the municipal 6968
corporation or county. 6969

(D)(1) A county or municipal corporation is considered to be 6970
in compliance for the purposes of this section if either of the 6971
following applies: 6972

(a) The county or municipal corporation has adopted a 6973
floodplain management resolution or ordinance that the chief has 6974
determined complies with applicable standards adopted under the 6975
"National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 6976
4001, as amended, and is adequately administering and enforcing it 6977
as determined under division (C) of this section. 6978

(b) The county or municipal corporation is participating in 6979
the national flood insurance program ~~under the "National Flood~~ 6980
~~Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as~~ 6981
~~amended,~~ and has not received a notice of noncompliance under 6982
division (B) or (C) of this section. 6983

(2) The chief shall maintain a list of all counties and 6984
municipal corporations that have one_hundred_year floodplains 6985
within their boundaries. The list shall indicate whether each such 6986
county or municipal corporation is in compliance or noncompliance 6987

as provided in division (D)(1) of this section and whether each 6988
such county or municipal corporation is participating in the 6989
national flood insurance program. The chief shall provide a copy 6990
of the list to the general assembly and all state agencies 6991
annually and shall notify the general assembly and the agencies of 6992
any changes at least quarterly. 6993

(E) Any county or municipal corporation that is adversely 6994
affected by any determination of the chief under this section may 6995
appeal it in accordance with Chapter 119. of the Revised Code not 6996
later than thirty days after the final determination. 6997

Sec. 1521.19. (A) There is hereby created the Ohio water 6998
resources council consisting of the directors of agriculture, 6999
development, environmental protection, health, natural resources, 7000
transportation, and the Ohio public works commission, the 7001
chairperson of the public utilities commission of Ohio, the 7002
executive ~~directors~~ director of the ~~state and local government~~ 7003
~~commission of Ohio and~~ the Ohio water development authority, and 7004
an executive assistant in the office of the governor appointed by 7005
the governor. The governor shall appoint one of the members of the 7006
council to serve as its chairperson. The council may adopt bylaws 7007
that are necessary for the implementation of this section. The 7008
council shall provide a forum for policy development, 7009
collaboration and coordination among state agencies, and strategic 7010
direction with respect to state water resource programs. The 7011
council shall be assisted in its functions by a state agency 7012
coordinating group and an advisory group as provided in this 7013
section. 7014

(B) The state agency coordinating group shall consist of the 7015
executive director of the Ohio Lake Erie commission and a member 7016
or members from each state agency, commission, and authority 7017
represented on the council, to be appointed by the applicable 7018

director, chairperson, or executive director. However, the
environmental protection agency shall be represented on the group
by the chiefs of the divisions within that agency having
responsibility for surface water programs and drinking and ground
water programs, and the department of natural resources shall be
represented on the group by the chief of the division of water and
the chief of the division of soil and water conservation. The
chairperson of the council shall appoint a leader of the state
agency coordinating group. The group shall provide assistance to
and perform duties on behalf of the council as directed by the
council.

(C) The advisory group shall consist of not more than ~~twenty~~
twenty-four members, each representing an organization or entity
with an interest in water resource issues. The council shall
appoint the members of the advisory group. Of the initial
appointments, not more than ten members shall be appointed for
one-year terms, and not more than ten members shall be appointed
for two-year terms. Of the four initial appointments made after
the effective date of this amendment, two of the members shall be
appointed for one-year terms, and two of the members shall be
appointed for two-year terms. Thereafter, all advisory group
members shall serve two-year terms. Members may be reappointed.
Each member shall hold office from the date of the member's
appointment until the end of the member's term. A member shall
continue in office subsequent to the expiration date of the
member's term until the member's successor takes office or until a
period of sixty days has elapsed, whichever occurs first. The
council may remove a member for misfeasance, nonfeasance, or
malfeasance in office. The council shall appoint members to fill
any vacancies on the group. A member appointed to fill a vacancy
shall hold office for the remainder of the term for which that
member was appointed.

The chairperson of the council shall appoint a chairperson of 7051
the advisory group. The advisory group shall advise the council on 7052
water resources issues addressed by the council. 7053

(D) There is hereby created in the state treasury the Ohio 7054
water resources council fund. The department of natural resources 7055
shall serve as the fiscal agent for the fund. The departments of 7056
agriculture, development, environmental protection, health, 7057
natural resources, and transportation shall transfer moneys to the 7058
fund in equal amounts via intrastate transfer voucher. The public 7059
utilities commission of Ohio, Ohio public works commission, ~~state~~ 7060
~~and local government commission of Ohio,~~ and Ohio water 7061
development authority may transfer moneys to the fund. If a 7062
voluntary transfer of moneys is made to the fund, the portion that 7063
is required to be transferred by the departments of agriculture, 7064
development, environmental protection, health, natural resources, 7065
and transportation may be equally reduced. Moneys in the fund 7066
shall be used to pay the operating expenses of the Ohio water 7067
resources council, including those specified in division (E) of 7068
this section. 7069

(E) The Ohio water resources council may hire staff to 7070
support its activities. The council may enter into contracts and 7071
agreements with federal agencies, state agencies, political 7072
subdivisions, and private entities to assist in accomplishing its 7073
objectives. Advisory group members shall be reimbursed for 7074
expenses necessarily incurred in the performance of their duties 7075
pursuant to section 126.31 of the Revised Code and any applicable 7076
rules pertaining to travel reimbursement adopted by the office of 7077
budget and management. 7078

Sec. 1521.99. (A) Whoever violates division ~~(C)~~(E)(1) of 7079
section 1521.05 or division (E)(1) of section 1521.16 of the 7080
Revised Code is guilty of a misdemeanor of the fourth degree. 7081

(B) Whoever violates section 1521.06 or 1521.062 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

(C) Whoever violates sections 1521.20 to 1521.30 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

Sec. 1531.01. As used in this chapter and Chapter 1533. of the Revised Code:

(A) "Person" means ~~individual, company, partnership, corporation, municipal corporation, association, or any combination of individuals, or any employee, agent, or officer thereof~~ a person as defined in section 1.59 of the Revised Code or a company; an employee, agent, or officer of such a person or company; a combination of individuals; the state; a political subdivision of the state; an interstate body created by a compact; or the federal government or a department, agency, or instrumentality of it.

(B) "Resident" means any individual who has resided in this state for not less than six months next preceding the date of making application for a license.

(C) "Nonresident" means any individual who does not qualify as a resident.

(D) "Division rule" or "rule" means any rule adopted by the chief of the division of wildlife under section 1531.10 of the Revised Code unless the context indicates otherwise.

(E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited.

(F) "Open season" means that period of time during which the 7112
taking of wild animals protected by this chapter and Chapter 1533. 7113
of the Revised Code is permitted. 7114

(G) "Take or taking" includes pursuing, shooting, hunting, 7115
killing, trapping, angling, fishing with a trotline, or netting 7116
any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, 7117
wild bird, or wild quadruped, and any lesser act, such as 7118
wounding, or placing, setting, drawing, or using any other device 7119
for killing or capturing any wild animal, whether it results in 7120
killing or capturing the animal or not. "Take or taking" includes 7121
every attempt to kill or capture and every act of assistance to 7122
any other person in killing or capturing or attempting to kill or 7123
capture a wild animal. 7124

(H) "Possession" means both actual and constructive 7125
possession and any control of things referred to. 7126

(I) "Bag limit" means the number, measurement, or weight of 7127
any kind of crayfish, aquatic insects, fish, frogs, turtles, wild 7128
birds, and wild quadrupeds permitted to be taken. 7129

(J) "Transport and transportation" means carrying or moving 7130
or causing to be carried or moved. 7131

(K) "Sell and sale" means barter, exchange, or offer or 7132
expose for sale. 7133

(L) "Whole to include part" means that every provision 7134
relating to any wild animal protected by this chapter and Chapter 7135
1533. of the Revised Code applies to any part of the wild animal 7136
with the same effect as it applies to the whole. 7137

(M) "Angling" means fishing with not more than two hand 7138
lines, not more than two units of rod and line, or a combination 7139
of not more than one hand line and one rod and line, either in 7140
hand or under control at any time while fishing. The hand line or 7141

rod and line shall have attached to it not more than three baited
hooks, not more than three artificial fly rod lures, or one
artificial bait casting lure equipped with not more than three
sets of three hooks each.

(N) "Trotline" means a device for catching fish that consists
of a line having suspended from it, at frequent intervals,
vertical lines with hooks attached.

(O) "Fish" means a cold-blooded vertebrate having fins.

(P) "Measurement of fish" means length from the end of the
nose to the longest tip or end of the tail.

(Q) "Wild birds" includes game birds and nongame birds.

(R) "Game" includes game birds, game quadrupeds, and
fur-bearing animals.

(S) "Game birds" includes mourning doves, ringneck pheasants,
bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated
grouse, wild turkey, Hungarian partridge, Chukar partridge,
woodcocks, black-breasted plover, golden plover, Wilson's snipe or
jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules,
duck, geese, brant, and crows.

(T) "Nongame birds" includes all other wild birds not
included and defined as game birds or migratory game birds.

(U) "Wild quadrupeds" includes game quadrupeds and
fur-bearing animals.

(V) "Game quadrupeds" includes cottontail rabbits, gray
squirrels, black squirrels, fox squirrels, red squirrels, flying
squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer,
wild boar, and black bears.

(W) "Fur-bearing animals" includes minks, weasels, raccoons,
skunks, opossums, muskrats, fox, beavers, badgers, otters,
coyotes, and bobcats.

(X) "Wild animals" includes mollusks, crustaceans, aquatic 7172
insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, 7173
and all other wild mammals, but does not include domestic deer. 7174

(Y) "Hunting" means pursuing, shooting, killing, following 7175
after or on the trail of, lying in wait for, shooting at, or 7176
wounding wild birds or wild quadrupeds while employing any device 7177
commonly used to kill or wound wild birds or wild quadrupeds 7178
whether or not the acts result in killing or wounding. "Hunting" 7179
includes every attempt to kill or wound and every act of 7180
assistance to any other person in killing or wounding or 7181
attempting to kill or wound wild birds or wild quadrupeds. 7182

(Z) "Trapping" means securing or attempting to secure 7183
possession of a wild bird or wild quadruped by means of setting, 7184
placing, drawing, or using any device that is designed to close 7185
upon, hold fast, confine, or otherwise capture a wild bird or wild 7186
quadruped whether or not the means results in capture. "Trapping" 7187
includes every act of assistance to any other person in capturing 7188
wild birds or wild quadrupeds by means of the device whether or 7189
not the means results in capture. 7190

(AA) "Muskrat spear" means any device used in spearing 7191
muskrats. 7192

(BB) "Channels and passages" means those narrow bodies of 7193
water lying between islands or between an island and the mainland 7194
in Lake Erie. 7195

(CC) "Island" means a rock or land elevation above the waters 7196
of Lake Erie having an area of five or more acres above water. 7197

(DD) "Reef" means an elevation of rock, either broken or in 7198
place, or gravel shown by the latest United States chart to be 7199
above the common level of the surrounding bottom of the lake, 7200
other than the rock bottom, or in place forming the base or 7201
foundation rock of an island or mainland and sloping from the 7202

shore of it. "Reef" also means all elevations shown by that chart 7203
to be above the common level of the sloping base or foundation 7204
rock of an island or mainland, whether running from the shore of 7205
an island or parallel with the contour of the shore of an island 7206
or in any other way and whether formed by rock, broken or in 7207
place, or from gravel. 7208

(EE) "Fur farm" means any area used exclusively for raising 7209
fur-bearing animals or in addition thereto used for hunting game, 7210
the boundaries of which are plainly marked as such. 7211

(FF) "Waters" includes any lake, pond, reservoir, stream, 7212
channel, lagoon, or other body of water, or any part thereof, 7213
whether natural or artificial. 7214

(GG) "Crib" or "car" refers to that particular compartment of 7215
the net from which the fish are taken when the net is lifted. 7216

(HH) "Commercial fish" means those species of fish permitted 7217
to be taken, possessed, bought, or sold unless otherwise 7218
restricted by the Revised Code or division rule and are alewife 7219
(*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin 7220
(*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), 7221
smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus* 7222
cyprinellus), black bullhead (*Ictalurus melas*), yellow bullhead 7223
(*Ictalurus natalis*), brown bullhead (*Ictalurus nebulosus*), channel 7224
catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis* 7225
olivaris), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), 7226
freshwater drum or sheepshead (*Aplodinotus grunniens*), gar 7227
(*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish 7228
(*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye 7229
(*Hiodon tergisus*), quillback (*Carpiodes cyprinus*), smelt 7230
(*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* 7231
sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other 7232
than buffalo and quillback (*Carpiodes* sp., *Catostomus* sp., 7233

Hypentelium sp., Minytrema sp., Moxostoma sp.), white bass (Morone chrysops), white perch (Roccus americanus), and yellow perch (Perca flavescens). When the common name of a fish is used in this chapter or Chapter 1533. of the Revised Code, it refers to the fish designated by the scientific name in this definition.

(II) "Fishing" means taking or attempting to take fish by any method, and all other acts such as placing, setting, drawing, or using any device commonly used to take fish whether resulting in a taking or not.

(JJ) "Fillet" means the pieces of flesh taken or cut from both sides of a fish, joined to form one piece of flesh.

(KK) "Part fillet" means a piece of flesh taken or cut from one side of a fish.

(LL) "Round" when used in describing fish means with head and tail intact.

(MM) "Migrate" means the transit or movement of fish to or from one place to another as a result of natural forces or instinct and includes, but is not limited to, movement of fish induced or caused by changes in the water flow.

(NN) "Spreader bar" means a brail or rigid bar placed across the entire width of the back, at the top and bottom of the cars in all trap, crib, and fyke nets for the purpose of keeping the meshes hanging squarely while the nets are fishing.

(OO) "Fishing guide" means any person who, for consideration or hire, operates a boat, rents, leases, or otherwise furnishes angling devices, ice fishing shanties or shelters of any kind, or other fishing equipment, and accompanies, guides, directs, or assists any other person in order for the other person to engage in fishing.

(PP) "Net" means fishing devices with meshes composed of

twine or synthetic material and includes, but is not limited to, 7264
trap nets, fyke nets, crib nets, carp aprons, dip nets, and 7265
seines, except minnow seines and minnow dip nets. 7266

(QQ) "Commercial fishing gear" means seines, trap nets, fyke 7267
nets, dip nets, carp aprons, trotlines, other similar gear, and 7268
any boat used in conjunction with that gear, but does not include 7269
gill nets. 7270

(RR) "Native wildlife" means any species of the animal 7271
kingdom indigenous to this state. 7272

(SS) "Gill net" means a single section of fabric or netting 7273
seamed to a float line at the top and a lead line at the bottom, 7274
which is designed to entangle fish in the net openings as they 7275
swim into it. 7276

(TT) "Tag fishing tournament" means a contest in which a 7277
participant pays a fee, or gives other valuable consideration, for 7278
a chance to win a prize by virtue of catching a tagged or 7279
otherwise specifically marked fish within a limited period of 7280
time. 7281

(UU) "Tenant" means an individual who resides on land for 7282
which the individual pays rent and whose annual income is 7283
primarily derived from agricultural production conducted on that 7284
land, as "agricultural production" is defined in section 929.01 of 7285
the Revised Code. 7286

(VV) "Nonnative wildlife" means any wild animal not 7287
indigenous to this state, but does not include domestic deer. 7288

(WW) "Reptiles" includes common musk turtle (*sternotherus* 7289
odoratus), common snapping turtle (*Chelydra serpentina* 7290
serpentina), spotted turtle (*Clemmys guttata*), eastern box turtle 7291
(*Terrapene carolina carolina*), Blanding's turtle (*Emydoidea* 7292
blandingii), common map turtle (*Graptemys geographica*), ouachita 7293

| | |
|---|------|
| map turtle (<i>Graptemys pseudogeographica ouachitensis</i>), midland | 7294 |
| painted turtle (<i>Chrysemys picta marginata</i>), red-eared slider | 7295 |
| (<i>Trachemys scripta elegans</i>), eastern spiny softshell turtle | 7296 |
| (<i>Apalone spinifera spinifera</i>), midland smooth softshell turtle | 7297 |
| (<i>Apalone mutica mutica</i>), northern fence lizard (<i>Sceloporus</i> | 7298 |
| <i>undulatus hyacinthinus</i>), ground skink (<i>Scincella lateralis</i>), | 7299 |
| five-lined skink (<i>Eumeces fasciatus</i>), broadhead skink (<i>Eumeces</i> | 7300 |
| <i>laticeps</i>), northern coal skink (<i>Eumeces anthracinus anthracinus</i>), | 7301 |
| European wall lizard (<i>Podarcis muralis</i>), queen snake (<i>Regina</i> | 7302 |
| <i>septemvittata</i>), Kirtland's snake (<i>Clonophis kirtlandii</i>), northern | 7303 |
| water snake (<i>Nerodia sipedon sipedon</i>), Lake Erie watersnake | 7304 |
| (<i>Nerodia sipedon insularum</i>), copperbelly water snake (<i>Nerodia</i> | 7305 |
| <i>erythrogaster neglecta</i>), northern brown snake (<i>Storeria dekayi</i> | 7306 |
| <i>dekayi</i>), midland brown snake (<i>Storeria dekayi wrightorum</i>), | 7307 |
| northern redbelly snake (<i>Storeria occipitomaculata</i> | 7308 |
| <i>occipitomaculata</i>), eastern garter snake (<i>Thamnophis sirtalis</i> | 7309 |
| <i>sirtalis</i>), eastern plains garter snake (<i>Thamnophis radix radix</i>), | 7310 |
| Butler's garter snake (<i>Thamnophis butleri</i>), shorthead garter snake | 7311 |
| (<i>Thamnophis brachystoma</i>), eastern ribbon snake (<i>Thamnophis</i> | 7312 |
| <i>sauritus sauritus</i>), northern ribbon snake (<i>Thamnophis sauritus</i> | 7313 |
| <i>septentrionalis</i>), eastern hognose snake (<i>Heterodon platirhinos</i>), | 7314 |
| eastern smooth earth snake (<i>Virginia valeriae valeriae</i>), northern | 7315 |
| ringneck snake (<i>Diadophis punctatus edwardsii</i>), midwest worm snake | 7316 |
| (<i>Carphophis amoenus helena</i>), eastern worm snake (<i>Carphophis</i> | 7317 |
| <i>amoenus amoenus</i>), black racer (<i>Coluber constrictor constrictor</i>), | 7318 |
| blue racer (<i>Coluber constrictor foxii</i>), rough green snake | 7319 |
| (<i>Opheodrys aestivus</i>), smooth green snake (<i>Opheodrys vernalis</i> | 7320 |
| <i>vernalis</i>), black rat snake (<i>Elaphe obsoleta obsoleta</i>), eastern fox | 7321 |
| snake (<i>Elaphe vulpina gloydi</i>), black kingsnake (<i>Lampropeltis</i> | 7322 |
| <i>getula nigra</i>), eastern milk snake (<i>Lampropeltis triangulum</i> | 7323 |
| <i>triangulum</i>), northern copperhead (<i>Agkistrodon contortrix mokasen</i>), | 7324 |
| eastern massasauga (<i>Sistrurus catenatus catenatus</i>), and timber | 7325 |
| rattlesnake (<i>Crotalus horridus horridus</i>). | 7326 |

| | |
|--|------|
| (XX) "Amphibians" includes eastern hellbender (<i>Cryptobranchus</i> | 7327 |
| <i>alleganiensis alleganiensis</i>), mudpuppy (<i>Necturus maculosus</i> | 7328 |
| <i>maculosus</i>), red-spotted newt (<i>Notophthalmus viridescens</i> | 7329 |
| <i>viridescens</i>), Jefferson salamander (<i>Ambystoma jeffersonianum</i>), | 7330 |
| spotted salamander (<i>Ambystoma maculatum</i>), blue-spotted salamander | 7331 |
| (<i>Ambystoma laterale</i>), smallmouth salamander (<i>Ambystoma texanum</i>), | 7332 |
| streamside salamander (<i>Ambystoma barbouri</i>), marbled salamander | 7333 |
| (<i>Ambystoma opacum</i>), eastern tiger salamander (<i>Ambystoma tigrinum</i> | 7334 |
| <i>tigrinum</i>), northern dusky salamander (<i>Desmognathus fuscus fuscus</i>), | 7335 |
| mountain dusky salamander (<i>Desmognathus ochrophaeus</i>), redback | 7336 |
| salamander (<i>Plethodon cinereus</i>), ravine salamander (<i>Plethodon</i> | 7337 |
| <i>richmondi</i>), northern slimy salamander (<i>Plethodon glutinosus</i>), | 7338 |
| Wehrle's salamander (<i>Plethodon wehrlei</i>), four-toed salamander | 7339 |
| (<i>Hemidactylium scutatum</i>), Kentucky spring salamander (<i>Gyrinophilus</i> | 7340 |
| <i>porphyriticus duryi</i>), northern spring salamander (<i>Gyrinophilus</i> | 7341 |
| <i>porphyriticus porphyriticus</i>), mud salamander (<i>Pseudotriton</i> | 7342 |
| <i>montanus</i>), northern red salamander (<i>Pseudotriton ruber ruber</i>), | 7343 |
| green salamander (<i>Aneides aeneus</i>), northern two-lined salamander | 7344 |
| (<i>Eurycea bislineata</i>), longtail salamander (<i>Eurycea longicauda</i> | 7345 |
| <i>longicauda</i>), cave salamander (<i>Eurycea lucifuga</i>), southern | 7346 |
| two-lined salamander (<i>Eurycea cirrigera</i>), Fowler's toad (<i>Bufo</i> | 7347 |
| <i>woodhousii fowleri</i>), American toad (<i>Bufo americanus</i>), eastern | 7348 |
| spadefoot (<i>Scaphiopus holbrookii</i>), Blanchard's cricket frog (<i>Acris</i> | 7349 |
| <i>crepitans blanchardi</i>), northern spring peeper (<i>Pseudacris crucifer</i> | 7350 |
| <i>crucifer</i>), gray treefrog (<i>Hyla versicolor</i>), Cope's gray treefrog | 7351 |
| (<i>Hyla chrysoscelis</i>), western chorus frog (<i>Pseudacris triseriata</i> | 7352 |
| <i>triseriata</i>), mountain chorus frog (<i>Pseudacris brachyphona</i>), | 7353 |
| bullfrog (<i>Rana catesbeiana</i>), green frog (<i>Rana clamitans melanota</i>), | 7354 |
| northern leopard frog (<i>Rana pipiens</i>), pickerel frog (<i>Rana</i> | 7355 |
| <i>palustris</i>), southern leopard frog (<i>Rana utricularia</i>), and wood | 7356 |
| frog (<i>Rana sylvatica</i>). | 7357 |
| (YY) "Deer" means white-tailed deer (<i>Odocoileus</i> | 7358 |

virginianus). 7359

(ZZ) "Domestic deer" means nonnative deer that have been 7360
legally acquired or their offspring and that are held in private 7361
ownership for primarily agricultural purposes. 7362

(AAA) "Migratory game bird" includes waterfowl (Anatidae); 7363
doves (Columbidae); cranes (Gruidae); cormorants 7364
(Phalacrocoracidea); rails, coots, and gallinules (Rallidae); and 7365
woodcock and snipe (Scolopacidae). 7366

(BBB) "Accompany" means to go along with another person while 7367
staying within a distance from the person that enables 7368
uninterrupted, unaided visual and auditory communication. 7369

Sec. 1531.02. The ownership of and the title to all wild 7370
animals in this state, not legally confined or held by private 7371
ownership legally acquired, is in the state, which holds such 7372
title in trust for the benefit of all the people. Individual 7373
possession shall be obtained only in accordance with the Revised 7374
Code or division rules. No person at any time of the year shall 7375
take in any manner or possess any number or quantity of wild 7376
animals, except wild animals that the Revised Code or division 7377
rules permit to be taken, hunted, killed, or had in possession, 7378
and only at the time and place and in the manner that the Revised 7379
Code or division rules prescribe. No person shall buy, sell, or 7380
offer any part of wild animals for sale, or transport any part of 7381
wild animals, except as permitted by the Revised Code or division 7382
rules. No person shall possess or transport a wild animal that has 7383
been taken or possessed unlawfully outside the state. 7384

A person doing anything prohibited or neglecting to do 7385
anything required by this chapter or Chapter 1533. of the Revised 7386
Code or contrary to any division rule violates this section. A 7387
person who counsels, aids, shields, or harbors an offender under 7388

~~such those~~ chapters or any division rule, or who knowingly shares 7389
in the proceeds of such a violation, or receives or possesses any 7390
wild animal in violation of the Revised Code or division rule, 7391
violates this section. ~~No person shall use a rifle, at any time,~~ 7392
~~in taking migratory game birds.~~ 7393

Sec. 1531.04. The division of wildlife, at the direction of 7394
the chief of the division, shall do all of the following: 7395

(A) Plan, develop, and institute programs and policies based 7396
on the best available information, including biological 7397
information derived from professionally accepted practices in 7398
wildlife and fisheries management, with the approval of the 7399
director of natural resources; 7400

(B) Have and take the general care, protection, and 7401
supervision of the wildlife in the state parks known as Lake St. 7402
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, 7403
Guilford Lake, such part of Pymatuning reservoir as lies in this 7404
state, and all other state parks and lands owned by the state or 7405
in which it is interested or may acquire or become interested, 7406
except lands and lakes the care and supervision of which are 7407
vested in some other officer, body, board, association, or 7408
organization; 7409

(C) Enforce by proper legal action or proceeding the laws of 7410
the state and division rules for the protection, preservation, 7411
propagation, and management of wild animals and sanctuaries and 7412
refuges for the propagation of those wild animals, and adopt and 7413
carry into effect such measures as it considers necessary in the 7414
performance of its duties; 7415

(D) Promote, educate, and inform the citizens of the state 7416
about conservation and the values of fishing, hunting, and 7417
trapping, with the approval of the director. 7418

Sec. 1531.06. (A) The chief of the division of wildlife, with 7419
the approval of the director of natural resources, may acquire by 7420
gift, lease, purchase, or otherwise lands or surface rights upon 7421
lands and waters or surface rights upon waters for wild animals, 7422
fish or game management, preservation, propagation, and 7423
protection, outdoor and nature activities, public fishing and 7424
hunting grounds, and flora and fauna preservation. The chief, with 7425
the approval of the director, may receive by grant, devise, 7426
bequest, donation, or assignment evidences of indebtedness, the 7427
proceeds of which are to be used for the purchase of such lands or 7428
surface rights upon lands and waters or surface rights upon 7429
waters. 7430

(B)(1) The chief shall adopt rules for the protection of 7431
state-owned or leased lands and waters and property under the 7432
~~division's~~ control of the division of wildlife against wrongful 7433
use or occupancy that will ensure the carrying out of the intent 7434
of this section, protect those lands, waters, and property from 7435
depredations, and preserve them from molestation, spoilation, 7436
destruction, or any improper use or occupancy thereof, including 7437
rules with respect to recreational activities and for the 7438
government and use of such lands, waters, and property. 7439

(2) The chief may adopt rules benefiting wild animals, fish 7440
or game management, preservation, propagation, and protection, 7441
outdoor and nature activities, public fishing and hunting grounds, 7442
and flora and fauna preservation, and regulating the taking and 7443
possession of wild animals on any lands or waters owned or leased 7444
or under the division's supervision and control and, for a 7445
specified period of years, may prohibit or recall the taking and 7446
possession of any wild animal on any portion of such lands or 7447
waters. The division clearly shall define and mark the boundaries 7448
of the lands and waters owned or leased or under its supervision 7449

and control upon which the taking of any wild animal is 7450
prohibited. 7451

(C) The chief, with the approval of the director, may acquire 7452
by gift, lease, or purchase land for the purpose of establishing 7453
state fish hatcheries and game farms and may erect on it buildings 7454
or structures that are necessary. 7455

The title to or lease of such lands and waters shall be taken 7456
by the chief in the name of the state. The lease or purchase price 7457
of all such lands and waters may be paid from hunting and trapping 7458
and fishing licenses and any other funds. 7459

(D) To provide more public recreation, stream and lake 7460
agreements for public fishing only may be obtained under rules 7461
adopted by the chief. 7462

(E) The chief, with the approval of the director, may 7463
establish user fees for the use of special public facilities or 7464
participation in special activities on lands and waters 7465
administered by the division. The special facilities and 7466
activities may include hunting or fishing on special designated 7467
public lands and waters intensively managed or stocked with 7468
artificially propagated game birds or fish, field trial 7469
facilities, wildlife nature centers, firearm ranges, boat mooring 7470
facilities, camping sites, and other similar special facilities 7471
and activities. The chief shall determine whether the user fees 7472
are refundable and shall ensure that that information is provided 7473
at the time the user fees are paid. 7474

(F) The chief, with the approval of the director, may enter 7475
into lease agreements for rental of concessions or other special 7476
projects situated on state-owned or leased lands or waters or 7477
other property under the division's control. The chief shall set 7478
and collect the fees for concession rentals or other special 7479
projects; regulate through contracts between the division and 7480

concessionaires the sale of tangible objects at concessions or 7481
other special projects; and keep a record of all such fee payments 7482
showing the amount received, from whom received, and for what 7483
purpose the fee was collected. 7484

(G) The chief may sell or donate conservation-related items 7485
or items that promote wildlife conservation, including, but not 7486
limited to, stamps, pins, badges, books, bulletins, maps, 7487
publications, calendars, and any other educational article or 7488
artifact pertaining to wild animals; sell confiscated or forfeited 7489
items; and sell surplus structures and equipment, and timber or 7490
crops from lands owned, administered, leased, or controlled by the 7491
division. 7492

(H) The chief may sell, lease, or transfer minerals or 7493
mineral rights, with the approval of the director, when the chief 7494
and the director determine it to be in the best interest of the 7495
state. Upon approval of the director, the chief may make, execute, 7496
and deliver contracts, including leases, to mine, drill, or 7497
excavate iron ore, stone, coal, petroleum, gas, salt, and other 7498
minerals upon and under lands owned by the state and administered 7499
by the division to any person who complies with the terms of such 7500
a contract. No such contract shall be valid for more than fifty 7501
years from its effective date. Consideration for minerals and 7502
mineral rights shall be by rental or royalty basis as prescribed 7503
by the chief and payable as prescribed by contract. Moneys 7504
collected under this division shall be paid into the state 7505
treasury to the credit of the wildlife habitat fund created in 7506
section 1531.33 of the Revised Code. Contracts entered into under 7507
this division also may provide for consideration for minerals or 7508
mineral rights in the form of acquisition of lands as provided 7509
under divisions (A) and (C) of this section. 7510

(I) All moneys received under divisions (E), (F), and (G) of 7511
this section shall be paid into the state treasury to the credit 7512

of a fund that shall be used for the purposes outlined in section 7513
1533.15 of the Revised Code and for the management of other wild 7514
animals for their ecological and nonconsumptive recreational value 7515
or benefit. 7516

(J) The chief, with the approval of the director, may barter 7517
or sell wild animals to other states, state or federal agencies, 7518
and conservation or zoological organizations. Moneys received from 7519
the sale of wild animals shall be deposited into the wild animal 7520
fund created in section 1531.34 of the Revised Code. 7521

(K) The chief shall adopt rules establishing standards and 7522
guidelines for the administration of contraceptive chemicals to 7523
noncaptive wild animals. The rules may specify chemical delivery 7524
methods and devices and monitoring requirements. 7525

The chief shall establish criteria for the issuance of and 7526
shall issue permits for the administration of contraceptive 7527
chemicals to noncaptive wild animals. No person shall administer 7528
contraceptive chemicals to noncaptive wild animals without a 7529
permit issued by the chief. 7530

(L) All fees set by the chief under this section shall be 7531
approved by the wildlife council. 7532

(M) Information contained in the wildlife diversity database 7533
that is established pursuant to division (B)(2) of this section 7534
and section 1531.25 of the Revised Code may be made available to 7535
any individual or public or private agency for research, 7536
educational, environmental, land management, or other similar 7537
purposes that are not detrimental to the conservation of a species 7538
or feature. Information regarding sensitive site locations of 7539
species that are listed pursuant to section 1531.25 of the Revised 7540
Code and of features that are included in the wildlife diversity 7541
database is not subject to section 149.43 of the Revised Code if 7542
the chief determines that the release of the information could be 7543

detrimental to the conservation of a species or feature.

7544

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.

7545
7546
7547
7548
7549
7550
7551
7552
7553
7554
7555
7556
7557

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.

7558
7559
7560
7561
7562
7563
7564
7565
7566
7567
7568
7569
7570
7571

An action for the forfeiture of any such property shall be ~~commenced~~ initiated by the filing of an affidavit describing the

7572
7573

property seized and stating the unlawful use made of it, the time 7574
and place of seizure, and the name of the person owning or using 7575
it at the time of seizure. If the name is unknown, that fact shall 7576
be stated. Upon the filing of the affidavit, the court shall issue 7577
a summons setting forth the facts stated in the affidavit and 7578
fixing a time and place for the hearing of the complaint. A copy 7579
of the summons shall be served on the owner or person using the 7580
property at the time of its seizure, if the owner or user is 7581
known, or by leaving a copy thereof at the owner's or user's usual 7582
residence or place of business in the county, at least three days 7583
before the time fixed for the hearing of the complaint. If the 7584
owner or user is unknown or a nonresident of the county or cannot 7585
be found therein, a copy of the summons shall be posted at a 7586
suitable place nearest the place of seizure, but if the owner's or 7587
user's address is known, a copy of the summons shall be mailed to 7588
the owner or user at least three days before the time fixed for 7589
the hearing of the complaint. On the date fixed for the hearing, 7590
the officer making the service shall make a return of the time and 7591
manner of making the service. Upon the proper cause shown, the 7592
court may postpone the hearing. 7593

If A proceeding for the forfeiture of seized property that is 7594
initiated under this section shall not progress to actual 7595
forfeiture of the seized property unless so ordered by the court. 7596
The court may order the actual forfeiture of the seized property 7597
as part of the sentence that it imposes if the owner or person 7598
unlawfully using the property at the time of its seizure is 7599
arrested convicted, pleads guilty, and or confesses that the 7600
property at the time of its seizure was being used by the owner or 7601
user in violation of law or division rule, ~~no proceeding of~~ 7602
~~forfeiture shall be instituted, but the court in imposing sentence~~ 7603
~~shall order the.~~ Forfeited property ~~so seized forfeited to~~ shall 7604
be the property of the state, to be disposed of ~~thereafter~~ as the 7605
chief of the division of wildlife directs. 7606

~~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 7637
first offense; on each subsequent offense, that person is guilty 7638
of a misdemeanor of the first degree. 7639

(C) Whoever violates section 1531.25 of the Revised Code is 7640
guilty of a misdemeanor of the first degree. 7641

(D) Whoever violates section 1531.02 of the Revised Code 7642
concerning the buying, selling, or offering for sale of any wild 7643
animals or parts of wild animals, the minimum value of which 7644
animals or parts, in the aggregate, is ~~more than~~ one thousand 7645
dollars or more as established under section 1531.201 of the 7646
Revised Code, is guilty of a felony of the fifth degree. 7647

(E) A court that imposes sentence for a violation of any 7648
section of this chapter governing the holding, taking, buying, 7649
selling, or possession of wild animals, including, without 7650
limitation, section 1531.11 of the Revised Code, shall require the 7651
person who is convicted of or pleads guilty to the offense, in 7652
addition to any fine, term of imprisonment, seizure, and 7653
forfeiture imposed, to make restitution for the minimum value of 7654
the wild animal illegally held, taken, bought, sold, or possessed 7655
as established under section 1531.201 of the Revised Code. An 7656
officer who collects moneys paid as restitution under this section 7657
shall pay those moneys to the treasurer of state who shall deposit 7658
them in the state treasury to the credit of the wildlife fund 7659
established under section 1531.17 of the Revised Code. 7660

Sec. 1533.07. No person shall catch, kill, injure, pursue, or 7661
have in the person's possession, either dead or alive, or 7662
purchase, expose for sale, transport, or ship to a point within or 7663
without the state, or receive or deliver for transportation any 7664
bird other than a game bird, or have in the person's possession 7665
any part of the plumage, skin, or body of any bird other than a 7666
game bird, except as permitted in Chapter 1531. and this chapter 7667

of the Revised Code, or disturb or destroy the eggs, nest, or 7668
young of such a bird. 7669

This section does not prohibit the lawful taking, killing, 7670
pursuing, or possession of any game bird during the open season 7671
for the bird. ~~Hawks or owls causing damage to domestic animals or~~ 7672
~~fowl may be killed by the owner of the domestic animal or fowl~~ 7673
~~while the damage is occurring.~~ Bald or golden eagles and ospreys 7674
shall not be killed or possessed at any time, except that eagles 7675
or ospreys may be possessed for educational purposes by 7676
governmental or municipal zoological parks, museums, and 7677
scientific or educational institutions. European starlings, 7678
English sparrows, and common pigeons, other than homing pigeons, 7679
may be killed at any time and their nests or eggs may be 7680
destroyed, at any time. Blackbirds may be killed at any time when 7681
doing damage to grain or other property or when they become a 7682
nuisance. 7683

Each bird or any part thereof taken or had in possession 7684
contrary to this section constitutes a separate offense. 7685

Sec. 1533.08. Except as otherwise provided by division rule, 7686
any person desiring to collect or possess wild animals that are 7687
protected by law or their nests or eggs for scientific study, 7688
school instruction, other educational uses, or rehabilitation 7689
shall make an annual application to the chief of the division of 7690
wildlife for a wild animal ~~collecting~~ permit on a form furnished 7691
by the chief. Each applicant for a wild animal ~~collecting~~ permit, 7692
other than an applicant desiring to rehabilitate wild animals, 7693
shall pay an annual fee of twenty-five dollars for each permit. No 7694
fee shall be charged to an applicant desiring to rehabilitate wild 7695
animals. ~~When it appears that the application is made in good~~ 7696
~~faith, the~~ The chief ~~shall~~ may issue to the applicant a permit to 7697
take, possess, and transport at any time and in ~~any~~ a manner that 7698

is acceptable to the chief specimens of wild animals protected by 7699
law or their nests and eggs for scientific study, school 7700
instruction, other educational uses, or rehabilitation and under 7701
any additional rules recommended by the wildlife council. Upon the 7702
receipt of a permit, the holder may take, possess, and transport 7703
those wild animals in accordance with the permit. 7704

Each holder of a permit engaged in collecting or who 7705
possesses such wild animals shall carry the permit at all times 7706
and shall exhibit it upon demand to any ~~wildlife officer,~~ 7707
~~constable, sheriff, deputy sheriff, or police~~ peace officer, as 7708
defined in section 2935.01 of the Revised Code, or to the owner or 7709
person in lawful control of the land upon which the permit holder 7710
is collecting, ~~or to any other person~~ possesses the wild animals. 7711
Failure to so carry or exhibit the permit constitutes an offense 7712
under this section. 7713

Each permit holder shall keep a daily record of all specimens 7714
collected or possessed under the permit and the disposition of the 7715
specimens and shall exhibit the daily record to any official of 7716
the division upon demand. 7717

Each permit shall remain in effect for one year from the date 7718
of issuance unless it is revoked sooner by the chief. 7719

All moneys received as fees for the issuance of a wild animal 7720
collecting permit shall be transmitted to the director of natural 7721
resources to be paid into the state treasury to the credit of the 7722
fund created by section 1533.15 of the Revised Code. 7723

Sec. 1533.09. Before the ~~first~~ fifteenth day of ~~February~~ 7724
~~March~~ of each year, each wild animal ~~collecting~~ permit holder 7725
shall file with the division of wildlife a written report of ~~his~~ 7726
the permit holder's operations under the permit and the 7727
disposition of the specimens collected or possessed during the 7728
preceding calendar year on report blanks furnished by the chief of 7729

the division. Failure to file a report shall cause the permit to 7730
be forfeited as of the ~~first~~ fifteenth day of ~~February~~ March. 7731
Permits are not transferable. No permit holder or person 7732
collecting or possessing wild animals under authority of such a 7733
permit shall take, possess, or transport the wild animals for any 7734
purpose not specified in the permit. 7735

Conviction of a violation of this section, failure to carry a 7736
permit and exhibit it to any person requesting to see it as 7737
provided in section 1533.08 of the Revised Code, or the violation 7738
of any other law concerning wild animals constitutes a revocation 7739
and forfeiture of the permit involved. The former permit holder 7740
shall not be entitled to another permit for a period of one year 7741
from the date of the conviction. 7742

Sec. 1533.10. Except as provided in this section or division 7743
(A)(2) of section 1533.12 of the Revised Code, no person shall 7744
hunt any wild bird or wild quadruped without a hunting license. 7745
Each day that any person hunts within the state without procuring 7746
such a license constitutes a separate offense. Except as otherwise 7747
provided in this section, every applicant for a hunting license 7748
who is a resident of the state and eighteen years of age or more 7749
shall procure a resident hunting license or an apprentice resident 7750
hunting license, the fee for which shall be eighteen dollars⁷ 7751
unless the rules adopted under division (B) of section 1533.12 of 7752
the Revised Code provide for issuance of a resident hunting 7753
license to the applicant free of charge. Except as provided in 7754
rules adopted under division (B)(2) of that section, each 7755
applicant who is a resident of this state and who at the time of 7756
application is sixty-six years of age or older shall procure a 7757
special senior hunting license, the fee for which shall be 7758
one-half of the regular hunting license fee. Every applicant who 7759
is under the age of eighteen years shall procure a special youth 7760
hunting license or an apprentice youth hunting license, the fee 7761

for which shall be one-half of the regular hunting license fee. 7762
The owner of lands in the state and the owner's children of any 7763
age and grandchildren under eighteen years of age may hunt on the 7764
lands without a hunting license. The tenant and children of the 7765
tenant, residing on lands in the state, may hunt on them without a 7766
hunting license. Except as otherwise provided in division (A)(1) 7767
of section 1533.12 of the Revised Code, every applicant for a 7768
hunting license who is a nonresident of the state and who is 7769
eighteen years of age or older shall procure a nonresident hunting 7770
license or an apprentice nonresident hunting license, the fee for 7771
which shall be one hundred twenty-four dollars, unless the 7772
applicant is a resident of a state that is a party to an agreement 7773
under section 1533.91 of the Revised Code, in which case the fee 7774
shall be eighteen dollars. Apprentice resident hunting licenses, 7775
apprentice youth hunting licenses, and apprentice nonresident 7776
hunting licenses are subject to the requirements established under 7777
section 1533.102 of the Revised Code and rules adopted pursuant to 7778
it. 7779

The chief of the division of wildlife may issue a small game 7780
hunting license expiring three days from the effective date of the 7781
license to a nonresident of the state, the fee for which shall be 7782
thirty-nine dollars. No person shall take or possess deer, wild 7783
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 7784
animal while possessing only a small game hunting license. A small 7785
game hunting license or an apprentice nonresident hunting license 7786
does not authorize the taking or possessing of ducks, geese, or 7787
brant without having obtained, in addition to the small game 7788
hunting license or the apprentice nonresident hunting license, a 7789
wetlands habitat stamp as provided in section 1533.112 of the 7790
Revised Code. A small game hunting license or an apprentice 7791
nonresident hunting license does not authorize the taking or 7792
possessing of deer, wild turkeys, or fur-bearing animals. A 7793
nonresident of the state who wishes to take or possess deer, wild 7794

turkeys, or fur-bearing animals in this state shall procure, 7795
respectively, a ~~special~~ deer or wild turkey permit as provided in 7796
section 1533.11 of the Revised Code or a fur taker permit as 7797
provided in section 1533.111 of the Revised Code in addition to a 7798
nonresident hunting license, an apprentice nonresident hunting 7799
license, a special youth hunting license, or an apprentice youth 7800
hunting license, as applicable, as provided in this section. 7801

No person shall procure or attempt to procure a hunting 7803
license by fraud, deceit, misrepresentation, or any false 7804
statement. 7805

This section does not authorize the taking and possessing of 7806
deer or wild turkeys without first having obtained, in addition to 7807
the hunting license required by this section, a ~~special~~ deer or 7808
wild turkey permit as provided in section 1533.11 of the Revised 7809
Code or the taking and possessing of ducks, geese, or brant 7810
without first having obtained, in addition to the hunting license 7811
required by this section, a wetlands habitat stamp as provided in 7812
section 1533.112 of the Revised Code. 7813

This section does not authorize the hunting or trapping of 7814
fur-bearing animals without first having obtained, in addition to 7815
a hunting license required by this section, a fur taker permit as 7816
provided in section 1533.111 of the Revised Code. 7817

No hunting license shall be issued unless it is accompanied 7818
by a written explanation of the law in section 1533.17 of the 7819
Revised Code and the penalty for its violation, including a 7820
description of terms of imprisonment and fines that may be 7821
imposed. 7822

No hunting license, other than an apprentice hunting license, 7823
shall be issued unless the applicant presents to the agent 7824
authorized to issue the license a previously held hunting license 7825

or evidence of having held such a license in content and manner 7826
approved by the chief, a certificate of completion issued upon 7827
completion of a hunter education and conservation course approved 7828
by the chief, or evidence of equivalent training in content and 7829
manner approved by the chief. A previously held apprentice hunting 7830
license does not satisfy the requirement concerning the 7831
presentation of a previously held hunting license or evidence of 7832
it. 7833

No person shall issue a hunting license, except an apprentice 7834
hunting license, to any person who fails to present the evidence 7835
required by this section. No person shall purchase or obtain a 7836
hunting license, other than an apprentice hunting license, without 7837
presenting to the issuing agent the evidence required by this 7838
section. Issuance of a hunting license in violation of the 7839
requirements of this section is an offense by both the purchaser 7840
of the illegally obtained hunting license and the clerk or agent 7841
who issued the hunting license. Any hunting license issued in 7842
violation of this section is void. 7843

The chief, with approval of the wildlife council, shall adopt 7844
rules prescribing a hunter education and conservation course for 7845
first-time hunting license buyers, other than buyers of apprentice 7846
hunting licenses, and for volunteer instructors. The course shall 7847
consist of subjects including, but not limited to, hunter safety 7848
and health, use of hunting implements, hunting tradition and 7849
ethics, the hunter and conservation, the law in section 1533.17 of 7850
the Revised Code along with the penalty for its violation, 7851
including a description of terms of imprisonment and fines that 7852
may be imposed, and other law relating to hunting. Authorized 7853
personnel of the division or volunteer instructors approved by the 7854
chief shall conduct such courses with such frequency and at such 7855
locations throughout the state as to reasonably meet the needs of 7856
license applicants. The chief shall issue a certificate of 7857

completion to each person who successfully completes the course 7858
and passes an examination prescribed by the chief. 7859

Sec. 1533.11. (A) Except as provided in this section, no 7860
person shall hunt deer on lands of another without first obtaining 7861
an annual ~~special~~ deer permit. Except as provided in this section, 7862
no person shall hunt wild turkeys on lands of another without 7863
first obtaining an annual ~~special~~ wild turkey permit. Each 7864
applicant for a ~~special~~ deer or wild turkey permit shall pay an 7865
annual fee of twenty-three dollars for each permit unless the 7866
rules adopted under division (B) of section 1533.12 of the Revised 7867
Code provide for issuance of a deer or wild turkey permit to the 7868
applicant free of charge. Except as provided in rules adopted 7869
under division (B)(2) of that section, each applicant who is a 7870
resident of this state and who at the time of application is 7871
sixty-six years of age or older shall procure a ~~special~~ senior 7872
deer or wild turkey permit, the fee for which shall be one-half of 7873
the regular ~~special~~ deer or wild turkey permit fee. Each applicant 7874
who is under the age of eighteen years shall procure a ~~special~~ 7875
youth deer or wild turkey permit, the fee for which shall be 7876
one-half of the regular ~~special~~ deer or wild turkey permit fee. 7877
Except as provided in division (A)(2) of section 1533.12 of the 7878
Revised Code, a deer or wild turkey permit shall run concurrently 7879
with the hunting license. The money received shall be paid into 7880
the state treasury to the credit of the wildlife fund, created in 7881
section 1531.17 of the Revised Code, exclusively for the use of 7882
the division of wildlife in the acquisition and development of 7883
land for deer or wild turkey management, for investigating deer or 7884
wild turkey problems, and for the stocking, management, and 7885
protection of deer or wild turkey. Every person, while hunting 7886
deer or wild turkey on lands of another, shall carry the person's 7887
~~special~~ deer or wild turkey permit and exhibit it to any 7888
enforcement officer so requesting. Failure to so carry and exhibit 7889

such a permit constitutes an offense under this section. The chief 7890
of the division of wildlife shall adopt any additional rules the 7891
chief considers necessary to carry out this section and section 7892
1533.10 of the Revised Code. 7893

The owner and the children of the owner of lands in this 7894
state may hunt deer or wild turkey thereon without a ~~special~~ deer 7895
or wild turkey permit. The tenant and children of the tenant may 7896
hunt deer or wild turkey on lands where they reside without a 7897
~~special~~ deer or wild turkey permit. 7898

(B) A ~~special~~ deer or wild turkey permit is not transferable. 7899
No person shall carry a ~~special~~ deer or wild turkey permit issued 7900
in the name of another person. 7901

(C) The wildlife refunds fund is hereby created in the state 7902
treasury. The fund shall consist of money received from 7903
application fees for ~~special~~ deer permits that are not issued. 7904
Money in the fund shall be used to make refunds of such 7905
application fees. 7906

Sec. 1533.12. (A)(1) Except as otherwise provided in division 7907
(A)(2) of this section, every person on active duty in the armed 7908
forces of the United States who is stationed in this state and who 7909
wishes to engage in an activity for which a license, permit, or 7910
stamp is required under this chapter first shall obtain the 7911
requisite license, permit, or stamp. Such a person is eligible to 7912
obtain a resident hunting or fishing license regardless of whether 7913
the person qualifies as a resident of this state. To obtain a 7914
resident hunting or fishing license, the person shall present a 7915
card or other evidence identifying the person as being on active 7916
duty in the armed forces of the United States and as being 7917
stationed in this state. 7918

(2) Every person on active duty in the armed forces of the 7919
United States, while on leave or furlough, may take or catch fish 7920

of the kind lawfully permitted to be taken or caught within the 7921
state, may hunt any wild bird or wild quadruped lawfully permitted 7922
to be hunted within the state, and may trap fur-bearing animals 7923
lawfully permitted to be trapped within the state, without 7924
procuring a fishing license, a hunting license, a fur taker 7925
permit, or a wetlands habitat stamp required by this chapter, 7926
provided that the person shall carry on the person when fishing, 7927
hunting, or trapping, a card or other evidence identifying the 7928
person as being on active duty in the armed forces of the United 7929
States, and provided that the person is not otherwise violating 7930
any of the hunting, fishing, and trapping laws of this state. 7931

In order to hunt deer or wild turkey, any such person shall 7932
obtain a ~~special~~ deer or wild turkey permit, as applicable, under 7933
section 1533.11 of the Revised Code. However, the person need not 7934
obtain a hunting license in order to obtain such a permit. 7935

(B) The chief of the division of wildlife shall provide by 7936
rule adopted under section 1531.10 of the Revised Code all of the 7937
following: 7938

(1) Every resident of this state with a disability that has 7939
been determined by the veterans administration to be permanently 7940
and totally disabling, who receives a pension or compensation from 7941
the veterans administration, and who received an honorable 7942
discharge from the armed forces of the United States, and every 7943
veteran to whom the registrar of motor vehicles has issued a set 7944
of license plates under section 4503.41 of the Revised Code, shall 7945
be issued ~~an annual~~ a fishing license, hunting license, fur taker 7946
permit, deer or wild turkey permit, or wetlands habitat stamp, or 7947
any combination of those licenses, permits, and stamp, free of 7948
charge on an annual, multi-year, or lifetime basis as determined 7949
appropriate by the chief when application is made to the chief in 7950
the manner prescribed by and on forms provided by the chief. 7951

(2) Every resident of the state who was born on or before 7952
December 31, 1937, shall be issued an annual fishing license, 7953
hunting license, fur taker permit, deer or wild turkey permit, or 7954
wetlands habitat stamp, or any combination of those licenses, 7955
permits, and stamp, free of charge when application is made to the 7956
chief in the manner prescribed by and on forms provided by the 7957
chief. 7958

(3) Every resident of state or county institutions, 7959
charitable institutions, and military homes in this state shall be 7960
issued an annual fishing license free of charge when application 7961
is made to the chief in the manner prescribed by and on forms 7962
provided by the chief. 7963

(4) Any mobility impaired or blind person, as defined in 7964
section 955.011 of the Revised Code, who is a resident of this 7965
state and who is unable to engage in fishing without the 7966
assistance of another person shall be issued an annual fishing 7967
license free of charge when application is made to the chief in 7968
the manner prescribed by and on forms provided by the chief. The 7969
person who is assisting the mobility impaired or blind person may 7970
assist in taking or catching fish of the kind permitted to be 7971
taken or caught without procuring the license required under 7972
section 1533.32 of the Revised Code, provided that only one line 7973
is used by both persons. 7974

(5) As used in division (B)(5) of this section, "prisoner of 7975
war" means any regularly appointed, enrolled, enlisted, or 7976
inducted member of the military forces of the United States who 7977
was captured, separated, and incarcerated by an enemy of the 7978
United States. 7979

Any person who has been a prisoner of war, was honorably 7980
discharged from the military forces, and is a resident of this 7981
state shall be issued ~~an annual~~ a fishing license, hunting 7982

license, fur taker permit, or wetlands habitat stamp, or any 7983
combination of those licenses, permits, and stamp, free of charge 7984
on an annual, multi-year, or lifetime basis as determined 7985
appropriate by the chief when application is made to the chief in 7986
the manner prescribed by and on forms provided by the chief. 7987

(C) The chief shall adopt rules pursuant to section 1531.08 7988
of the Revised Code designating not more than two days, which need 7989
not be consecutive, in each year as "free sport fishing days" on 7990
which any resident may exercise the privileges accorded the holder 7991
of a fishing license issued under section 1533.32 of the Revised 7992
Code without procuring such a license, provided that the person is 7993
not otherwise violating any of the fishing laws of this state. 7994

Sec. 1533.131. The chief of the division of wildlife may sell 7995
gift certificates that may be used to obtain hunting and fishing 7996
licenses, fur taker, ~~special~~ deer, and ~~special~~ wild turkey 7997
permits, and wetlands habitat stamps. For the purposes of this 7998
section, the chief shall adopt rules in accordance with section 7999
1531.10 of the Revised Code doing all of the following: 8000

(A) Providing that a gift certificate may be used to obtain a 8001
resident or nonresident hunting license under section 1533.10 of 8002
the Revised Code, a resident or nonresident fishing license under 8003
section 1533.32 of the Revised Code, a fur taker permit under 8004
section 1533.111 of the Revised Code, a ~~special~~ deer or wild 8005
turkey permit under section 1533.11 of the Revised Code, a 8006
wetlands habitat stamp under section 1533.112 of the Revised Code, 8007
or a combination of those licenses, permits, and stamps; 8008

(B) Prescribing the form for the gift certificates; 8009

(C) Authorizing persons who are designated and authorized 8010
under section 1533.13 of the Revised Code to sell licenses and 8011
permits under this chapter also to sell gift certificates under 8012
this section; 8013

(D) Establishing fees for the gift certificates, which shall 8014
equal the total of the fee for a resident or nonresident hunting 8015
license, a resident or nonresident fishing license, a fur taker 8016
permit, a ~~special~~ deer or wild turkey permit, a wetlands habitat 8017
stamp, or a combination of those licenses, permits, and ~~stamps~~ 8018
stamp, as applicable, and the fee established under section 8019
1533.13 of the Revised Code; 8020

(E) Requiring gift certificates to expire one year after the 8021
date of purchase. 8022

Nothing in this section or rules adopted under it relieves an 8023
individual who receives a gift certificate for a hunting license 8024
from complying with the requirement established under section 8025
1533.10 of the Revised Code to present, when applying for the 8026
license, a previously held hunting license or evidence of having 8027
held such a license in content and manner approved by the chief, a 8028
certificate of completion issued upon completion of a hunter 8029
education and conservation course approved by the chief, or 8030
evidence of equivalent training in content and manner approved by 8031
the chief. 8032

Nothing in this section or rules adopted under it relieves an 8033
individual who receives a gift certificate for a fur taker permit 8034
from complying with the requirements established under section 8035
1533.111 of the Revised Code to present, when applying for the 8036
permit, a previously held hunting license or trapping or fur taker 8037
permit or evidence of having held such a license or permit in 8038
content and manner approved by the chief, a certificate of 8039
completion issued upon completion of a trapper education course 8040
approved by the chief, or evidence of equivalent training in 8041
content and manner approved by the chief. 8042

Sec. 1533.171. (A) No person, in the act of hunting, 8043
pursuing, taking, or killing a wild animal, shall act in a 8044

negligent, careless, or reckless manner so as to injure persons or 8045
property. 8046

(B) The court before whom any person is convicted of or 8047
pleads guilty to a violation of division (A) of this section shall 8048
report that fact, together with the violator's name and address, 8049
to the chief of the division of wildlife not later than ten days 8050
after the date of conviction or plea. 8051

(C) Not later than seven days after receiving a notification 8052
under division (B) of this section, the chief shall revoke, for 8053
not less than one year nor more than five years, each hunting 8054
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8055
turkey permit, and wetlands habitat stamp issued to that person 8056
under this chapter. No fee paid for such a license, permit, or 8057
stamp shall be returned to the person. 8058

Upon revoking a license, permit, or stamp, or a combination 8059
thereof, under this division, the chief immediately shall send a 8060
notice of that action by certified mail to the last known address 8061
of the person. The notice shall state the action taken, order the 8062
person to surrender the revoked license, permit, or stamp, or 8063
combination thereof, and state that the department of natural 8064
resources will not afford a hearing as required under section 8065
119.06 of the Revised Code. 8066

(D) If, after receiving a notice under division (C) of this 8067
section, the person decides to petition for a review of the 8068
revocation, the person shall file a petition for such a review not 8069
later than thirty days after receiving the notice in the municipal 8070
court or the county court, or, if the person is under eighteen 8071
years of age, the juvenile court, in whose jurisdiction the 8072
violation occurred. The review shall be limited to the question of 8073
the appropriateness of the period of revocation. The court shall 8074
send a copy of the petition to the chief by certified mail 8075
together with timely notice of the date, time, and place of a 8076

hearing on the petition. The filing of a petition for a review 8077
shall not stay the revocation during the pendency of the appeal. 8078

(E) No person whose license, permit, or stamp, or a 8079
combination thereof, has been revoked under this section shall 8080
attempt to purchase, purchase, apply for, or receive any hunting 8081
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8082
turkey permit, or wetlands habitat stamp issued under this chapter 8083
or engage in hunting during the time any such license, permit, or 8084
stamp, or a combination thereof, is revoked. 8085

Sec. 1533.42. Except as otherwise provided by division rule, 8086
every licensee taking fish with commercial fishing gear, except a 8087
trotline of seventy hooks or less, in any of the waters mentioned 8088
in this chapter and Chapter 1531. ~~and this chapter~~ of the Revised 8089
Code or division rule, shall keep accurate reports for each day's 8090
catch upon forms provided, and in the manner prescribed, by the 8091
chief of the division of wildlife. 8092

Every commercial fishing licensee shall keep an accurate 8093
record of each day's catch as prescribed upon a monthly report 8094
form. The report shall include at least the number of pounds of 8095
each kind of fish taken, the locality fished, the kind and amount 8096
of fishing gear lifted, the number of fishing nights, the number 8097
of lifts, and any other data the biologists employed by the 8098
division of wildlife require in following the trend of the 8099
fisheries. The licensee shall report each month, under oath when 8100
requested to do so, those data to the chief. 8101

The daily catch data shall be recorded accurately on the 8102
respective date upon a report form approved by the chief no later 8103
than twelve noon on the day following the day in which the fish 8104
were taken. The monthly report and any other report required 8105
pursuant to this section shall be submitted to the division no 8106
later than the fifteenth day of the month following the end of the 8107

calendar month in which the fish were taken. 8108

A licensee shall contact the chief or the chief's designee 8109
when the licensee is in transit to the licensee's trap nets to 8110
lift, move, pull, remove, clean, or maintain the trap nets for any 8111
reason and also shall contact the chief or the chief's designee 8112
when returning to land with a daily catch of fish from a trap net 8113
indicating the licensee's estimated time of arrival at a specific 8114
port and any other information required by the chief. The licensee 8115
shall contact the chief or the chief's designee by using a 8116
cellular telephone, radio, or other communication device in a 8117
manner prescribed by the chief. 8118

No person shall fail to comply with any report procedure 8119
provided for in this section, other provisions of this section, or 8120
division rule adopted pursuant thereto. 8121

In addition to other penalties provided in the Revised Code, 8122
the license of any person who is convicted of two violations of 8123
this section that occurred within a twelve-month period is 8124
suspended upon the second such conviction by operation of law for 8125
a period of sixty fishing season days immediately following that 8126
conviction. 8127

In addition to other penalties provided in the Revised Code, 8128
the license of any person who is convicted of three or more 8129
violations of this section that occurred within a twelve-month 8130
period is suspended upon the third or subsequent such conviction 8131
by operation of law for a period of eighteen fishing season months 8132
immediately following that conviction. 8133

During any period of suspension, no person shall use or 8134
engage in fishing with commercial gear owned, used, or controlled 8135
at the time of conviction by the licensee whose license has been 8136
suspended. 8137

| | |
|--|--------------------------------------|
| Sec. 1533.632. (A) As used in this section: | 8138 |
| (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. | 8139 8140 8141 8142 |
| (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. | 8143 8144 8145 |
| (3) "Class A aquaculture species" includes all of the following: | 8146 8147 |
| (a) Trout and salmon (Onchorhynchus sp., Salmo sp., Salvelinus sp.); | 8148 8149 |
| (b) Walleye (Stizostedion vitreum); | 8150 |
| (c) Sauger (Stizostedion canadense); | 8151 |
| (d) Bluegill (Lepomis macrochirus); | 8152 |
| (e) Redear sunfish (Lepomis microlophus); | 8153 |
| (f) Green sunfish (Lepomis cyanellus); | 8154 |
| (g) White crappie (Pomoxis annularis); | 8155 |
| (h) Black crappie (Pomoxis nigromaculatus); | 8156 |
| (i) Blue catfish (Ictalurus furcatus); | 8157 |
| (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> | 8158 8159 8160 8161 8162 |
| (4) "Class B aquaculture species" includes any species, except for class A aquaculture species, designated as such by the chief of the division of wildlife <u>in rules adopted under division</u> | 8163 8164 8165 |

(B) of this section. 8166

(5) "Aquaculture production facility" means a facility ~~used~~ 8167
~~for aquaculture that has suitable infrastructure and equipment, as~~ 8168
~~determined by the chief, and that is solely dedicated to the~~ 8169
~~propagation and rearing of an aquaculture species.~~ 8170

(6) "Suitable infrastructure" includes ponds, raceways, and 8171
tanks. 8172

(B) The chief, in accordance with Chapter 119. of the Revised 8173
Code, shall adopt rules for the regulation of aquaculture and may 8174
issue permits to persons wishing to engage in aquaculture for the 8175
production of aquaculture species. Rules adopted under this 8176
section shall ensure the protection and preservation of the 8177
wildlife and natural resources of this state. The legal length and 8178
weight limitations established under section 1533.63 of the 8179
Revised Code do not apply to class A or class B aquaculture 8180
species. 8181

A permit may be issued upon application to any person who 8182
satisfies the chief that the person ~~has suitable equipment, of~~ 8183
~~which the person is the owner or lessee, to engage in aquaculture~~ 8184
~~for a given aquaculture species or group of~~ owns or leases an 8185
aquaculture ~~species~~ production facility. Each permit shall be in 8186
such form as the chief prescribes. The permits shall be classified 8187
as either class A or class B. A class A permit shall be required 8188
for all class A aquaculture species that are ~~specified in this~~ 8189
~~section or~~ designated by rule as a class A aquaculture species. 8190
Class B permits shall be issued on a case-by-case basis. In 8191
determining whether to issue a class B permit, the chief shall 8192
take into account the species for which the class B permit is 8193
requested, the location of the aquaculture production facility, 8194
and any other information determined by the chief to be necessary 8195
to protect the wildlife and natural resources of this state. The 8196
annual fee for a class A permit shall be fifty dollars unless 8197

otherwise provided by rule by the chief. The annual fee for a 8198
class B permit shall be set by the chief at a level between one 8199
hundred and five hundred dollars. In determining the fee to be 8200
charged for a class B permit, the chief shall take into account 8201
the additional costs to the division for the inspection of 8202
aquaculture facilities used to raise a given class B aquaculture 8203
species. 8204

The chief may revoke a permit upon a determination that the 8205
person to whom the permit was issued has violated any rule adopted 8206
under this section. The permit shall be reissued upon a showing by 8207
the person that the person is in compliance with the rules adopted 8208
under this section. A holder of an aquaculture permit may receive 8209
a permit issued under section 1533.301 or 1533.40 of the Revised 8210
Code without payment of the fee for that permit if the conditions 8211
for the issuance of the permit have been met. 8212

(C) No person shall knowingly sell any aquatic species under 8213
an aquaculture permit issued under this section that was not 8214
raised in an aquaculture production facility. In addition to any 8215
other penalties prescribed for violation of this division, the 8216
chief may revoke the permit of any person convicted of a violation 8217
of this division for any period of time the chief considers 8218
necessary. 8219

(D) No person who does not hold a current valid aquaculture 8220
permit shall knowingly sell an aquaculture species while claiming 8221
to possess an aquaculture permit. 8222

Sec. 1533.68. If a person is convicted of a violation of any 8223
law relative to the taking, possession, protection, preservation, 8224
or propagation of wild animals, or a violation of division (C) of 8225
section 2909.08 of the Revised Code while hunting, or is convicted 8226
of a violation of any rule of the division of wildlife, the court 8227
or magistrate before whom the conviction is had, as an additional 8228

part of the penalty in each case, ~~shall~~ may suspend or revoke each 8229
license or permit issued to the person in accordance with any 8230
section of the Revised Code pertaining to the hunting, fishing, 8231
trapping, breeding, and sale of wild animals or the sale of their 8232
hides, skins, or pelts. No fee paid for such a license or permit 8233
shall be returned to the person. 8234

No person having a license or permit suspended or revoked as 8235
provided in this section, in the event of a hunting or trapping 8236
violation, shall engage in hunting or trapping, in the event of a 8237
violation of division (C) of section 2909.08 of the Revised Code 8238
while hunting, shall engage in hunting, or in the event of a 8239
fishing violation, shall engage in fishing, or purchase, apply 8240
for, or receive any such license or permit for the following 8241
periods of time, as applicable: 8242

(A) Three years after the date of conviction if the person is 8243
convicted of taking or possessing a deer in violation of section 8244
1531.02 of the Revised Code; 8245

(B) Not more than three years after the date of conviction if 8246
the person is convicted of taking or possessing any other wild 8247
animal in violation of section 1531.02 of the Revised Code, is 8248
convicted of a misdemeanor violation of division (C) of section 8249
2909.08 of the Revised Code while hunting, or is convicted of a 8250
second or subsequent violation of section 1533.17 of the Revised 8251
Code within a period of three consecutive years after the date of 8252
conviction of the immediately preceding violation of that section; 8253

(C) Not more than five years after the date of conviction if 8254
the person is convicted of violating section 1533.171 or of taking 8255
or possessing an eagle or osprey in violation of section 1533.07 8256
of the Revised Code or is convicted of a felony violation of 8257
division (C) of section 2909.08 of the Revised Code while hunting; 8258

(D) Not more than five years after the date of conviction if 8259

the person is convicted of violating any section of this chapter 8260
or Chapter 1531. of the Revised Code not specified in division 8261
(A), (B), or (C) of this section. 8262

All licenses and permits suspended or revoked as provided in 8263
this section shall be taken up by the magistrate and sent to the 8264
department of natural resources where they shall be filed with a 8265
record of the arrest until the person who held the suspended or 8266
revoked license or permit is lawfully entitled to obtain another 8267
license or permit. 8268

Sec. 1533.86. As used in sections 1533.86 to 1533.90 of the 8269
Revised Code: 8270

(A) "Ginseng" means the plant *Panax quinquefolius* L., also 8271
known as *Panax quinquefolium* L., commonly known as American 8272
ginseng. 8273

(B) "Wild ginseng" means ginseng that grows in an 8274
uncultivated state and in its natural habitat whether the plant 8275
occurs naturally from that habitat or was introduced or increased 8276
in abundance by sowing ginseng seed or transplanting ginseng 8277
plants from other areas and performing no other cultivation 8278
practices. 8279

(C) "Cultivated ginseng" means ginseng that grows or has been 8280
grown in tilled beds under the shade of artificial structures or 8281
natural shade and is cultivated according to standard ginseng 8282
horticultural practices. 8283

(D) "Harvest" means to cut, pick, dig, root up, gather, or 8284
otherwise collect ginseng. 8285

(E) "Person" includes any legal entity defined as a person 8286
under section ~~1-59~~ 6111.01 of the Revised Code and any political 8287
subdivision, instrumentality, or agency of ~~this state,~~ another 8288
~~state, or the United States.~~ 8289

| | |
|--|------------------------------|
| (F) "Collector" means a person who harvests ginseng. | 8290 |
| (G) "Grower" means a person who grows cultivated ginseng. | 8291 |
| (H) "Dealer" means a person who buys or otherwise acquires or conveys ginseng for resale. | 8292 8293 |
| (I) "Buy" includes trade or barter. | 8294 |
| (J) "Sell" includes trade or barter. | 8295 |
| Sec. 1533.882. No person shall do any of the following: | 8296 |
| (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; | 8297 8298 8299 8300 |
| (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; | 8301 8302 8303 |
| (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> | 8304 8305 8306 |
| <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; | 8307 8308 8309 |
| (D) <u>(E)</u> Except during the buying season as established by rule adopted pursuant to section 1533.88 of the Revised Code, buy, otherwise acquire, or sell uncertified ginseng; | 8310 8311 8312 |
| (E) <u>(F)</u> Fail to keep records as established by rule adopted pursuant to section 1533.88 of the Revised Code; | 8313 8314 |
| (F) <u>(G)</u> Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program; | 8315 8316 8317 |

~~(G)~~(H) Knowingly provide incorrect or false information on or 8318
in any permit application, report, export certificate, or other 8319
document required by rules adopted pursuant to section 1533.88 of 8320
the Revised Code; 8321

~~(H)~~(I) Violate any provision of sections 1533.86 to 1533.90 8322
of the Revised Code or rules adopted pursuant to section 1533.88 8323
of the Revised Code. 8324

Sec. 1533.99. (A) Whoever violates section 1533.17 of the 8325
Revised Code is guilty of a misdemeanor of the third degree on a 8326
first offense and a misdemeanor of the second degree on each 8327
subsequent offense. In addition to any other sanction imposed 8328
under this division, on a second or subsequent offense occurring 8329
within a period of three consecutive years after the date of 8330
conviction of the immediately preceding violation of that section 8331
any firearms or other hunting implements in the possession or 8332
under the control of the offender at the time of the violation are 8333
subject to seizure in accordance with section 1531.20 of the 8334
Revised Code. If the offender persists in the offense after 8335
reasonable warning or request to desist, the offender is guilty of 8336
a misdemeanor of the second degree. 8337

(B) Whoever violates section 1533.161, 1533.23, 1533.24, 8338
1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511, 1533.55, 8339
1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71, 1533.72, 8340
1533.73, 1533.74, 1533.75, 1533.76, 1533.77, ~~1533.78~~, 1533.79, or 8341
1533.80, division (F) of section 1533.731, or division (B) or (C) 8342
of section 1533.97 of the Revised Code is guilty of a misdemeanor 8343
of the third degree. 8344

(C) Whoever violates division (B) of section 1533.03, section 8345
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 8346
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, 1533.721, 1533.881, 8347
or 1533.882, division (B)(2) or (3) of section 1533.731, or 8348

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; | 8379 |
| (B) To construct and maintain dikes, wharves, landings, docks, dams, and other works; | 8380 8381 |
| (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; | 8382 8383 8384 |
| (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: | 8385 8386 8387 8388 8389 |
| (1) Governing opening and closing times and dates of the parks; | 8390 8391 |
| (2) Establishing fees and charges for use of facilities in state parks; | 8392 8393 |
| (3) Governing camps, camping, and fees for camps and camping; | 8394 |
| (4) Governing the application for and rental of, rental fees for, and the use of cabins <u>cottages</u> ; | 8395 8396 |
| (5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands; | 8397 8398 8399 |
| (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; | 8400 8401 8402 8403 8404 |
| (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 | 8405 8406 8407 8408 |

the Revised Code, over waters under the control of the division 8409
and establishing reasonable fees for the construction of and 8410
annual use permits for those structures and devices; 8411

(8) Governing state beaches, swimming, inflatable devices, 8412
and fees for them; 8413

(9) Governing the removal and disposition of any watercraft, 8414
rowboat, sailboat, or powercraft, as those terms are defined in 8415
section 1547.01 of the Revised Code, left unattended for more than 8416
seven days on any lands or waters under the control of the 8417
division; 8418

(10) Governing the establishment and collection of check 8419
collection charges for checks that are returned to the division or 8420
dishonored for any reason. 8421

The division shall adopt rules under this section 8422
establishing a discount program for all persons who are issued a 8423
golden buckeye card under section 173.06 of the Revised Code. The 8424
discount program shall provide a discount for all park services 8425
and rentals, but shall not provide a discount for the purchase of 8426
merchandise. 8427

The division shall not adopt rules establishing fees or 8428
charges for parking a motor vehicle in a state park or for 8429
admission to a state park. 8430

Every resident of this state with a disability that has been 8431
determined by the veterans administration to be permanently and 8432
totally disabling, who receives a pension or compensation from the 8433
veterans administration, and who received an honorable discharge 8434
from the armed forces of the United States, and every veteran to 8435
whom the registrar of motor vehicles has issued a set of license 8436
plates under section 4503.41 of the Revised Code, shall be exempt 8437
from the fees for camping, provided that the resident or veteran 8438
carries in the state park such evidence of the resident's or 8439

veteran's disability as the chief of the division of parks and recreation prescribes by rule. 8440
8441

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. 8442
8443
8444
8445
8446
8447
8448
8449
8450
8451
8452

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. 8453
8454
8455
8456
8457
8458

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. 8459
8460
8461
8462
8463
8464
8465
8466
8467
8468
8469

Sec. 1541.05. (A) The chief of the division of parks and 8470

recreation, with the approval of the director of natural 8471
resources, may dispose of any of the following by sale, donation, 8472
trade, trade-in, recycling, or any other lawful means, in a manner 8473
that will benefit the division: 8474

(1) Standing timber that as a result of wind, storm, 8475
pestilence, or any other natural occurrence may present a hazard 8476
to life or property, ~~or~~ timber that has weakened or fallen on 8477
lands under the control and management of the division, or any 8478
timber that requires management to improve wildlife habitat, 8479
protect against wildfires, provide access to recreational 8480
facilities, or improve the safety, quality, or appearance of any 8481
state park area; 8482

(2) Spoils of a dredging operation conducted by the division 8483
in waters under the control and management of the division. Prior 8484
to the disposition of any spoils under this division, the chief 8485
shall notify the director of environmental protection of ~~his~~ the 8486
chief's intent so that the director may determine if the spoils 8487
constitute solid wastes or hazardous waste, as those terms are 8488
defined in section 3734.01 of the Revised Code, that ~~shall~~ must be 8489
disposed of in accordance with Chapter 3734. of the Revised Code. 8490
If the director does not notify the chief within thirty days after 8491
receiving notice of the disposition that the spoils ~~shall~~ must be 8492
disposed of in accordance with Chapter 3734. of the Revised Code, 8493
the chief may proceed with the disposition. 8494

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 8495
Code, excess supplies and surplus supplies, as those terms are 8496
defined in section 125.12 of the Revised Code; 8497

(4) Agricultural products that are grown or raised by the 8498
division. As used in this division, "agricultural products" 8499
includes products of apiculture, animal husbandry, or poultry 8500
husbandry, field crops, fruits, and vegetables. 8501

(5) Abandoned personal property, including golf balls that 8502
are found on property under the control and management of the 8503
division. 8504

(B) In accordance with Chapter 119. of the Revised Code, the 8505
chief shall adopt, and may amend and rescind, such rules as are 8506
necessary to administer this section. 8507

(C) Proceeds from the disposition of items under this section 8508
shall be deposited in the state treasury to the credit of the 8509
state park fund created in section 1541.22 of the Revised Code. 8510

Sec. 1541.40. There is hereby created in the division of 8511
parks and recreation an Ohio parks and recreation council, which 8512
shall consist of seven members to be appointed by the governor 8513
with the advice and consent of the senate. By reason of ~~his~~ 8514
vocation, employment, or affiliation one of ~~such~~ the members shall 8515
be classed as a representative of municipal parks, one as a 8516
representative of metropolitan park districts, one as a 8517
representative of conservancy districts, one as a representative 8518
of ~~soil conservation districts or of~~ soil and water conservation 8519
districts, one as a representative of private recreational 8520
facilities, and two as representatives of the public. 8521

Terms of office shall be for ~~two~~ three years, commencing on 8522
the first day of February and ending on the thirty-first day of 8523
January, ~~except that upon expiration of the terms ending on~~ 8524
~~February 3, 1973, the new terms which succeed them shall commence~~ 8525
~~on February 4, 1974 and end on January 31, 1976, and upon~~ 8526
~~expiration of the terms ending on February 2, 1975, the new terms~~ 8527
~~which succeed them shall commence on February 3, 1975 and end on~~ 8528
~~January 31, 1977.~~ Each member shall hold office from the date of 8529
~~his~~ appointment until the end of the term for which ~~he~~ the member 8530
was appointed. Any member appointed to fill a vacancy occurring 8531
prior to the expiration of the term for which ~~his~~ the member's 8532

predecessor was appointed shall hold office for the remainder of 8533
~~such~~ that term. Any member shall continue in office subsequent to 8534
the expiration date of ~~his~~ the member's term until ~~his~~ the 8535
member's successor takes office, or until a period of sixty days 8536
has elapsed, whichever occurs first. 8537

The council shall annually select from among its members a 8538
~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. 8539

Members of the council shall receive no compensation, but 8540
shall be reimbursed for their actual and necessary expenses 8541
incurred in the performance of their official duties as members of 8542
the council. 8543

The council shall hold at least one regular meeting in each 8544
quarter of each calendar year, and shall keep a record of its 8545
proceedings, which shall be open to the public for inspection. 8546
Special meetings may be called by the ~~chairman~~ chairperson, and 8547
shall be called by ~~him~~ the chairperson upon receipt of a written 8548
request therefor signed by two or more members of the council. A 8549
written notice of the time and place of each meeting shall be sent 8550
to each member of the council. A majority of the members of the 8551
council shall constitute a quorum. 8552

The chief of the division of parks and recreation shall act 8553
as secretary of the council. Technical, legal, and other services 8554
required by the council in the performance of its official duties 8555
shall be furnished by the personnel of the division of parks and 8556
recreation. 8557

The governor may remove any member of the council at any time 8558
for inefficiency, neglect of duty, or malfeasance in office. 8559

Sec. 1547.05. No person born on or after January 1, 1982, 8560
shall operate on the waters in this state a powercraft powered by 8561
more than ten horsepower, unless the operator successfully has 8562

completed either a safe boater course approved by the national 8563
association of state boating law administrators or a proctored or 8564
nonproctored proficiency examination that tests knowledge of 8565
information included in the curriculum of such a course, and has 8566
received a certificate as evidence of successful completion of the 8567
course or examination. 8568

No person shall permit a powercraft to be operated on the 8569
waters in this state in violation of this section. 8570

Sec. 1547.08. (A) No person shall operate a vessel within or 8571
through a designated bathing area or within or through any area 8572
that has been buoyed off designating it as an area in which 8573
vessels are prohibited. 8574

(B)(1) No person shall operate a vessel at greater than idle 8575
speed or at a speed that creates a wake under any of the following 8576
circumstances: 8577

(a) Within three hundred feet of any marina, boat docking 8578
facility, boat gasoline dock, launch ramp, recreational boat 8579
harbor, or harbor entrance on Lake Erie or on the Ohio river; 8580

(b) During the period from sunset to sunrise according to 8581
local time within any water between the Dan Beard bridge and the 8582
Brent Spence bridge on the Ohio river for any vessel not 8583
documented by the United States coast guard as commercial; 8584

(c) Within any area buoyed or marked as a no wake area on the 8585
waters in this state. 8586

(2) Division (B)(1) of this section does not apply in either 8587
of the following places: 8588

(a) An area designated by the chief of the division of 8589
watercraft unless it is marked by a buoy or sign as a no wake or 8590
idle speed area; 8591

(b) Within any water between the Dan Beard bridge and the 8592

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. 8593
8594
8595

(C) No person shall operate a vessel in any area of restricted or controlled operation in violation of the designated restriction. 8596
8597
8598

(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. 8599
8600
8601

(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. 8602
8603
8604
8605
8606
8607
8608

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. 8609
8610
8611
8612
8613
8614
8615

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. 8616
8617
8618
8619
8620
8621
8622
8623

(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 8684
by length as prescribed in this section. 8685

(4) If an application for registration is filed by two 8686
persons as owners under division (A)(1)(a) of this section, the 8687
person who is listed first on the title shall serve as and perform 8688
the duties of the "owner" and shall be considered the person "in 8689
whose name the watercraft is registered" for purposes of divisions 8690
(B) to (Q) of this section and for purposes of all other sections 8691
in this chapter. 8692

(B) All registration certificates issued under this section 8693
are valid for three years and are renewable on a triennial basis 8694
unless sooner terminated or discontinued in accordance with this 8695
chapter. The renewal date shall be printed on the registration 8696
certificate. A registration certificate may be renewed by the 8697
owner in the manner prescribed by the chief. All fees shall be 8698
charged according to a proration of the time remaining in the 8699
registration cycle to the nearest year. 8700

(C) In addition to the fees set forth in this section, the 8701
chief, or any authorized agent, shall charge an additional fee of 8702
three dollars for any registration certificate the chief or 8703
authorized agent issues. When the registration certificate is 8704
issued by an authorized agent, the additional fee of three dollars 8705
shall be retained by the issuing agent. When the registration 8706
certificate is issued by the chief, the additional fee of three 8707
dollars shall be deposited to the credit of the waterways safety 8708
fund established in section 1547.75 of the Revised Code. 8709

(D)(1) Upon receipt of the application in approved form, the 8710
chief shall enter the same upon the records of the office of the 8711
division of watercraft, assign a number to the watercraft if a 8712
number is required under section 1547.53 of the Revised Code, and 8713
issue to the applicant a registration certificate. If a number is 8714

assigned by the chief, it shall be set forth on the certificate. 8715
The registration certificate shall be on the watercraft for which 8716
it is issued and available at all times for inspection whenever 8717
the watercraft is in operation, except that livery operators may 8718
retain the registration certificate at the livery where it shall 8719
remain available for inspection at all times and except as 8720
otherwise provided in division (D)(2) of this section. 8721

(2) A person who is operating on the waters of this state a 8722
canoe, rowboat, or inflatable watercraft that has not been 8723
numbered under section 1547.53 of the Revised Code and who is 8724
stopped by a law enforcement officer in the enforcement of this 8725
chapter or rules adopted under it shall present to the officer, 8726
not later than seventy-two hours after being stopped, a 8727
registration certificate. The registration certificate shall have 8728
been obtained under this section for the canoe, rowboat, or 8729
inflatable watercraft prior to the time that it was stopped. 8730
Failure of the person to present the registration certificate 8731
within seventy-two hours constitutes prima-facie evidence of a 8732
violation of this section. 8733

(E) No person shall issue or be issued a registration 8734
certificate for a watercraft that is required to be issued a 8735
certificate of title under Chapter 1548. of the Revised Code 8736
except upon presentation of a certificate of title for the 8737
watercraft as provided in that chapter, proof of current 8738
documentation by the United States coast guard, a renewal 8739
registration form provided by the division of watercraft, or a 8740
certificate of registration issued under this section that has 8741
expired if there is no change in the ownership or description of 8742
the watercraft. 8743

(F) Whenever the ownership of a watercraft changes, a new 8744
application form together with the prescribed fee shall be filed 8745
with the chief or the chief's agent and a new registration 8746

certificate shall be issued. The application shall be signed 8747
manually by the person or persons specified in ~~division~~ divisions 8748
(A)(1)(a) to (c) of this section and shall be accompanied by a 8749
two-dollar transfer fee. Any remaining time on the registration 8750
shall be transferred. An authorized agent of the chief shall 8751
charge an additional fee of three dollars, which shall be retained 8752
by the issuing agent. If the certificate is issued by the chief, 8753
an additional fee of three dollars for each certificate issued 8754
shall be collected. 8755

(G) If an agency of the United States has in force an overall 8756
system of identification numbering for watercraft or certain types 8757
of watercraft within the United States, the numbering system 8758
employed by the division shall be in conformity with that system. 8759

(H)(1) The chief may assign any registration certificates to 8760
any authorized agent for the assignment of the registration 8761
certificates. If a person accepts that authorization, the person 8762
may be assigned a block of numbers and certificates that upon 8763
assignment, in conformity with this chapter and Chapter 1548. of 8764
the Revised Code and with rules of the division, shall be valid as 8765
if assigned directly by the division. Any person so designated as 8766
an agent by the chief shall post with the division security as may 8767
be required by the director of natural resources. The chief may 8768
issue an order temporarily or permanently restricting or 8769
suspending an agent's authorization without a hearing if the chief 8770
finds that the agent has violated this chapter or Chapter 1548. of 8771
the Revised Code, rules adopted under them, or any agreements 8772
prescribed by the chief. 8773

(2) A clerk of the court of common pleas may apply for 8774
designation as an authorized agent of the chief. The division 8775
shall accept the clerk's bond that is required under section 8776
2303.02 of the Revised Code for any security that is required for 8777
agents under this division, provided that the bond includes a 8778

rider or other provision specifically covering the clerk's duties 8779
as an authorized agent of the chief. 8780

(I) All records of the division made or kept pursuant to this 8781
section shall be public records. Those records shall be available 8782
for inspection at reasonable hours and in a manner compatible with 8783
normal operations of the division. 8784

(J) The owner shall furnish the division notice within 8785
fifteen days of the following: 8786

(1) The transfer, other than through the creation of a 8787
security interest in any watercraft, of all or any part of the 8788
owner's interest or, if the watercraft is owned by two persons 8789
under joint ownership with right of survivorship established under 8790
section 2131.12 of the Revised Code, of all or any part of the 8791
joint interest of either of the two persons. The transfer shall 8792
not terminate the registration certificate. 8793

(2) Any change in the address appearing on the certificate 8794
~~and, as~~ As a part of the notification, the owner shall furnish 8795
the chief with the owner's new address. 8796

(3) The destruction or abandonment of the watercraft. 8797

(K) The chief may issue duplicate registration certificates 8798
or duplicate tags to owners of currently registered watercraft, 8799
the fee for which shall be four dollars. 8800

(L) If the chief finds that a registration certificate 8801
previously issued to an owner is in error to a degree that would 8802
impair its basic purpose and use, the chief may issue a corrected 8803
certificate to the owner without charge. 8804

(M) No authorized agent shall issue and no person shall 8805
receive or accept from an authorized agent a registration 8806
certificate assigned to the authorized agent under division (H) of 8807
this section unless the exact month, day, and year of issue are 8808

plainly written on the certificate by the agent. Certificates 8809
issued with incorrect dates of issue are void from the time they 8810
are issued. 8811

(N) The chief, in accordance with Chapter 119. of the Revised 8812
Code, shall adopt rules governing the renewal of watercraft 8813
registrations by electronic means. 8814

(O) As used in this section: 8815

(1) "Disabled veteran" means a person who is included in 8816
either of the following categories: 8817

(a) Because of a service-connected disability, has been or is 8818
awarded funds for the purchase of a motor vehicle under the 8819
"Disabled Veterans' and Servicemen's Automobile Assistance Act of 8820
1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto; 8821

(b) Has a service-connected disability rated at one hundred 8822
per cent by the veterans administration. 8823

(2) "Prisoner of war" means any regularly appointed, 8824
enrolled, enlisted, or inducted member of the military forces of 8825
the United States who was captured, separated, and incarcerated by 8826
an enemy of the United States at any time, and any regularly 8827
appointed, enrolled, or enlisted member of the military forces of 8828
Great Britain, France, Australia, Belgium, Brazil, Canada, China, 8829
Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, 8830
South Africa, or the republics formerly associated with the Union 8831
of Soviet Socialist Republics or Yugoslavia who was a citizen of 8832
the United States at the time of the appointment, enrollment, or 8833
enlistment, and was captured, separated, and incarcerated by an 8834
enemy of this country during World War II. 8835

(P) Any disabled veteran, congressional medal of honor 8836
awardee, or prisoner of war may apply to the chief for a 8837
certificate of registration, or for a renewal of the certificate 8838

of registration, without the payment of any fee required by this 8839
section. The application for a certificate of registration shall 8840
be accompanied by evidence of disability or by documentary 8841
evidence in support of a congressional medal of honor that the 8842
chief requires by rule. The application for a certificate of 8843
registration by any person who has been a prisoner of war shall be 8844
accompanied by written evidence in the form of a record of 8845
separation, a letter from one of the armed forces of a country 8846
listed in division (O)(2) of this section, or other evidence that 8847
the chief may require by rule, that the person was honorably 8848
discharged or is currently residing in this state on active duty 8849
with one of the branches of the armed forces of the United States, 8850
or was a prisoner of war and was honorably discharged or received 8851
an equivalent discharge or release from one of the armed forces of 8852
a country listed in division (O)(2) of this section. 8853

(Q) Annually by the fifteenth day of January, the director of 8854
natural resources shall determine the amount of fees that would 8855
have been collected in the prior calendar year for each 8856
certificate of registration issued or renewed pursuant to division 8857
(P) of this section and shall certify the total amount of foregone 8858
revenue to the director of budget and management for 8859
reimbursement. The director of budget and management shall 8860
transfer the amount certified from the general revenue fund to the 8861
waterways safety fund created pursuant to section 1547.75 of the 8862
Revised Code. 8863

Sec. 1547.541. The owner of a ~~wooden~~ watercraft that is more 8864
than twenty-five years old, is essentially as originally 8865
constructed, and is owned primarily as a collector's item and for 8866
participation in club activities, exhibitions, tours, parades, and 8867
similar uses, but is not used for general recreation may apply to 8868
the chief of the division of watercraft for an historic watercraft 8869

identification plate. The chief, by rule, may establish additional 8870
criteria for the registration of historic watercraft that the 8871
chief considers necessary. 8872

The chief shall prescribe the form of application and shall 8873
issue an historic watercraft identification plate, which shall be 8874
securely affixed to the watercraft. The plate shall bear no date, 8875
but shall bear the inscription "historic watercraft." A 8876
registration number assigned by the chief shall be shown on the 8877
plate. The plate is valid without renewal as long as the 8878
watercraft exists and ownership does not change. The fee for the 8879
plate is twenty-five dollars. 8880

Whenever the ownership of an historic watercraft changes, an 8881
application for transfer of registration, together with a fee of 8882
ten dollars, shall be filed with the division of watercraft, and a 8883
new certificate of registration shall be issued. 8884

The historic watercraft identification plate shall be shown 8885
on the watercraft in the same manner as a number required under 8886
sections 1547.53 and 1547.57 of the Revised Code. 8887

If the watercraft is to be used for general recreation, it 8888
also shall be registered as required by section 1547.54 of the 8889
Revised Code. 8890

Sec. 1547.99. (A) Whoever violates section 1547.91 of the 8891
Revised Code is guilty of a felony of the fourth degree. 8892

(B) Whoever violates division (F) of section 1547.08, section 8893
1547.10, division (I) of section 1547.111, section 1547.13, or 8894
section 1547.66 of the Revised Code is guilty of a misdemeanor of 8895
the first degree. 8896

(C) Whoever violates a provision of this chapter or a rule 8897
adopted thereunder, for which no penalty is otherwise provided, is 8898
guilty of a minor misdemeanor. 8899

(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 8963
shall sentence the offender to a jail term of ten consecutive days 8964
and may sentence the offender pursuant to section 2929.24 of the 8965
Revised Code to a longer jail term. In addition, the court shall 8966
impose upon the offender a fine of not less than one hundred fifty 8967
nor more than one thousand dollars. 8968

In addition to any other sentence that it imposes upon the 8969
offender, the court may require the offender to attend a drivers' 8970
intervention program that is certified pursuant to section 3793.10 8971
of the Revised Code. 8972

(3) If, within six years of the offense, the offender has 8973
been convicted of or pleaded guilty to more than one violation 8974
identified in division (G)(2) of this section, the court shall 8975
sentence the offender to a jail term of thirty consecutive days 8976
and may sentence the offender to a longer jail term of not more 8977
than one year. In addition, the court shall impose upon the 8978
offender a fine of not less than one hundred fifty nor more than 8979
one thousand dollars. 8980

In addition to any other sentence that it imposes upon the 8981
offender, the court may require the offender to attend a drivers' 8982
intervention program that is certified pursuant to section 3793.10 8983
of the Revised Code. 8984

(4) Upon a showing that serving a jail term would seriously 8985
affect the ability of an offender sentenced pursuant to division 8986
(G)(1), (2), or (3) of this section to continue the offender's 8987
employment, the court may authorize that the offender be granted 8988
work release after the offender has served the mandatory jail term 8989
of three, ten, or thirty consecutive days that the court is 8990
required by division (G)(1), (2), or (3) of this section to 8991
impose. No court shall authorize work release during the mandatory 8992
jail term of three, ten, or thirty consecutive days that the court 8993

is required by division (G)(1), (2), or (3) of this section to 8994
impose. The duration of the work release shall not exceed the time 8995
necessary each day for the offender to commute to and from the 8996
place of employment and the place in which the jail term is served 8997
and the time actually spent under employment. 8998

(5) Notwithstanding any section of the Revised Code that 8999
authorizes the suspension of the imposition or execution of a 9000
sentence or the placement of an offender in any treatment program 9001
in lieu of being imprisoned or serving a jail term, no court shall 9002
suspend the mandatory jail term of ten or thirty consecutive days 9003
required to be imposed by division (G)(2) or (3) of this section 9004
or place an offender who is sentenced pursuant to division (G)(2) 9005
or (3) of this section in any treatment program in lieu of being 9006
imprisoned or serving a jail term until after the offender has 9007
served the mandatory jail term of ten or thirty consecutive days 9008
required to be imposed pursuant to division (G)(2) or (3) of this 9009
section. Notwithstanding any section of the Revised Code that 9010
authorizes the suspension of the imposition or execution of a 9011
sentence or the placement of an offender in any treatment program 9012
in lieu of being imprisoned or serving a jail term, no court, 9013
except as specifically authorized by division (G)(1) of this 9014
section, shall suspend the mandatory jail term of three 9015
consecutive days required to be imposed by division (G)(1) of this 9016
section or place an offender who is sentenced pursuant to division 9017
(G)(1) of this section in any treatment program in lieu of 9018
imprisonment until after the offender has served the mandatory 9019
jail term of three consecutive days required to be imposed 9020
pursuant to division (G)(1) of this section. 9021

(6) As used in division (G) of this section, "jail term" and 9022
"mandatory jail term" have the same meanings as in section 2929.01 9023
of the Revised Code. 9024

(H) Whoever violates section 1547.304 of the Revised Code is 9025

guilty of a misdemeanor of the fourth degree and also shall be 9026
assessed any costs incurred by the state or a county, township, 9027
municipal corporation, or other political subdivision in disposing 9028
of an abandoned junk vessel or outboard motor, less any money 9029
accruing to the state, county, township, municipal corporation, or 9030
other political subdivision from that disposal. 9031

(I) Whoever violates division (B) or (C) of section 1547.49 9032
of the Revised Code is guilty of a minor misdemeanor. 9033

(J) Whoever violates section 1547.31 of the Revised Code is 9034
guilty of a misdemeanor of the fourth degree on a first offense. 9035
On each subsequent offense, the person is guilty of a misdemeanor 9036
of the third degree. 9037

(K) Whoever violates section 1547.05 or 1547.051 of the 9038
Revised Code is guilty of a misdemeanor of the fourth degree if 9039
the violation is not related to a collision, injury to a person, 9040
or damage to property and a misdemeanor of the third degree if the 9041
violation is related to a collision, injury to a person, or damage 9042
to property. 9043

(L) The sentencing court, in addition to the penalty provided 9044
under this section for a violation of this chapter or a rule 9045
adopted under it that involves a powercraft powered by more than 9046
ten horsepower and that, in the opinion of the court, involves a 9047
threat to the safety of persons or property, shall order the 9048
offender to complete successfully a boating course approved by the 9049
national association of state boating law administrators before 9050
the offender is allowed to operate a powercraft powered by more 9051
than ten horsepower on the waters in this state. Violation of a 9052
court order entered under this division is punishable as contempt 9053
under Chapter 2705. of the Revised Code. 9054

Sec. 1548.02. The chief of the division of watercraft shall 9055

adopt such rules as the chief considers necessary to ensure 9056
uniform and orderly operation of this chapter, and the clerks of 9057
the courts of common pleas shall conform to those rules. The chief 9058
shall receive and file in the chief's office all information 9059
forwarded to the chief by the clerks under this chapter and shall 9060
maintain indexes covering the state at large for that information. 9061
These indexes shall be for the state at large and not for 9062
individual counties. 9063

The chief shall check with the chief's record all duplicate 9064
certificates of title received in the chief's office from the 9065
clerks. 9066

If it appears that any certificate of title has been 9067
improperly issued or is no longer required, the chief shall cancel 9068
the certificate. Upon the cancellation of any certificate of 9069
title, the chief shall notify the clerk who issued it, and the 9070
clerk shall enter the cancellation in the clerk's records. The 9071
chief also shall notify the person to whom the certificate of 9072
title was issued, as well as any lienholders appearing on it, of 9073
the cancellation and, if it is a physical certificate of title, 9074
shall demand the surrender of the certificate of title, but the 9075
cancellation shall not affect the validity of any lien noted on 9076
it. The holder of a physical certificate of title shall return it 9077
to the chief immediately. 9078

The clerks shall keep on hand a sufficient supply of blank 9079
forms that, except certificate of title and memorandum certificate 9080
forms, shall be furnished and distributed without charge to 9081
registered manufacturers or dealers or to other persons residing 9082
within the county. The clerks shall provide the certificates of 9083
title, the ribbons for data processing, and removable backup media 9084
from moneys provided to the clerks from the automated title 9085
processing fund in accordance with division (B)(3)(b) of section 9086
4505.09 of the Revised Code. The clerks shall furnish all other 9087

supplies from other moneys available to the clerks.

9088

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.

9089

9090

9091

9092

9093

9094

9095

9096

9097

9098

9099

9100

9101

(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.

9102

9103

9104

9105

(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.

9106

9107

9108

9109

9110

9111

9112

9113

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

9114

9115

9116

9117

dealer registered under section 1547.543 of the Revised Code, the 9118
person is not required to obtain a physical certificate of title 9119
to the watercraft in order to transfer ownership to the dealer. 9120
The person shall present the dealer, in a manner approved by the 9121
chief of the division of watercraft, with sufficient proof of the 9122
person's identity and complete and sign a form prescribed by the 9123
chief attesting to the person's identity and assigning the 9124
watercraft to the dealer. Except as otherwise provided in this 9125
section, the watercraft dealer shall present the assignment form 9126
to any clerk of a court of common pleas together with an 9127
application for a certificate of title and payment of the fees 9128
prescribed by section 1548.10 of the Revised Code. 9129

In a case in which an electronic certificate of title has 9130
been issued and either the buyer or seller of the watercraft is an 9131
electronic watercraft dealer, the electronic watercraft dealer 9132
instead may inform a clerk of a court of common pleas via 9133
electronic means of the sale of the watercraft and assignment of 9134
ownership of the watercraft. The clerk shall enter the information 9135
relating to the assignment into the automated title processing 9136
system, and ownership of the watercraft passes to the applicant 9137
when the clerk enters this information into the system. The dealer 9138
is not required to obtain a physical certificate of title to the 9139
watercraft in the dealer's name. 9140

(2) A clerk shall charge and collect from a dealer a fee of 9141
five dollars for each watercraft assignment sent by the dealer to 9142
the clerk under division (A)(1) of this section. The fee shall be 9143
distributed in accordance with section 1548.10 of the Revised 9144
Code. 9145

(B) If a person who is not an electronic watercraft dealer 9146
owns a watercraft for which a physical certificate of title has 9147
not been issued by a clerk of a court of common pleas and the 9148

person sells the watercraft to a person who is not a watercraft 9149
dealer registered under section 1547.543 of the Revised Code, the 9150
person shall obtain a physical certificate of title to the 9151
watercraft in order to transfer ownership of the watercraft to 9152
that person. 9153

Sec. 1561.011. Nothing in this chapter applies to activities 9154
that are permitted and regulated under Chapter 1514. of the 9155
Revised Code. 9156

Sec. 1563.01. Except for section 1563.11 of the Revised Code, 9157
nothing in this chapter applies to activities that are permitted 9158
and regulated under Chapter 1514. of the Revised Code. 9159

Sec. 1565.01. Nothing in this chapter applies to activities 9160
that are permitted and regulated under Chapter 1514. of the 9161
Revised Code. 9162

Sec. 1567.01. Nothing in this chapter applies to activities 9163
that are permitted and regulated under Chapter 1514. of the 9164
Revised Code. 9165

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or 9166
gas engine shall be used in a mine, except for operating pumping 9167
machinery where electric, compressed air, or steam power is not 9168
available or cannot be transmitted to the pump, in which case the 9169
owner, lessee, or agent shall observe the following: 9170

(A) Notice shall be given to the chief of the division of 9171
mineral resources management, before installing, and the 9172
installation and operation shall be subject to the chief's 9173
approval. 9174

(B) No wood or inflammable material shall be permitted within 9175

twenty-five feet of the engine. 9176

(C) The supply tank from which the gasoline, naphtha, 9177
kerosene, or fuel oil is fed to the engine, shall be of metal, 9178
with a suitable screw cap opening, fitted with a gasket, so as to 9179
make the tank airtight and prevent the escape of gas into the 9180
atmosphere, and the tank kept free from leaks. 9181

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed 9182
from a tank to the carburetor or mixer by metal tubes securely 9183
connected so as to reduce the possibility of leaks to a minimum. 9184

(E) The exhaust from the engine shall be conducted by means 9185
of metal pipes into the return air current, so that the combustion 9186
fumes will not enter the workings of the mine where the ~~worker's~~ 9187
workers are required to work, or be conducted in an upcast shaft 9188
or slope not used as a means of ingress or egress or through metal 9189
pipes to the surface. 9190

(F) At no time shall more than five gallons of such gasoline, 9191
naphtha, kerosene, or fuel oil be taken into the mine, including 9192
that in the supply tank. 9193

(G) No gasoline, naphtha, kerosene, or fuel oil shall be 9194
taken into the mine except in metallic cans, with a screw cap 9195
opening at the top, fitted with a suitable gasket. 9196

(H) No package, can, or supply tank of an engine, containing 9197
gasoline, naphtha, kerosene, or fuel oil, shall be opened until 9198
ready to make the transfer from the package or can to the supply 9199
tank, and in transferring, a funnel shall be used so as to avoid 9200
spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap 9201
on the supply tank shall be immediately closed. 9202

(I) In no case shall the package, can, or supply tank be 9203
opened when an open light or other thing containing fire is within 9204
twenty-five feet of the same, provided that subject to the 9205

approval of the chief, the restrictions in the use of fuel oil in 9206
a mine shall not apply to mobile or portable machinery, if ~~such~~ 9207
the mobile or portable machinery is used in a clay, limestone, 9208
shale, or any other mine not a coal mine. 9209

Nothing in this section shall be construed to prohibit or 9210
impede the use of diesel equipment in an underground coal mine, 9211
provided that the chief approves the use of the equipment in 9212
underground mines and the equipment satisfies requirements 9213
established in rules adopted by the chief under section 1513.02 of 9214
the Revised Code governing the use of diesel equipment in 9215
underground mines. 9216

No owner, lessee, agent, or operator of a mine shall violate 9217
this section. 9218

Sec. 1571.011. Nothing in this chapter applies to activities 9219
that are permitted and regulated under Chapter 1514. of the 9220
Revised Code. 9221

Sec. 2305.041. With respect to a lease or license by which a 9222
right is granted to operate or to sink or drill wells on land in 9223
this state for natural gas or petroleum and that is recorded in 9224
accordance with section 5301.09 of the Revised Code, an action 9225
alleging breach of any express or implied provision of the lease 9226
or license concerning the calculation or payment of royalties 9227
shall be brought within the time period that is specified in 9228
section 1302.98 of the Revised Code. An action alleging a breach 9229
with respect to any other issue that the lease or license involves 9230
shall be brought within the time period specified in section 9231
2305.06 of the Revised Code. 9232

Sec. 2923.35. (A)(1) With respect to property ordered 9233
forfeited under section 2923.32 of the Revised Code, with respect 9234

to any fine or civil penalty imposed in any criminal or civil proceeding under section 2923.32 or 2923.34 of the Revised Code, and with respect to any fine imposed for a violation of section 2923.01 of the Revised Code for conspiracy to violate section 2923.32 of the Revised Code, the court, upon petition of the prosecuting attorney, may do any of the following:

(a) Authorize the prosecuting attorney to settle claims;

(b) Award compensation to persons who provide information that results in a forfeiture, fine, or civil penalty under section 2923.32 or 2923.34 of the Revised Code;

(c) Grant petitions for mitigation or remission of forfeiture, fines, or civil penalties, or restore forfeited property, imposed fines, or imposed civil penalties to persons injured by the violation;

(d) Take any other action to protect the rights of innocent persons that is in the interest of justice and that is consistent with the purposes of sections 2923.31 to 2923.36 of the Revised Code.

(2) The court shall maintain an accurate record of the actions it takes under division (A)(1) of this section with respect to the property ordered forfeited or the fine or civil penalty. The record is a public record open for inspection under section 149.43 of the Revised Code.

(B)(1) After the application of division (A) of this section, any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code has a right to any property, or the proceeds of any property, criminally forfeited to the state pursuant to section 2923.32 of the Revised Code or against which any fine under that section or civil penalty under division (I) of section 2923.34 of the Revised Code may be imposed.

The right of any person who prevails in a civil action

pursuant to section 2923.34 of the Revised Code, other than a 9266
prosecuting attorney performing official duties under that 9267
section, to forfeited property, property against which fines and 9268
civil penalties may be imposed, and the proceeds of that property 9269
is superior to any right of the state, a municipal corporation, or 9270
a county to the property or the proceeds of the property, if the 9271
civil action is brought within one hundred eighty days after the 9272
entry of a sentence of forfeiture or a fine pursuant to section 9273
2923.32 of the Revised Code or the entry of a civil penalty 9274
pursuant to division (I) of section 2923.34 of the Revised Code. 9275

The right is limited to the total value of the treble 9276
damages, civil penalties, attorney's fees, and costs awarded to 9277
the prevailing party in an action pursuant to section 2923.34 of 9278
the Revised Code, less any restitution received by the person. 9279

(2) If the aggregate amount of claims of persons who have 9280
prevailed in a civil action pursuant to section 2923.34 of the 9281
Revised Code against any one defendant is greater than the total 9282
value of the treble fines, civil penalties, and forfeited property 9283
paid by the person against whom the actions were brought, all of 9284
the persons who brought their actions within one hundred eighty 9285
days after the entry of a sentence or disposition of forfeiture or 9286
a fine pursuant to section 2923.32 of the Revised Code or the 9287
entry of a civil penalty pursuant to division (I) of section 9288
2923.34 of the Revised Code, first shall receive a pro rata share 9289
of the total amount of the fines, civil penalties, and forfeited 9290
property. After the persons who brought their actions within the 9291
specified one-hundred-eighty-day period have satisfied their 9292
claims out of the fines, civil penalties, and forfeited property, 9293
all other persons who prevailed in civil actions pursuant to 9294
section 2923.34 of the Revised Code shall receive a pro rata share 9295
of the total amount of the fines, civil penalties, and forfeited 9296
property that remains in the custody of the law enforcement agency 9297

or in the corrupt activity investigation and prosecution fund. 9298

(C)(1) Subject to divisions (A) and (B) of this section and 9299
notwithstanding any contrary provision of section 2933.41 of the 9300
Revised Code, the prosecuting attorney shall order the disposal of 9301
property ordered forfeited in any proceeding under sections 9302
2923.32 and 2923.34 of the Revised Code as soon as feasible, 9303
making due provisions for the rights of innocent persons, by any 9304
of the following methods: 9305

(a) Transfer to any person who prevails in a civil action 9306
pursuant to section 2923.34 of the Revised Code, subject to the 9307
limit set forth in division (B)(1) of this section; 9308

(b) Public sale; 9309

(c) Transfer to a state governmental agency for official use; 9310

(d) Sale or transfer to an innocent person; 9311

(e) If the property is contraband and is not needed for 9312
evidence in any pending criminal or civil proceeding, pursuant to 9313
section 2933.41 or any other applicable section of the Revised 9314
Code. 9315

(2) Any interest in personal or real property not disposed of 9316
pursuant to this division and not exercisable by, or transferable 9317
for value to, the state shall expire and shall not revert to the 9318
person found guilty of or adjudicated a delinquent child for a 9319
violation of section 2923.32 of the Revised Code. No person found 9320
guilty of or adjudicated a delinquent child for a violation of 9321
that section and no person acting in concert with a person found 9322
guilty of or adjudicated a delinquent child for a violation of 9323
that section is eligible to purchase forfeited property from the 9324
state. 9325

(3) Upon application of a person, other than the defendant, 9326
the adjudicated delinquent child, or a person acting in concert 9327

with or on behalf of either the defendant or the adjudicated 9328
delinquent child, the court may restrain or stay the disposal of 9329
the property pursuant to this division pending the conclusion of 9330
any appeal of the criminal case or delinquency case giving rise to 9331
the forfeiture or pending the determination of the validity of a 9332
claim to or interest in the property pursuant to division (E) of 9333
section 2923.32 of the Revised Code, if the applicant demonstrates 9334
that proceeding with the disposal of the property will result in 9335
irreparable injury, harm, or loss to the applicant. 9336

(4) The prosecuting attorney shall maintain an accurate 9337
record of each item of property disposed of pursuant to this 9338
division, which record shall include the date on which each item 9339
came into the prosecuting attorney's custody, the manner and date 9340
of disposition, and, if applicable, the name of the person who 9341
received the item. The record shall not identify or enable the 9342
identification of the individual officer who seized the property, 9343
and the record is a public record open for inspection under 9344
section 149.43 of the Revised Code. 9345

Each prosecuting attorney who disposes in any calendar year 9346
of any item of property pursuant to this division shall prepare a 9347
report covering the calendar year that cumulates all of the 9348
information contained in all of the records kept by the 9349
prosecuting attorney pursuant to this division for that calendar 9350
year and shall send the cumulative report, no later than the first 9351
day of March in the calendar year following the calendar year 9352
covered by the report, to the attorney general. Each report 9353
received by the attorney general is a public record open for 9354
inspection under section 149.43 of the Revised Code. Not later 9355
than the fifteenth day of April in the calendar year following the 9356
calendar year covered by the reports, the attorney general shall 9357
send to the president of the senate and the speaker of the house 9358
of representatives a written notification that does all of the 9359

following: 9360

(a) Indicates that the attorney general has received from 9361
prosecuting attorneys reports of the type described in this 9362
division that cover the previous calendar year and indicates that 9363
the reports were received under this division; 9364

(b) Indicates that the reports are open for inspection under 9365
section 149.43 of the Revised Code; 9366

(c) Indicates that the attorney general will provide a copy 9367
of any or all of the reports to the president of the senate or the 9368
speaker of the house of representatives upon request. 9369

(D)(1)(a) Ten per cent of the proceeds of all property 9370
ordered forfeited by a juvenile court pursuant to section 2923.32 9371
of the Revised Code shall be applied to one or more alcohol and 9372
drug addiction treatment programs that are certified by the 9373
department of alcohol and drug addiction services under section 9374
3793.06 of the Revised Code and that are specified in the order of 9375
forfeiture. A juvenile court shall not specify an alcohol or drug 9376
addiction treatment program in the order of forfeiture unless the 9377
program is a certified alcohol and drug addiction treatment 9378
program and, except as provided in division (D)(1)(a) of this 9379
section, unless the program is located in the county in which the 9380
court that orders the forfeiture is located or in a contiguous 9381
county. If no certified alcohol and drug addiction treatment 9382
program is located in any of those counties, the juvenile court 9383
may specify in the order a certified alcohol and drug addiction 9384
treatment program located anywhere within this state. The 9385
remaining ninety per cent of the proceeds shall be disposed of as 9386
provided in divisions (D)(1)(b) and ~~(D)~~(2) of this section. 9387

All of the proceeds of all property ordered forfeited by a 9388
court other than a juvenile court pursuant to section 2923.32 of 9389
the Revised Code shall be disposed of as provided in divisions 9390

(D)(1)(b) and ~~(D)~~(2) of this section. 9391

(b) The remaining proceeds of all property ordered forfeited 9392
pursuant to section 2923.32 of the Revised Code, after compliance 9393
with division (D)(1)(a) of this section when that division is 9394
applicable, and all fines and civil penalties imposed pursuant to 9395
sections 2923.32 and 2923.34 of the Revised Code shall be 9396
deposited into the state treasury and credited to the corrupt 9397
activity investigation and prosecution fund, which is hereby 9398
created. 9399

(2) The proceeds, fines, and penalties credited to the 9400
corrupt activity investigation and prosecution fund pursuant to 9401
division (D)(1) of this section shall be disposed of in the 9402
following order: 9403

(a) To a civil plaintiff in an action brought within the 9404
one-hundred-eighty-day time period specified in division (B)(1) of 9405
this section, subject to the limit set forth in that division; 9406

(b) To the payment of the fees and costs of the forfeiture 9407
and sale, including expenses of seizure, maintenance, and custody 9408
of the property pending its disposition, advertising, and court 9409
costs; 9410

(c) Except as otherwise provided in division (D)(2)(c) of 9411
this section, the remainder shall be paid to the law enforcement 9412
trust fund of the prosecuting attorney that is established 9413
pursuant to division (D)(1)(c) of section 2933.43 of the Revised 9414
Code and to the law enforcement trust fund of the county sheriff 9415
that is established pursuant to that division if the county 9416
sheriff substantially conducted the investigation, to the law 9417
enforcement trust fund of a municipal corporation that is 9418
established pursuant to that division if its police department 9419
substantially conducted the investigation, to the law enforcement 9420
trust fund of a township that is established pursuant to that 9421

division if the investigation was substantially conducted by a 9422
township police department, township police district police force, 9423
or office of a township constable, or to the law enforcement trust 9424
fund of a park district created pursuant to section 511.18 or 9425
1545.01 of the Revised Code that is established pursuant to that 9426
division if the investigation was substantially conducted by its 9427
park district police force or law enforcement department. The 9428
prosecuting attorney may decline to accept any of the remaining 9429
proceeds, fines, and penalties, and, if the prosecuting attorney 9430
so declines, they shall be applied to the fund described in 9431
division (D)(2)(c) of this section that relates to the appropriate 9432
law enforcement agency that substantially conducted the 9433
investigation. 9434

If the state highway patrol substantially conducted the 9435
investigation, the director of budget and management shall 9436
transfer the remaining proceeds, fines, and penalties to the state 9437
highway patrol for deposit into the highway patrol state 9438
contraband, forfeiture, and other fund that is created by division 9439
(D)(1)(c) of section 2933.43 of the Revised Code. If the division 9440
of forestry, the division of natural areas and preserves, the 9441
division of wildlife, the division of parks and recreation, or the 9442
division of watercraft in the department of natural resources 9443
substantially conducted the investigation, the director of natural 9444
resources shall transfer the remaining proceeds to the applicable 9445
division for deposit, respectively, into the applicable fund 9446
created by division (D)(1)(c) of section 2933.43 of the Revised 9447
Code as follows: the division of forestry law enforcement 9448
contraband, forfeiture, and other fund; the division of natural 9449
areas and preserves law enforcement contraband, forfeiture, and 9450
other fund; the division of wildlife law enforcement contraband, 9451
forfeiture, and other fund; the division of parks and recreation 9452
law enforcement contraband, forfeiture, and other fund; or the 9453

division of watercraft law enforcement contraband, forfeiture, and other fund. If the department of taxation substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the department for deposit into the department of taxation enforcement fund. If the state board of pharmacy substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the board for deposit into the board of pharmacy drug law enforcement fund that is created by division (B)(1) of section 4729.65 of the Revised Code. If a state law enforcement agency, other than the state highway patrol, the division of forestry, natural areas and preserves, wildlife, parks and recreation, or watercraft in the department of natural resources, the department of taxation, or the state board of pharmacy, substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the treasurer of state for deposit into the peace officer training commission fund.

The remaining proceeds, fines, and penalties that are paid to a law enforcement trust fund or that are deposited into the highway patrol state contraband, forfeiture, and other fund; the division of forestry law enforcement contraband, forfeiture, and other fund; the division of natural areas and preserves law enforcement contraband, forfeiture, and other fund; the division of wildlife law enforcement contraband, forfeiture, and other fund; the division of parks and recreation law enforcement contraband, forfeiture, and other fund; the division of watercraft law enforcement contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund; or the peace officer training commission fund pursuant to division (D)(2)(c) of this section shall be allocated, used, and expended only in accordance with division (D)(1)(c) of section 2933.43 of the Revised Code, only in accordance with a written internal control policy adopted under

division (D)(3) of that section, and, if applicable, only in 9487
accordance with division (B) of section 4729.65 of the Revised 9488
Code. The annual reports that pertain to the funds and that are 9489
required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of 9490
the Revised Code also shall address the remaining proceeds, fines, 9491
and penalties that are paid or deposited into the funds pursuant 9492
to division (D)(2)(c) of this section. 9493

(3) If more than one law enforcement agency substantially 9494
conducted the investigation, the court ordering the forfeiture 9495
shall equitably divide the remaining proceeds, fines, and 9496
penalties among the law enforcement agencies that substantially 9497
conducted the investigation, in the manner described in division 9498
(D)(2) of section 2933.43 of the Revised Code for the equitable 9499
division of contraband proceeds and forfeited moneys. The 9500
equitable shares of the proceeds, fines, and penalties so 9501
determined by the court shall be paid or deposited into the 9502
appropriate funds specified in division (D)(2)(c) of this section. 9503

(E) As used in this section, "law enforcement agency" 9504
includes, but is not limited to, the state board of pharmacy and 9505
the department of taxation. 9506

Sec. 2933.43. (A)(1) Except as provided in this division or 9507
in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 9508
2925.45 of the Revised Code, a law enforcement officer shall seize 9509
any contraband that has been, is being, or is intended to be used 9510
in violation of division (A) of section 2933.42 of the Revised 9511
Code. A law enforcement officer shall seize contraband that is a 9512
watercraft, motor vehicle, or aircraft and that has been, is 9513
being, or is intended to be used in violation of division (A) of 9514
section 2933.42 of the Revised Code only if the watercraft, motor 9515
vehicle, or aircraft is contraband because of its relationship to 9516
an underlying criminal offense that is a felony. 9517

Additionally, a law enforcement officer shall seize any 9518
watercraft, motor vehicle, aircraft, or other personal property 9519
that is classified as contraband under division (B) of section 9520
2933.42 of the Revised Code if the underlying offense involved in 9521
the violation of division (A) of that section that resulted in the 9522
watercraft, motor vehicle, aircraft, or personal property being 9523
classified as contraband, is a felony. 9524

(2) If a law enforcement officer seizes property that is 9525
titled or registered under law, including a motor vehicle, 9526
pursuant to division (A)(1) of this section, the officer or the 9527
officer's employing law enforcement agency shall notify the owner 9528
of the seizure. The notification shall be given to the owner at 9529
the owner's last known address within seventy-two hours after the 9530
seizure, and may be given orally by any means, including 9531
telephone, or by certified mail, return receipt requested. 9532

If the officer or the officer's agency is unable to provide 9533
the notice required by this division despite reasonable, good 9534
faith efforts to do so, the exercise of the reasonable, good faith 9535
efforts constitutes fulfillment of the notice requirement imposed 9536
by this division. 9537

(B)(1) A motor vehicle seized pursuant to division (A)(1) of 9538
this section and the contents of the vehicle may be retained for a 9539
reasonable period of time, not to exceed seventy-two hours, for 9540
the purpose of inspection, investigation, and the gathering of 9541
evidence of any offense or illegal use. 9542

At any time prior to the expiration of the seventy-two-hour 9543
period, the law enforcement agency that seized the motor vehicle 9544
may petition the court of common pleas of the county that has 9545
jurisdiction over the underlying criminal case or administrative 9546
proceeding involved in the forfeiture for an extension of the 9547
seventy-two-hour period if the motor vehicle or its contents are 9548

needed as evidence or if additional time is needed for the 9549
inspection, investigation, or gathering of evidence. Upon the 9550
filing of such a petition, the court immediately shall schedule a 9551
hearing to be held at a time as soon as possible after the filing, 9552
but in no event at a time later than the end of the next business 9553
day subsequent to the day on which the petition was filed, and 9554
upon scheduling the hearing, immediately shall notify the owner of 9555
the vehicle, at the address at which notification of the seizure 9556
was provided under division (A) of this section, of the date, 9557
time, and place of the hearing. If the court, at the hearing, 9558
determines that the vehicle or its contents, or both, are needed 9559
as evidence or that additional time is needed for the inspection, 9560
investigation, or gathering of evidence, the court may grant the 9561
petition and issue an order authorizing the retention of the 9562
vehicle or its contents, or both, for an extended period as 9563
specified by the court in its order. An order extending a period 9564
of retention issued under this division may be renewed. 9565

If no petition for the extension of the initial 9566
seventy-two-hour period has been filed, prior to the expiration of 9567
that period, under this division, if the vehicle was not in the 9568
custody and control of the owner at the time of its seizure, and 9569
if, at the end of that seventy-two-hour period, the owner of the 9570
vehicle has not been charged with an offense or administrative 9571
violation that includes the use of the vehicle as an element and 9572
has not been charged with any other offense or administrative 9573
violation in the actual commission of which the motor vehicle was 9574
used, the vehicle and its contents shall be released to its owner 9575
or the owner's agent, provided that the law enforcement agency 9576
that seized the vehicle may require proof of ownership of the 9577
vehicle, proof of ownership or legal possession of the contents, 9578
and an affidavit of the owner that the owner neither knew of nor 9579
expressly or impliedly consented to the use of the vehicle that 9580

resulted in its forfeiture as conditions precedent to release. If 9581
a petition for the extension of the initial seventy-two-hour 9582
period has been filed, prior to the expiration of that period, 9583
under this division but the court does not grant the petition, if 9584
the vehicle was not in the custody and control of the owner at the 9585
time of its seizure, and if, at the end of that seventy-two-hour 9586
period, the owner of the vehicle has not been charged with an 9587
offense or administrative violation that includes the use of the 9588
vehicle as an element and has not been charged with any other 9589
offense or administrative violation in the actual commission of 9590
which the motor vehicle was used, the vehicle and its contents 9591
shall be released to its owner or the owner's agent, provided that 9592
the court may require the proof and affidavit described in the 9593
preceding sentence as conditions precedent to release. If the 9594
initial seventy-two-hour period has been extended under this 9595
division, the vehicle and its contents to which the extension 9596
applies may be retained in accordance with the extension order. 9597
If, at the end of that extended period, the owner of the vehicle 9598
has not been charged with an offense or administrative violation 9599
that includes the use of the vehicle as an element and has not 9600
been charged with any other offense or administrative violation in 9601
the actual commission of which the motor vehicle was used, and if 9602
the vehicle was not in the custody and control of the owner at the 9603
time of its seizure, the vehicle and its contents shall be 9604
released to its owner or the owner's agent, provided that the 9605
court may require the proof and affidavit described in the third 9606
preceding sentence as conditions precedent to release. In cases in 9607
which the court may require proof and affidavits as conditions 9608
precedent to release, the court also may require the posting of a 9609
bond, with sufficient sureties approved by the court, in an amount 9610
equal to the value of the property to be released, as determined 9611
by the court, and conditioned upon the return of the property to 9612
the court if it is forfeited under this section, as a further 9613

condition to release. If, at the end of the initial 9614
seventy-two-hour period or at the end of any extended period 9615
granted under this section, the owner has been charged with an 9616
offense or administrative violation that includes the use of the 9617
vehicle as an element or has been charged with another offense or 9618
administrative violation in the actual commission of which the 9619
motor vehicle was used, or if the vehicle was in the custody and 9620
control of the owner at the time of its seizure, the vehicle and 9621
its contents shall be retained pending disposition of the charge, 9622
provided that upon the filing of a motion for release by the 9623
owner, if the court determines that the motor vehicle or its 9624
contents, or both, are not needed as evidence in the underlying 9625
criminal case or administrative proceeding, the court may permit 9626
the release of the property that is not needed as evidence to the 9627
owner; as a condition precedent to a release of that nature, the 9628
court may require the owner to execute a bond with the court. Any 9629
bond so required shall be in an amount equal to the value of the 9630
property to be released, as determined by the court, shall have 9631
sufficient sureties approved by the court, and shall be 9632
conditioned upon the return of the property to the court to which 9633
it is forfeited under this section. 9634

The final disposition of a motor vehicle seized pursuant to 9635
division (A)(1) of this section shall be determined in accordance 9636
with division (C) of this section. 9637

(2) Pending a hearing pursuant to division (C) of this 9638
section, and subject to divisions (B)(1) and (C) of this section, 9639
any property lawfully seized pursuant to division (A) of this 9640
section because it was contraband of a type described in division 9641
(A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 9642
2901.01 of the Revised Code shall not be subject to replevin or 9643
other action in any court and shall not be subject to release upon 9644
request of the owner, and no judgment shall be enforced against 9645

the property. Pending the hearing, and subject to divisions (B)(1) 9646
and (C) of this section, the property shall be kept in the custody 9647
of the law enforcement agency responsible for its seizure. 9648

Pending a hearing pursuant to division (C) of this section, 9649
and notwithstanding any provisions of division (B)(1) or (C) of 9650
this section to the contrary, any property lawfully seized 9651
pursuant to division (A) of this section because it was contraband 9652
of a type described in division (A)(13)(a) or (c) of section 9653
2901.01 of the Revised Code shall not be subject to replevin or 9654
other action in any court and shall not be subject to release upon 9655
request of the owner, and no judgment shall be enforced against 9656
the property. Pending the hearing, and notwithstanding any 9657
provisions of division (B)(1) or (C) of this section to the 9658
contrary, the property shall be kept in the custody of the law 9659
enforcement agency responsible for its seizure. 9660

A law enforcement agency that seizes property under division 9661
(A) of this section because it was contraband of any type 9662
described in division (A)(13) of section 2901.01 or division (B) 9663
of section 2933.42 of the Revised Code shall maintain an accurate 9664
record of each item of property so seized, which record shall 9665
include the date on which each item was seized, the manner and 9666
date of its disposition, and if applicable, the name of the person 9667
who received the item; however, the record shall not identify or 9668
enable the identification of the individual officer who seized the 9669
item. The record of property of that nature that no longer is 9670
needed as evidence shall be open to public inspection during the 9671
agency's regular business hours. Each law enforcement agency that, 9672
during any calendar year, seizes property under division (A) of 9673
this section because it was contraband shall prepare a report 9674
covering the calendar year that cumulates all of the information 9675
contained in all of the records kept by the agency pursuant to 9676
this division for that calendar year, and shall send a copy of the 9677

cumulative report, no later than the first day of March in the 9678
calendar year following the calendar year covered by the report, 9679
to the attorney general. Each report received by the attorney 9680
general is a public record open for inspection under section 9681
149.43 of the Revised Code. Not later than the fifteenth day of 9682
April in the calendar year in which the reports are received, the 9683
attorney general shall send to the president of the senate and the 9684
speaker of the house of representatives a written notification 9685
that does all of the following: 9686

(a) Indicates that the attorney general has received from law 9687
enforcement agencies reports of the type described in this 9688
division that cover the previous calendar year and indicates that 9689
the reports were received under this division; 9690

(b) Indicates that the reports are open for inspection under 9691
section 149.43 of the Revised Code; 9692

(c) Indicates that the attorney general will provide a copy 9693
of any or all of the reports to the president of the senate or the 9694
speaker of the house of representatives upon request. 9695

(C) The prosecuting attorney, village solicitor, city 9696
director of law, or similar chief legal officer who has 9697
responsibility for the prosecution of the underlying criminal case 9698
or administrative proceeding, or the attorney general if the 9699
attorney general has that responsibility, shall file a petition 9700
for the forfeiture, to the seizing law enforcement agency of the 9701
contraband seized pursuant to division (A) of this section. The 9702
petition shall be filed in the court that has jurisdiction over 9703
the underlying criminal case or administrative proceeding involved 9704
in the forfeiture. If the property was seized on the basis of both 9705
a criminal violation and an administrative regulation violation, 9706
the petition shall be filed by the officer and in the court that 9707
is appropriate in relation to the criminal case. 9708

The petitioner shall conduct or cause to be conducted a 9709
search of the appropriate public records that relate to the seized 9710
property for the purpose of determining, and shall make or cause 9711
to be made reasonably diligent inquiries for the purpose of 9712
determining, any person having an ownership or security interest 9713
in the property. The petitioner then shall give notice of the 9714
forfeiture proceedings by personal service or by certified mail, 9715
return receipt requested, to any persons known, because of the 9716
conduct of the search, the making of the inquiries, or otherwise, 9717
to have an ownership or security interest in the property, and 9718
shall publish notice of the proceedings once each week for two 9719
consecutive weeks in a newspaper of general circulation in the 9720
county in which the seizure occurred. The notices shall be 9721
personally served, mailed, and first published at least four weeks 9722
before the hearing. They shall describe the property seized; state 9723
the date and place of seizure; name the law enforcement agency 9724
that seized the property and, if applicable, that is holding the 9725
property; list the time, date, and place of the hearing; and state 9726
that any person having an ownership or security interest in the 9727
property may contest the forfeiture. 9728

If the property seized was determined by the seizing law 9729
enforcement officer to be contraband because of its relationship 9730
to an underlying criminal offense or administrative violation, no 9731
forfeiture hearing shall be held under this section unless the 9732
person pleads guilty to or is convicted of the commission of, or 9733
an attempt or conspiracy to commit, the offense or a different 9734
offense arising out of the same facts and circumstances or unless 9735
the person admits or is adjudicated to have committed the 9736
administrative violation or a different violation arising out of 9737
the same facts and circumstances; a forfeiture hearing shall be 9738
held in a case of that nature no later than forty-five days after 9739
the conviction or the admission or adjudication of the violation, 9740

unless the time for the hearing is extended by the court for good
cause shown. The owner of any property seized because of its
relationship to an underlying criminal offense or administrative
violation may request the court to release the property to the
owner. Upon receipt of a request of that nature, if the court
determines that the property is not needed as evidence in the
underlying criminal case or administrative proceeding, the court
may permit the release of the property to the owner. As a
condition precedent to a release of that nature, the court may
require the owner to execute a bond with the court. Any bond so
required shall have sufficient sureties approved by the court,
shall be in a sum equal to the value of the property, as
determined by the court, and shall be conditioned upon the return
of the property to the court if the property is forfeited under
this section. Any property seized because of its relationship to
an underlying criminal offense or administrative violation shall
be returned to its owner if charges are not filed in relation to
that underlying offense or violation within thirty days after the
seizure, if charges of that nature are filed and subsequently are
dismissed, or if charges of that nature are filed and the person
charged does not plead guilty to and is not convicted of the
offense or does not admit and is not found to have committed the
violation.

If the property seized was determined by the seizing law
enforcement officer to be contraband other than because of a
relationship to an underlying criminal offense or administrative
violation, the forfeiture hearing under this section shall be held
no later than forty-five days after the seizure, unless the time
for the hearing is extended by the court for good cause shown.

Where possible, a court holding a forfeiture hearing under
this section shall follow the Rules of Civil Procedure. When a
hearing is conducted under this section, property shall be

forfeited upon a showing, by a preponderance of the evidence, by 9773
the petitioner that the person from which the property was seized 9774
was in violation of division (A) of section 2933.42 of the Revised 9775
Code. If that showing is made, the court shall issue an order of 9776
forfeiture. If an order of forfeiture is issued in relation to 9777
contraband that was released to the owner or the owner's agent 9778
pursuant to this division or division (B)(1) of this section, the 9779
order shall require the owner to deliver the property, by a 9780
specified date, to the law enforcement agency that employed the 9781
law enforcement officer who made the seizure of the property, and 9782
the court shall deliver a copy of the order to the owner or send a 9783
copy of it by certified mail, return receipt requested, to the 9784
owner at the address to which notice of the seizure was given 9785
under division (A)(2) of this section. Except as otherwise 9786
provided in this division, all rights, interest, and title to the 9787
forfeited contraband vests in the state, effective from the date 9788
of seizure. 9789

No property shall be forfeited pursuant to this division if 9790
the owner of the property establishes, by a preponderance of the 9791
evidence, that the owner neither knew, nor should have known after 9792
a reasonable inquiry, that the property was used, or was likely to 9793
be used, in a crime or administrative violation. No bona fide 9794
security interest shall be forfeited pursuant to this division if 9795
the holder of the interest establishes, by a preponderance of the 9796
evidence, that the holder of the interest neither knew, nor should 9797
have known after a reasonable inquiry, that the property was used, 9798
or likely to be used, in a crime or administrative violation, that 9799
the holder of the interest did not expressly or impliedly consent 9800
to the use of the property in a crime or administrative violation, 9801
and that the security interest was perfected pursuant to law prior 9802
to the seizure. If the holder of the interest satisfies the court 9803
that these requirements are met, the interest shall be preserved 9804

by the court. In a case of that nature, the court shall either
order that the agency to which the property is forfeited reimburse
the holder of the interest to the extent of the preserved interest
or order that the holder be paid for the interest from the
proceeds of any sale pursuant to division (D) of this section.

(D)(1) Contraband ordered forfeited pursuant to this section
shall be disposed of pursuant to divisions (D)(1) to (7) of
section 2933.41 of the Revised Code or, if the contraband is not
described in those divisions, may be used, with the approval of
the court, by the law enforcement agency that has custody of the
contraband pursuant to division (D)(8) of that section. In the
case of contraband not described in any of those divisions and of
contraband not disposed of pursuant to any of those divisions, the
contraband shall be sold in accordance with this division or, in
the case of forfeited moneys, disposed of in accordance with this
division. If the contraband is to be sold, the prosecuting
attorney shall cause a notice of the proposed sale of the
contraband to be given in accordance with law, and the property
shall be sold, without appraisal, at a public auction to the
highest bidder for cash. The proceeds of a sale and forfeited
moneys shall be applied in the following order:

(a) First, to the payment of the costs incurred in connection
with the seizure of, storage of, maintenance of, and provision of
security for the contraband, the forfeiture proceeding, and, if
any, the sale;

(b) Second, the remaining proceeds or forfeited moneys after
compliance with division (D)(1)(a) of this section, to the payment
of the balance due on any security interest preserved pursuant to
division (C) of this section;

(c) Third, the remaining proceeds or forfeited moneys after
compliance with divisions (D)(1)(a) and (b) of this section, as

follows:

9836

(i) If the forfeiture was ordered in a juvenile court, ten 9837
per cent to one or more alcohol and drug addiction treatment 9838
programs that are certified by the department of alcohol and drug 9839
addiction services under section 3793.06 of the Revised Code and 9840
that are specified in the order of forfeiture. A juvenile court 9841
shall not certify an alcohol or drug addiction treatment program 9842
in the order of forfeiture unless the program is a certified 9843
alcohol and drug addiction treatment program and, except as 9844
provided in division (D)(1)(c)(i) of this section, unless the 9845
program is located in the county in which the court that orders 9846
the forfeiture is located or in a contiguous county. If no 9847
certified alcohol and drug addiction treatment program is located 9848
in any of those counties, the juvenile court may specify in the 9849
order a certified alcohol and drug addiction treatment program 9850
located anywhere within this state. 9851

(ii) If the forfeiture was ordered in a juvenile court, 9852
ninety per cent, and if the forfeiture was ordered in a court 9853
other than a juvenile court, one hundred per cent to the law 9854
enforcement trust fund of the prosecuting attorney and to the law 9855
enforcement trust fund of the county sheriff if the county sheriff 9856
made the seizure to the law enforcement trust fund of a 9857
municipal corporation if its police department made the seizure to 9858
to the law enforcement trust fund of a township if the seizure was 9859
made by a township police department, township police district 9860
police force, or office of a township constable to the law 9861
enforcement trust fund of a park district created pursuant to 9862
section 511.18 or 1545.01 of the Revised Code if the seizure was 9863
made by the park district police force or law enforcement 9864
department to the highway patrol state contraband, forfeiture, 9865
and other fund if the state highway patrol made the seizure to 9866
the division of forestry law enforcement contraband, forfeiture, 9867

and other fund if the division of forestry in the department of 9868
natural resources made the seizure, to the division of natural 9869
areas and preserves law enforcement contraband, forfeiture, and 9870
other fund if the division of natural areas and preserves in that 9871
department made the seizure, to the division of wildlife law 9872
enforcement contraband, forfeiture, and other fund if the division 9873
of wildlife in that department made the seizure, to the division 9874
of parks and recreation law enforcement contraband, forfeiture, 9875
and other fund if the division of parks and recreation in that 9876
department made the seizure, or to the division of watercraft law 9877
enforcement contraband, forfeiture, and other fund if the division 9878
of watercraft in that department made the seizure; to the 9879
department of public safety investigative unit contraband, 9880
forfeiture, and other fund if the investigative unit of the 9881
department of public safety made the seizure; to the department 9882
of taxation enforcement fund if the department of taxation made 9883
the seizure; to the board of pharmacy drug law enforcement fund 9884
created by division (B)(1) of section 4729.65 of the Revised Code 9885
if the board made the seizure; or to the treasurer of state for 9886
deposit into the peace officer training commission fund if a state 9887
law enforcement agency, other than the state highway patrol, the 9888
division of forestry, natural areas and preserves, wildlife, parks 9889
and recreation, or watercraft in the department of natural 9890
resources, the investigative unit of the department of public 9891
safety, the enforcement division of the department of taxation, or 9892
the state board of pharmacy, made the seizure. The prosecuting 9893
attorney may decline to accept any of the remaining proceeds or 9894
forfeited moneys, and, if the prosecuting attorney so declines, 9895
the remaining proceeds or forfeited moneys shall be applied to the 9896
fund described in this division that relates to the law 9897
enforcement agency that made the seizure. 9898

A law enforcement trust fund shall be established by the 9899
prosecuting attorney of each county who intends to receive any 9900

remaining proceeds or forfeited moneys pursuant to this division, 9901
by the sheriff of each county, by the legislative authority of 9902
each municipal corporation, by the board of township trustees of 9903
each township that has a township police department, township 9904
police district police force, or office of the constable, and by 9905
the board of park commissioners of each park district created 9906
pursuant to section 511.18 or 1545.01 of the Revised Code that has 9907
a park district police force or law enforcement department, for 9908
the purposes of this division. There is hereby created in the 9909
state treasury the highway patrol state contraband, forfeiture, 9910
and other fund; the division of forestry law enforcement 9911
contraband, forfeiture, and other fund; the division of natural 9912
areas and preserves law enforcement contraband, forfeiture, and 9913
other fund; the division of wildlife law enforcement contraband, 9914
forfeiture, and other fund; the division of parks and recreation 9915
law enforcement contraband, forfeiture, and other fund; the 9916
division of watercraft law enforcement contraband, forfeiture, and 9917
other fund; the department of public safety investigative unit 9918
contraband, forfeiture, and other fund; the department of 9919
taxation enforcement fund; and the peace officer training 9920
commission fund, for the purposes described in this division. 9921

Proceeds or forfeited moneys distributed to any municipal 9922
corporation, township, or park district law enforcement trust fund 9923
shall be allocated from the fund by the legislative authority only 9924
to the police department of the municipal corporation, by the 9925
board of township trustees only to the township police department, 9926
township police district police force, or office of the constable, 9927
and by the board of park commissioners only to the park district 9928
police force or law enforcement department. 9929

Additionally, no proceeds or forfeited moneys shall be 9930
allocated to or used by the state highway patrol, the division of 9931
forestry, natural areas and preserves, wildlife, parks and 9932

recreation, or watercraft in the department of natural resources, 9933
the department of public safety, the department of taxation, the 9934
state board of pharmacy, or a county sheriff, prosecuting 9935
attorney, municipal corporation police department, township police 9936
department, township police district police force, office of the 9937
constable, or park district police force or law enforcement 9938
department unless the state highway patrol, division of forestry, 9939
natural areas and preserves, wildlife, parks and recreation, or 9940
watercraft in the department of natural resources, department of 9941
public safety, department of taxation, state board of pharmacy, 9942
sheriff, prosecuting attorney, municipal corporation police 9943
department, township police department, township police district 9944
police force, office of the constable, or park district police 9945
force or law enforcement department has adopted a written internal 9946
control policy under division (D)(3) of this section that 9947
addresses the use of moneys received from the highway patrol state 9948
contraband, forfeiture, and other fund; the division of forestry 9949
law enforcement contraband, forfeiture, and other fund; the 9950
division of natural areas and preserves law enforcement 9951
contraband, forfeiture, and other fund; the division of wildlife 9952
law enforcement contraband, forfeiture, and other fund; the 9953
division of parks and recreation law enforcement contraband, 9954
forfeiture, and other fund; the division of watercraft law 9955
enforcement contraband, forfeiture, and other fund; the department 9956
of public safety investigative unit contraband, forfeiture, and 9957
other fund; i the department of taxation enforcement fund; i the 9958
board of pharmacy drug law enforcement fund; i or the appropriate 9959
law enforcement trust fund. 9960

The highway patrol state contraband, forfeiture, and other 9961
fund; i the division of forestry law enforcement contraband, 9962
forfeiture, and other fund; the division of natural areas and 9963
preserves law enforcement contraband, forfeiture, and other fund; 9964
the division of wildlife law enforcement contraband, forfeiture, 9965

and other fund; the division of parks and recreation law 9966
enforcement contraband, forfeiture, and other fund; the division 9967
of watercraft law enforcement contraband, forfeiture, and other 9968
fund; the department of public safety investigative unit 9969
contraband, forfeiture, and other fund₇; the department of 9970
taxation enforcement fund₇; and a law enforcement trust fund shall 9971
be expended only in accordance with the written internal control 9972
policy so adopted by the recipient, and, subject to the 9973
requirements specified in division (D)(3)(a)(ii) of this section, 9974
only to pay the costs of protracted or complex investigations or 9975
prosecutions, to provide reasonable technical training or 9976
expertise, to provide matching funds to obtain federal grants to 9977
aid law enforcement, in the support of DARE programs or other 9978
programs designed to educate adults or children with respect to 9979
the dangers associated with the use of drugs of abuse, to pay the 9980
costs of emergency action taken under section 3745.13 of the 9981
Revised Code relative to the operation of an illegal 9982
methamphetamine laboratory if the forfeited property or money 9983
involved was that of a person responsible for the operation of the 9984
laboratory, or for other law enforcement purposes that the 9985
superintendent of the state highway patrol, division of forestry, 9986
natural areas and preserves, wildlife, parks and recreation, or 9987
watercraft in the department of natural resources, department of 9988
public safety, department of taxation, prosecuting attorney, 9989
county sheriff, legislative authority, board of township trustees, 9990
or board of park commissioners determines to be appropriate. The 9991
board of pharmacy drug law enforcement fund shall be expended only 9992
in accordance with the written internal control policy so adopted 9993
by the board and only in accordance with section 4729.65 of the 9994
Revised Code, except that it also may be expended to pay the costs 9995
of emergency action taken under section 3745.13 of the Revised 9996
Code relative to the operation of an illegal methamphetamine 9997
laboratory if the forfeited property or money involved was that of 9998

a person responsible for the operation of the laboratory. The 9999
highway patrol state contraband, forfeiture, and other fund; the 10000
division of forestry law enforcement contraband, forfeiture, and 10001
other fund; the division of natural areas and preserves law 10002
enforcement contraband, forfeiture, and other fund; the division 10003
of wildlife law enforcement contraband, forfeiture, and other 10004
fund; the division of parks and recreation law enforcement 10005
contraband, forfeiture, and other fund; the division of watercraft 10006
law enforcement contraband, forfeiture, and other fund; the 10007
department of public safety investigative unit contraband, 10008
forfeiture, and other fund; the department of taxation 10009
enforcement fund; the board of pharmacy drug law enforcement 10010
fund; and a law enforcement trust fund shall not be used to meet 10011
the operating costs of the state highway patrol, of the division 10012
of forestry, natural areas and preserves, wildlife, parks and 10013
recreation, or watercraft in the department of natural resources, 10014
of the investigative unit of the department of public safety, of 10015
the department of taxation enforcement division, of the state 10016
board of pharmacy, of any political subdivision, or of any office 10017
of a prosecuting attorney or county sheriff that are unrelated to 10018
law enforcement. In addition, the division of forestry, natural 10019
areas and preserves, wildlife, parks and recreation, or watercraft 10020
in the department of natural resources shall not use the division 10021
of forestry law enforcement contraband, forfeiture, and other 10022
fund; the division of natural areas and preserves law enforcement 10023
contraband, forfeiture, and other fund; the division of wildlife 10024
law enforcement contraband, forfeiture, and other fund; the 10025
division of parks and recreation law enforcement contraband, 10026
forfeiture, and other fund; or the division of watercraft law 10027
enforcement contraband, forfeiture, and other fund to pay the 10028
salaries of employees of the applicable division or to provide for 10029
any other remuneration of personnel. 10030

Proceeds and forfeited moneys that are paid into the state 10031

treasury to be deposited into the peace officer training 10032
commission fund shall be used by the commission only to pay the 10033
costs of peace officer training. 10034

Any sheriff or prosecuting attorney who receives proceeds or 10035
forfeited moneys pursuant to this division during any calendar 10036
year shall file a report with the county auditor, no later than 10037
the thirty-first day of January of the next calendar year, 10038
verifying that the proceeds and forfeited moneys were expended 10039
only for the purposes authorized by this division and division 10040
(D)(3)(a)(ii) of this section and specifying the amounts expended 10041
for each authorized purpose. ~~Any~~ 10042

Any municipal corporation police department that is allocated 10043
proceeds or forfeited moneys from a municipal corporation law 10044
enforcement trust fund pursuant to this division during any 10045
calendar year shall file a report with the legislative authority 10046
of the municipal corporation, no later than the thirty-first day 10047
of January of the next calendar year, verifying that the proceeds 10048
and forfeited moneys were expended only for the purposes 10049
authorized by this division and division (D)(3)(a)(ii) of this 10050
section and specifying the amounts expended for each authorized 10051
purpose. ~~Any~~ 10052

Any township police department, township police district 10053
police force, or office of the constable that is allocated 10054
proceeds or forfeited moneys from a township law enforcement trust 10055
fund pursuant to this division during any calendar year shall file 10056
a report with the board of township trustees of the township, no 10057
later than the thirty-first day of January of the next calendar 10058
year, verifying that the proceeds and forfeited moneys were 10059
expended only for the purposes authorized by this division and 10060
division (D)(3)(a)(ii) of this section and specifying the amounts 10061
expended for each authorized purpose. ~~Any~~ 10062

Any park district police force or law enforcement department 10063
that is allocated proceeds or forfeited moneys from a park 10064
district law enforcement trust fund pursuant to this division 10065
during any calendar year shall file a report with the board of 10066
park commissioners of the park district, no later than the 10067
thirty-first day of January of the next calendar year, verifying 10068
that the proceeds and forfeited moneys were expended only for the 10069
purposes authorized by this division and division (D)(3)(a)(ii) of 10070
this section and specifying the amounts expended for each 10071
authorized purpose. ~~The~~ 10072

The superintendent of the state highway patrol shall file a 10073
report with the attorney general, no later than the thirty-first 10074
day of January of each calendar year, verifying that proceeds and 10075
forfeited moneys paid into the highway patrol state contraband, 10076
forfeiture, and other fund pursuant to this division during the 10077
prior calendar year were used by the state highway patrol during 10078
the prior calendar year only for the purposes authorized by this 10079
division and specifying the amounts expended for each authorized 10080
purpose. ~~The~~ 10081

The chiefs of the divisions of forestry, natural areas and 10082
preserves, wildlife, parks and recreation, and watercraft in the 10083
department of natural resources each shall file a report with the 10084
attorney general, not later than the thirty-first day of January 10085
of each calendar year, verifying that proceeds and forfeited 10086
moneys paid into the division of forestry law enforcement 10087
contraband, forfeiture, and other fund, the division of natural 10088
areas and preserves law enforcement contraband, forfeiture, and 10089
other fund, the division of wildlife law enforcement contraband, 10090
forfeiture, and other fund, the division of parks and recreation 10091
law enforcement contraband, forfeiture, and other fund, and the 10092
division of watercraft law enforcement contraband, forfeiture, and 10093
other fund, respectively, pursuant to this division during the 10094

prior calendar year were used by the appropriate division in the 10095
department of natural resources during the prior calendar year 10096
only for the purposes authorized by this division and specifying 10097
the amounts expended for each authorized purpose. 10098

The executive director of the state board of pharmacy shall 10099
file a report with the attorney general, no later than the 10100
thirty-first day of January of each calendar year, verifying that 10101
proceeds and forfeited moneys paid into the board of pharmacy drug 10102
law enforcement fund during the prior calendar year were used only 10103
in accordance with section 4729.65 of the Revised Code and 10104
specifying the amounts expended for each authorized purpose. ~~The~~ 10105

The peace officer training commission shall file a report 10106
with the attorney general, no later than the thirty-first day of 10107
January of each calendar year, verifying that proceeds and 10108
forfeited moneys paid into the peace officer training commission 10109
fund pursuant to this division during the prior calendar year were 10110
used by the commission during the prior calendar year only to pay 10111
the costs of peace officer training and specifying the amount used 10112
for that purpose. 10113

The tax commissioner shall file a report with the attorney 10114
general, not later than the thirty-first day of January of each 10115
calendar year, verifying that proceeds and forfeited moneys paid 10116
into the department of taxation enforcement fund pursuant to this 10117
division during the prior calendar year were used by the 10118
enforcement division during the prior calendar year to pay only 10119
the costs of enforcing the tax laws and specifying the amount used 10120
for that purpose. 10121

(2) If more than one law enforcement agency is substantially 10122
involved in the seizure of contraband that is forfeited pursuant 10123
to this section, the court ordering the forfeiture shall equitably 10124
divide the proceeds or forfeited moneys, after calculating any 10125

distribution to the law enforcement trust fund of the prosecuting attorney pursuant to division (D)(1)(c) of this section, among any county sheriff whose office is determined by the court to be substantially involved in the seizure, any legislative authority of a municipal corporation whose police department is determined by the court to be substantially involved in the seizure, any board of township trustees whose law enforcement agency is determined by the court to be substantially involved in the seizure, any board of park commissioners of a park district whose police force or law enforcement department is determined by the court to be substantially involved in the seizure, the state board of pharmacy if it is determined by the court to be substantially involved in the seizure, the division of forestry, natural areas and preserves, wildlife, parks and recreation, or watercraft in the department of natural resources if it is determined by the court to be substantially involved in the seizure, the investigative unit of the department of public safety if it is determined by the court to be substantially involved in the seizure, the enforcement division of the department of taxation if it is determined by the court to be substantially involved in the seizure and the state highway patrol if it is determined by the court to be substantially involved in the seizure. The proceeds or forfeited moneys shall be deposited in the respective law enforcement trust funds of the county sheriff, municipal corporation, township, and park district; the board of pharmacy drug law enforcement fund; the division of forestry law enforcement contraband, forfeiture, and other fund; the division of natural areas and preserves law enforcement contraband, forfeiture, and other fund; the division of wildlife law enforcement contraband, forfeiture, and other fund; the division of parks and recreation law enforcement contraband, forfeiture, and other fund; the division of watercraft law enforcement contraband, forfeiture, and other fund; the department of public

safety investigative unit contraband, forfeiture, and other fund_{7i} 10159
the department of taxation enforcement fund_{7i} or the highway 10160
patrol state contraband, forfeiture, and other fund, in accordance 10161
with division (D)(1)(c) of this section. If a state law 10162
enforcement agency, other than the state highway patrol, the 10163
investigative unit of the department of public safety, the 10164
department of taxation, the division of forestry, natural areas 10165
and preserves, wildlife, parks and recreation, or watercraft in 10166
the department of natural resources, or the state board of 10167
pharmacy, is determined by the court to be substantially involved 10168
in the seizure, the state agency's equitable share of the proceeds 10169
and forfeited moneys shall be paid to the treasurer of state for 10170
deposit into the peace officer training commission fund. 10171

(3)(a)(i) Prior to being allocated or using any proceeds or 10172
forfeited moneys out of the highway patrol state contraband, 10173
forfeiture, and other fund_{7i}; the division of forestry law 10174
enforcement contraband, forfeiture, and other fund; the division 10175
of natural areas and preserves law enforcement contraband, 10176
forfeiture, and other fund; the division of wildlife law 10177
enforcement contraband, forfeiture, and other fund; the division 10178
of parks and recreation law enforcement contraband, forfeiture, 10179
and other fund; the division of watercraft law enforcement 10180
contraband, forfeiture, and other fund; the department of public 10181
safety investigative unit contraband, forfeiture, and other fund_{7i} 10182
the department of taxation enforcement fund_{7i} the board of 10183
pharmacy drug law enforcement fund_{7i} or a law enforcement trust 10184
fund under division (D)(1)(c) of this section, the state highway 10185
patrol, the division of forestry, natural areas and preserves, 10186
wildlife, parks and recreation, or watercraft in the department of 10187
natural resources, the department of public safety, the department 10188
of taxation, the state board of pharmacy, and a county sheriff, 10189
prosecuting attorney, municipal corporation police department, 10190
township police department, township police district police force, 10191

office of the constable, or park district police force or law 10192
enforcement department shall adopt a written internal control 10193
policy that addresses the state highway patrol's, division of 10194
forestry's, division of natural areas and preserves', division of 10195
wildlife's, division of parks and recreation's, division of 10196
watercraft's, department of public safety's, department of 10197
taxation's, state board of pharmacy's, sheriff's, prosecuting 10198
attorney's, police department's, police force's, office of the 10199
constable's, or law enforcement department's use and disposition 10200
of all the proceeds and forfeited moneys received and that 10201
provides for the keeping of detailed financial records of the 10202
receipts of the proceeds and forfeited moneys, the general types 10203
of expenditures made out of the proceeds and forfeited moneys, the 10204
specific amount of each general type of expenditure, and the 10205
amounts, portions, and programs described in division 10206
(D)(3)(a)(ii) of this section. The policy shall not provide for or 10207
permit the identification of any specific expenditure that is made 10208
in an ongoing investigation. 10209

All financial records of the receipts of the proceeds and 10210
forfeited moneys, the general types of expenditures made out of 10211
the proceeds and forfeited moneys, the specific amount of each 10212
general type of expenditure by the state highway patrol, by the 10213
division of forestry, natural areas and preserves, wildlife, parks 10214
and recreation, or watercraft in the department of natural 10215
resources, by the department of public safety, by the department 10216
of taxation, by the state board of pharmacy, and by a sheriff, 10217
prosecuting attorney, municipal corporation police department, 10218
township police department, township police district police force, 10219
office of the constable, or park district police force or law 10220
enforcement department, and the amounts, portions, and programs 10221
described in division (D)(3)(a)(ii) of this section are public 10222
records open for inspection under section 149.43 of the Revised 10223
Code. Additionally, a written internal control policy adopted 10224

under this division is a public record of that nature, and the 10225
state highway patrol, the division of forestry, natural areas and 10226
preserves, wildlife, parks and recreation, or watercraft in the 10227
department of natural resources, the department of public safety, 10228
the department of taxation, the state board of pharmacy, or the 10229
sheriff, prosecuting attorney, municipal corporation police 10230
department, township police department, township police district 10231
police force, office of the constable, or park district police 10232
force or law enforcement department that adopted it shall comply 10233
with it. 10234

(ii) The written internal control policy of a county sheriff, 10235
prosecuting attorney, municipal corporation police department, 10236
township police department, township police district police force, 10237
office of the constable, or park district police force or law 10238
enforcement department shall provide that at least ten per cent of 10239
the first one hundred thousand dollars of proceeds and forfeited 10240
moneys deposited during each calendar year in the sheriff's, 10241
prosecuting attorney's, municipal corporation's, township's, or 10242
park district's law enforcement trust fund pursuant to division 10243
(B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of 10244
section 2925.44 of the Revised Code, and at least twenty per cent 10245
of the proceeds and forfeited moneys exceeding one hundred 10246
thousand dollars that are so deposited, shall be used in 10247
connection with community preventive education programs. The 10248
manner in which the described percentages are so used shall be 10249
determined by the sheriff, prosecuting attorney, department, 10250
police force, or office of the constable after the receipt and 10251
consideration of advice on appropriate community preventive 10252
education programs from the county's board of alcohol, drug 10253
addiction, and mental health services, from the county's alcohol 10254
and drug addiction services board, or through appropriate 10255
community dialogue. The financial records described in division 10256
(D)(3)(a)(i) of this section shall specify the amount of the 10257

proceeds and forfeited moneys deposited during each calendar year 10258
in the sheriff's, prosecuting attorney's, municipal corporation's, 10259
township's, or park district's law enforcement trust fund pursuant 10260
to division (B)(7)(c)(ii) of section 2923.46 or division 10261
(B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion 10262
of that amount that was used pursuant to the requirements of this 10263
division, and the community preventive education programs in 10264
connection with which the portion of that amount was so used. 10265

As used in this division, "community preventive education 10266
programs" includes, but is not limited to, DARE programs and other 10267
programs designed to educate adults or children with respect to 10268
the dangers associated with the use of drugs of abuse. 10269

(b) Each sheriff, prosecuting attorney, municipal corporation 10270
police department, township police department, township police 10271
district police force, office of the constable, or park district 10272
police force or law enforcement department that receives in any 10273
calendar year any proceeds or forfeited moneys out of a law 10274
enforcement trust fund under division (D)(1)(c) of this section or 10275
uses any proceeds or forfeited moneys in its law enforcement trust 10276
fund in any calendar year shall prepare a report covering the 10277
calendar year that cumulates all of the information contained in 10278
all of the public financial records kept by the sheriff, 10279
prosecuting attorney, municipal corporation police department, 10280
township police department, township police district police force, 10281
office of the constable, or park district police force or law 10282
enforcement department pursuant to division (D)(3)(a) of this 10283
section for that calendar year, and shall send a copy of the 10284
cumulative report, no later than the first day of March in the 10285
calendar year following the calendar year covered by the report, 10286
to the attorney general. 10287

The superintendent of the state highway patrol shall prepare 10288
a report covering each calendar year in which the state highway 10289

patrol uses any proceeds or forfeited moneys in the highway patrol 10290
state contraband, forfeiture, and other fund under division 10291
(D)(1)(c) of this section, that cumulates all of the information 10292
contained in all of the public financial records kept by the state 10293
highway patrol pursuant to division (D)(3)(a) of this section for 10294
that calendar year, and shall send a copy of the cumulative 10295
report, no later than the first day of March in the calendar year 10296
following the calendar year covered by the report, to the attorney 10297
general. 10298

The chiefs of the divisions of forestry, natural areas and 10299
preserves, wildlife, parks and recreation, and watercraft in the 10300
department of natural resources each shall prepare a report 10301
covering each calendar year in which the division of forestry, 10302
natural areas and preserves, wildlife, parks and recreation, or 10303
watercraft in the department of natural resources, respectively, 10304
uses any proceeds or forfeited moneys in the division of forestry 10305
contraband, forfeiture, and other fund, the division of natural 10306
areas and preserves law enforcement contraband, forfeiture, and 10307
other fund, the division of wildlife law enforcement contraband, 10308
forfeiture, and other fund, the division of parks and recreation 10309
law enforcement contraband, forfeiture, and other fund, or the 10310
division of watercraft law enforcement contraband, forfeiture, and 10311
other fund, respectively, under division (D)(1)(c) of this section 10312
that cumulates all of the information contained in all of the 10313
public financial records kept by the appropriate division of the 10314
department of natural resources pursuant to division (D)(3)(a) of 10315
this section for that calendar year and shall send a copy of the 10316
cumulative report, not later than the first day of March in the 10317
calendar year following the calendar year covered by the report, 10318
to the attorney general. 10319

The department of public safety shall prepare a report 10320
covering each fiscal year in which the department uses any 10321

proceeds or forfeited moneys in the department of public safety 10322
investigative unit contraband, forfeiture, and other fund under 10323
division (D)(1)(c) of this section that cumulates all of the 10324
information contained in all of the public financial records kept 10325
by the department pursuant to division (D)(3)(a) of this section 10326
for that fiscal year. The department shall send a copy of the 10327
cumulative report to the attorney general no later than the first 10328
day of August in the fiscal year following the fiscal year covered 10329
by the report. The director of public safety shall include in the 10330
report a verification that proceeds and forfeited moneys paid into 10331
the department of public safety investigative unit contraband, 10332
forfeiture, and other fund under division (D)(1)(c) of this 10333
section during the preceding fiscal year were used by the 10334
department during that fiscal year only for the purposes 10335
authorized by that division and shall specify the amount used for 10336
each authorized purpose. 10337

The tax commissioner shall prepare a report covering each 10338
calendar year in which the department of taxation enforcement 10339
division uses any proceeds or forfeited moneys in the department 10340
of taxation enforcement fund under division (D)(1)(c) of this 10341
section, that cumulates all of the information contained in all of 10342
the public financial records kept by the department of taxation 10343
enforcement division pursuant to division (D)(3)(a) of this 10344
section for that calendar year, and shall send a copy of the 10345
cumulative report, not later than the first day of March in the 10346
calendar year following the calendar year covered by the report, 10347
to the attorney general. 10348

The executive director of the state board of pharmacy shall 10349
prepare a report covering each calendar year in which the board 10350
uses any proceeds or forfeited moneys in the board of pharmacy 10351
drug law enforcement fund under division (D)(1)(c) of this 10352
section, that cumulates all of the information contained in all of 10353

the public financial records kept by the board pursuant to 10354
division (D)(3)(a) of this section for that calendar year, and 10355
shall send a copy of the cumulative report, no later than the 10356
first day of March in the calendar year following the calendar 10357
year covered by the report, to the attorney general. ~~Each~~ 10358

Each report received by the attorney general is a public 10359
record open for inspection under section 149.43 of the Revised 10360
Code. Not later than the fifteenth day of April in the calendar 10361
year in which the reports are received, the attorney general shall 10362
send to the president of the senate and the speaker of the house 10363
of representatives a written notification that does all of the 10364
following: 10365

(i) Indicates that the attorney general has received from 10366
entities or persons specified in this division reports of the type 10367
described in this division that cover the previous calendar year 10368
and indicates that the reports were received under this division; 10369

(ii) Indicates that the reports are open for inspection under 10370
section 149.43 of the Revised Code; 10371

(iii) Indicates that the attorney general will provide a copy 10372
of any or all of the reports to the president of the senate or the 10373
speaker of the house of representatives upon request. 10374

(4)(a) A law enforcement agency that receives pursuant to 10375
federal law proceeds from a sale of forfeited contraband, proceeds 10376
from another disposition of forfeited contraband, or forfeited 10377
contraband moneys shall deposit, use, and account for the proceeds 10378
or forfeited moneys in accordance with, and otherwise comply with, 10379
the applicable federal law. 10380

(b)(i) If the state highway patrol receives from the United 10381
States department of justice pursuant to federal law proceeds from 10382
a sale of forfeited contraband, proceeds from another disposition 10383
of forfeited contraband, or forfeited contraband moneys, the 10384

appropriate governmental officials shall deposit the proceeds into 10385
the highway patrol justice contraband fund, which is hereby 10386
created in the state treasury. All interest or other earnings 10387
derived from the investment of the proceeds or forfeited moneys 10388
shall be credited to the fund. The state highway patrol shall use 10389
and account for that interest or other earnings in accordance with 10390
the applicable federal law. 10391

(ii) If the state highway patrol receives from the United 10392
States department of the treasury pursuant to federal law proceeds 10393
from a sale of forfeited contraband, proceeds from another 10394
disposition of forfeited contraband, or forfeited contraband 10395
moneys, the appropriate governmental officials shall deposit the 10396
proceeds into the highway patrol treasury contraband fund, which 10397
is hereby created in the state treasury. All interest or other 10398
earnings derived from the investment of the proceeds or forfeited 10399
moneys shall be credited to the fund. The state highway patrol 10400
shall use and account for that interest or other earnings in 10401
accordance with the applicable federal law. 10402

(c) If the chief of the division of forestry, natural areas 10403
and preserves, wildlife, parks and recreation, or watercraft in 10404
the department of natural resources receives pursuant to federal 10405
law proceeds from a sale of forfeited contraband, proceeds from 10406
another disposition of forfeited contraband, or forfeited 10407
contraband moneys, the appropriate government officials shall 10408
deposit into the division of forestry law enforcement contraband, 10409
forfeiture, and other fund, the division of natural areas and 10410
preserves law enforcement contraband, forfeiture, and other fund, 10411
the division of wildlife law enforcement contraband, forfeiture, 10412
and other fund, the division of parks and recreation law 10413
enforcement contraband, forfeiture, and other fund, or the 10414
division of watercraft law enforcement contraband, forfeiture, and 10415
other fund, as appropriate, all interest or other earnings derived 10416

from the investment of the proceeds or forfeited moneys. The 10417
appropriate division shall use and account for that interest or 10418
other earnings in accordance with the applicable federal law. 10419

(d) If the investigative unit of the department of public 10420
safety receives pursuant to federal law proceeds from a sale of 10421
forfeited contraband, proceeds from another disposition of 10422
forfeited contraband, or forfeited contraband moneys, the 10423
appropriate governmental officials shall deposit the proceeds into 10424
the department of public safety investigative unit federal 10425
equitable share account fund, which is hereby created in the state 10426
treasury. All interest or other earnings derived from the 10427
investment of the proceeds or forfeited moneys shall be credited 10428
to the fund. The department shall use and account for that 10429
interest or other earnings in accordance with the applicable 10430
federal law. 10431

~~(d)~~(e) If the tax commissioner receives pursuant to federal 10432
law proceeds from a sale of forfeited contraband, proceeds from 10433
another disposition of forfeited contraband, or forfeited 10434
contraband moneys, the appropriate governmental officials shall 10435
deposit into the department of taxation enforcement fund all 10436
interest or other earnings derived from the investment of the 10437
proceeds or forfeited moneys. The department shall use and account 10438
for that interest or other earnings in accordance with the 10439
applicable federal law. 10440

~~(e)~~(f) Divisions (D)(1) to (3) of this section do not apply 10441
to proceeds or forfeited moneys received pursuant to federal law 10442
or to the interest or other earnings that are derived from the 10443
investment of proceeds or forfeited moneys received pursuant to 10444
federal law and that are described in division (D)(4)(b) of this 10445
section. 10446

(E) Upon the sale pursuant to this section of any property 10447
that is required to be titled or registered under law, the state 10448

shall issue an appropriate certificate of title or registration to 10449
the purchaser. If the state is vested with title pursuant to 10450
division (C) of this section and elects to retain property that is 10451
required to be titled or registered under law, the state shall 10452
issue an appropriate certificate of title or registration. 10453

(F) Notwithstanding any provisions of this section to the 10454
contrary, any property that is lawfully seized in relation to a 10455
violation of section 2923.32 of the Revised Code shall be subject 10456
to forfeiture and disposition in accordance with sections 2923.32 10457
to 2923.36 of the Revised Code; any property that is forfeited 10458
pursuant to section 2923.44 or 2923.45 of the Revised Code in 10459
relation to a violation of section 2923.42 of the Revised Code or 10460
in relation to an act of a juvenile that is a violation of section 10461
2923.42 of the Revised Code may be subject to forfeiture and 10462
disposition in accordance with sections 2923.44 to 2923.47 of the 10463
Revised Code; and any property that is forfeited pursuant to 10464
section 2925.42 or 2925.43 of the Revised Code in relation to a 10465
felony drug abuse offense, as defined in section 2925.01 of the 10466
Revised Code, or in relation to an act that, if committed by an 10467
adult, would be a felony drug abuse offense of that nature, may be 10468
subject to forfeiture and disposition in accordance with sections 10469
2925.41 to 2925.45 of the Revised Code or this section. 10470

(G) Any failure of a law enforcement officer or agency, a 10471
prosecuting attorney, village solicitor, city director of law, or 10472
similar chief legal officer, a court, or the attorney general to 10473
comply with any duty imposed by this section in relation to any 10474
property seized or with any other provision of this section in 10475
relation to any property seized does not affect the validity of 10476
the seizure of the property, provided that the seizure itself was 10477
made in accordance with law, and is not and shall not be 10478
considered to be the basis for the suppression of any evidence 10479
resulting from the seizure of the property, provided that the 10480

seizure itself was made in accordance with law. 10481

(H) Contraband that has been forfeited pursuant to division 10482
(C) of this section shall not be available for use to pay any fine 10483
imposed upon a person who is convicted of or pleads guilty to an 10484
underlying criminal offense or a different offense arising out of 10485
the same facts and circumstances. 10486

Sec. 4115.04. (A)(1) Every public authority authorized to 10487
contract for or construct with its own forces a public 10488
improvement, before advertising for bids or undertaking such 10489
construction with its own forces, shall have the director of 10490
commerce determine the prevailing rates of wages of mechanics and 10491
laborers in accordance with section 4115.05 of the Revised Code 10492
for the class of work called for by the public improvement, in the 10493
locality where the work is to be performed. ~~Such~~ Except as 10494
provided in division (A)(2) of this section, that schedule of 10495
wages shall be attached to and made part of the specifications for 10496
the work, and shall be printed on the bidding blanks where the 10497
work is done by contract. A copy of the bidding blank shall be 10498
filed with the director before ~~such~~ the contract is awarded. A 10499
minimum rate of wages for common laborers, on work coming under 10500
the jurisdiction of the department of transportation, shall be 10501
fixed in each county of the state by ~~said~~ the department of 10502
transportation, in accordance with section 4115.05 of the Revised 10503
Code. 10504

(2) In the case of contracts that are administered by the 10505
department of natural resources, the director of natural resources 10506
or the director's designee shall include language in the contracts 10507
requiring wage rate determinations and updates to be obtained 10508
directly from the department of commerce through electronic or 10509
other means as appropriate. Contracts that include this 10510
requirement are exempt from the requirements established in 10511

division (A)(1) of this section that involve attaching the 10512
schedule of wages to the specifications for the work, making the 10513
schedule part of those specifications, and printing the schedule 10514
on the bidding blanks where the work is done by contract. 10515

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 10516
apply to: 10517

(1) Public improvements in any case where the federal 10518
government or any of its agencies furnishes by loan or grant all 10519
or any part of the funds used in constructing such improvements, 10520
provided that the federal government or any of its agencies 10521
prescribes predetermined minimum wages to be paid to mechanics and 10522
laborers employed in the construction of such improvements; 10523

(2) A participant in a work activity, developmental activity, 10524
or an alternative work activity under sections 5107.40 to 5107.69 10525
of the Revised Code when a public authority directly uses the 10526
labor of the participant to construct a public improvement if the 10527
participant is not engaged in paid employment or subsidized 10528
employment pursuant to the activity; 10529

(3) Public improvements undertaken by, or under contract for, 10530
the board of education of any school district or the governing 10531
board of any educational service center; 10532

(4) Public improvements undertaken by, or under contract for, 10533
a county hospital operated pursuant to Chapter 339. of the Revised 10534
Code or a municipal hospital operated pursuant to Chapter 749. of 10535
the Revised Code if none of the funds used in constructing the 10536
improvements are the proceeds of bonds or other obligations ~~which~~ 10537
that are secured by the full faith and credit of the state, a 10538
county, a township, or a municipal corporation and none of the 10539
funds used in constructing the improvements, including funds used 10540
to repay any amounts borrowed to construct the improvements, are 10541
funds that have been appropriated for that purpose by the state, a 10542

board of county commissioners, a township, or a municipal 10543
corporation from funds generated by the levy of a tax~~+~~, provided~~+~~ 10544
~~however~~, that a county hospital or municipal hospital may elect to 10545
apply sections 4115.03 to 4115.16 of the Revised Code to a public 10546
improvement undertaken by, or under contract for, the hospital. 10547

Sec. 5577.081. (A) Except when transferring unfinished 10548
aggregate material between facilities that are under the control 10549
of the same owner or operator that is subject to Chapter 1514. of 10550
the Revised Code or when unloading or loading finished aggregate 10551
product within a ten-mile radius of a surface mining operation 10552
that is permitted and regulated under that chapter, all vehicles 10553
entering or leaving such an operation that have a gross vehicle 10554
weight as defined in division (JJ) of section 4501.01 of the 10555
Revised Code that is in excess of sixty-six thousand pounds shall 10556
use the specific roads designated pursuant to sections 303.14 and 10557
303.141 or 519.14 and 519.141 of the Revised Code as the primary 10558
means of ingress to and egress from the facilities or operation. 10559

(B) The owner or operator of a surface mining operation that 10560
is permitted under Chapter 1514. of the Revised Code and that is 10561
subject to the use of specific roads as the primary means of 10562
ingress to and egress from the operation pursuant to sections 10563
303.14 and 303.141 or 519.14 and 519.141 of the Revised Code shall 10564
post a sign in a conspicuous location to inform the drivers of 10565
trucks entering and leaving the operation of the roads to use as 10566
the primary means of ingress to and egress from the operation. 10567

(C)(1) Whoever violates this section shall receive a written 10568
warning in such a manner that it becomes a part of the person's 10569
permanent record that is maintained by the bureau of motor 10570
vehicles and assists in monitoring violations of this section. 10571

(2) A person who commits a second offense within one year 10572
after committing the first offense is guilty of a minor 10573

| | |
|---|-------|
| <u>misdemeanor.</u> | 10574 |
| <u>(3) A person who commits a third or subsequent offense within</u> | 10575 |
| <u>one year after committing the first offense is guilty of a</u> | 10576 |
| <u>misdemeanor of the fourth degree.</u> | 10577 |
| <u>(D) Fine money that is collected under division (C) of this</u> | 10578 |
| <u>section shall be deposited in the state treasury to the credit of</u> | 10579 |
| <u>the surface mining fund created in section 1514.06 of the Revised</u> | 10580 |
| <u>Code.</u> | 10581 |
| Sec. 5749.02. (A) For the purpose of providing revenue to | 10582 |
| administer the state's coal mining and reclamation regulatory | 10583 |
| program, to meet the environmental and resource management needs | 10584 |
| of this state, and to reclaim land affected by mining, an excise | 10585 |
| tax is hereby levied on the privilege of engaging in the severance | 10586 |
| of natural resources from the soil or water of this state. The tax | 10587 |
| shall be imposed upon the severer and shall be: | 10588 |
| (1) Seven <u>Ten and six-tenths</u> cents per ton of coal; | 10589 |
| (2) Four cents per ton of salt; | 10590 |
| (3) Two cents per ton of limestone or dolomite; | 10591 |
| (4) Two cents per ton of sand and gravel; | 10592 |
| (5) Ten cents per barrel of oil; | 10593 |
| (6) Two and one-half cents per thousand cubic feet of natural | 10594 |
| gas; | 10595 |
| (7) One cent per ton of clay, sandstone or conglomerate, | 10596 |
| shale, gypsum, or quartzite; | 10597 |
| <u>(8) Except as otherwise provided in this division or in rules</u> | 10598 |
| <u>adopted by the reclamation forfeiture fund advisory board under</u> | 10599 |
| <u>section 1513.182 of the Revised Code, an additional fourteen cents</u> | 10600 |
| <u>per ton of coal produced from an area under a coal mining and</u> | 10601 |
| <u>reclamation permit issued under Chapter 1513. of the Revised Code</u> | 10602 |

for which the performance security is provided under division 10603
(C)(2) of section 1513.08 of the Revised Code. If at the end of a 10604
fiscal biennium the balance of the reclamation forfeiture fund 10605
created in section 1513.18 of the Revised Code is equal to or 10606
greater than ten million dollars, the rate levied shall be twelve 10607
cents per ton. If at the end of a fiscal biennium the balance of 10608
the fund is equal to five million dollars, but less than ten 10609
million dollars, the rate levied shall be fourteen cents per ton. 10610
If at the end of a fiscal biennium the balance of the fund is less 10611
than five million dollars, the rate levied shall be sixteen cents 10612
per ton. 10613

(B) Of the moneys received by the treasurer of state from the 10614
tax levied in division (A)(1) of this section, ~~six and~~ 10615
~~three tenths~~ four and seventy-six-hundredths per cent shall be 10616
credited to the geological mapping fund created in section 1505.09 10617
of the Revised Code, ~~fourteen and two tenths per cent shall be~~ 10618
~~credited to the reclamation forfeiture fund created in section~~ 10619
~~1513.18 of the Revised Code, fifty seven and nine tenths~~ eighty 10620
and ninety-five-hundredths per cent shall be credited to the coal 10621
mining administration and reclamation reserve fund created in 10622
section 1513.181 of the Revised Code, and ~~the remainder~~ fourteen 10623
and twenty-nine-hundredths per cent shall be credited to the 10624
unreclaimed lands fund created in section 1513.30 of the Revised 10625
Code. ~~When, at any time during a fiscal year, the chief of the~~ 10626
~~division of mineral resources management finds that the balance of~~ 10627
~~the coal mining administration and reclamation reserve fund is~~ 10628
~~below two million dollars, the chief shall certify that fact to~~ 10629
~~the director of budget and management. Upon receipt of the chief's~~ 10630
~~certification, the director shall direct the tax commissioner to~~ 10631
~~instead credit to the coal mining administration and reclamation~~ 10632
~~reserve fund during the remainder of the fiscal year for which the~~ 10633
~~certification is made the fourteen and two tenths per cent of the~~ 10634

~~moneys collected from the tax levied in division (A)(1) of this section and otherwise required by this division to be credited to the reclamation forfeiture fund.~~

10635
10636
10637

Fifteen per cent of the moneys received by the treasurer of state from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund and the remainder shall be credited to the unreclaimed lands fund.

10638
10639
10640
10641

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining fund created in section 1514.06 of the Revised Code.

10642
10643
10644
10645
10646
10647
10648

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

10649
10650
10651
10652
10653
10654
10655
10656

All of the moneys received by the treasurer of state from the tax levied in division (A)(8) of this section shall be credited to the reclamation forfeiture fund.

10657
10658
10659

~~(C) For the purpose of paying the state's expenses for reclaiming mined lands that the operator failed to reclaim under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code, or under a surface mining permit issued under Chapter 1514. of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation,~~

10660
10661
10662
10663
10664
10665

~~there is hereby levied an excise tax on the privilege of engaging 10666
in the severance of coal from the soil or water of this state in 10667
addition to the taxes levied by divisions (A)(1) and (D) of this 10668
section. The tax shall be imposed at the rate of one cent per ton 10669
of coal. Moneys received by the treasurer of state from the tax 10670
levied under this division shall be credited to the reclamation 10671
forfeiture fund created in section 1513.18 of the Revised Code. 10672~~

~~(D) For the purpose of paying the state's expenses for 10673
reclaiming coal mined lands that the operator failed to reclaim in 10674
accordance with Chapter 1513. of the Revised Code under a coal 10675
mining and reclamation permit issued after April 10, 1972, but 10676
before September 1, 1981, for which the operator's bond is not 10677
sufficient to pay the state's expense for reclamation and paying 10678
the expenses for administering the state's coal mining and 10679
reclamation regulatory program, there is hereby levied an excise 10680
tax on the privilege of engaging in the severance of coal from the 10681
soil or water of this state in addition to the taxes levied by 10682
divisions (A)(1) and (C) of this section. The tax shall be imposed 10683
at the rate of one cent per ton of coal as prescribed in this 10684
division. Moneys received by the treasurer of state from the tax 10685
levied by this division shall be credited to the reclamation 10686
forfeiture fund created in section 1513.18 of the Revised Code. 10687~~

When, at the close of any fiscal year, the chief finds that 10688
the balance of the reclamation forfeiture fund, plus estimated 10689
transfers to it from the coal mining administration and 10690
reclamation reserve fund under section 1513.181 of the Revised 10691
Code, plus the estimated revenues from the tax levied by ~~this~~ 10692
division (A)(8) of this section for the remainder of the calendar 10693
year that includes the close of the fiscal year, are sufficient to 10694
complete the reclamation of ~~such~~ lands for which the performance 10695
security has been provided under division (C)(2) of section 10696
1513.08 of the Revised Code, the purposes for which the tax under 10697

~~this~~ division (A)(8) of this section is levied shall be deemed 10698
accomplished at the end of that calendar year. The chief, within 10699
thirty days after the close of the fiscal year, shall certify 10700
those findings to the tax commissioner, and the tax levied under 10701
division (A)(8) of this section shall cease to be imposed after 10702
the last day of that calendar year on coal produced from an area 10703
under a coal mining and reclamation permit issued under Chapter 10704
1513. of the Revised Code if the permittee has made tax payments 10705
under division (A)(8) of this section during each of the preceding 10706
five full calendar years. 10707

Sec. 5749.11. (A) There is hereby allowed a nonrefundable 10708
credit against the taxes imposed under division (A)(8) of section 10709
5749.02 of the Revised Code for any severer to which a reclamation 10710
tax credit certificate is issued under section 1513.171 of the 10711
Revised Code. The credit shall be claimed in the amount shown on 10712
the certificate. The credit shall be claimed by deducting the 10713
amount of the credit from the amount of the first tax payment due 10714
under section 5749.06 of the Revised Code after the certificate is 10715
issued. If a certificate is transferred under division (B) of this 10716
section, the credit shall be claimed by the transferee by 10717
deducting the amount of the credit from the amount of the 10718
transferee's first tax payment due after the certificate is 10719
transferred. 10720

If the amount of the credit shown on a certificate exceeds 10721
the amount of the tax otherwise due with that first payment, the 10722
excess shall be claimed against the amount of tax otherwise due on 10723
succeeding payment dates until the entire credit amount has been 10724
deducted. The total amount of credit claimed against payments 10725
shall not exceed the total amount of credit shown on the 10726
certificate. 10727

(B) A severer receiving a reclamation tax credit certificate 10728

issued under section 1513.171 of the Revised Code may transfer the certificate to any other severer that is subject to taxation under division (A)(8) of section 5749.02 of the Revised Code and holds a license or permit issued under or referred to in section 5749.04 of the Revised Code. The transferee of a certificate may transfer the certificate to any other severer that is subject to that tax and holds such a license or permit. A transfer of a certificate shall be made before the due date of the transferor's first tax payment occurring after the certificate is received by the transferor pursuant to issuance of the certificate by the chief of the division of mineral resources management in the department of natural resources or pursuant to a prior transfer.

Transfers may be made for consideration or pursuant to terms agreed to by the transferor and transferee. If a severer transfers a certificate, the severer shall provide to the tax commissioner written notification of the transfer in the form or manner prescribed by the tax commissioner. The notification shall include, at a minimum, the identity of the severer and the number of the certificate issued by the chief of the division of mineral resources management under section 1513.171 of the Revised Code. The tax commissioner shall maintain a record of all transfers of which the commissioner is notified.

(C) A severer claiming a credit under this section shall retain a reclamation tax credit certificate for not less than four years following the date of the last tax payment against which the credit allowed under that certificate was applied. Severers shall make tax credit certificates available for inspection by the tax commissioner upon the tax commissioner's request.

Section 2. That existing sections 123.04, 303.14, 307.37, 519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021,

1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 10760
1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 10761
1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 10762
1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 10763
1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 10764
1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 10765
1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 10766
1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 10767
1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 10768
1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 10769
1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 2923.35, 2933.43, 10770
4115.04, and 5749.02 and sections 1502.11, 1513.10, 1521.08, and 10771
1533.78 of the Revised Code are hereby repealed. 10772

Section 3. It is the intent of the General Assembly to 10773
appropriate five million dollars for the reclamation of land 10774
affected by the surface mining of coal. Of that five million 10775
dollars, not more than fifty thousand dollars shall be used to 10776
study the management of the financial resources of the coal mining 10777
regulatory program of the Division of Mineral Resources Management 10778
in the Department of Natural Resources. The Chief of the Division 10779
of Mineral Resources Management, in consultation with a statewide 10780
association representing the coal mining industry and a statewide 10781
association representing environmental advocacy, shall develop an 10782
outline of the subjects for the study. The Chief shall select an 10783
objective third party that has knowledge in the management of 10784
finances to conduct the study. Upon completion of the study, the 10785
third party shall prepare a report of its findings and submit the 10786
report to the Director of Natural Resources. 10787

Section 4. Not later than five years after the effective date 10788
of this act, the Chief of the Division of Mineral Resources 10789

Management shall submit a report to the Governor summarizing the 10790
activities of the Division of Mineral Resources Management under 10791
sections 1514.40 to 1514.47 of the Revised Code, as enacted by 10792
this act, trends in miner accident rates, and the number and 10793
causes of life-threatening accidents and fatalities since the 10794
effective date of this act. In addition, the report shall compare 10795
those trends and accident rates with the trends and accident rates 10796
that occurred ten years prior to the effective date of this act 10797
and, if necessary, recommend changes to those sections in order to 10798
improve miner health or safety. 10799

Section 5. The amendment of section 1541.40 of the Revised 10800
Code by this act applies to members appointed to the Ohio Parks 10801
and Recreation Council on and after the effective date of this 10802
act. 10803

Section 6. Section 1533.10 of the Revised Code is presented 10804
in this act as a composite of the section as amended by both Am. 10805
Sub. H.B. 66 and H.B. 296 of the 126th General Assembly. Section 10806
1547.54 of the Revised Code is presented in this act as a 10807
composite of the section as amended by both Sub. H.B. 345 and Sub. 10808
S.B. 150 of the 124th General Assembly. The General Assembly, 10809
applying the principle stated in division (B) of section 1.52 of 10810
the Revised Code that amendments are to be harmonized if 10811
reasonably capable of simultaneous operation, finds that the 10812
composites are the resulting versions of the sections in effect 10813
prior to the effective date of the sections as presented in this 10814
act. 10815