

**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**

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

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

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

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

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

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

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

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

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

(4) Compliance with reasonable noise abatement measures; 133

(5) Compliance with reasonable dust abatement measures; 134

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

(7) Establishment of a complaint procedure; 137

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

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

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

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

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

(b) The present condition of each road; 165

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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(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.

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(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.

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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.

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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,

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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
<b>Sec. 1502.12.</b> (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) <del>On behalf of the director, administer Chapter 1520. of</del>	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) <del>(2)</del> <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) <del>(4)</del> <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
<del>(5)</del> <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
<del>(6)</del> <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
<del>(7)</del> <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) <del>(2)</del> <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) <del>(6)</del> (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 2437  
under a permit issued pursuant to this chapter shall be made 2438  
without the written approval of the chief. 2439

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

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

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

(3) If the application is approved, the permit shall be 2461  
issued. If the application is disapproved, specific reasons 2462  
therefor shall be set forth in the notification. Within thirty 2463  
days after the applicant is notified of the final decision of the 2464  
chief on the permit application, the applicant or any person with 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  
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(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  
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(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  
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(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  
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(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  
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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  
aeres 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 coincidence of specific strip mine activities with specific underground mine activities are approved by the chief;	3183 3184 3185
(b) The operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.	3186 3187 3188
(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;	3189 3190 3191 3192 3193 3194 3195
(14) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;	3196 3197 3198 3199 3200
(15) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the coal mining operations, except that where the applicant proposes to combine strip mining operations with underground mining operations to ensure maximum practical recovery of the mineral resources, the chief may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation if:	3201 3202 3203 3204 3205 3206 3207 3208 3209 3210
(a) The chief finds in writing that:	3211
(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground	3212 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  
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(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  
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(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 out slopes 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  
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(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 <del>bond</del> <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  
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(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  
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(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  
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(1) A procedure that the chief shall use to determine the amount of the credit issued under this section; 3759  
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(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  
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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  
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**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.

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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:

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

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(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.

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~~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.~~

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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.

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~~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  
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(F)(1) If the chief makes a finding of fact that land or water resources have been adversely affected by past coal mining practices; the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent the adverse effects should be taken; the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known or are not readily available; or the owners will not give permission for the state, political subdivisions, or their agents, employees, or contractors to enter upon the property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices; then, upon giving notice by mail to the owners, if known, or, if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipal corporation or county in which the land lies, the chief or the chief's agents, employees, or contractors may enter upon the property adversely affected by past coal mining practices and any other property to have access to the property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The entry shall be construed as an exercise of the police power for the protection of the public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor of trespass on it. The moneys expended for the work and the benefits accruing to any such premises so entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry, but this provision is not intended to create new rights of action or eliminate existing immunities. 4390  
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(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 section against the property of any person who owned the surface prior to May 2, 1977, and did not consent to, participate in, or exercise control over the mining operation that necessitated the reclamation performed.

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

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

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

which the lien is recorded shall record the lien as having been 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.

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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.

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(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.

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(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

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immunities.

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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.

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

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(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

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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 4731  
established by the fluctuations of water and indicated by physical 4732  
characteristics such as a natural line impressed on the bank; 4733  
shelving; changes in the character of soil; destruction of 4734  
terrestrial vegetation; the presence of litter and debris; or 4735  
other appropriate means that consider the characteristics of the 4736  
surrounding area. 4737

(M) "In-stream mining" means all or any part of a process 4738  
followed in the production of minerals from the bottom of the 4739  
channel of a watercourse that drains a surface area of more than 4740  
one hundred square miles. "In-stream mining" may be accomplished 4741  
by using any technique or by using surface excavation methods, 4742  
such as open pit mining, dredging, placering, or quarrying, and 4743  
includes the removal of overburden for the purpose of determining 4744  
the location, quantity, or quality of mineral deposits. "In-stream 4745  
mining" does not include either of the following: 4746

(1) Routine dredging for purely navigational or flood control 4747  
purposes during which materials are removed for noncommercial 4748  
purposes; 4749

(2) The extraction of minerals, other than coal, by a 4750  
landowner for the landowner's own noncommercial use when the 4751  
material is extracted and used in an unprocessed form on the same 4752  
tract of land. 4753

For purposes of division (M) of this section, the number of 4754  
square miles of surface area that a watercourse drains shall be 4755  
determined by consulting the "gazetteer of Ohio streams," which is 4756  
a portion of the Ohio water plan inventory published in 1960 by 4757  
the division of water in the department of natural resources, or 4758  
its successor, if any. 4759

(N) In provisions concerning in-stream mining, when the 4760  
context is appropriate, "land" is deemed to include an area of a 4761

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.

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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.

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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

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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 4949  
repayment of the certificate of deposit. 4950

(C) Immediately upon a deposit of cash, a letter of credit, 4951  
or certificates with the chief, the chief shall deliver it to the 4952  
treasurer of state who shall hold it in trust for the purposes for 4953  
which it has been deposited. The treasurer of state shall be 4954  
responsible for the safekeeping of such deposits. An operator 4955  
making a deposit of cash, a letter of credit, or certificates of 4956  
deposit may withdraw and receive from the treasurer of state, on 4957  
the written order of the chief, all or any part of the cash, 4958  
letter of credit, or certificates in the possession of the 4959  
treasurer of state, upon depositing with the treasurer of state 4960  
cash, an irrevocable letter of credit, or negotiable certificates 4961  
of deposit issued by any bank organized or transacting business in 4962  
this state, or an irrevocable letter of credit or certificates of 4963  
deposit issued by any savings and loan association, equal in value 4964  
to the value of the cash, letter of credit, or certificates 4965  
withdrawn. An operator may demand and receive from the treasurer 4966  
of state all interest or other income from any certificates as it 4967  
becomes due. If certificates deposited with and in the possession 4968  
of the treasurer of state mature or are called for payment by the 4969  
issuer thereof, the treasurer of state, at the request of the 4970  
operator who deposited them, shall convert the proceeds of the 4971  
redemption or payment of the certificates into such other 4972  
negotiable certificates of deposit issued by any bank organized or 4973  
transacting business in this state, such other certificates of 4974  
deposit issued by any savings and loan association, or cash, as 4975  
may be designated by the operator. 4976

(D) A governmental agency, as defined in division (A) of 4977  
section 1514.022 of the Revised Code, or a board or commission 4978  
that derives its authority from a governmental agency shall not 4979  
require a surface or in-stream mining operator to file a surety 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 5170  
receipt thereof, or fails to begin work within thirty days of the 5171  
day it timely notifies the chief of its decision to perform its 5172  
obligation and that of the operator, the chief shall issue an 5173  
order terminating the right of the surety to perform the work and 5174  
demanding payment of the amount due, as required by this chapter. 5175

Upon receipt of an order of the chief demanding payment of 5176  
the amount due, the surety immediately shall deposit with the 5177  
chief cash in the full amount due under the order for deposit with 5178  
the treasurer of state. If the surety fails to make an immediate 5179  
deposit, the chief shall certify it to the attorney general for 5180  
collection. When the chief has issued an order terminating the 5181  
right of the surety and has the cash on deposit, the cash is the 5182  
property of the state and is available for use by the chief, who 5183  
shall proceed in accordance with section 1514.06 of the Revised 5184  
Code. 5185

Sec. 1514.051. (A) If an operator or a partner or officer of 5186  
the operator forfeits a performance bond, the division of mineral 5187  
resources management shall have a priority lien in front of all 5188  
other interested creditors against the assets of that operator for 5189  
the amount that is needed to perform any reclamation that is 5190  
required as a result of the operator's mining activities. The 5191  
chief of the division of mineral resources management shall file a 5192  
statement in the office of the county recorder of each county in 5193  
which the mined land lies of the estimated costs to reclaim the 5194  
land. Estimated costs shall include direct and indirect costs of 5195  
the development, design, construction, management, and 5196  
administration of the reclamation. The statement shall constitute 5197  
a lien on the assets of the operator as of the date of the filing. 5198  
The lien shall continue in force so long as any portion of the 5199  
lien remains unpaid or until the chief issues a certificate of 5200



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  
reclaim. 5272  
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 issued pursuant to this section. 5512  
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**Sec. 1514.44.** If during an inspection conducted under section 1514.41 of the Revised Code or a safety audit conducted under section 1514.42 of the Revised Code, the chief of the division of mineral resources management finds a condition or practice at a surface mining operation that could reasonably be expected to cause the death of or imminent serious physical harm to an employee of the operation, the chief immediately shall issue orders to safeguard the employees, notify the operator of the condition or practice, and require the operator to abate the condition or practice within a reasonable period of time. In all such situations, the chief may require the operation to cease in the area in which the condition or practice is occurring or may require the entire operation to cease, if necessary, until the condition or practice that could reasonably be expected to cause death or serious physical harm is eliminated. 5514  
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The chief shall complete a report that describes the condition or practice and the action taken to eliminate it. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation. 5529  
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**Sec. 1514.45.** The chief of the division of mineral resources management annually shall conduct a safety performance evaluation of all surface mining operations in the state in accordance with rules. The operator of a surface mining operation shall provide to the chief a copy of the notification of legal identity required under 30 C.F.R. part 41, as amended, at the same time that the notice is filed with the mine safety and health administration in 5534  
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the United States department of labor.

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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.

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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.

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(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.

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(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

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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  
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- (C) Formulate policies for the dedication of areas as nature preserves; 5758  
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- (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  
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- (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  
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- (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  
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- (G) Provide interpretive programs and publish and disseminate 5786

information pertaining to nature preserves and natural areas for their visitation and use;	5787 5788
(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;	5789 5790 5791
(I) Establish an appropriate system for marking nature preserves;	5792 5793
(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.	5794 5795 5796 5797
<b>Sec. 1517.10.</b> (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.	5798 5799
(B)(1) Any person selected by the chief of the division of natural areas and preserves for custodial or patrol service on the lands and waters operated or administered by the division shall be employed in conformity with the law applicable to the classified civil service of the state. Subject to division (C) of this section, the chief may designate that person as a preserve officer. A preserve officer, in any nature preserve, in any natural area owned or managed through easement, license, or lease by the department of natural resources and administered by the division, and on lands owned or managed through easement, license, or lease by the department and administered by the division that are within or adjacent to any wild, scenic, or recreational river area established under this chapter and along any trail established under Chapter 1519. of the Revised Code, has the authority specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and	5800 5801 5802 5803 5804 5805 5806 5807 5808 5809 5810 5811 5812 5813 5814 5815 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  
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(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  
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(R) "Conservancy district" means a conservancy district established under Chapter 6101. of the Revised Code. 6160  
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~~(Q)~~(S) "Park board" means the board of park commissioners of a park district created under Chapter 1545. of the Revised Code. 6162  
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~~(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  
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**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  
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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  
with the rules and provide the inspection report to the dam owner  
who shall submit it to the chief. A dam that is designated under  
the rules for inspection by a registered professional engineer,  
but that is not inspected within a five-year period may be  
inspected by the chief at the owner's expense.

(C) Intervals between periodic inspections shall be  
determined by the chief, but shall not exceed five years.

(D) In the case of a dam,~~dike~~, or levee that the chief  
inspects, the chief shall furnish a report of the inspection to  
the owner of the dam,~~dike~~, or levee. With regard to a dam,~~dike~~,  
or levee that has been inspected, either by the chief or by a  
registered professional engineer, and that is the subject of an  
inspection report prepared or received by the chief, the chief  
shall inform the owner of any required repairs, maintenance,  
investigations, and other remedial and operational measures. The  
chief shall order the owner to perform such repairs, maintenance,  
investigations, or other remedial or operational measures as the  
chief considers necessary to safeguard life, health, or property.  
The order shall permit the owner a reasonable time in which to  
perform the needed repairs, maintenance, investigations, or other  
remedial measures, and the cost thereof shall be borne by the  
owner. All orders of the chief are subject to appeal as provided  
in Chapter 119. of the Revised Code. The attorney general, upon  
written request of the chief, may bring an action for an  
injunction against any person who violates this section or to  
enforce an order of the chief made pursuant to this section.

(E) The owner of a dam,~~dike~~, or levee shall monitor,  
maintain, and operate the structure and its appurtenances safely  
in accordance with state rules, terms and conditions of permits,  
orders, and other requirements issued pursuant to this section or  
section 1521.06 of the Revised Code. The owner shall fully and

promptly notify the division of water and other responsible 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 facilities that have suffered flood damage or that may be subject to flood damage, the chief may conspicuously mark past and probable flood heights in order to assist in creating public awareness of and knowledge about flood hazards.

(D)(1) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with division (A) of this section and with rules adopted under division (C)(9) of this section.

(2) State agencies shall apply floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one-hundred-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with division (A) of this section, rules adopted under division (C)(9) of this section, and any applicable local floodplain management resolution or ordinance.

(4) Prior to the disbursement of any state disaster assistance money in connection with any incident of flooding to or within a county or municipal corporation that is not listed by the chief as being in compliance under division (D)(1) of section 1521.18 of the Revised Code, a state agency that has authority to disburse such money shall require the county or municipal corporation to establish or reestablish compliance as provided in that division.

(E)(1) Subject to section 1521.18 of the Revised Code, a county or a municipal corporation may do all of the following:

(a) Adopt floodplain maps that reflect the best available

data and that indicate the areas to be regulated under a 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.

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**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.

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**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.

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An action for the forfeiture of any such property shall be ~~commenced~~ initiated by the filing of an affidavit describing the

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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 dollars<sup>7</sup> 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  
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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 <del>all of the following:</del>	8146 8147
<del>(a) Trout and salmon (Onchorhynchus sp., Salmo sp., Salvelinus sp.);</del>	8148 8149
<del>(b) Walleye (Stizostedion vitreum);</del>	8150
<del>(c) Sauger (Stizostedion canadense);</del>	8151
<del>(d) Bluegill (Lepomis macrochirus);</del>	8152
<del>(e) Redear sunfish (Lepomis microlophus);</del>	8153
<del>(f) Green sunfish (Lepomis cyanellus);</del>	8154
<del>(g) White crappie (Pomoxis annularis);</del>	8155
<del>(h) Black crappie (Pomoxis nigromaculatus);</del>	8156
<del>(i) Blue catfish (Ictalurus furcatus);</del>	8157
<del>(j) Any species added by rule under division (B) of this section or listed as commercial fish under section 1531.01 of the Revised Code except white perch (Morone americana) <u>any species designated as such by the chief of the division of wildlife in rules adopted under division (B) of this section.</u></del>	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 <del>of the division of wildlife</del> <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
<b>Sec. 1533.882.</b> 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
<del>(D)</del> <u>(E)</u> Except during the buying season as established by rule adopted pursuant to section 1533.88 of the Revised Code, buy, otherwise acquire, or sell uncertified ginseng;	8310 8311 8312
<del>(E)</del> <u>(F)</u> Fail to keep records as established by rule adopted pursuant to section 1533.88 of the Revised Code;	8313 8314
<del>(F)</del> <u>(G)</u> Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;	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 <del>cabins</del> <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  
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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  
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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  
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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  
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**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  
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(C) No person shall operate a vessel in any area of restricted or controlled operation in violation of the designated restriction. 8596  
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(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  
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(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  
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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  
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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  
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(F) No person shall enter, operate a vessel that enters, or 8624  
allow a vessel to enter a federally declared security zone as 8625  
defined in 33 C.F.R. Chapter I, subparts 6.01-1, 6.01-2, 6.01-3, 8626  
6.01-4, 6.01-5, 6.04-1, 6.04-5, 6.04-6, 6.04-7, and 6.04-8. 8627

(G) No person shall permit any vessel to be operated on the 8628  
waters in this state in violation of this section. 8629

**Sec. 1547.51.** There is hereby created within the department 8630  
of natural resources the division of watercraft. The division 8631  
shall administer and enforce all laws relative to the 8632  
identification, numbering, registration, titling, use, and 8633  
operation of vessels operated on the waters in this state and, 8634  
with the approval of the director of natural resources, educate 8635  
and inform the citizens of the state about, and promote, 8636  
conservation, navigation, safety practices, and the benefits of 8637  
recreational boating. 8638

**Sec. 1547.54.** (A)(1) Except as otherwise provided in section 8639  
1547.542 of the Revised Code, the owner of every watercraft 8640  
requiring registration under this chapter shall file an 8641  
application for a triennial registration certificate with the 8642  
chief of the division of watercraft on forms that shall be 8643  
provided by the chief or by an electronic means approved by the 8644  
chief. The application shall be signed by the following: 8645

(a) If the watercraft is owned by two persons under joint 8646  
ownership with right of survivorship established under section 8647  
2131.12 of the Revised Code, by both of those persons as owners of 8648  
the watercraft. The signatures may be done by electronic signature 8649  
if the owners themselves are renewing the registration and there 8650  
are no changes in the registration information since the issuance 8651  
of the immediately preceding registration certificate. In all 8652  
other instances, the signatures shall be done manually. 8653



(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  
impose. The duration of the work release shall not exceed the time  
necessary each day for the offender to commute to and from the  
place of employment and the place in which the jail term is served  
and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that  
authorizes the suspension of the imposition or execution of a  
sentence or the placement of an offender in any treatment program  
in lieu of being imprisoned or serving a jail term, no court shall  
suspend the mandatory jail term of ten or thirty consecutive days  
required to be imposed by division (G)(2) or (3) of this section  
or place an offender who is sentenced pursuant to division (G)(2)  
or (3) of this section in any treatment program in lieu of being  
imprisoned or serving a jail term until after the offender has  
served the mandatory jail term of ten or thirty consecutive days  
required to be imposed pursuant to division (G)(2) or (3) of this  
section. Notwithstanding any section of the Revised Code that  
authorizes the suspension of the imposition or execution of a  
sentence or the placement of an offender in any treatment program  
in lieu of being imprisoned or serving a jail term, no court,  
except as specifically authorized by division (G)(1) of this  
section, shall suspend the mandatory jail term of three  
consecutive days required to be imposed by division (G)(1) of this  
section or place an offender who is sentenced pursuant to division  
(G)(1) of this section in any treatment program in lieu of  
imprisonment until after the offender has served the mandatory  
jail term of three consecutive days required to be imposed  
pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section, "jail term" and  
"mandatory jail term" have the same meanings as in section 2929.01  
of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is

guilty of a misdemeanor of the fourth degree and also shall be 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.

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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.

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(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.

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(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.

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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

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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 dealer registered under section 1547.543 of the Revised Code, the person shall obtain a physical certificate of title to the watercraft in order to transfer ownership of the watercraft to that person. 9149  
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Sec. 1561.011. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code. 9154  
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Sec. 1563.01. Except for section 1563.11 of the Revised Code, nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code. 9157  
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Sec. 1565.01. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code. 9160  
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Sec. 1567.01. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code. 9163  
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Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or gas engine shall be used in a mine, except for operating pumping machinery where electric, compressed air, or steam power is not available or cannot be transmitted to the pump, in which case the owner, lessee, or agent shall observe the following: 9166  
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(A) Notice shall be given to the chief of the division of mineral resources management, before installing, and the installation and operation shall be subject to the chief's approval. 9171  
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(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 notwithstanding any contrary provision of section 2933.41 of the Revised Code, the prosecuting attorney shall order the disposal of property ordered forfeited in any proceeding under sections 2923.32 and 2923.34 of the Revised Code as soon as feasible, making due provisions for the rights of innocent persons, by any of the following methods:	9299 9300 9301 9302 9303 9304 9305
(a) Transfer to any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code, subject to the limit set forth in division (B)(1) of this section;	9306 9307 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 evidence in any pending criminal or civil proceeding, pursuant to section 2933.41 or any other applicable section of the Revised Code.	9312 9313 9314 9315
(2) Any interest in personal or real property not disposed of pursuant to this division and not exercisable by, or transferable for value to, the state shall expire and shall not revert to the person found guilty of or adjudicated a delinquent child for a violation of section 2923.32 of the Revised Code. No person found guilty of or adjudicated a delinquent child for a violation of that section and no person acting in concert with a person found guilty of or adjudicated a delinquent child for a violation of that section is eligible to purchase forfeited property from the state.	9316 9317 9318 9319 9320 9321 9322 9323 9324 9325
(3) Upon application of a person, other than the defendant, the adjudicated delinquent child, or a person acting in concert	9326 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 fund<sub>7</sub>; the department of 9970  
taxation enforcement fund<sub>7</sub>; 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<sub>7i</sub> 10159  
the department of taxation enforcement fund<sub>7i</sub> 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<sub>7i</sub>; 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<sub>7i</sub> 10182  
the department of taxation enforcement fund<sub>7i</sub> the board of 10183  
pharmacy drug law enforcement fund<sub>7i</sub> 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
<b>Sec. 5749.02.</b> (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) <del>Seven</del> <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.~~

Fifteen per cent of the moneys received by the treasurer of state from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund and the remainder shall be credited to the unreclaimed lands fund.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining fund created in section 1514.06 of the Revised Code.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(8) of this section shall be credited to the reclamation forfeiture fund.

~~(C) For the purpose of paying the state's expenses for reclaiming mined lands that the operator failed to reclaim under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code, or under a surface mining permit issued under Chapter 1514. of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation,~~



~~there is hereby levied an excise tax on the privilege of engaging 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