

**As Reported by the Senate Environment and Natural Resources
Committee**

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

Sub. H. B. No. 443

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

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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
1531.20, 1531.27, 1531.99, 1533.07, 1533.08,	14
1533.09, 1533.10, 1533.11, 1533.12, 1533.131,	15
1533.171, 1533.42, 1533.632, 1533.68, 1533.86,	16
1533.882, 1533.99, 1541.03, 1541.05, 1541.40,	17
1547.05, 1547.08, 1547.51, 1547.54, 1547.541,	18
1547.99, 1548.02, 1567.35, 3734.13, 3745.01,	19
3745.08, 4115.04, 4501.01, and 5749.02; to enact	20
sections 303.141, 519.141, 1501.45, 1513.075,	21

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

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

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

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

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

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

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

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

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

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

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

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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 303.141. 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~~ 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,

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

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

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

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

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

(4) Compliance with reasonable noise abatement measures; 136

(5) Compliance with reasonable dust abatement measures; 137

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

(7) Establishment of a complaint procedure; 140

(8) Any other measure reasonably related to public health and safety. 141
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(B)(1) For purposes of this section and section 519.141 of the Revised Code, and prior to the submission of an application for a conditional zoning certificate, an applicant shall send written notice to the county engineer of the applicant's intent to apply for a conditional zoning certificate. Not later than fourteen days after receipt of the written notice, the county engineer shall establish the time, date, and location of a meeting with the applicant and send written notice of the time, date, and location of the meeting to the applicant and to the fiscal officer of each township in which the proposed activity is to be located or expanded. At the meeting, the applicant shall explain the proposed location of the activity or expansion of an existing activity, the anticipated amount of aggregate material to be shipped by truck from the activity, and the anticipated primary market areas for the finished aggregate products leaving the activity. 143
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Not later than thirty days after the meeting with the applicant, the county engineer shall submit a written recommendation of specific roads to be used as the primary means of ingress to and egress from the proposed activity to the board of county commissioners. In making the recommendation, the county engineer shall consider all of the following: 159
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(a) The ability of each road to handle the anticipated recurring loads resulting from trucks entering and leaving the proposed activity; 165
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(b) The present condition of each road; 168

(c) The amount of residential development that exists along each road; 169
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(d) The most direct route from the proposed activity to a 171

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

section 3781.10 of the Revised Code. 297

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

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

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

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

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

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

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

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

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

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

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

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

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

amendment the board adopts under sections 307.37 to 307.40 of the Revised Code. 392
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(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense. 394
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(E) Regulations or amendments the board adopts pursuant to this section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the regulation or amendment. 398
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(F)(1) The board may create a building department and employ the personnel it determines necessary to administer and enforce any local residential building regulations or existing structures code the board adopts pursuant to this section. The building department may enforce the state residential and nonresidential building codes adopted pursuant to Chapter 3781. of the Revised Code if the building department is certified pursuant to section 3781.10 of the Revised Code to enforce those codes. 403
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(2) The board may direct the building department, upon certification, to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for the class of building for which the department and personnel are certified. 411
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Sec. 519.14. The township board of zoning appeals may: 416

(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto; 417
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(B) Authorize, upon appeal, in specific cases, such variance 422
from the terms of the zoning resolution as will not be contrary to 423
the public interest, where, owing to special conditions, a literal 424
enforcement of the resolution will result in unnecessary hardship, 425
and so that the spirit of the resolution shall be observed and 426
substantial justice done; 427

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

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

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

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

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

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

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

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

(4) Compliance with reasonable noise abatement measures; 481

(5) Compliance with reasonable dust abatement measures; 482

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All such state parks shall be exclusively under the control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 1502.01. As used in this chapter: 972

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

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

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

(I) "Solid waste management districts" means solid waste management districts established under Chapter 343. of the Revised Code. 1012
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(J) "Synthetic rubber" means produced or extended rubber and products made from a synthetic rubber base material originating from petrochemical feedstocks, including scrap tires, tire molds, automobile engine belts, brake pads and hoses, weather stripping, fittings, electrical insulation, and other molded objects and parts. 1015
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Sec. 1502.03. (A) The chief of the division of recycling and litter prevention shall establish and implement statewide ~~waste source~~ reduction, recycling, recycling market development, and litter prevention programs that include all of the following: 1021
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(1) The assessment of waste generation within the state and implementation of ~~waste source~~ reduction practices; 1025
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(2) The implementation of recycling and recycling market development activities and projects, including all of the following: 1027
1028
1029

(a) Collection of recyclables; 1030

(b) Separation of recyclables; 1031

(c) Processing of recyclables; 1032

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

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

(f) Public awareness campaigns to promote recycling; 1037

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

distribute the statewide comprehensive outdoor recreation plan;	1099
and administer the state recreational vehicle fund created in	1100
section 4519.11 of the Revised Code;	1101
(6)(a) Support the geographic information system needs for	1102
the department as requested by the director, which shall include,	1103
but not be limited to, all of the following:	1104
(i) Assisting in the training and education of department	1105
resource managers, administrators, and other staff in the	1106
application and use of geographic information system technology;	1107
(ii) Providing technical support to the department in the	1108
design, preparation of data, and use of appropriate geographic	1109
information system applications in order to help solve resource	1110
related problems and to improve the effectiveness and efficiency	1111
of department delivered services;	1112
(iii) Creating, maintaining, and documenting spatial digital	1113
data bases for the division and for other divisions as assigned by	1114
the director.	1115
(b) Provide information to and otherwise assist government	1116
officials, planners, and resource managers in understanding land	1117
use planning and resource management;	1118
(c) Provide continuing assistance to local government	1119
officials and others in natural resource digital data base	1120
development and in applying and utilizing the geographic	1121
information system for land use planning, current agricultural use	1122
value assessment, development reviews, coastal management, and	1123
other resource management activities;	1124
(d) Coordinate and administer the remote sensing needs of the	1125
department, including the collection and analysis of aerial	1126
photography, satellite data, and other data pertaining to land,	1127
water, and other resources of the state;	1128

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Administer this chapter; 1216

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

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

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

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

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

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

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

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

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

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

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

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

(3) Procedures to refund the assessment. 1262

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

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

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

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

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

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

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

Sec. 1513.01. As used in this chapter: 1314

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

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

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

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

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

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

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

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

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

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

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

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

state, or local highway or other government-financed construction	1373
when approved by the chief;	1374
(c) Coal exploration subject to section 1513.072 of the Revised Code.	1375 1376
(2) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities, and for hauling, and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. Separation by a stream, roadway, or utility easement does not preclude two or more contiguous tracts of land from being considered contiguous.	1377 1378 1379 1380 1381 1382 1383 1384 1385 1386 1387 1388 1389 1390 1391
(I) "Operator" means any person conducting a coal mining operation.	1392 1393
(J) "Overburden" means all of the earth and other materials, except topsoil, covering a natural deposit of coal, and also means such earth and other materials after removal from their natural state in the process of coal mining.	1394 1395 1396 1397
(K) "Permit" means a permit to conduct coal mining and reclamation operations issued by the chief pursuant to section 1513.07 or 1513.074 of the Revised Code.	1398 1399 1400
(L) "Permit area" means the area of land to be affected indicated on the approved map submitted by the operator with the application required by section 1513.07 or 1513.074 of the Revised	1401 1402 1403

Code.	1404
(M) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any political subdivision, instrumentality, or agency of this state or the United States.	1405 1406 1407
(N) "Pollution" means placing any sediments, solids, or waterborne mining related wastes, including, but not limited to, acids, metallic cations, or their salts, in excess of amounts prescribed by the chief into any waters of the state or affecting the properties of any waters of the state in a manner that renders those waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of the waters for domestic water supply, industrial or agricultural purposes, or recreation.	1408 1409 1410 1411 1412 1413 1414 1415
(O) "Prime farmland" has the same meaning as that previously prescribed by the secretary of the United States department of agriculture as published in the federal register on August 23, 1977, or subsequent revisions thereof, on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics and that historically has been used for intensive agricultural purposes, and as published in the rules adopted pursuant to this chapter.	1416 1417 1418 1419 1420 1421 1422 1423 1424
(P) "Reclamation" means backfilling, grading, resoiling, planting, and other work that has the effect of restoring an area of land affected by coal mining so that it may be used for forest growth, grazing, agricultural, recreational, and wildlife purpose, or some other useful purpose of equal or greater value than existed prior to any mining.	1425 1426 1427 1428 1429 1430
(Q) "Spoil bank" means a deposit of removed overburden.	1431
(R) "Steep slope" means any slope above twenty degrees or such lesser slope as may be defined by the chief after considering soil, climate, and other characteristics of a region.	1432 1433 1434

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

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

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

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

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

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

(3) Regularly maintained with public funds;

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

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

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

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

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

(a) To administer and enforce this chapter; 1476

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

for a conventional aggregate, raw material, or soil.	1588
(v) "Pipe bedding aggregate" means the discrete, controlled use of a coal combustion byproduct as a substitute for a conventional aggregate, raw material, or soil under, around, or immediately adjacent to a water, sewer, or other pipeline.	1589 1590 1591 1592
(vi) "Coal-fired electric or steam generation facility" includes any boiler that is fired with coal or with coal in combination with petroleum coke, oil, natural gas, or any other fossil fuel.	1593 1594 1595 1596
(vii) "Solid waste disposal facility" means a facility for the disposal of solid wastes as provided in Chapter 3734. of the Revised Code and rules adopted under it.	1597 1598 1599
(viii) "Disposal system" has the same meaning as in section 6111.01 of the Revised Code.	1600 1601
<u>(8) Establish programs and adopt rules and procedures governing terms, limitations, and conditions for the use of diesel equipment in an underground coal mine.</u>	1602 1603 1604
(B) The chief, by rule, may designate as unsuitable for coal mining natural areas maintained on the registry of natural areas of the department of natural resources pursuant to Chapter 1517. of the Revised Code, wild, scenic, or recreational river areas designated pursuant to that chapter, publicly owned or dedicated parks, and other areas of unique and irreplaceable natural beauty or condition, or areas within specified distances of a public road, occupied dwelling, public building, school, church, community, or institutional building, public park, or cemetery. Such a designation may include land adjacent to the perimeters of those areas that may be necessary to protect their integrity.	1605 1606 1607 1608 1609 1610 1611 1612 1613 1614 1615
(C)(1) The adoption, amendment, and rescission of rules under divisions (A)(1), (4), (5), and (8), (B), and (J) of this	1616 1617

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

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

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

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

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

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

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

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

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

course of the public hearing. 1714

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(i) The permit applicant;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged; 1996
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(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application; 1999
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(l) When requested by the chief, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges; 2013
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(m) Accurate maps prepared by or under the direction of and certified by a qualified registered professional engineer, registered surveyor, or licensed landscape architect to an appropriate scale clearly showing all types of information set forth on topographical maps of the United States geological survey of a scale of not more than four hundred feet to the inch, including all artificial features and significant known archeological sites. The map, among other things specified by the chief, shall show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all 2018
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surface areas abutting the permit area, and the location of all 2028
buildings within one thousand feet of the permit area. 2029

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

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

be sampled, frequency of collection, and parameters to be analyzed 2060
to obtain the statement required. 2061

(o) A statement of the results of test borings or core 2062
samplings from the permit area, including logs of the drill holes, 2063
the thickness of the coal seam found, an analysis of the chemical 2064
properties of the coal, the sulfur content of any coal seam, 2065
chemical analysis of potentially acid or toxic forming sections of 2066
the overburden, and chemical analysis of the stratum lying 2067
immediately underneath the coal to be mined, except that this 2068
division may be waived by the chief with respect to the specific 2069
application by a written determination that its requirements are 2070
unnecessary~~+~~. If the test borings or core samplings from the 2071
permit area indicate the existence of potentially acid forming or 2072
toxic forming quantities of sulfur in the coal or overburden to be 2073
disturbed by mining, the application also shall include a 2074
statement of the acid generating potential and the acid 2075
neutralizing potential of the rock strata to be disturbed as 2076
calculated in accordance with the calculation method established 2077
under section 1513.075 of the Revised Code or with another 2078
calculation method. 2079

(p) For those lands in the permit application that a 2080
reconnaissance inspection suggests may be prime farmlands, a soil 2081
survey shall be made or obtained according to standards 2082
established by the secretary of the United States department of 2083
agriculture in order to confirm the exact location of the prime 2084
farmlands, if any; 2085

(q) A certificate issued by an insurance company authorized 2086
to do business in this state certifying that the applicant has a 2087
public liability insurance policy in force for the coal mining and 2088
reclamation operations for which the permit is sought or evidence 2089
that the applicant has satisfied other state self-insurance 2090
requirements. The policy shall provide for personal injury and 2091

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

(r) The business telephone number of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Implementation of the plan will not cause any additional degradation of surface water quality off the permit area with respect to pH, iron, and manganese+.	2432 2433 2434
(d) Implementation of the plan will not cause any additional degradation of ground water+.	2435 2436
(e) The plan meets the requirements governing mining and reclamation of such previously mined pollution abatement areas established by the chief in rules adopted under section 1513.02 of the Revised Code+.	2437 2438 2439 2440
(f) Neither the applicant; any partner, if the applicant is a partnership; any officer, principal shareholder, or director, if the applicant is a corporation; any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant; nor any contractor or subcontractor of the applicant, has any of the following:	2441 2442 2443 2444 2445 2446 2447
(i) Responsibility or liability under this chapter or rules adopted under it as an operator for treating the discharges of water pollutants from or on the previously mined areas for which the authorization is sought;	2448 2449 2450 2451
(ii) Any responsibility or liability under this chapter or rules adopted under it for reclaiming the previously mined areas for which the authorization is sought;	2452 2453 2454
(iii) During the eighteen months prior to submitting the permit application requesting an authorization under division (E)(7) of this section, had a coal mining and reclamation permit suspended or revoked under division (D)(3) of section 1513.02 of the Revised Code for violating this chapter or Chapter 6111. of the Revised Code or rules adopted under them with respect to water quality, effluent limitations, or surface or ground water monitoring;	2455 2456 2457 2458 2459 2460 2461 2462

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

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

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

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

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

incidental boundary revisions shall be made by application for a permit. 2494
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(G) No transfer, assignment, or sale of the rights granted under a permit issued pursuant to this chapter shall be made without the written approval of the chief. 2496
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(H) The chief, within a time limit prescribed in the chief's rules, shall review outstanding permits and may require reasonable revision or modification of a permit. A revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by rule of the chief. 2499
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(I)(1) If an informal conference has been held pursuant to section 1513.071 of the Revised Code, the chief shall issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections pursuant to division (B) of section 1513.071 of the Revised Code, with the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within sixty days of the conference. 2504
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(2) If there has been no informal conference held pursuant to section 1513.071 of the Revised Code, the chief shall notify the applicant for a permit within a reasonable time as provided by rule of the chief, taking into account the time needed for proper investigation of the site, the complexity of the permit application, whether or not a written objection to the application has been filed, and whether the application has been approved or disapproved in whole or in part. 2512
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(3) If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor shall be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the chief on the permit application, the applicant or any person with 2520
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an interest that is or may be adversely affected may appeal the 2525
decision to the reclamation commission pursuant to section 1513.13 2526
of the Revised Code. 2527

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

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

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

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

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

(1) "Potential acidity" means a laboratory measurement of the amount of acidity that could be produced by material in a rock strata proposed to be disturbed by mining and that is expressed by a numeral indicating the number of tons of that acidity that would be present in one thousand tons of disturbed overburden. 2590
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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. 2595
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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. 2601
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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 may be calculated in accordance with this section. 2606
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(C) The measurement of potential acidity may be based on laboratory analyses of the sulfur content of the coal and overburden to be disturbed by mining. If the results of test borings or core samplings include laboratory analyses of the 2615
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pyritic form of sulfur, the applicant may base the calculation of 2619
the potential acidity for the area on the pyritic sulfur content 2620
of the coal and overburden to be disturbed by mining rather than 2621
on the total sulfur content. 2622

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<u>to complete the reclamation;</u>	2871
<u>(2) Upon the transfer of an existing permit that includes the areas of the operation for which reclamation was not completed to a different operator;</u>	2872 2873 2874
<u>(3) Any other circumstance that the chief determines to be in the best interests of the state.</u>	2875 2876
<u>(C) The chief may modify the amount of a lien under this section. If the chief modifies a lien, the chief shall file a statement in the office of the county recorder of each applicable county of the new amount of the lien.</u>	2877 2878 2879 2880
<u>(D) The chief may authorize an agent to hold a certificate of release in escrow for a period not to exceed one hundred eighty days for the purpose of facilitating the transfer of unreclaimed mine land.</u>	2881 2882 2883 2884
<u>(E) All money from the collection of liens under this section shall be deposited in the state treasury to the credit of the reclamation forfeiture fund created in section 1513.18 of the Revised Code.</u>	2885 2886 2887 2888
Sec. 1513.13. (A)(1) Any person having an interest that is or may be adversely affected by a notice of violation, order, or decision of the chief of the division of mineral resources management, other than a show cause order or an order that adopts a rule, or by any modification, vacation, or termination of such a notice, order, or decision, may appeal by filing a notice of appeal with the reclamation commission for review of the notice, order, or decision within thirty days after the notice, order, or decision is served upon the person or within thirty days after its modification, vacation, or termination and by filing a copy of the notice of appeal with the chief within three days after filing the notice of appeal with the commission. The notice of appeal shall	2889 2890 2891 2892 2893 2894 2895 2896 2897 2898 2899 2900

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

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

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

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

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

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

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

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

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

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

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

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

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

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

air, or water resources. 2962

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

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

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

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

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

thereof. The hearing shall be of record.

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

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

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(a) A party, other than the permittee or the division of mineral resources management, shall file a petition, if any, for an award of costs and expenses, including attorney's fees, with

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

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

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

(2) Whenever an order issued under this section or as a
result of any administrative proceeding under this chapter is the
subject of judicial review, at the request of any party, a sum
equal to the aggregate amount of all costs and expenses, including
attorney's fees, as determined by the court to have been necessary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

uniform depth over the regraded spoil material; 3151

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The chief finds in writing that: 3269

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

mining operations. 3272

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed. 3363
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(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses. 3366
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(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards. 3368
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(i) All other provisions of this chapter are met. 3371

(22) Meet such other criteria as are necessary to achieve reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site; 3372
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(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable; 3376
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(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion. 3380
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(B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section. 3384
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(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, 3386
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except as provided in division (B)(4)(a) of this section, by 3393
removing all of the overburden and creating a level plateau or a 3394
gently rolling contour with no highwalls remaining, and capable of 3395
supporting postmining uses in accordance with this division. 3396

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

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

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

(i) Compatible with adjacent land uses; 3410

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

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

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

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

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

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

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

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs. 3425
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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. 3427
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(e) All other requirements of this chapter will be met. 3433

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met: 3434
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(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion. 3436
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(b) The reclaimed area is stable. 3439

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

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

(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section. 3443
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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. 3448
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(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of 3450
3451

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

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

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

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

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

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

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

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

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

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

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

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

(c) After approval of the appropriate state environmental 3513

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the chief; 3768

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

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

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

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

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

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

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

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

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

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

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

The chief shall approve, disapprove, or approve with modifications the application concerning the proposed reclamation work. If the chief approves the application, the applicant may commence reclamation in accordance with the timetables included in the application. Upon the completion of the reclamation to the satisfaction of the chief, the chief shall issue a numbered reclamation tax credit certificate showing the amount of the credit and the identity of the recipient. Prior to the close of the fiscal quarter in which the tax credit certificate is issued, the chief shall certify to the tax commissioner the amount of the credit and the identity of the recipient. 3800
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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. 3811
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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: 3817
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(1) A procedure that the chief shall use to determine the amount of the credit issued under this section; 3820
3821

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

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

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

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

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

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

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

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

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

general circulation in the county in which the area of land to be
reclaimed under the contract is located. If, after advertising, no
bids are received at the time and place fixed for receiving them,
the chief may advertise again for bids, or, if the chief considers
the public interest will best be served, the chief may enter into
a contract for the reclamation of the area of land without further
advertisement for bids. The chief may reject any or all bids
received and again publish notice of the time and place at which
bids for contracts will be received, opened, and published. The
chief, with the approval of the director, may enter into a
contract with the landowner, a coal mine operator or surface mine
operator mining under a current, valid permit issued under this
chapter or Chapter 1514. of the Revised Code, or a contractor
hired by the surety or trustee, if the performance security is
held in trust, to complete reclamation to carry out reclamation on
land affected by coal mining on which an operator has defaulted
without advertising for bids.

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

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

security to complete the reclamation that the operator failed to 3922
do under the operator's applicable coal mining and reclamation 3923
permit issued under this chapter. 3924

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

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

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

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

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

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

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

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

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

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

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

forfeiture fund advisory board consisting of the director of 4016
natural resources, the director of insurance, and seven members 4017
appointed by the governor with the advice and consent of the 4018
senate. Of the governor's appointments, one shall be a certified 4019
public accountant, one shall be a registered professional engineer 4020
with experience in reclamation of mined land, two shall represent 4021
agriculture, agronomy, or forestry, one shall be a representative 4022
of operators of coal mining operations that have valid permits 4023
issued under this chapter and that have provided performance 4024
security under division (C)(1) of section 1513.08 of the Revised 4025
Code, one shall be a representative of operators of coal mining 4026
operations that have valid permits issued under this chapter and 4027
that have provided performance security under division (C)(2) of 4028
section 1513.08 of the Revised Code, and one shall be a 4029
representative of the public. 4030

Of the original members appointed by the governor, two shall 4031
serve an initial term of two years, three an initial term of three 4032
years, and two an initial term of four years. Thereafter, terms of 4033
appointed members shall be for four years, with each term ending 4034
on the same date as the original date of appointment. An appointed 4035
member shall hold office from the date of appointment until the 4036
end of the term for which the member was appointed. Vacancies 4037
shall be filled in the same manner as original appointments. A 4038
member appointed to fill a vacancy occurring prior to the 4039
expiration of the term for which the member's predecessor was 4040
appointed shall hold office for the remainder of that term. A 4041
member shall continue in office subsequent to the expiration date 4042
of the member's term until the member's successor takes office or 4043
until a period of sixty days has elapsed, whichever occurs first. 4044
The governor may remove an appointed member of the board for 4045
misfeasance, nonfeasance, or malfeasance. 4046

The directors of natural resources and insurance shall not 4047

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The council shall give priority to areas where there is 4170

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

water quality and biological resources within the hydrologic unit;	4386
(c) An identification of the sources of acid mine drainage within the hydrologic unit;	4387 4388
(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;	4389 4390 4391
(e) The cost of undertaking the proposed abatement and treatment measures;	4392 4393
(f) An identification of existing and proposed sources of funding for those measures;	4394 4395
(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.	4396 4397
(3) The chief may make grants of moneys from the acid mine drainage abatement and treatment fund to watershed groups for conducting projects to accomplish the purposes of this section. A grant may be made in an amount equal to not more than fifty per cent of each of the following:	4398 4399 4400 4401 4402
(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:	4403 4404
(i) Identify a watershed as a qualified hydrologic unit;	4405
(ii) Monitor the quality of water in a qualified hydrologic unit before, during, and at any time after completion of the project by the watershed group.	4406 4407 4408
(b) Engineering design costs and construction costs involved in the project, provided that the project is conducted in a qualified hydrologic unit and the chief considers the project to be a priority.	4409 4410 4411 4412
A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to the	4413 4414

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

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

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

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

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

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

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

(2) The chief or the chief's authorized representatives may
enter upon any property for the purpose of conducting studies or
exploratory work to determine the existence of adverse effects of
past coal mining practices and to determine the feasibility of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127.16 of the Revised Code. 4634

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

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

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

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

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

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

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

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

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

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

Sec. 1514.01. As used in this chapter: 4705

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

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

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

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

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

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

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

land. Separation by a stream or roadway shall not preclude the tracts from being considered contiguous. 4758
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(2) When the context indicates, "operation" or "in-stream mining operation" means all of the premises, facilities, and equipment used in the process of removing minerals by in-stream mining from a mining area. 4760
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(G) "Operator" means any person engaged in surface mining who removes minerals, or minerals and incidental coal, from the earth by surface mining or who removes overburden for the purpose of determining the location, quality, or quantity of a mineral deposit. "Operator" also means any person engaged in in-stream mining who removes minerals from the bottom of the channel of a watercourse by in-stream mining. 4764
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(H) "Performance bond" means the surety bond required to be filed under section 1514.04 of the Revised Code and includes cash, an irrevocable letter of credit, and negotiable certificates of deposit authorized to be deposited in lieu of the surety bond under that section. 4771
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(I) "Dewatering" means the withdrawal of ground water from an aquifer or saturated zone that may result in the lowering of the water level within the aquifer or saturated zone or a decline of the potentiometric surface within that aquifer or saturated zone. 4776
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(J) "Ground water" means all water occurring in an aquifer. 4780

(K) "Cone of depression" means a depression or low point in the water table or potentiometric surface of a body of ground water that develops around a location from which ground water is being withdrawn. 4781
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(L) "High water mark" means the line on the shore that is established by the fluctuations of water and indicated by physical characteristics such as a natural line impressed on the bank; 4785
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shelving; changes in the character of soil; destruction of 4788
terrestrial vegetation; the presence of litter and debris; or 4789
other appropriate means that consider the characteristics of the 4790
surrounding area. 4791

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

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

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

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

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

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

stream bed and banks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A request ~~for inspection at the completion of a phase of~~ 5053
~~reclamation~~ shall include all of the following: 5054

(1) The location of the area and number of acres; 5055

(2) The permit number; 5056

(3) ~~The amount of performance bond on deposit at the time of~~ 5057
~~the request to ensure reclamation of the area;~~ 5058

~~(4)~~ A map showing the location of the acres reclaimed, 5059
prepared and certified in accordance with division (A)(11) or (12) 5060
of section 1514.02 of the Revised Code, as appropriate. In the 5061
case of an in-stream mining operation, the map also shall include 5062
the information required under division (A)(18) of section 1514.02 5063
of the Revised Code. 5064

~~In addition, a request for inspection of the second phase of~~ 5065
~~reclamation shall include a description of the type and date of~~ 5066
~~any required planting and a statement regarding the degree of~~ 5067
~~success of the growth.~~ 5068

~~(B)~~ The chief shall make an inspection and evaluation of the 5069

reclamation of the area of land for which a the request was 5070
submitted within ninety days after receipt of the request or, if 5071
the operator fails to complete the reclamation or file the request 5072
as required, as soon as the chief learns of the default. 5073
Thereupon, if the chief approves ~~the first phase of the~~ 5074
reclamation, other than any required planting, as meeting the 5075
requirements of this chapter, rules adopted thereunder, any orders 5076
issued during the mining or reclamation, and the specifications of 5077
the plan for mining and reclaiming, the chief shall issue an order 5078
to the operator and the operator's surety releasing them from 5079
liability for ~~the applicable percentage specified in this division~~ 5080
one-half of the total amount of their surety bond on deposit to 5081
ensure reclamation for the area upon which reclamation is 5082
completed. If ~~the chief approves the second phase of the~~ 5083
~~reclamation, the chief shall order release of the remaining~~ 5084
~~performance bond, after completing the inspection and evaluation,~~ 5085
~~in the same manner as in the case of approval of the first phase~~ 5086
~~of reclamation, and the treasurer of state shall proceed as in~~ 5087
~~that case.~~ 5088

~~On approval of the first phase of reclamation, the chief~~ 5089
~~shall release seventy five per cent of the amount of the surety~~ 5090
~~bond on deposit. On approval of the second phase of reclamation,~~ 5091
~~the chief shall release the remaining amount of the surety bond~~ 5092
~~that originally was on deposit.~~ 5093

~~If~~ the operator has deposited cash, an irrevocable letter of 5094
credit, or certificates of deposit in lieu of a surety bond to 5095
ensure reclamation, the chief shall issue an order to the operator 5096
releasing one-half of the amount so held ~~in the same manner and in~~ 5097
~~the same percentages that apply to the release of a surety bond~~ 5098
and promptly shall transmit a certified copy of the order to the 5099
treasurer of state. Upon presentation of the order to the 5100
treasurer of state by the operator to whom it was issued, or by 5101

the operator's authorized agent, the treasurer of state shall 5102
deliver to the operator or the operator's authorized agent the 5103
cash, irrevocable letter of credit, or certificates of deposit 5104
designated in the order. 5105

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

~~(D)~~(B) At any time within the period allowed an operator by 5128
section 1514.02 of the Revised Code to reclaim an area affected by 5129
surface mining, the operator may file a request, on a form 5130
provided by the chief, for inspection of the area of land on which 5131
all reclamation, including the successful establishment of any 5132
required planting, is completed. The request shall include all of 5133

<u>the following:</u>	5134
<u>(1) The location of the area and number of acres;</u>	5135
<u>(2) The permit number;</u>	5136
<u>(3) The type and date of any required planting of vegetative cover and the degree of success of growth;</u>	5137 5138
<u>(4) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate. In the case of an in-stream mining operation, the map also shall include the information required under division (A)(18) of section 1514.02 of the Revised Code.</u>	5139 5140 5141 5142 5143 5144
<u>The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief finds that the reclamation meets the requirements of this chapter, rules adopted under it, any orders issued during the mining and reclamation, and the specifications of the plan for mining and reclaiming and decides to release any remaining performance bond on deposit to ensure reclamation of the area on which reclamation is completed, within ten days of completing the inspection and evaluation, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation other than required planting, and the treasurer of state shall proceed as in that case.</u>	5145 5146 5147 5148 5149 5150 5151 5152 5153 5154 5155 5156 5157 5158 5159
<u>If the chief does not approve the reclamation performed by the operator, the chief shall notify the operator by certified mail within ninety days of the filing of the application for inspection or of the date when the chief learns of the default. The notice shall be an order stating the reasons for</u>	5160 5161 5162 5163 5164

unacceptability, ordering further actions to be taken, and setting 5165
a time limit for compliance. If the operator does not comply with 5166
the order within the time limit specified, the chief may order an 5167
extension of time for compliance after determining that the 5168
operator's noncompliance is for good cause, resulting from 5169
developments partially or wholly beyond the operator's control. If 5170
the operator complies within the time limit or the extension of 5171
time granted for compliance, the chief shall order release of the 5172
remaining performance bond in the same manner as in the case of 5173
approval of reclamation by the chief, and the treasurer of state 5174
shall proceed as in that case. If the operator does not comply 5175
within the time limit and the chief does not order an extension, 5176
or if the chief orders an extension of time and the operator does 5177
not comply within the extension of time granted for compliance, 5178
the chief shall issue another order declaring that the operator 5179
has failed to reclaim and, if the operator's permit has not 5180
already expired or been revoked, revoking the operator's permit. 5181
The chief then shall proceed under division (C) of this section. 5182

(C) Upon issuing an order under division ~~(C)~~(A) or (B) of 5183
this section declaring that the operator has failed to reclaim, 5184
the chief shall ~~retain all or part of the performance bond on~~ 5185
~~deposit for reclamation of the affected surface or in-stream mine~~ 5186
~~site. The~~ make a finding as to the number and location of the 5187
acres of land that the operator has failed to reclaim in the 5188
manner required by this chapter. The chief shall order the release 5189
of the performance bond in the amount of five hundred dollars per 5190
acre for those acres that the chief finds to have been reclaimed 5191
in the manner required by this chapter. The release shall be 5192
ordered in the same manner as in the case of other approval of 5193
reclamation by the chief, and the treasurer of state shall proceed 5194
as in that case. If the operator has on deposit cash, an 5195
irrevocable letter of credit, or certificates of deposit to ensure 5196

reclamation of the area of the land affected, the chief at the 5197
same time shall issue an order declaring that the remaining cash, 5198
irrevocable letter of credit, or certificates of deposit, ~~if any,~~ 5199
are the property of the state and are available for use by the 5200
chief in performing reclamation of the area and shall proceed in 5201
accordance with section 1514.06 of the Revised Code. 5202

If the operator has on deposit a surety bond to ensure 5203
reclamation of the area of land affected, the chief shall notify 5204
the surety in writing of the operator's default and shall request 5205
the surety to perform the surety's obligation and that of the 5206
operator. The surety, within ten days after receipt of the notice, 5207
shall notify the chief as to whether it intends to perform those 5208
obligations. 5209

If the surety chooses to perform, it shall arrange for work 5210
to begin within thirty days of the day on which it notifies the 5211
chief of its decision. If the surety completes the work as 5212
required by this chapter, the chief shall issue an order to the 5213
surety releasing the surety from liability under the bond in the 5214
same manner as if the surety were an operator proceeding under 5215
this section. If, after the surety begins the work, the chief 5216
determines that the surety is not carrying the work forward with 5217
reasonable progress, or that it is improperly performing the work, 5218
or that it has abandoned the work or otherwise failed to perform 5219
its obligation and that of the operator, the chief shall issue an 5220
order terminating the right of the surety to perform the work and 5221
demanding payment of the amount due as required by this chapter. 5222

If the surety chooses not to perform and so notifies the 5223
chief, does not respond to the chief's notice within ten days of 5224
receipt thereof, or fails to begin work within thirty days of the 5225
day it timely notifies the chief of its decision to perform its 5226
obligation and that of the operator, the chief shall issue an 5227
order terminating the right of the surety to perform the work and 5228

demanding payment of the amount due, as required by this chapter. 5229

Upon receipt of an order of the chief demanding payment of 5230
the amount due, the surety immediately shall deposit with the 5231
chief cash in the full amount due under the order for deposit with 5232
the treasurer of state. If the surety fails to make an immediate 5233
deposit, the chief shall certify it to the attorney general for 5234
collection. When the chief has issued an order terminating the 5235
right of the surety and has the cash on deposit, the cash is the 5236
property of the state and is available for use by the chief, who 5237
shall proceed in accordance with section 1514.06 of the Revised 5238
Code. 5239

Sec. 1514.051. (A) If an operator or a partner or officer of 5240
the operator forfeits a performance bond, the division of mineral 5241
resources management shall have a priority lien in front of all 5242
other interested creditors against the assets of that operator for 5243
the amount that is needed to perform any reclamation that is 5244
required as a result of the operator's mining activities. The 5245
chief of the division of mineral resources management shall file a 5246
statement in the office of the county recorder of each county in 5247
which the mined land lies of the estimated costs to reclaim the 5248
land. Estimated costs shall include direct and indirect costs of 5249
the development, design, construction, management, and 5250
administration of the reclamation. The statement shall constitute 5251
a lien on the assets of the operator as of the date of the filing. 5252
The lien shall continue in force so long as any portion of the 5253
lien remains unpaid or until the chief issues a certificate of 5254
release of the lien. If the chief issues a certificate of release 5255
of the lien, the chief shall file a certificate of release in the 5256
office of each applicable county recorder. 5257

(B) The chief promptly shall issue a certificate of release 5258
under any of the following circumstances: 5259

(1) Upon the repayment in full of the money that is necessary 5260
to complete the reclamation; 5261

(2) Upon the transfer of an existing permit that includes the 5262
areas of the surface mine for which reclamation was not completed 5263
from the operator that forfeited the performance bond to a new 5264
operator; 5265

(3) Any other circumstance that the chief determines to be in 5266
the best interests of the state. 5267

(C) The chief may modify the amount of a lien under this 5268
section. If the chief modifies a lien, the chief shall file a 5269
statement in the office of the county recorder of each applicable 5270
county of the new amount of the lien. 5271

(D) The chief may authorize a closing agent to hold a 5272
certificate of release in escrow for a period not to exceed one 5273
hundred eighty days for the purpose of facilitating the transfer 5274
of unreclaimed mine land. 5275

(E) All money from the collection of liens under this section 5276
shall be deposited in the state treasury to the credit of the 5277
surface mining fund created in section 1514.06 of the Revised 5278
Code. 5279

Sec. 1514.06. (A) There is hereby created in the state 5280
treasury the surface mining fund. ~~All cash~~ consisting of all money 5281
that becomes the property of the state pursuant to ~~section~~ 5282
sections 1514.05 and 1514.051 of the Revised Code ~~shall be~~ 5283
deposited in the fund, and expenditures, money credited to the 5284
fund under divisions (C)(1) and (2) of section 1514.071, and other 5285
money specified in section 1514.11 of the Revised Code. All 5286
investment earnings of the fund shall be credited to the fund. 5287
Expenditures from the fund shall be made by the chief of the 5288
division of mineral resources management ~~only~~ for the purpose of 5289

reclaiming areas of land affected by surface or in-stream mining 5290
~~operations on which an~~ under a permit issued under this chapter 5291
that the operator has defaulted failed to reclaim and for other 5292
purposes specified in section 1514.11 of the Revised Code. 5293

(B) Expenditures of moneys from the fund, except as otherwise 5294
provided by this section, shall be made pursuant to contracts 5295
entered into by the chief with persons who agree to furnish all of 5296
the materials, equipment, work, and labor, as specified and 5297
provided in the contracts, for the prices stipulated therein. With 5298
the approval of the director of natural resources, the chief may 5299
reclaim the land in the same manner as the chief required of the 5300
operator who ~~defaulted~~ failed to reclaim the land. Each contract 5301
awarded by the chief shall be awarded to the lowest responsive and 5302
responsible bidder, in accordance with section 9.312 of the 5303
Revised Code, after sealed bids are received, opened, and 5304
published at the time and place fixed by the chief. The chief 5305
shall publish notice of the time and place at which bids will be 5306
received, opened, and published, at least once at least ten days 5307
before the date of the opening of the bids, in a newspaper of 5308
general circulation in the county in which the area of land to be 5309
reclaimed under the contract is located. If, after so advertising 5310
for bids, no bids are received by the chief at the time and place 5311
fixed for receiving them, the chief may advertise again for bids, 5312
or, if the chief considers the public interest will be best 5313
served, the chief may enter into a contract for the reclamation of 5314
the area of land without further advertisement for bids. The chief 5315
may reject any or all bids received and again publish notice of 5316
the time and place at which bids for contracts will be received, 5317
opened, and published. 5318

(C) With the approval of the director, the chief, without 5319
advertising for bids, may enter into a contract with the 5320
landowner, a surface or in-stream mine operator or coal mine 5321

operator mining under a current, valid permit issued under this 5322
chapter or Chapter 1513. of the Revised Code, or a contractor 5323
hired by a surety to complete reclamation, to carry out 5324
reclamation on land affected by surface or in-stream mining 5325
operations ~~on which~~ that an operator has ~~defaulted~~ failed to
reclaim. 5326
5327

(D) With the approval of the director, the chief may carry 5328
out all or part of the reclamation work on land affected by 5329
surface or in-stream mining operations ~~on which~~ that the operator 5330
has ~~defaulted~~ failed to reclaim using the employees and equipment 5331
of any division of the department of natural resources. 5332

(E) The chief shall require every contractor performing 5333
reclamation work under this section to pay workers at the greater 5334
of their regular rate of pay, as established by contract, 5335
agreement, or prior custom or practice, or the average wage rate 5336
paid in this state for the same or similar work, as determined by 5337
the chief under section 1513.02 of the Revised Code. 5338

(F) Each contract entered into by the chief under this 5339
section shall provide only for the reclamation of land affected by 5340
the surface or in-stream mining operation or operations of one 5341
operator and not reclaimed by the operator as required by this 5342
chapter. If there is money in the fund derived from the 5343
performance bond deposited with the chief by one operator to 5344
ensure the reclamation of two or more areas of land affected by 5345
the surface or in-stream mining operation or operations of one 5346
operator and not reclaimed by the operator as required by this 5347
chapter, the chief may award a single contract for the reclamation 5348
of all such areas of land. 5349

(G) The cost of the reclamation work done under this section 5350
on each area of land affected by surface or in-stream mining 5351
operations ~~on which~~ that an operator has ~~defaulted~~ failed to 5352

reclaim shall be paid out of the money in the fund derived from 5353
the performance bond that was deposited with the chief to ensure 5354
the reclamation of that area of land. If the amount of money is 5355
not sufficient to pay the cost of doing all of the reclamation 5356
work on the area of land that the operator should have done, but 5357
failed to do, the chief may expend from the reclamation forfeiture 5358
fund created in section 1513.18 of the Revised Code or the surface 5359
mining fund created in this section the amount of money needed to 5360
complete reclamation to the standards required by this chapter. 5361
The operator is liable for that expense in addition to any other 5362
liabilities imposed by law. At the request of the chief, the 5363
attorney general shall bring an action against the operator for 5364
the amount of the expenditures from either fund. Moneys so 5365
recovered shall be deposited in the state treasury to the 5366
appropriate credit of the fund from which the expenditures were 5367
made. 5368

(H) If any part of the money in the surface mining fund 5369
remains in the fund after the chief has caused the area of land to 5370
be reclaimed and has paid all the reclamation costs and expenses, 5371
or if any money remains because the area of land has been 5372
repermitted under this chapter or reclaimed by a person other than 5373
the chief, the chief may expend the remaining money to complete 5374
other reclamation work performed under this section. The chief 5375
shall prepare an annual report that summarizes the money credited 5376
to the fund and expenditures made from the fund and post the 5377
report on the division of mineral resources management's web site. 5378

Sec. 1514.09. The reclamation commission established pursuant 5379
to section 1513.05 of the Revised Code shall serve as the 5380
reclamation commission pursuant to this chapter. However, whenever 5381
the commission is considering any appeal pertaining to surface or 5382
in-stream mining, as distinguished from coal strip mining, the 5383
member representing the coal strip mine operators shall be 5384

replaced by a person who, by reason of the person's previous 5385
vocation, employment, or affiliations, can be classed as a 5386
representative of surface or in-stream mine operators, as 5387
applicable. The appointment of that person shall be made in 5388
accordance with section 1513.05 of the Revised Code, and the 5389
person's term shall be concurrent with that of the representative 5390
of the coal strip mine operators. 5391

No party to an appeal brought under this section shall be 5392
eligible for an award of attorney's fees, costs, or expenses from 5393
the commission or any court. 5394

Notwithstanding section 1513.13 of the Revised Code, an 5395
operator may appeal the determination of the chief of the division 5396
of mineral resources management that is made under division (D) of 5397
section 1514.43 of the Revised Code within ten days after the 5398
operator receives a copy of the determination. 5399

Notwithstanding section 1513.14 of the Revised Code, appeals 5400
from an order of the commission pertaining to surface or in-stream 5401
mining may be taken to the court of common pleas of the county in 5402
which the operation is located, or to the court of common pleas of 5403
Franklin county. 5404

Sec. 1514.11. In addition to the purposes authorized in 5405
section 1514.06 of the Revised Code, the chief of the division of 5406
mineral resources management may use moneys in the surface mining 5407
fund created under that section for the administration and 5408
enforcement of this chapter, for the reclamation of land affected 5409
by surface or in-stream mining under a permit issued under this 5410
chapter that the operator failed to reclaim and for which the 5411
performance bond filed by the operator is insufficient to complete 5412
the reclamation, and for the reclamation of land affected by 5413
surface or in-stream mining that was abandoned and left 5414
unreclaimed and for which no permit was issued or bond filed under 5415

this chapter. Also, the chief may use the portion of the surface 5416
mining fund that consists of moneys collected from the severance 5417
taxes levied under section 5749.02 of the Revised Code for ~~the~~ 5418
mine safety and first aid ~~classes provided under division (C) of~~ 5419
~~section 1561.26 of the Revised Code~~ training. For purposes of this 5420
section, the chief shall expend moneys in the fund in accordance 5421
with the procedures and requirements established in section 5422
1514.06 of the Revised Code and may enter into contracts and 5423
perform work in accordance with that section. 5424

Fees collected under sections 1514.02 and 1514.03 of the 5425
Revised Code, one-half of the moneys collected from the severance 5426
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 5427
the Revised Code, and all of the moneys collected from the 5428
severance tax levied under division (A)(7) of section 5749.02 of 5429
the Revised Code shall be credited to the fund in accordance with 5430
those sections. Notwithstanding any section of the Revised Code 5431
relating to the distribution or crediting of fines for violations 5432
of the Revised Code, all fines imposed under section 1514.99 of 5433
the Revised Code shall be credited to the fund. 5434

Sec. 1514.40. In accordance with Chapter 119. of the Revised 5435
Code, the chief of the division of mineral resources management, 5436
in consultation with a statewide association that represents the 5437
surface mining industry, shall adopt rules that do all of the 5438
following: 5439

(A) For the purpose of establishing safety standards 5440
governing surface mining operations, incorporate by reference 30 5441
C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended; 5442

(B) Establish criteria, standards, and procedures governing 5443
safety performance evaluations conducted under section 1514.45 of 5444
the Revised Code, including requirements for the notification of 5445
operators and the identification of authorized representatives of 5446

miners at surface mining operations for purposes of inspections 5447
conducted under sections 1541.41 to 1541.47 of the Revised Code; 5448

(C) Establish requirements governing the reporting and 5449
investigation of accidents at surface mining operations. In 5450
adopting the rules, the chief shall establish requirements that 5451
minimize duplication with any reporting and investigations of 5452
accidents that are conducted by the mine safety and health 5453
administration in the United States department of labor. 5454

(D) Establish the time, place, and frequency of mine safety 5455
training conducted under section 1514.06 of the Revised Code and a 5456
fee, if any, for the purpose of that section. The amount of the 5457
fee shall not exceed the costs of conducting the training that is 5458
required under that section. 5459

(E) Establish the minimum qualifications necessary to take 5460
the examination that is required for certification of certified 5461
mine forepersons under division (B) of section 1514.47 of the 5462
Revised Code and requirements, fees, and procedures governing the 5463
taking of the examination; 5464

(F) Establish requirements and fees governing the renewal of 5465
certificates under division (C) of that section; 5466

(G) Establish requirements and procedures for the approval of 5467
training plans submitted under division (E) of that section for 5468
the use of qualified persons to conduct examinations of surface 5469
mining operations in lieu of certified mine forepersons and 5470
minimum qualifications of those persons. The rules shall include 5471
requirements governing training frequency and curriculum that must 5472
be provided for qualified persons under such plans and shall 5473
establish related reporting and record keeping requirements. 5474

As used in sections 1514.41 to 1514.47 of the Revised Code, 5475
"rule" means a rule adopted under this section unless the context 5476
indicates otherwise. 5477

Sec. 1514.41. (A) If a surface mining operation is not 5478
inspected by the mine safety and health administration in the 5479
United States department of labor, the chief of the division of 5480
mineral resources management annually shall conduct a minimum of 5481
two inspections of the operation. 5482

(B) If a surface mining operation is identified through a 5483
safety performance evaluation conducted under section 1514.45 of 5484
the Revised Code and rules as having lost-time accidents in an 5485
amount greater than the national average, the chief shall conduct 5486
a minimum of two inspections of the operation for one year 5487
following the identification. 5488

(C) If a fatality of a miner occurs at a surface mining 5489
operation as a result of an unsafe condition or a practice at the 5490
operation, the chief shall conduct a minimum of one inspection 5491
every three months at the operation for two years following the 5492
fatality. 5493

(D) If a life-threatening injury of a miner occurs at a 5494
surface mining operation as a result of an unsafe condition or a 5495
practice at the operation, the chief shall conduct a minimum of 5496
one inspection every three months at the operation for one year 5497
following the injury. 5498

Sec. 1514.42. The chief of the division of mineral resources 5499
management shall conduct a safety audit at a surface mining 5500
operation if the operator of the operation has requested the 5501
division of mineral resources management to conduct mine safety 5502
training. The chief shall conduct additional safety audits at any 5503
surface mining operation if requested by the operator of the 5504
operation. If the chief conducts a safety audit, the operator 5505
shall ensure that the chief has a copy of the training plan that 5506
is required by 30 C.F.R. part 46, as amended, at the time of the 5507

audit. 5508

After completion of an audit, the chief shall prepare a 5509
report that describes the general conditions of the surface mining 5510
operation, lists any hazardous conditions at the operation, lists 5511
any violations of the safety standards established in rules, and 5512
describes the nature and extent of any hazardous condition or 5513
violation found and the corresponding remedy for each hazardous 5514
condition or violation. The chief shall provide two copies of the 5515
report to the operator of the operation. The operator shall post 5516
one copy of the report at the operation for review by the 5517
employees of the operation. 5518

Sec. 1514.43. (A) The chief of the division of mineral 5519
resources management shall enforce the safety standards 5520
established in rules when conducting inspections under section 5521
1514.41 of the Revised Code. 5522

(B) Except as otherwise provided in section 1514.44 of the 5523
Revised Code or pursuant to a safety audit conducted under section 5524
1514.42 of the Revised Code, if during an inspection the chief 5525
finds a violation of a safety standard, the chief shall require 5526
the operator to comply with the standard that is being violated 5527
within a reasonable period of time. If the chief finds a violation 5528
of a safety standard, the chief shall return to the surface mining 5529
operation after a reasonable period of time to determine if the 5530
operator has complied with the standard that was being violated. 5531
If the operator has failed to comply with the standard, the chief 5532
shall take appropriate action to obtain compliance if necessary. 5533

(C) Except as otherwise provided in section 1514.44 of the 5534
Revised Code or pursuant to a safety audit conducted under section 5535
1514.42 of the Revised Code, after completion of an inspection of 5536
a surface mining operation, the chief shall prepare a report that 5537

describes the general conditions of the surface mining operation, 5538
lists any hazardous conditions at the operation, lists any 5539
violations of the safety standards established in rules, and 5540
describes the nature and extent of any hazardous condition or 5541
violation found and the corresponding remedy for each hazardous 5542
condition or violation. The chief shall provide two copies of the 5543
report to the operator of the operation. The operator shall post 5544
one copy of the report at the operation for review by the 5545
employees of the operation. 5546

(D) Except pursuant to a safety audit conducted under section 5547
1514.42 of the Revised Code, not later than ten days after receipt 5548
of a report under this section, the operator may submit a written 5549
request to the chief for a meeting with the chief to review the 5550
findings contained in the report. Upon receipt of a request, the 5551
chief shall review the report and schedule a meeting with the 5552
operator. Within a reasonable period of time after the meeting, 5553
the chief shall make a written determination concerning the 5554
findings contained in the report and provide one copy of the 5555
determination to the operator of the surface mining operation and 5556
one copy of the determination to an authorized representative of 5557
the miners at the operation. If the chief makes a determination 5558
that affirms the findings contained in the report, the chief's 5559
determination constitutes an order for purposes of this chapter 5560
and rules adopted under it. 5561

(E) An operator shall not appeal the contents of a report 5562
prepared under division (C) of this section. However, an operator 5563
may appeal a determination of the chief made under division (D) of 5564
this section. 5565

(F) No operator shall violate or fail to comply with an order 5566
issued pursuant to this section. 5567

Sec. 1514.44. If during an inspection conducted under section 5568

1514.41 of the Revised Code or a safety audit conducted under 5569
section 1514.42 of the Revised Code, the chief of the division of 5570
mineral resources management finds a condition or practice at a 5571
surface mining operation that could reasonably be expected to 5572
cause the death of or imminent serious physical harm to an 5573
employee of the operation, the chief immediately shall issue 5574
orders to safeguard the employees, notify the operator of the 5575
condition or practice, and require the operator to abate the 5576
condition or practice within a reasonable period of time. In all 5577
such situations, the chief may require the operation to cease in 5578
the area in which the condition or practice is occurring or may 5579
require the entire operation to cease, if necessary, until the 5580
condition or practice that could reasonably be expected to cause 5581
death or serious physical harm is eliminated. 5582

The chief shall complete a report that describes the 5583
condition or practice and the action taken to eliminate it. The 5584
chief shall provide two copies of the report to the operator of 5585
the operation. The operator shall post one copy of the report at 5586
the operation for review by the employees of the operation. 5587

Sec. 1514.45. The chief of the division of mineral resources 5588
management annually shall conduct a safety performance evaluation 5589
of all surface mining operations in the state in accordance with 5590
rules. The operator of a surface mining operation shall provide to 5591
the chief a copy of the notification of legal identity required 5592
under 30 C.F.R. part 41, as amended, at the same time that the 5593
notice is filed with the mine safety and health administration in 5594
the United States department of labor. 5595

Sec. 1514.46. If the operator of a surface mining operation 5596
requests the division of mineral resources management to conduct 5597
mine safety training, the chief of the division of mineral 5598

resources management shall conduct mine safety training for the 5599
employees of that operator. For persons who are not employed by a 5600
holder of a surface mining permit issued under this chapter and 5601
who seek the training, the chief may charge a fee in an amount 5602
established in rules for conducting it. The safety training shall 5603
be conducted in accordance with rules and shall emphasize the 5604
standards adopted in rules and include any other content that the 5605
chief determines is beneficial. Any fees collected under this 5606
section shall be deposited in the state treasury to the credit of 5607
the surface mining fund created in section 1514.06 of the Revised 5608
Code. 5609

Sec. 1514.47. (A) The operator of a surface mining operation 5610
shall employ a certified mine foreperson or a person who is 5611
qualified in accordance with this section and rules to conduct 5612
examinations of surface mining operations for purposes of 30 5613
C.F.R. part 56, as amended. 5614

(B) The chief of the division of mineral resources management 5615
shall conduct examinations for the position of certified mine 5616
foreperson in accordance with rules. In order to be eligible for 5617
examination as a certified mine foreperson, an applicant shall 5618
file with the chief an affidavit establishing the applicant's 5619
qualifications to take the examination. The chief shall grade 5620
examinations and issue certificates. 5621

(C) A certificate issued under this section shall expire five 5622
years after the date of issuance. A certificate may be renewed, 5623
provided that the applicant verifies that all required training 5624
pursuant to 30 C.F.R. part 46, as amended, has been completed and 5625
any other requirements for renewal have been satisfied. 5626

(D) If a certificate issued under this section is suspended, 5627
the certificate shall not be renewed until the suspension period 5628

expires and the person whose certificate is suspended successfully 5629
completes all actions required by the chief. If an applicant's 5630
license, certificate, or similar authority that is issued by 5631
another state to perform specified mining duties is suspended or 5632
revoked by that state, the applicant shall be ineligible for 5633
examination for or renewal of a certificate in this state during 5634
that period of suspension or revocation. A certificate that has 5635
been revoked shall not be renewed. 5636

If a person who has been certified by the chief under this 5637
section purposely violates this chapter, the chief may suspend or 5638
revoke the certificate after an investigation and hearing 5639
conducted in accordance with Chapter 119. of the Revised Code are 5640
completed. 5641

(E) In lieu of employing a certified mine foreperson, the 5642
operator of a surface mining operation may submit to the chief a 5643
detailed training plan under which persons who qualify under the 5644
plan may conduct and document examinations at the surface mining 5645
operation for purposes of 30 C.F.R. part 56, as amended. The chief 5646
shall review the plan and determine if the plan complies with the 5647
requirements established in rules. The chief shall approve or deny 5648
the plan and notify in writing the operator who submitted the plan 5649
of the chief's decision. 5650

Sec. 1514.50. (A) The chief of the division of mineral 5651
resources management or an authorized employee of the division of 5652
mineral resources management may enter on lands to make 5653
inspections in accordance with this chapter and rules adopted 5654
under it when necessary in the discharge of the duties specified 5655
in this chapter and the rules. No person shall prevent or hinder 5656
the chief or an authorized employee of the division in the 5657
performance of those duties. 5658

(B) For purposes of performing reclamation of land affected 5659

by surface mining operations on which the holder of a permit 5660
issued under this chapter has defaulted or otherwise failed to 5661
timely conduct the reclamation required by section 1514.05 of the 5662
Revised Code, the chief may enter on the land and perform 5663
reclamation that the chief determines is necessary to protect 5664
public health or safety or the environment. In order to perform 5665
the reclamation, the chief may enter on adjoining land or other 5666
land that is necessary to access the land on which the surface 5667
mining occurred and on which the reclamation is to be performed. 5668
The chief shall provide reasonable advance notice to the owner of 5669
any land to be entered for the purpose of access for reclamation 5670
under this chapter. The division shall return the land that was 5671
used to access the former surface mining operation to the same or 5672
an improved grade, topography, and condition that existed prior to 5673
its use by the division. 5674

(C) When conducting investigations pursuant to section 5675
1514.13 of the Revised Code, the chief or an authorized employee 5676
of the division may enter on lands to conduct water supply 5677
surveys, measure ground water levels and collect data when 5678
necessary to define the cone of depression, or perform other 5679
duties for the purposes of that section. 5680

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 5681
section 1514.10 of the Revised Code may be fined not more than 5682
five thousand dollars plus not more than one thousand dollars per 5683
acre of land affected, and is responsible for achieving 5684
reclamation of the land as required pursuant to this chapter. 5685

(B) Whoever violates division (B) of section 1514.10 of the 5686
Revised Code may be fined not more than one thousand dollars per 5687
acre of land affected that is not under permit, and is responsible 5688
for achieving reclamation of the land as required pursuant to this 5689
chapter. 5690

(C) Whoever violates division (C) of section 1514.10 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars, or imprisoned not more than six months, or both.

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

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

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

The misuse of a credit card held on behalf of a soil and water conservation district is a violation of section 2913.21 of the Revised Code. In addition, a supervisor or employee of a district who makes unauthorized use of such a credit card may be held personally liable to the district for the unauthorized use. This section does not limit any other liability of a supervisor or employee of a district for the unauthorized use of such a credit card. 5722
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A supervisor or employee of a soil and water conservation district who is authorized to use a credit card that is held on behalf of the district and who suspects the loss, theft, or possibility of another person's unauthorized use of the credit card immediately shall notify the supervisors in writing of the suspected loss, theft, or possible unauthorized use. 5730
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Sec. 1515.10. The board of county commissioners of each county in which there is a soil and water conservation district may levy a tax within the ten-mill limitation and may appropriate money from the proceeds of ~~such the~~ the levy or from the general fund of the county, ~~which.~~ The money shall be held in a special fund for the credit of the district, to be expended for the purposes prescribed in ~~section~~ sections 1515.09 and 1515.093 of the Revised Code, for construction and maintenance of improvements by the district, and for other expenses incurred in carrying out the program of the district upon the written order of the fiscal agent for the district after authorization by a majority of the supervisors of the district. 5736
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Sec. 1515.211. (A) A board of county commissioners that approves construction of a proposed improvement or the board's designee shall prepare a schedule of estimated assessments on property within the area that is to be benefited by the 5748
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improvement. In preparing the schedule, the board or its designee 5752
shall use information concerning the proposed improvement that 5753
must be submitted to the board by the supervisors of a soil and 5754
water conservation district. The information includes plans for 5755
the proposed improvement, including surveys, maps, and 5756
specifications, together with schedules of damages, cost 5757
estimates, and any related reports that the supervisors or their 5758
designee prepared. 5759

The schedule of estimated assessments that must be prepared 5760
shall include the name and address of each owner of land believed 5761
to be benefited by the proposed improvement together with a 5762
description of the land. The names and descriptions shall be 5763
obtained from the tax duplicates of the county. The board or its 5764
designee shall enter in the schedule the amount of each estimated 5765
assessment, which shall be determined using considerations 5766
established in section 1515.24 of the Revised Code. In no case 5767
shall an assessment be less than twenty-five dollars for each 5768
parcel of land, except in the case of a multi-parcel lot, in which 5769
case the board may charge a minimum of twenty-five dollars with 5770
respect to all of the parcels comprising the multi-parcel lot. In 5771
addition, the board may charge an assessment of less than 5772
twenty-five dollars if the board determines that a lower amount is 5773
appropriate, provided that the lower amount includes the cost of 5774
preparing and mailing the notice required under division (D)(1) of 5775
section 1515.24 of the Revised Code. The total of the estimated 5776
assessments, including the total estimated assessments allocated 5777
to public corporations and the state, shall equal the estimated 5778
cost of the proposed improvement. The board shall use the schedule 5779
of estimated assessments for purposes of levying final assessments 5780
under section 1515.24 of the Revised Code. 5781

(B) As used in this section, "multi-parcel lot" means a site 5782
on which a dwelling is located and that comprises two or more 5783

contiguous parcels of land.

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Sec. 1517.02. There is hereby created in the department of natural resources the division of natural areas and preserves, which shall be administered by the chief of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

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

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

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The chief shall do the following:

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

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

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

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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.

(E) Adopt rules for the use, visitation, and protection of nature preserves, natural areas owned or managed through easement, license, or lease by the department and administered by the division, and lands owned or managed through easement, license, or lease by the department and administered by the division that are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code;

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

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

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

preserves; 5845

(I) Establish an appropriate system for marking nature 5846
preserves; 5847

(J) Publish and submit to the governor and the general 5848
assembly a biennial report of the status and condition of each 5849
nature preserve, activities conducted within each preserve, and 5850
plans and recommendations for natural area preservation. 5851

Sec. 1517.10. (A) As used in this section, "felony" has the 5852
same meaning as in section 109.511 of the Revised Code. 5853

(B)(1) Any person selected by the chief of the division of 5854
natural areas and preserves for custodial or patrol service on the 5855
lands and waters operated or administered by the division shall be 5856
employed in conformity with the law applicable to the classified 5857
civil service of the state. Subject to division (C) of this 5858
section, the chief may designate that person as a preserve 5859
officer. A preserve officer, in any nature preserve, in any 5860
natural area owned or managed through easement, license, or lease 5861
by the department of natural resources and administered by the 5862
division, and on lands owned or managed through easement, license, 5863
or lease by the department and administered by the division that 5864
are within or adjacent to any wild, scenic, or recreational river 5865
area established under this chapter and along any trail 5866
established under Chapter 1519. of the Revised Code, has the 5867
authority specified under section 2935.03 of the Revised Code for 5868
peace officers of the department of natural resources to keep the 5869
peace, to enforce all laws and rules governing those lands and 5870
waters, and to make arrests for violation of those laws and rules, 5871
provided that the authority shall be exercised on lands or waters 5872
administered by another division of the department only pursuant 5873
to an agreement with the chief of that division or to a request 5874
for assistance by an enforcement officer of that division in an 5875

emergency. A preserve officer, in or along any watercourse within, 5876
abutting, or upstream from the boundary of any area administered 5877
by the department, has the authority to enforce section 3767.32 of 5878
the Revised Code and any other laws prohibiting the dumping of 5879
refuse into or along waters and to make arrests for violation of 5880
those laws. The jurisdiction of a preserve officer shall be 5881
concurrent with that of the peace officers of the county, 5882
township, or municipal corporation in which the violation occurs. 5883

The governor, upon the recommendation of the chief, shall 5884
issue to each preserve officer a commission indicating authority 5885
to make arrests as provided in this section. 5886

The chief shall furnish a suitable badge to each commissioned 5887
preserve officer as evidence of the preserve officer's authority. 5888

(2) If any person employed under this section is designated 5889
by the chief to act as an agent of the state in the collection of 5890
money resulting from the sale of licenses, fees of any nature, or 5891
other money belonging to the state, the chief shall require a 5892
surety bond from the person in an amount not less than one 5893
thousand dollars. 5894

(3) A preserve officer may render assistance to a state or 5895
local law enforcement officer at the request of the officer or in 5896
the event of an emergency. Preserve officers serving outside the 5897
division of natural areas and preserves under this section or 5898
serving under the terms of a mutual aid compact authorized under 5899
section 1501.02 of the Revised Code shall be considered as 5900
performing services within their regular employment for the 5901
purposes of compensation, pension or indemnity fund rights, 5902
workers' compensation, and other rights or benefits to which they 5903
may be entitled as incidents of their regular employment. 5904

Preserve officers serving outside the division of natural 5905
areas and preserves under this section or under the terms of a 5906

mutual aid compact retain personal immunity from civil liability 5907
as specified in section 9.86 of the Revised Code and shall not be 5908
considered an employee of a political subdivision for purposes of 5909
Chapter 2744. of the Revised Code. A political subdivision that 5910
uses preserve officers under this section or under the terms of a 5911
mutual aid compact authorized under section 1501.02 of the Revised 5912
Code is not subject to civil liability under Chapter 2744. of the 5913
Revised Code as a result of any action or omission of any preserve 5914
officer acting under this section or under a mutual aid compact. 5915

(C)(1) The chief of the division of natural areas and 5916
preserves shall not designate a person as a preserve officer 5917
pursuant to division (B)(1) of this section on a permanent basis, 5918
on a temporary basis, for a probationary term, or on other than a 5919
permanent basis if the person previously has been convicted of or 5920
has pleaded guilty to a felony. 5921

(2)(a) The chief of the division of natural areas and 5922
preserves shall terminate the employment as a preserve officer of 5923
a person designated as a preserve officer under division (B)(1) of 5924
this section if that person does either of the following: 5925

(i) Pleads guilty to a felony; 5926

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 5927
plea agreement as provided in division (D) of section 2929.43 of 5928
the Revised Code in which the preserve officer agrees to surrender 5929
the certificate awarded to the preserve officer under section 5930
109.77 of the Revised Code. 5931

(b) The chief shall suspend from employment as a preserve 5932
officer a person designated as a preserve officer under division 5933
(B)(1) of this section if that person is convicted, after trial, 5934
of a felony. If the preserve officer files an appeal from that 5935
conviction and the conviction is upheld by the highest court to 5936
which the appeal is taken or if the preserve officer does not file 5937

a timely appeal, the chief shall terminate the employment of that preserve officer. If the preserve officer files an appeal that results in the preserve officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the preserve officer, the chief shall reinstate that preserve officer. A preserve officer who is reinstated under division (C)(2)(b) of this section shall not receive any back pay unless that preserve officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the preserve officer of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a preserve officer under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

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

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

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

(B) Facility development in natural areas, nature preserves, 5968
and wild, scenic, and recreational river areas; 5969

(C) Special projects, including, but not limited to, 5970
biological inventories, research grants, and the production of 5971
interpretive material related to natural areas, nature preserves, 5972
and wild, scenic, and recreational river areas; 5973

(D) Routine maintenance for health and safety purposes. 5974

Moneys appropriated from the fund shall not be used to fund 5975
salaries of permanent employees, or administrative costs, ~~or~~ 5976
~~routine maintenance.~~ 5977

All investment earnings of the fund shall be credited to the 5978
fund. 5979

Sec. 1520.02. (A) The director of natural resources has 5980
exclusive authority to administer, manage, and establish policies 5981
governing canal lands. 5982

(B)(1) ~~Except as provided in division (C) of this section,~~ 5983
~~the~~ The director may sell, lease, exchange, give, or grant all or 5984
part of the state's interest in any canal lands in accordance with 5985
section 1501.01 of the Revised Code. The director may stipulate 5986
that an appraisal or survey need not be conducted for, and may 5987
establish any terms or conditions that the director determines 5988
appropriate for, any such conveyance. 5989

(2) With regard to canal lands, the chief of the division of 5990
water, with the approval of the director, may sell, lease, or 5991
transfer minerals or mineral rights when the chief ~~and, with the~~ 5992
approval of the director ~~determine,~~ determines that the sale, 5993
lease, or transfer is in the best interest of the state. 5994
Consideration for minerals and mineral rights shall be by rental 5995
or on a royalty basis as prescribed by the chief, with the 5996
approval of the director, and payable as prescribed by contract. 5997

Moneys collected under division (B)(2) of this section shall be 5998
paid into the state treasury to the credit of the canal lands fund 5999
created in section 1520.05 of the Revised Code. 6000

~~(C)(1) Not later than one year after July 1, 1989, the 6001
director of transportation and the director of the Ohio historical 6002
society shall identify all canal lands that are or may be of use 6003
to any program operated by the department of transportation or the 6004
Ohio historical society, respectively, and shall notify the 6005
director of natural resources of those lands. The director of 6006
natural resources may transfer any canal lands so identified to 6007
the exclusive care, custody, and control of the department of 6008
transportation or the Ohio historical society, as applicable, by 6009
means of a departmental transfer not later than six months after 6010
receiving notification under division (C)(1) of this section. 6011~~

~~(2) The director of natural resources may transfer to the 6012
Ohio historical society any equipment, maps, and records used on 6013
or related to canal lands that are of historical interest and that 6014
are not needed by the director to administer this chapter. 6015~~

(D) If the director of natural resources determines that any 6016
canal lands are a necessary part of a county's drainage or ditch 6017
system and are not needed for any purpose of the department of 6018
natural resources, the director may sell, grant, or otherwise 6019
convey those canal lands to that county in accordance with 6020
division (B) of this section. The board of county commissioners 6021
shall accept the transfer of canal lands. 6022

(E) Notwithstanding any other section of the Revised Code, 6023
the county auditor shall transfer any canal lands conveyed under 6024
this section, and the county recorder shall record the deed for 6025
those lands in accordance with section 317.12 of the Revised Code. 6026
~~This division does not apply to canal lands transferred under 6027
division (C)(1) of this section. 6028~~

Sec. 1520.03. (A) The director of natural resources may 6029
appropriate real property in accordance with Chapter 163. of the 6030
Revised Code for the purpose of administering this chapter. 6031

(B)(1) The director shall operate and maintain all canals and 6032
canal reservoirs owned by the state except those canals that are 6033
operated by the Ohio historical society on July 1, 1989. 6034

(2) On behalf of the director, the division of water shall 6035
have the care and control of all canals and canal reservoirs owned 6036
by the state, the water in them, and canal lands and shall 6037
protect, operate, and maintain them and keep them in repair. The 6038
chief of the division of water may remove obstructions from or on 6039
them and shall make any alterations or changes in or to them and 6040
construct any feeders, dikes, reservoirs, dams, locks, or other 6041
works, devices, or improvements in or on them that are necessary 6042
in the discharge of the chief's duties. 6043

In accordance with Chapter 119. of the Revised Code, the 6044
chief may adopt, amend, and rescind rules that are necessary for 6045
the administration of this division. 6046

(C) The director may sell or lease water from any canal or 6047
canal reservoir that the director operates and maintains only to 6048
the extent that the water is in excess of the quantity that is 6049
required for navigation, recreation, and wildlife purposes. The 6050
director may adopt, amend, and rescind rules in accordance with 6051
Chapter 119. of the Revised Code necessary to administer this 6052
division. 6053

The withdrawal of water from any canal or canal reservoir for 6054
domestic use is exempt from this division. However, the director 6055
may require water conservation measures for water that is 6056
withdrawn from any canal or canal reservoir for domestic use 6057
during drought conditions or other emergencies declared by the 6058

governor. 6059

(D) No person shall take or divert water from any canal or 6060
canal reservoir operated and maintained by the director except in 6061
accordance with division (C) of this section. 6062

(E) At the request of the director, the attorney general may 6063
commence a civil action for civil penalties and injunctions, in a 6064
court of common pleas, against any person who has violated or is 6065
violating division (D) of this section. The court of common pleas 6066
in which an action for injunctive relief is filed has jurisdiction 6067
to and shall grant preliminary and permanent injunctive relief 6068
upon a showing that the person against whom the action is brought 6069
has violated or is violating that division. 6070

Upon a finding of a violation, the court shall assess a civil 6071
penalty of not more than one thousand dollars for each day of each 6072
violation if the violator is an individual who took or diverted 6073
the water in question for residential or agricultural use. The 6074
court shall assess a civil penalty of not more than five thousand 6075
dollars for each day of each violation if the violator is any 6076
other person who took or diverted the water in question for 6077
industrial or commercial use excluding agricultural use. Moneys 6078
from civil penalties assessed under this division shall be paid 6079
into the state treasury to the credit of the canal lands fund 6080
created in section 1520.05 of the Revised Code. 6081

Any action under this division is a civil action, governed by 6082
the rules of civil procedure and other rules of practice and 6083
procedure applicable to civil actions. 6084

(F) As used in this section, "person" means any agency of 6085
this state, any political subdivision of this state or of the 6086
United States, or any legal entity defined as a person under 6087
section 1.59 of the Revised Code. 6088

Sec. 1520.05. There is hereby created in the state treasury 6089
the canal lands fund, which shall be composed of all moneys 6090
received by the director of natural resources under sections 6091
1520.02 and 1520.03 of the Revised Code, all civil penalties 6092
assessed under section 1520.03 of the Revised Code, and any moneys 6093
appropriated to it. The fund shall be administered by the 6094
director, who shall spend moneys in the fund for the purposes of 6095
administering and enforcing this chapter ~~and section 1521.08 of~~ 6096
~~the Revised Code.~~ The director may spend any surplus moneys in the 6097
fund, as determined by ~~him~~ the director, for any other programs 6098
operated by the department of natural resources. 6099

Sec. 1520.07. (A) The director of natural resources may give 6100
away or sell timber that has fallen on or been removed for 6101
maintenance reasons from canal lands. 6102

(B) The director may give away or sell the spoils of a 6103
dredging operation conducted by the department of natural 6104
resources in waters under the control and management of the 6105
~~division of water~~ department. Prior to giving away or selling any 6106
spoils under this division, the director shall notify the director 6107
of environmental protection of ~~his~~ that intent so that the 6108
director of environmental protection may determine whether the 6109
spoils constitute solid wastes or hazardous waste, as those terms 6110
are defined in section 3734.01 of the Revised Code, that shall be 6111
disposed of in accordance with Chapter 3734. of the Revised Code. 6112
If the director of environmental protection does not notify the 6113
director of natural resources within thirty days after receiving 6114
notice of the gift or sale that the spoils shall be disposed of in 6115
accordance with Chapter 3734. of the Revised Code, the director of 6116
natural resources may proceed with the gift or sale. 6117

(C) Proceeds from the sale of timber or dredge spoils under 6118

this section shall be deposited into the state treasury to the 6119
credit of the canal lands fund created in section 1520.05 of the 6120
Revised Code. 6121

Sec. 1521.01. As used in sections 1521.01 to 1521.05, 1521.13 6122
to 1521.18, and 1521.20 to 1521.30 of the Revised Code: 6123

(A) "Consumptive use," "diversion," "Lake Erie drainage 6124
basin," "other great lakes states and provinces," "water 6125
resources," and "waters of the state" have the same meanings as in 6126
section 1501.30 of the Revised Code. 6127

(B) "Well" means any excavation, regardless of design or 6128
method of construction, created for any of the following purposes: 6129

(1) Removing ground water from or recharging water into an 6130
aquifer, excluding subsurface drainage systems installed to 6131
enhance agricultural crop production or urban or suburban 6132
landscape management or to control seepage in dams, dikes, and 6133
levees; 6134

(2) Determining the quantity, quality, level, or movement of 6135
ground water in or the stratigraphy of an aquifer, excluding 6136
borings for instrumentation in dams, dikes, levees, or highway 6137
embankments; 6138

(3) Removing or exchanging heat from ground water, excluding 6139
horizontal trenches that are installed for water source heat pump 6140
systems. 6141

(C) "Aquifer" means a consolidated or unconsolidated geologic 6142
formation or series of formations that are hydraulically 6143
interconnected and that have the ability to receive, store, or 6144
transmit water. 6145

(D) "Ground water" means all water occurring in an aquifer. 6146

(E) "Ground water stress area" means a definable geographic 6147

area in which ground water quantity is being affected by human activity or natural forces to the extent that continuous availability of supply is jeopardized by withdrawals.

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

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

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

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

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

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

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

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

homes, and manufactured homes.

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

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

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

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(O) "Shore structure" includes, but is not limited to: beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of water; piers; docks; jetties; wharves; marinas; boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

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

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occurred. 6209

(O) "National flood insurance program" means the national 6210
flood insurance program established in the "National Flood 6211
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as amended, 6212
and regulations adopted under it. 6213

(R) "Conservancy district" means a conservancy district 6214
established under Chapter 6101. of the Revised Code. 6215

~~(Q)~~(S) "Park board" means the board of park commissioners of 6216
a park district created under Chapter 1545. of the Revised Code. 6217

~~(R)~~(T) "Erosion control structure" means anything that is 6218
designed primarily to reduce or control erosion of the shore along 6219
or near lake erie, including, but not limited to, revetments, 6220
seawalls, bulkheads, certain breakwaters designated by the chief, 6221
and similar structures. "Erosion control structure" does not 6222
include wharves, piers, docks, marinas, boat ramps, and other 6223
similar structures. 6224

Sec. 1521.04. The chief of the division of water, with the 6225
approval of the director of natural resources, may make loans and 6226
grants from the water management fund created in section 1501.32 6227
of the Revised Code to governmental agencies for water management, 6228
water supply improvements, and planning and may administer grants 6229
from the federal government and from other public or private 6230
sources for carrying out those functions and for the performance 6231
of any acts that may be required by the United States or by any 6232
agency or department thereof as a condition for the participation 6233
by any governmental agency in any federal financial or technical 6234
assistance program. Direct and indirect costs of administration 6235
may be paid from the ~~water management~~ fund. 6236

The chief may use the water management fund for the purposes 6237
of administering the water diversion and consumptive use permit 6238

programs established in sections 1501.30 to 1501.35 of the Revised 6239
Code; to perform watershed and water resources studies for the 6240
purposes of water management planning; and to acquire, construct, 6241
reconstruct, improve, equip, maintain, operate, and dispose of 6242
water management improvements. The chief may fix, alter, charge, 6243
and collect rates, fees, rentals, and other charges to be paid 6244
into the ~~water management~~ fund by governmental agencies and 6245
persons who are supplied with water by facilities constructed or 6246
operated by the department of natural resources in order to 6247
amortize and defray the cost of the construction, maintenance, and 6248
operation of those facilities. 6249

Sec. 1521.05. (A) As used in this section: 6250

(1) "Construct" or "construction" includes drilling, boring, 6251
digging, deepening, altering, and logging. 6252

(2) "Altering" means changing the configuration of a well, 6253
including, without limitation, deepening a well, extending or 6254
replacing any portion of the inside or outside casing or wall of a 6255
well that extends below ground level, plugging a portion of a well 6256
back to a certain depth, and reaming out a well to enlarge its 6257
original diameter. 6258

(3) "Logging" means describing the lithology, grain size, 6259
color, and texture of the formations encountered during the 6260
drilling, boring, digging, deepening, or altering of a well. 6261

(4) "Grouting" means neat cement; bentonite products in 6262
slurry, granular, or pelletized form, excluding drilling mud or 6263
fluids; or any combination of neat cement and bentonite products 6264
that is placed within a well to seal the annular space or to seal 6265
an abandoned well and that is impervious to and capable of 6266
preventing the movement of water. 6267

(5) "Abandoned well" means a well whose use has been 6268

permanently discontinued and that poses potential health and 6269
safety hazards or that has the potential to transmit surface 6270
contaminants into the aquifer in which the well has been 6271
constructed. 6272

(6) "Sealing" means the complete filling of an abandoned well 6273
with grouting or other approved materials in order to permanently 6274
prevent the vertical movement of water in the well and thus 6275
prevent the contamination of ground water or the intermixing of 6276
water between aquifers. 6277

(B) Any person that constructs a well shall keep a careful 6278
and accurate log of the construction of the well. The log shall 6279
show all of the following: 6280

(1) The character, including, without limitation, the 6281
lithology, color, texture, and grain size, the name, if known, and 6282
the depth of all formations passed through or encountered; 6283

(2) The depths at which water is encountered; 6284

(3) The static water level of the completed well; 6285

(4) A copy of the record of all pumping tests and analyses 6286
related to those tests, if any; 6287

(5) Construction details, including lengths, diameters, and 6288
thicknesses of casing and screening and the volume, type of 6289
material, and method of introducing gravel packing and grouting 6290
into the well; 6291

(6) The type of pumping equipment installed, if any; 6292

(7) The name of the owner of the well, the address of the 6293
location where the well was constructed, and ~~a description of the~~ 6294
~~location of~~ either the property where state plane coordinates or 6295
the latitude and longitude of the well was constructed; 6296

(8) The signature of the individual who constructed the well 6297
and filed the well log; 6298

(9) Any other information required by the chief of the 6299
division of water. 6300

The log shall be furnished to the division of water within 6301
thirty days after the completion of construction of the well on 6302
forms prescribed and prepared by the division. The log shall be 6303
kept on file by the division. 6304

(C) Any person that seals a well shall keep a careful and 6305
accurate report of the sealing of the well. The sealing report 6306
shall show all of the following: 6307

(1) The name of the owner of the well, the address of the 6308
location where the well was constructed, and either the state 6309
plane coordinates or the latitude and longitude of the well; 6310

(2) The depth of the well, the size and length of its casing, 6311
and the static water level of the well; 6312

(3) The sealing procedures, including the volume and type of 6313
sealing material or materials and the method and depth of 6314
placement of each material; 6315

(4) The date on which the sealing was performed; 6316

(5) The signature of the individual who sealed the well and 6317
filed the sealing report; 6318

(6) Any other information required by the chief. 6319

The sealing report shall be furnished to the division within 6320
thirty days after the completion of the sealing of the well on 6321
forms prescribed and prepared by the division. 6322

(D) In accordance with Chapter 119. of the Revised Code, the 6323
chief may adopt, amend, and rescind rules requiring other persons 6324
that are involved in the construction or subsequent development of 6325
a well to submit well logs under ~~this~~ division (B) of this section 6326
containing any or all of the information specified in divisions 6327
(B)(1) to (9) of this section and ~~requiring any person that seals~~ 6328

an abandoned well to submit a well sealing report under this 6329
division containing any or all of the information specified in 6330
these divisions and any specifying additional information 6331
specified in the rules to be included in sealing reports required 6332
under division (C) of this section. 6333

~~(C)~~(E)(1) No person shall fail to keep and submit a well log 6334
or a sealing report as required by this section. 6335

(2) No person shall make a false statement in any well log or 6336
sealing report required to be kept and submitted under this 6337
section. Violation of division ~~(C)~~(E)(2) of this section is 6338
falsification under section 2921.13 of the Revised Code. 6339

~~(D)~~(F) For the purposes of prosecution of a violation of 6340
division ~~(C)~~(E)(1) of this section, a prima-facie case is 6341
established when the division obtains either of the following: 6342

(1) A certified copy of a permit for a private water system 6343
issued in accordance with rules adopted under section 3701.344 of 6344
the Revised Code, or a certified copy of the invoice or a canceled 6345
check from the owner of a well indicating the construction or 6346
sealing services performed; 6347

(2) A certified copy of any permit issued under Chapter 3734. 6348
or 6111. of the Revised Code or plan approval granted under 6349
Chapter 6109. of the Revised Code for any activity that includes 6350
the construction or sealing of a well as applicable. 6351

Sec. 1521.06. (A) No dam may be constructed for the purpose 6352
of storing, conserving, or retarding water, or for any other 6353
purpose, nor shall any ~~dike or~~ levee be constructed for the 6354
purpose of diverting or retaining flood water, unless the person 6355
or governmental agency desiring the construction has a 6356
construction permit for the dam, ~~dike,~~ or levee issued by the 6357
chief of the division of water. 6358

A construction permit is not required under this section for: 6359

(1) A dam that is or will be less than ten feet in height and 6360
that has or will have a storage capacity of not more than fifty 6361
acre-feet at the elevation of the top of the dam, as determined by 6362
the chief. For the purposes of this section, the height of a dam 6363
shall be measured from the natural stream bed or lowest ground 6364
elevation at the downstream or outside limit of the dam to the 6365
elevation of the top of the dam. 6366

(2) A dam, regardless of height, that has or will have a 6367
storage capacity of not more than fifteen acre-feet at the 6368
elevation of the top of the dam, as determined by the chief; 6369

(3) A dam, regardless of storage capacity, that is or will be 6370
six feet or less in height, as determined by the chief; 6371

(4) A dam, ~~dike~~, or levee that belongs to a class exempted by 6372
the chief; 6373

(5) The repair, maintenance, improvement, alteration, or 6374
removal of a dam, ~~dike~~, or levee that is subject to section 6375
1521.062 of the Revised Code, unless the construction constitutes 6376
an enlargement or reconstruction of the structure as determined by 6377
the chief; 6378

(6) A dam or impoundment constructed under Chapter 1513. of 6379
the Revised Code. 6380

(B) Before a construction permit may be issued, three copies 6381
of the plans and specifications, including a detailed cost 6382
estimate, for the proposed construction, prepared by a registered 6383
professional engineer, together with the filing fee specified by 6384
this section and the bond or other security required by section 6385
1521.061 of the Revised Code, shall be filed with the chief. The 6386
detailed estimate of the cost shall include all costs associated 6387
with the construction of the dam, ~~dike~~, or levee, including 6388

supervision and inspection of the construction by a registered 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 6420
and specifications filed, would endanger life, health, or 6421
property. 6422

(D) The chief may deny a construction permit after finding 6423
that a dam,~~dike~~, or levee built in accordance with the plans and 6424
specifications would endanger life, health, or property, because 6425
of improper or inadequate design, or for such other reasons as the 6426
chief may determine. 6427

In the event the chief denies a permit for the construction 6428
of the dam,~~dike~~, or levee, or issues a permit conditioned upon a 6429
making of changes in the plans or specifications for the 6430
construction, the chief shall state the reasons therefor and so 6431
notify, in writing, the person or governmental agency making the 6432
application for a permit. If the permit is denied, the chief shall 6433
return the bond or other security to the person or governmental 6434
agency making application for the permit. 6435

The decision of the chief conditioning or denying a 6436
construction permit is subject to appeal as provided in Chapter 6437
119. of the Revised Code. A dam,~~dike~~, or levee built 6438
substantially at variance from the plans and specifications upon 6439
which a construction permit was issued is in violation of this 6440
section. The chief may at any time inspect any dam,~~dike~~, or 6441
levee, or site upon which any dam,~~dike~~, or levee is to be 6442
constructed, in order to determine whether it complies with this 6443
section. 6444

(E) A registered professional engineer shall inspect the 6445
construction for which the permit was issued during all phases of 6446
construction and shall furnish to the chief such regular reports 6447
of the engineer's inspections as the chief may require. When the 6448
chief finds that construction has been fully completed in 6449
accordance with the terms of the permit and the plans and 6450

specifications approved by the chief, the chief shall approve the
construction. When one year has elapsed after approval of the
completed construction, and the chief finds that within this
period no fact has become apparent to indicate that the
construction was not performed in accordance with the terms of the
permit and the plans and specifications approved by the chief, or
that the construction as performed would endanger life, health, or
property, the chief shall release the bond or other security. No
bond or other security shall be released until one year after
final approval by the chief, unless the dam, ~~dike~~, or levee has
been modified so that it will not retain water and has been
approved as nonhazardous after determination by the chief that the
dam, ~~dike~~, or levee as modified will not endanger life, health, or
property.

(F) When inspections required by this section are not being
performed, the chief shall notify the person or governmental
agency to which the permit has been issued that inspections are
not being performed by the registered professional engineer and
that the chief will inspect the remainder of the construction.
Thereafter, the chief shall inspect the construction and the cost
of inspection shall be charged against the owner. Failure of the
registered professional engineer to submit required inspection
reports shall be deemed notice that the engineer's inspections are
not being performed.

(G) The chief may order construction to cease on any dam, ~~dike~~,
~~dike~~, or levee that is being built in violation of this section,
and may prohibit the retention of water behind any dam, ~~dike~~, or
levee that has been built in violation of this section. The
attorney general, upon written request of the chief, may bring an
action for an injunction against any person who violates this
section or to enforce an order or prohibition of the chief made
pursuant to this section.

(H) The chief may adopt rules in accordance with Chapter 119. 6483
of the Revised Code, for the design and construction of dams, 6484
~~dikes~~, and levees for which a construction permit is required by 6485
this section or for which periodic inspection is required by 6486
section 1521.062 of the Revised Code, for establishing a filing 6487
fee schedule in lieu of the schedule established under division 6488
(B) of this section, for deposit and forfeiture of bonds and other 6489
securities required by section 1521.061 of the Revised Code, for 6490
the periodic inspection, operation, repair, improvement, 6491
alteration, or removal of all dams, ~~dikes~~, and levees, as 6492
specified in section 1521.062 of the Revised Code, and for 6493
establishing classes of dams, ~~dikes~~, or levees that are exempt 6494
from the requirements of ~~sections 1521.06~~ this section and section 6495
1521.062 of the Revised Code as being of a size, purpose, or 6496
situation that does not present a substantial hazard to life, 6497
health, or property. The chief may, by rule, limit the period 6498
during which a construction permit issued under this section is 6499
valid. The rules may allow for the extension of the period during 6500
which a permit is valid upon written request, provided that the 6501
written request includes a revised construction cost estimate, and 6502
may require the payment of an additional filing fee for the 6503
requested extension. If a construction permit expires without an 6504
extension before construction is completed, the person or agency 6505
shall apply for a new permit, and shall not continue construction 6506
until the new permit is issued. 6507

Sec. 1521.061. Except as otherwise provided in this section, 6508
a construction permit shall not be issued under section 1521.06 of 6509
the Revised Code unless the person or governmental agency applying 6510
for the permit executes and files a surety bond conditioned on 6511
completion of the dam, ~~dike~~, or levee in accordance with the terms 6512
of the permit and the plans and specifications approved by the 6513
chief of the division of water, in an amount equal to fifty per 6514

cent of the estimated cost of the project. 6515

If a permittee requests an extension of the time period 6516
during which a construction permit is valid in accordance with 6517
rules adopted under section 1521.06 of the Revised Code, the chief 6518
shall determine whether the revised construction cost estimate 6519
provided with the request exceeds the original construction cost 6520
estimate that was filed with the chief by more than twenty-five 6521
per cent. If the revised construction cost estimate exceeds the 6522
original construction cost estimate by more than twenty-five per 6523
cent, the chief may require an additional surety bond to be filed 6524
so that the total amount of the surety bonds equals at least fifty 6525
per cent of the revised construction cost estimate. 6526

The chief shall not approve any bond until it is personally 6527
signed and acknowledged by both principal and surety, or as to 6528
either by ~~his~~ the attorney in fact thereof, with a certified copy 6529
of the power of attorney attached. The chief shall not approve the 6530
bond unless there is attached a certificate of the superintendent 6531
of insurance that the company is authorized to transact a fidelity 6532
and surety business in this state. 6533

All bonds shall be given in a form prescribed by the chief 6534
and shall run to the state as obligee. 6535

The applicant may deposit, in lieu of a bond, cash in an 6536
amount equal to the amount of the bond or United States government 6537
securities or negotiable certificates of deposit issued by any 6538
bank organized or transacting business in this state having a par 6539
value equal to or greater than the amount of the bond. Such cash 6540
or securities shall be deposited upon the same terms as bonds. If 6541
one or more certificates of deposit are deposited in lieu of a 6542
bond, the chief shall require the bank ~~which~~ that issued any such 6543
certificate to pledge securities of the aggregate market value 6544
equal to the amount of the certificate ~~which~~ that is in excess of 6545
the amount insured by the federal deposit insurance corporation. 6546

The securities to be pledged shall be those designated as eligible 6547
under section 135.18 of the Revised Code. The securities shall be 6548
security for the repayment of the certificate of deposit. 6549

Immediately upon a deposit of cash, securities, or 6550
certificates of deposit, the chief shall deliver them to the 6551
treasurer of state, who shall hold them in trust for the purposes 6552
for which they have been deposited. The treasurer of state is 6553
responsible for the safekeeping of such deposits. An applicant 6554
making a deposit of cash, securities, or certificates of deposit 6555
may withdraw and receive from the treasurer of state, on the 6556
written order of the chief, all or any portion of the cash, 6557
securities, or certificates of deposit, upon depositing with the 6558
treasurer of state cash, other United States government 6559
securities, or negotiable certificates of deposit issued by any 6560
bank organized or transacting business in this state equal in par 6561
value to the par value of the cash, securities, or certificates of 6562
deposit withdrawn. An applicant may demand and receive from the 6563
treasurer of state all interest or other income from any such 6564
securities or certificates as it becomes due. If securities so 6565
deposited with and in the possession of the treasurer of state 6566
mature or are called for payment by the issuer thereof, the 6567
treasurer of state, at the request of the applicant who deposited 6568
them, shall convert the proceeds of the redemption or payment of 6569
the securities into such other United States government 6570
securities, negotiable certificates of deposit issued by any bank 6571
organized or transacting business in this state, or cash as the 6572
applicant designates. 6573

When the chief finds that a person or governmental agency has 6574
failed to comply with the conditions of ~~his~~ the person's or 6575
agency's bond, ~~he~~ the chief shall make a finding of that fact and 6576
declare the bond, cash, securities, or certificates of deposit 6577
forfeited in the amount set by rule of the chief. The chief shall 6578

thereupon certify the total forfeiture to the attorney general, 6579
who shall proceed to collect that amount. 6580

In lieu of total forfeiture, the surety, at its option, may 6581
cause the dam, ~~dike~~, or levee to be completed as required by 6582
section 1521.06 of the Revised Code and rules of the chief, or 6583
otherwise rendered nonhazardous, or pay to the treasurer of state 6584
the cost thereof. 6585

All moneys collected on account of forfeitures of bonds, 6586
cash, securities, and certificates of deposit under this section 6587
shall be credited to the dam safety fund created in section 6588
1521.06 of the Revised Code. The chief shall make expenditures 6589
from the fund to complete dams, ~~dikes~~, and levees for which bonds 6590
have been forfeited or to otherwise render them nonhazardous. 6591

Expenditures from the fund for those purposes shall be made 6592
pursuant to contracts entered into by the chief with persons who 6593
agree to furnish all of the materials, equipment, work, and labor 6594
as specified and provided in the contract. 6595

A surety bond shall not be required for a permit for a dam, ~~dike~~, 6596
~~dike~~, or levee that is to be designed and constructed by an agency 6597
of the United States government, if the agency files with the 6598
chief written assurance of the agency's financial responsibility 6599
for the structure during the one-year period following the chief's 6600
approval of the completed construction provided for under division 6601
(E) of section 1521.06 of the Revised Code. 6602

Sec. 1521.062. (A) All dams, ~~dikes~~, and levees constructed in 6603
this state and not exempted by this section or by the chief of the 6604
division of water under section 1521.06 of the Revised Code shall 6605
be inspected periodically by the chief, except for classes of dams 6606
that, in accordance with rules adopted under this section, are 6607
required to be inspected by registered professional engineers who 6608
have been approved for that purpose by the chief. The inspection 6609

shall ensure that continued operation and use of the dam, ~~dike,~~ or 6610
levee does not constitute a hazard to life, health, or property. 6611
Periodic inspections shall not be required of the following 6612
structures: 6613

(1) A dam that is less than ten feet in height and has a 6614
storage capacity of not more than fifty acre-feet at the elevation 6615
of the top of the dam, as determined by the chief. For the 6616
purposes of this section, the height of a dam shall be measured 6617
from the natural stream bed or lowest ground elevation at the 6618
downstream or outside limit of the dam to the elevation of the top 6619
of the dam. 6620

(2) A dam, regardless of height, that has a storage capacity 6621
of not more than fifteen acre-feet at the elevation of the top of 6622
the dam, as determined by the chief; 6623

(3) A dam, regardless of storage capacity, that is six feet 6624
or less in height, as determined by the chief; 6625

(4) A dam, ~~dike,~~ or levee belonging to a class exempted by 6626
the chief; 6627

(5) A dam, ~~dike,~~ or levee that has been exempted in 6628
accordance with rules adopted under section 1521.064 of the 6629
Revised Code. 6630

(B) In accordance with rules adopted under this section, the 6631
owner of a dam that is in a class of dams that is designated in 6632
the rules for inspection by registered professional engineers 6633
shall obtain the services of a registered professional engineer 6634
who has been approved by the chief to conduct the periodic 6635
inspection of dams pursuant to schedules and other standards and 6636
procedures established in the rules. The registered professional 6637
engineer shall prepare a report of the inspection in accordance 6638
with the rules and provide the inspection report to the dam owner 6639
who shall submit it to the chief. A dam that is designated under 6640

the rules for inspection by a registered professional engineer,¹ 6641
but that is not inspected within a five-year period may be 6642
inspected by the chief at the owner's expense. 6643

(C) Intervals between periodic inspections shall be 6644
determined by the chief, but shall not exceed five years. 6645

(D) In the case of a dam,~~dike~~, or levee that the chief 6646
inspects, the chief shall furnish a report of the inspection to 6647
the owner of the dam,~~dike~~, or levee. With regard to a dam,~~dike~~, 6648
or levee that has been inspected, either by the chief or by a 6649
registered professional engineer, and that is the subject of an 6650
inspection report prepared or received by the chief, the chief 6651
shall inform the owner of any required repairs, maintenance, 6652
investigations, and other remedial and operational measures. The 6653
chief shall order the owner to perform such repairs, maintenance, 6654
investigations, or other remedial or operational measures as the 6655
chief considers necessary to safeguard life, health, or property. 6656
The order shall permit the owner a reasonable time in which to 6657
perform the needed repairs, maintenance, investigations, or other 6658
remedial measures, and the cost thereof shall be borne by the 6659
owner. All orders of the chief are subject to appeal as provided 6660
in Chapter 119. of the Revised Code. The attorney general, upon 6661
written request of the chief, may bring an action for an 6662
injunction against any person who violates this section or to 6663
enforce an order of the chief made pursuant to this section. 6664

(E) The owner of a dam,~~dike~~, or levee shall monitor, 6665
maintain, and operate the structure and its appurtenances safely 6666
in accordance with state rules, terms and conditions of permits, 6667
orders, and other requirements issued pursuant to this section or 6668
section 1521.06 of the Revised Code. The owner shall fully and 6669
promptly notify the division of water and other responsible 6670
authorities of any condition that threatens the safety of the 6671
structure and shall take all necessary actions to safeguard life, 6672

health, and property. 6673

(F) Before commencing the repair, improvement, alteration, or 6674
removal of a dam, ~~dike~~, or levee, the owner shall file an 6675
application including plans, specifications, and other required 6676
information with the division and shall secure written approval of 6677
the application by the chief. Emergency actions by the owner 6678
required to safeguard life, health, or property are exempt from 6679
this requirement. The chief may, by rule, define maintenance, 6680
repairs, or other remedial measures of a routine nature that are 6681
exempt from this requirement. 6682

(G) The chief may remove or correct, at the expense of the 6683
owner, any unsafe structures found to be constructed or maintained 6684
in violation of this section or section 1521.06 of the Revised 6685
Code. In the case of an owner other than a governmental agency, 6686
the cost of removal or correction of any unsafe structure, 6687
together with a description of the property on which the unsafe 6688
structure is located, shall be certified by the chief to the 6689
county auditor and placed by the county auditor upon the tax 6690
duplicate. This cost is a lien upon the lands from the date of 6691
entry and shall be collected as other taxes and returned to the 6692
division. In the case of an owner that is a governmental agency, 6693
the cost of removal or correction of any unsafe structure shall be 6694
recoverable from the owner by appropriate action in a court of 6695
competent jurisdiction. 6696

(H) If the condition of any dam, ~~dike~~, or levee is found, in 6697
the judgment of the chief, to be so dangerous to the safety of 6698
life, health, or property as not to permit time for the issuance 6699
and enforcement of an order relative to repair, maintenance, or 6700
operation, the chief shall employ any of the following remedial 6701
means necessary to protect life, health, and property: 6702

(1) Lower the water level of the lake or reservoir by 6703
releasing water; 6704

(2) Completely drain the lake or reservoir; 6705

(3) Take such other measures or actions as the chief 6706
considers necessary to safeguard life, health, and property. 6707

The chief shall continue in full charge and control of the 6708
dam, ~~dike~~, or levee until the structure is rendered safe. The cost 6709
of the remedy shall be recoverable from the owner of the structure 6710
by appropriate action in a court of competent jurisdiction. 6711

(I) The chief may accept and expend gifts, bequests, and 6712
grants from the United States government or from any other public 6713
or private source and may contract with the United States 6714
government or any other agency or entity for the purpose of 6715
carrying out the dam safety functions set forth in this section 6716
and section 1521.06 of the Revised Code. 6717

(J) In accordance with Chapter 119. of the Revised Code, the 6718
chief ~~shall~~ may adopt, and may amend or rescind, rules that do all 6719
of the following: 6720

(1) Designate classes of dams for which dam owners must 6721
obtain the services of a registered professional engineer to 6722
periodically inspect the dams and to prepare reports of the 6723
inspections for submittal to the chief; 6724

(2) Establish standards in accordance with which the chief 6725
must approve or disapprove registered professional engineers to 6726
inspect dams together with procedures governing the approval 6727
process; 6728

(3) Establish schedules, standards, and procedures governing 6729
periodic inspections and standards and procedures governing the 6730
preparation and submittal of inspection reports; 6731

(4) Establish provisions regarding the enforcement of this 6732
section and rules adopted under it. 6733

(K) The owner of a dam or levee shall notify the chief in 6734

writing of a change in ownership of the dam or levee prior to the 6735
exchange of the property. 6736

Sec. 1521.064. The chief of the division of water, in 6737
accordance with Chapter 119. of the Revised Code, shall adopt, and 6738
may amend and rescind, rules establishing a program under which 6739
dams, ~~dikes,~~ and levees may be exempted from inspections under 6740
section 1521.062 of the Revised Code if the continued operation 6741
and use of, and any rupturing of or other structural damage to, 6742
the dams, ~~dikes,~~ and levees will not constitute a hazard to life, 6743
health, or property. The rules shall establish, without 6744
limitation, all of the following: 6745

(A) A procedure by which the owner of such a dam, ~~dike,~~ or 6746
levee may apply for an exemption under this section; 6747

(B) The standards that a dam, ~~dike,~~ or levee shall meet in 6748
order to be exempted under this section; 6749

(C) A procedure by which the chief shall periodically review 6750
the status of a dam, ~~dike,~~ or levee that has been exempted under 6751
this section to determine if the exemption should be rescinded; 6752

(D) A requirement that the owner of any dam, ~~dike,~~ or levee 6753
exempted under this section shall agree, in writing, to accept 6754
liability for any injury, death, or loss to persons or property 6755
caused by the rupturing of or other structural damage to the dam, 6756
~~dike,~~ or levee. 6757

Sec. 1521.13. (A) Development in one-hundred-year floodplain 6758
areas shall be protected to at least the one-hundred-year flood 6759
level, and flood water conveyance shall be maintained, at a 6760
minimum, in accordance with standards established under the 6761
national flood insurance program. This division does not preclude 6762
a state agency or political subdivision from establishing flood 6763
protection standards that are more restrictive than this division. 6764

(B) Prior to the expenditure of money for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, all state agencies and political subdivisions shall notify and consult with the division of water and shall furnish information that the division reasonably requires in order to avoid the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities.

(C) The chief of the division of water shall do all of the following:

(1) Coordinate the floodplain management activities of state agencies and political subdivisions with the floodplain management activities of the United States, including the national flood insurance program ~~established in the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and regulations adopted under that act;~~

(2) Collect, prepare, and maintain technical data and information on floods and floodplain management and make the data and information available to the public, state agencies, political subdivisions, and agencies of the United States;

(3) Cooperate and enter into agreements with persons for the preparation of studies and reports on floods and floodplain management;

(4) Assist any county, municipal corporation, or state agency in developing comprehensive floodplain management programs;

(5) Provide technical assistance to any county, municipal corporation, or state agency through engineering assistance, data collection, preparation of model laws, training, and other activities relating to floodplain management;

(6) For the purpose of reducing damages and the threat to

life, health, and property in the event of a flood, cooperate with
state agencies, political subdivisions, and the United States in
the development of flood warning systems, evacuation plans, and
flood emergency preparedness plans;

(7) Upon request, assist the emergency management agency
established by section 5502.22 of the Revised Code in the
preparation of flood hazard mitigation reports required as a
condition for receiving federal disaster aid under the "Disaster
Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended,
~~"The Robert T. Stafford Disaster Relief and Emergency Assistance
Act of 1994," Pub. L. No. 93-288, as amended,~~ and regulations
adopted under ~~those acts~~ it;

(8) Adopt, and may amend or rescind, rules in accordance with
Chapter 119. of the Revised Code for the administration,
implementation, and enforcement of this section and sections
1521.14 and 1521.18 of the Revised Code;

(9) Establish, by rule, technical standards for the
delineation and mapping of floodplains and for the conduct of
engineering studies to determine the vertical and horizontal
limits of floodplains and for the assessment of development
impacts on flood heights and flood conveyance. The standards
established in rules adopted under this division shall be
consistent with and no more stringent than the analogous standards
established under the national flood insurance program ~~adopted
pursuant to the "National Flood Insurance Act of 1968," 82 Stat.
572, 42 U.S.C.A. 4001, as amended.~~

(10) ~~Establish, by rule, flood damage reduction standards
governing development within one hundred year floodplains other
than development subject to the rules adopted under division
(A)(11) of this section. The standards shall include provisions to
ensure that structures are protected at least to the one hundred~~

~~year flood level and that any increase in the one hundred year
flood level will not exceed one foot as determined by engineering
studies conducted in accordance with the technical standards
established in rules adopted under division (A)(9) of this
section. The standards adopted under this division shall be no
more stringent than the minimum floodplain management criteria of
the national flood insurance program adopted under the "National
Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as
amended.~~

~~(11) Establish, by rule, minimum flood damage reduction
standards governing development undertaken by state agencies
within one hundred year floodplains. The standards shall include
provisions to ensure that structures are protected at least to the
one hundred year flood level and that any increase in the one
hundred year flood level will not exceed one foot as determined by
engineering studies conducted in accordance with the technical
standards established in rules adopted under division (A)(9) of
this section. The standards adopted under this division shall be
consistent with and no less stringent than the minimum floodplain
management criteria of the national flood insurance program
adopted under the "National Flood Insurance Act of 1968," 82 Stat.
572, 42 U.S.C.A. 4001, as amended.~~

~~(12) On behalf of the director of natural resources,
administer section 1506.04 of the Revised Code.~~

~~(B) Rules adopted under division (A)(10) of this section and
standards established under those rules apply only to developments
for which a demonstration of compliance is required under division
(C)(1) of section 1521.14 of the Revised Code~~

In addition to the duties imposed in divisions (C)(1) to (10)
of this section, and with respect to existing publicly owned
facilities that have suffered flood damage or that may be subject
to flood damage, the chief may conspicuously mark past and

probable flood heights in order to assist in creating public 6858
awareness of and knowledge about flood hazards. 6859

(D)(1) Development that is funded, financed, undertaken, or 6860
preempted by state agencies shall comply with division (A) of this 6861
section and with rules adopted under division (C)(9) of this 6862
section. 6863

(2) State agencies shall apply floodproofing measures in 6864
order to reduce potential additional flood damage of existing 6865
publicly owned facilities that have suffered flood damage. 6866

(3) Before awarding funding or financing or granting a 6867
license, permit, or other authorization for a development that is 6868
or is to be located within a one-hundred-year floodplain, a state 6869
agency shall require the applicant to demonstrate to the 6870
satisfaction of the agency that the development will comply with 6871
division (A) of this section, rules adopted under division (C)(9) 6872
of this section, and any applicable local floodplain management 6873
resolution or ordinance. 6874

(4) Prior to the disbursement of any state disaster 6875
assistance money in connection with any incident of flooding to or 6876
within a county or municipal corporation that is not listed by the 6877
chief as being in compliance under division (D)(1) of section 6878
1521.18 of the Revised Code, a state agency that has authority to 6879
disburse such money shall require the county or municipal 6880
corporation to establish or reestablish compliance as provided in 6881
that division. 6882

(E)(1) Subject to section 1521.18 of the Revised Code, a 6883
county or a municipal corporation may do all of the following: 6884

(a) Adopt floodplain maps that reflect the best available 6885
data and that indicate the areas to be regulated under a 6886
floodplain management resolution or ordinance, as applicable; 6887

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable; 6888
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(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program. 6890
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(2) A county or municipal corporation shall examine and apply, where economically feasible, floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage. 6893
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(3) A county that adopts a floodplain management resolution shall do so in accordance with the procedures established in section 307.37 of the Revised Code. The county may enforce the resolution by issuing stop work orders, seeking injunctive relief, or pursuing other civil actions that the county considers necessary to ensure compliance with the resolution. In addition, failure to comply with the floodplain management resolution constitutes a violation of division (D) of section 307.37 of the Revised Code. 6897
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(4) No action challenging the validity of a floodplain management resolution adopted by a county or a floodplain management ordinance adopted by a municipal corporation, or an amendment to such a resolution or ordinance, because of a procedural error in the adoption of the resolution, ordinance, or amendment shall be brought more than two years after the adoption of the resolution, ordinance, or amendment. 6906
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~~**Sec. 1521.14.** (A) All state agencies and political subdivisions, prior to the expenditure of funds for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, shall notify and consult with the division of water and~~ 6913
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~~shall furnish such information as the division may reasonably 6918
require in order to avoid the uneconomic, hazardous, or 6919
unnecessary use of floodplains in connection with such facilities. 6920~~

~~(B) With respect to existing publicly owned facilities that 6921
have suffered flood damage or that may be subject to flood damage, 6922
the chief of the division of water may conspicuously mark past and 6923
probable flood heights so as to assist in creating public 6924
awareness of and knowledge about flood hazards. Wherever 6925
economically feasible, state agencies and political subdivisions 6926
responsible for existing publicly owned facilities shall apply 6927
floodproofing measures in order to reduce potential flood damage. 6928~~

~~(C)(1) Any state agency that funds or finances developments 6929
or that has regulatory jurisdiction that preempts the authority of 6930
political subdivisions to regulate development as necessary to 6931
establish participation in the national flood insurance program 6932
under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 6933
U.S.C.A. 4001, as amended, before awarding funding or financing or 6934
granting a license, permit, or other authorization for a 6935
development that is or is to be located within a one hundred year 6936
floodplain, shall require the applicant therefor to demonstrate to 6937
the satisfaction of the agency that the development will comply 6938
with the flood damage reduction standards established in rules 6939
adopted under division (A)(10) of section 1521.13 of the Revised 6940
Code. 6941~~

~~(2) Any state agency that undertakes any development that is 6942
or is to be located within a one hundred year floodplain shall 6943
ensure that the development complies with the minimum flood damage 6944
reduction standards established in rules adopted under division 6945
(A)(11) of section 1521.13 of the Revised Code. 6946~~

~~(3) Prior to the disbursement of any state disaster 6947
assistance funds in connection with any incident of flooding to or 6948
within a municipal corporation or county that is not listed by the 6949~~

~~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.~~ 6950
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~~(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:~~ 6955
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~~(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;~~ 6972
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~~(B) Funded, financed, undertaken, or preempted by a state agency.~~ 6976
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Sec. 1521.18. (A) For the purposes of this section, a one_hundred_year floodplain is limited to an area identified as a one_hundred_year floodplain in accordance with the "National Flood 6978
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Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 6981
amended. 6982

(B) Each municipal corporation or county that has within its 6983
boundaries a one_hundred_year floodplain and that adopts a 6984
floodplain management ordinance or resolution or any amendments to 6985
such an ordinance or resolution on or after April 11, 1991, after 6986
adopting the ordinance, resolution, or amendments and before 6987
submitting the ordinance, resolution, or amendments to the federal 6988
emergency management agency for final approval for compliance with 6989
applicable standards adopted under the "National Flood Insurance 6990
Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall 6991
submit the ordinance, resolution, or amendments to the chief of 6992
the division of water for ~~his~~ the chief's review for compliance 6993
with those standards. Within forty-five days after receiving any 6994
such ordinance, resolution, or amendments, the chief shall 6995
complete ~~his~~ the review and notify the municipal corporation or 6996
county as to whether the ordinance, resolution, or amendments 6997
comply with those standards. If the chief finds that the 6998
ordinance, resolution, or amendments comply with those standards, 6999
~~he~~ the chief shall forward it or them to the federal emergency 7000
management agency for final approval. 7001

(C)(1) If the chief determines that a county or municipal 7002
corporation that has adopted a floodplain management resolution or 7003
ordinance fails to administer or enforce the resolution or 7004
ordinance, the chief shall send a written notice by certified mail 7005
to the board of county commissioners of the county or the chief 7006
executive officer of the municipal corporation stating the nature 7007
of the noncompliance. 7008

(2) In order to maintain its compliance status in accordance 7009
with division (D) of this section, a county or municipal 7010
corporation that has received a notice of noncompliance under 7011
division (C)(1) of this section may submit information to the 7012

chief not later than thirty days after receiving the notice that
demonstrates compliance or indicates the actions that the county
or municipal corporation is taking to administer or enforce the
resolution or ordinance. The chief shall review the information
and shall issue a final determination by certified mail to the
county or municipal corporation of the compliance or noncompliance
status of the county or municipal corporation. If the chief issues
a final determination of noncompliance, ~~he~~ the chief shall send a
copy of that determination to the federal emergency management
agency concurrently with mailing the notice to the municipal
corporation or county.

(D)(1) A county or municipal corporation is considered to be
in compliance for the purposes of this section if either of the
following applies:

(a) The county or municipal corporation has adopted a
floodplain management resolution or ordinance that the chief has
determined complies with applicable standards adopted under the
"National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A.
4001, as amended, and is adequately administering and enforcing it
as determined under division (C) of this section.

(b) The county or municipal corporation is participating in
the national flood insurance program ~~under the "National Flood
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as
amended,~~ and has not received a notice of noncompliance under
division (B) or (C) of this section.

(2) The chief shall maintain a list of all counties and
municipal corporations that have one-hundred-year floodplains
within their boundaries. The list shall indicate whether each such
county or municipal corporation is in compliance or noncompliance
as provided in division (D)(1) of this section and whether each
such county or municipal corporation is participating in the

national flood insurance program. The chief shall provide a copy 7044
of the list to the general assembly and all state agencies 7045
annually and shall notify the general assembly and the agencies of 7046
any changes at least quarterly. 7047

(E) Any county or municipal corporation that is adversely 7048
affected by any determination of the chief under this section may 7049
appeal it in accordance with Chapter 119. of the Revised Code not 7050
later than thirty days after the final determination. 7051

Sec. 1521.19. (A) There is hereby created the Ohio water 7052
resources council consisting of the directors of agriculture, 7053
development, environmental protection, health, natural resources, 7054
transportation, and the Ohio public works commission, the 7055
chairperson of the public utilities commission of Ohio, the 7056
executive ~~directors~~ director of ~~the state and local government~~ 7057
~~commission of Ohio and~~ the Ohio water development authority, and 7058
an executive assistant in the office of the governor appointed by 7059
the governor. The governor shall appoint one of the members of the 7060
council to serve as its chairperson. The council may adopt bylaws 7061
that are necessary for the implementation of this section. The 7062
council shall provide a forum for policy development, 7063
collaboration and coordination among state agencies, and strategic 7064
direction with respect to state water resource programs. The 7065
council shall be assisted in its functions by a state agency 7066
coordinating group and an advisory group as provided in this 7067
section. 7068

(B) The state agency coordinating group shall consist of the 7069
executive director of the Ohio Lake Erie commission and a member 7070
or members from each state agency, commission, and authority 7071
represented on the council, to be appointed by the applicable 7072
director, chairperson, or executive director. However, the 7073
environmental protection agency shall be represented on the group 7074

by the chiefs of the divisions within that agency having 7075
responsibility for surface water programs and drinking and ground 7076
water programs, and the department of natural resources shall be 7077
represented on the group by the chief of the division of water and 7078
the chief of the division of soil and water conservation. The 7079
chairperson of the council shall appoint a leader of the state 7080
agency coordinating group. The group shall provide assistance to 7081
and perform duties on behalf of the council as directed by the 7082
council. 7083

(C) The advisory group shall consist of not more than ~~twenty~~ 7084
twenty-four members, each representing an organization or entity 7085
with an interest in water resource issues. The council shall 7086
appoint the members of the advisory group. Of the initial 7087
appointments, not more than ten members shall be appointed for 7088
one-year terms, and not more than ten members shall be appointed 7089
for two-year terms. Of the four initial appointments made after 7090
the effective date of this amendment, two of the members shall be 7091
appointed for one-year terms, and two of the members shall be 7092
appointed for two-year terms. Thereafter, all advisory group 7093
members shall serve two-year terms. Members may be reappointed. 7094
Each member shall hold office from the date of the member's 7095
appointment until the end of the member's term. A member shall 7096
continue in office subsequent to the expiration date of the 7097
member's term until the member's successor takes office or until a 7098
period of sixty days has elapsed, whichever occurs first. The 7099
council may remove a member for misfeasance, nonfeasance, or 7100
malfeasance in office. The council shall appoint members to fill 7101
any vacancies on the group. A member appointed to fill a vacancy 7102
shall hold office for the remainder of the term for which that 7103
member was appointed. 7104

The chairperson of the council shall appoint a chairperson of 7105
the advisory group. The advisory group shall advise the council on 7106

water resources issues addressed by the council. 7107

(D) There is hereby created in the state treasury the Ohio 7108
water resources council fund. The department of natural resources 7109
shall serve as the fiscal agent for the fund. The departments of 7110
agriculture, development, environmental protection, health, 7111
natural resources, and transportation shall transfer moneys to the 7112
fund in equal amounts via intrastate transfer voucher. The public 7113
utilities commission of Ohio, Ohio public works commission, ~~state~~ 7114
~~and local government commission of Ohio,~~ and Ohio water 7115
development authority may transfer moneys to the fund. If a 7116
voluntary transfer of moneys is made to the fund, the portion that 7117
is required to be transferred by the departments of agriculture, 7118
development, environmental protection, health, natural resources, 7119
and transportation may be equally reduced. Moneys in the fund 7120
shall be used to pay the operating expenses of the Ohio water 7121
resources council, including those specified in division (E) of 7122
this section. 7123

(E) The Ohio water resources council may hire staff to 7124
support its activities. The council may enter into contracts and 7125
agreements with federal agencies, state agencies, political 7126
subdivisions, and private entities to assist in accomplishing its 7127
objectives. Advisory group members shall be reimbursed for 7128
expenses necessarily incurred in the performance of their duties 7129
pursuant to section 126.31 of the Revised Code and any applicable 7130
rules pertaining to travel reimbursement adopted by the office of 7131
budget and management. 7132

Sec. 1521.99. (A) Whoever violates division ~~(C)~~(E)(1) of 7133
section 1521.05 or division (E)(1) of section 1521.16 of the 7134
Revised Code is guilty of a misdemeanor of the fourth degree. 7135

(B) Whoever violates section 1521.06 or 1521.062 of the 7136
Revised Code shall be fined not less than one hundred dollars nor 7137

more than one thousand dollars for each offense. Each day of violation constitutes a separate offense. 7138
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(C) Whoever violates sections 1521.20 to 1521.30 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense. 7140
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Sec. 1531.01. As used in this chapter and Chapter 1533. of the Revised Code: 7144
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(A) "Person" means ~~individual, company, partnership, corporation, municipal corporation, association, or any combination of individuals, or any employee, agent, or officer thereof~~ a person as defined in section 1.59 of the Revised Code or a company; an employee, agent, or officer of such a person or company; a combination of individuals; the state; a political subdivision of the state; an interstate body created by a compact; or the federal government or a department, agency, or instrumentality of it. 7146
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(B) "Resident" means any individual who has resided in this state for not less than six months next preceding the date of making application for a license. 7155
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(C) "Nonresident" means any individual who does not qualify as a resident. 7158
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(D) "Division rule" or "rule" means any rule adopted by the chief of the division of wildlife under section 1531.10 of the Revised Code unless the context indicates otherwise. 7160
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(E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited. 7163
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(F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. 7166
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of the Revised Code is permitted. 7168

(G) "Take or taking" includes pursuing, shooting, hunting, 7169
killing, trapping, angling, fishing with a trotline, or netting 7170
any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, 7171
wild bird, or wild quadruped, and any lesser act, such as 7172
wounding, or placing, setting, drawing, or using any other device 7173
for killing or capturing any wild animal, whether it results in 7174
killing or capturing the animal or not. "Take or taking" includes 7175
every attempt to kill or capture and every act of assistance to 7176
any other person in killing or capturing or attempting to kill or 7177
capture a wild animal. 7178

(H) "Possession" means both actual and constructive 7179
possession and any control of things referred to. 7180

(I) "Bag limit" means the number, measurement, or weight of 7181
any kind of crayfish, aquatic insects, fish, frogs, turtles, wild 7182
birds, and wild quadrupeds permitted to be taken. 7183

(J) "Transport and transportation" means carrying or moving 7184
or causing to be carried or moved. 7185

(K) "Sell and sale" means barter, exchange, or offer or 7186
expose for sale. 7187

(L) "Whole to include part" means that every provision 7188
relating to any wild animal protected by this chapter and Chapter 7189
1533. of the Revised Code applies to any part of the wild animal 7190
with the same effect as it applies to the whole. 7191

(M) "Angling" means fishing with not more than two hand 7192
lines, not more than two units of rod and line, or a combination 7193
of not more than one hand line and one rod and line, either in 7194
hand or under control at any time while fishing. The hand line or 7195
rod and line shall have attached to it not more than three baited 7196
hooks, not more than three artificial fly rod lures, or one 7197

artificial bait casting lure equipped with not more than three	7198
sets of three hooks each.	7199
(N) "Trotline" means a device for catching fish that consists	7200
of a line having suspended from it, at frequent intervals,	7201
vertical lines with hooks attached.	7202
(O) "Fish" means a cold-blooded vertebrate having fins.	7203
(P) "Measurement of fish" means length from the end of the	7204
nose to the longest tip or end of the tail.	7205
(Q) "Wild birds" includes game birds and nongame birds.	7206
(R) "Game" includes game birds, game quadrupeds, and	7207
fur-bearing animals.	7208
(S) "Game birds" includes mourning doves, ringneck pheasants,	7209
bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated	7210
grouse, wild turkey, Hungarian partridge, Chukar partridge,	7211
woodcocks, black-breasted plover, golden plover, Wilson's snipe or	7212
jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules,	7213
duck, geese, brant, and crows.	7214
(T) "Nongame birds" includes all other wild birds not	7215
included and defined as game birds <u>or migratory game birds</u> .	7216
(U) "Wild quadrupeds" includes game quadrupeds and	7217
fur-bearing animals.	7218
(V) "Game quadrupeds" includes cottontail rabbits, gray	7219
squirrels, black squirrels, fox squirrels, red squirrels, flying	7220
squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer,	7221
wild boar, and black bears.	7222
(W) "Fur-bearing animals" includes minks, weasels, raccoons,	7223
skunks, opossums, muskrats, fox, beavers, badgers, otters,	7224
coyotes, and bobcats.	7225
(X) "Wild animals" includes mollusks, crustaceans, aquatic	7226

insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, 7227
and all other wild mammals, but does not include domestic deer. 7228

(Y) "Hunting" means pursuing, shooting, killing, following 7229
after or on the trail of, lying in wait for, shooting at, or 7230
wounding wild birds or wild quadrupeds while employing any device 7231
commonly used to kill or wound wild birds or wild quadrupeds 7232
whether or not the acts result in killing or wounding. "Hunting" 7233
includes every attempt to kill or wound and every act of 7234
assistance to any other person in killing or wounding or 7235
attempting to kill or wound wild birds or wild quadrupeds. 7236

(Z) "Trapping" means securing or attempting to secure 7237
possession of a wild bird or wild quadruped by means of setting, 7238
placing, drawing, or using any device that is designed to close 7239
upon, hold fast, confine, or otherwise capture a wild bird or wild 7240
quadruped whether or not the means results in capture. "Trapping" 7241
includes every act of assistance to any other person in capturing 7242
wild birds or wild quadrupeds by means of the device whether or 7243
not the means results in capture. 7244

(AA) "Muskrat spear" means any device used in spearing 7245
muskrats. 7246

(BB) "Channels and passages" means those narrow bodies of 7247
water lying between islands or between an island and the mainland 7248
in Lake Erie. 7249

(CC) "Island" means a rock or land elevation above the waters 7250
of Lake Erie having an area of five or more acres above water. 7251

(DD) "Reef" means an elevation of rock, either broken or in 7252
place, or gravel shown by the latest United States chart to be 7253
above the common level of the surrounding bottom of the lake, 7254
other than the rock bottom, or in place forming the base or 7255
foundation rock of an island or mainland and sloping from the 7256
shore of it. "Reef" also means all elevations shown by that chart 7257

to be above the common level of the sloping base or foundation 7258
rock of an island or mainland, whether running from the shore of 7259
an island or parallel with the contour of the shore of an island 7260
or in any other way and whether formed by rock, broken or in 7261
place, or from gravel. 7262

(EE) "Fur farm" means any area used exclusively for raising 7263
fur-bearing animals or in addition thereto used for hunting game, 7264
the boundaries of which are plainly marked as such. 7265

(FF) "Waters" includes any lake, pond, reservoir, stream, 7266
channel, lagoon, or other body of water, or any part thereof, 7267
whether natural or artificial. 7268

(GG) "Crib" or "car" refers to that particular compartment of 7269
the net from which the fish are taken when the net is lifted. 7270

(HH) "Commercial fish" means those species of fish permitted 7271
to be taken, possessed, bought, or sold unless otherwise 7272
restricted by the Revised Code or division rule and are alewife 7273
(*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin 7274
(*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), 7275
smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus* 7276
cyprinellus), black bullhead (*Ictalurus melas*), yellow bullhead 7277
(*Ictalurus natalis*), brown bullhead (*Ictalurus nebulosus*), channel 7278
catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis* 7279
olivaris), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), 7280
freshwater drum or sheepshead (*Aplodinotus grunniens*), gar 7281
(*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish 7282
(*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye 7283
(*Hiodon tergisus*), quillback (*Carpionides cyprinus*), smelt 7284
(*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* 7285
sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other 7286
than buffalo and quillback (*Carpionides* sp., *Catostomus* sp., 7287
Hypentelium sp., *Minytrema* sp., *Moxostoma* sp.), white bass (*Morone* 7288

chrysops), white perch (*Roccus americanus*), and yellow perch
(*Perca flavescens*). When the common name of a fish is used in this
chapter or Chapter 1533. of the Revised Code, it refers to the
fish designated by the scientific name in this definition.

(II) "Fishing" means taking or attempting to take fish by any
method, and all other acts such as placing, setting, drawing, or
using any device commonly used to take fish whether resulting in a
taking or not.

(JJ) "Fillet" means the pieces of flesh taken or cut from
both sides of a fish, joined to form one piece of flesh.

(KK) "Part fillet" means a piece of flesh taken or cut from
one side of a fish.

(LL) "Round" when used in describing fish means with head and
tail intact.

(MM) "Migrate" means the transit or movement of fish to or
from one place to another as a result of natural forces or
instinct and includes, but is not limited to, movement of fish
induced or caused by changes in the water flow.

(NN) "Spreader bar" means a brail or rigid bar placed across
the entire width of the back, at the top and bottom of the cars in
all trap, crib, and fyke nets for the purpose of keeping the
meshes hanging squarely while the nets are fishing.

(OO) "Fishing guide" means any person who, for consideration
or hire, operates a boat, rents, leases, or otherwise furnishes
angling devices, ice fishing shanties or shelters of any kind, or
other fishing equipment, and accompanies, guides, directs, or
assists any other person in order for the other person to engage
in fishing.

(PP) "Net" means fishing devices with meshes composed of
twine or synthetic material and includes, but is not limited to,

trap nets, fyke nets, crib nets, carp aprons, dip nets, and 7319
seines, except minnow seines and minnow dip nets. 7320

(QQ) "Commercial fishing gear" means seines, trap nets, fyke 7321
nets, dip nets, carp aprons, trotlines, other similar gear, and 7322
any boat used in conjunction with that gear, but does not include 7323
gill nets. 7324

(RR) "Native wildlife" means any species of the animal 7325
kingdom indigenous to this state. 7326

(SS) "Gill net" means a single section of fabric or netting 7327
seamed to a float line at the top and a lead line at the bottom, 7328
which is designed to entangle fish in the net openings as they 7329
swim into it. 7330

(TT) "Tag fishing tournament" means a contest in which a 7331
participant pays a fee, or gives other valuable consideration, for 7332
a chance to win a prize by virtue of catching a tagged or 7333
otherwise specifically marked fish within a limited period of 7334
time. 7335

(UU) "Tenant" means an individual who resides on land for 7336
which the individual pays rent and whose annual income is 7337
primarily derived from agricultural production conducted on that 7338
land, as "agricultural production" is defined in section 929.01 of 7339
the Revised Code. 7340

(VV) "Nonnative wildlife" means any wild animal not 7341
indigenous to this state, but does not include domestic deer. 7342

(WW) "Reptiles" includes common musk turtle (*sternotherus* 7343
odoratus), common snapping turtle (*Chelydra serpentina* 7344
serpentina), spotted turtle (*Clemmys guttata*), eastern box turtle 7345
(*Terrapene carolina carolina*), Blanding's turtle (*Emydoidea* 7346
blandingii), common map turtle (*Graptemys geographica*), ouachita 7347
map turtle (*Graptemys pseudogeographica ouachitensis*), midland 7348

(XX) "Amphibians" includes eastern hellbender (<i>Cryptobranchus</i>	7381
<i>alleganiensis alleganiensis</i>), mudpuppy (<i>Necturus maculosus</i>	7382
<i>maculosus</i>), red-spotted newt (<i>Notophthalmus viridescens</i>	7383
<i>viridescens</i>), Jefferson salamander (<i>Ambystoma jeffersonianum</i>),	7384
spotted salamander (<i>Ambystoma maculatum</i>), blue-spotted salamander	7385
(<i>Ambystoma laterale</i>), smallmouth salamander (<i>Ambystoma texanum</i>),	7386
streamside salamander (<i>Ambystoma barbouri</i>), marbled salamander	7387
(<i>Ambystoma opacum</i>), eastern tiger salamander (<i>Ambystoma tigrinum</i>	7388
<i>tigrinum</i>), northern dusky salamander (<i>Desmognathus fuscus fuscus</i>),	7389
mountain dusky salamander (<i>Desmognathus ochrophaeus</i>), redback	7390
salamander (<i>Plethodon cinereus</i>), ravine salamander (<i>Plethodon</i>	7391
<i>richmondi</i>), northern slimy salamander (<i>Plethodon glutinosus</i>),	7392
Wehrle's salamander (<i>Plethodon wehrlei</i>), four-toed salamander	7393
(<i>Hemidactylium scutatum</i>), Kentucky spring salamander (<i>Gyrinophilus</i>	7394
<i>porphyriticus duryi</i>), northern spring salamander (<i>Gyrinophilus</i>	7395
<i>porphyriticus porphyriticus</i>), mud salamander (<i>Pseudotriton</i>	7396
<i>montanus</i>), northern red salamander (<i>Pseudotriton ruber ruber</i>),	7397
green salamander (<i>Aneides aeneus</i>), northern two-lined salamander	7398
(<i>Eurycea bislineata</i>), longtail salamander (<i>Eurycea longicauda</i>	7399
<i>longicauda</i>), cave salamander (<i>Eurycea lucifuga</i>), southern	7400
two-lined salamander (<i>Eurycea cirrigera</i>), Fowler's toad (<i>Bufo</i>	7401
<i>woodhousii fowleri</i>), American toad (<i>Bufo americanus</i>), eastern	7402
spadefoot (<i>Scaphiopus holbrookii</i>), Blanchard's cricket frog (<i>Acris</i>	7403
<i>crepitans blanchardi</i>), northern spring peeper (<i>Pseudacris crucifer</i>	7404
<i>crucifer</i>), gray treefrog (<i>Hyla versicolor</i>), Cope's gray treefrog	7405
(<i>Hyla chrysoscelis</i>), western chorus frog (<i>Pseudacris triseriata</i>	7406
<i>triseriata</i>), mountain chorus frog (<i>Pseudacris brachyphona</i>),	7407
bullfrog (<i>Rana catesbeiana</i>), green frog (<i>Rana clamitans melanota</i>),	7408
northern leopard frog (<i>Rana pipiens</i>), pickerel frog (<i>Rana</i>	7409
<i>palustris</i>), southern leopard frog (<i>Rana utricularia</i>), and wood	7410
frog (<i>Rana sylvatica</i>).	7411
(YY) "Deer" means white-tailed deer (<i>Odocoileus</i>	7412

virginianus). 7413

(ZZ) "Domestic deer" means nonnative deer that have been 7414
legally acquired or their offspring and that are held in private 7415
ownership for primarily agricultural purposes. 7416

(AAA) "Migratory game bird" includes waterfowl (Anatidae); 7417
doves (Columbidae); cranes (Gruidae); cormorants 7418
(Phalacrocoracidea); rails, coots, and gallinules (Rallidae); and 7419
woodcock and snipe (Scolopacidae). 7420

(BBB) "Accompany" means to go along with another person while 7421
staying within a distance from the person that enables 7422
uninterrupted, unaided visual and auditory communication. 7423

Sec. 1531.02. The ownership of and the title to all wild 7424
animals in this state, not legally confined or held by private 7425
ownership legally acquired, is in the state, which holds such 7426
title in trust for the benefit of all the people. Individual 7427
possession shall be obtained only in accordance with the Revised 7428
Code or division rules. No person at any time of the year shall 7429
take in any manner or possess any number or quantity of wild 7430
animals, except wild animals that the Revised Code or division 7431
rules permit to be taken, hunted, killed, or had in possession, 7432
and only at the time and place and in the manner that the Revised 7433
Code or division rules prescribe. No person shall buy, sell, or 7434
offer any part of wild animals for sale, or transport any part of 7435
wild animals, except as permitted by the Revised Code or division 7436
rules. No person shall possess or transport a wild animal that has 7437
been taken or possessed unlawfully outside the state. 7438

A person doing anything prohibited or neglecting to do 7439
anything required by this chapter or Chapter 1533. of the Revised 7440
Code or contrary to any division rule violates this section. A 7441
person who counsels, aids, shields, or harbors an offender under 7442

~~such those~~ chapters or any division rule, or who knowingly shares 7443
in the proceeds of such a violation, or receives or possesses any 7444
wild animal in violation of the Revised Code or division rule, 7445
violates this section. ~~No person shall use a rifle, at any time,~~ 7446
~~in taking migratory game birds.~~ 7447

Sec. 1531.04. The division of wildlife, at the direction of 7448
the chief of the division, shall do all of the following: 7449

(A) Plan, develop, and institute programs and policies based 7450
on the best available information, including biological 7451
information derived from professionally accepted practices in 7452
wildlife and fisheries management, with the approval of the 7453
director of natural resources; 7454

(B) Have and take the general care, protection, and 7455
supervision of the wildlife in the state parks known as Lake St. 7456
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, 7457
Guilford Lake, such part of Pymatuning reservoir as lies in this 7458
state, and all other state parks and lands owned by the state or 7459
in which it is interested or may acquire or become interested, 7460
except lands and lakes the care and supervision of which are 7461
vested in some other officer, body, board, association, or 7462
organization; 7463

(C) Enforce by proper legal action or proceeding the laws of 7464
the state and division rules for the protection, preservation, 7465
propagation, and management of wild animals and sanctuaries and 7466
refuges for the propagation of those wild animals, and adopt and 7467
carry into effect such measures as it considers necessary in the 7468
performance of its duties; 7469

(D) Promote, educate, and inform the citizens of the state 7470
about conservation and the values of fishing, hunting, and 7471
trapping, with the approval of the director. 7472

Sec. 1531.06. (A) The chief of the division of wildlife, with 7473
the approval of the director of natural resources, may acquire by 7474
gift, lease, purchase, or otherwise lands or surface rights upon 7475
lands and waters or surface rights upon waters for wild animals, 7476
fish or game management, preservation, propagation, and 7477
protection, outdoor and nature activities, public fishing and 7478
hunting grounds, and flora and fauna preservation. The chief, with 7479
the approval of the director, may receive by grant, devise, 7480
bequest, donation, or assignment evidences of indebtedness, the 7481
proceeds of which are to be used for the purchase of such lands or 7482
surface rights upon lands and waters or surface rights upon 7483
waters. 7484

(B)(1) The chief shall adopt rules for the protection of 7485
state-owned or leased lands and waters and property under the 7486
~~division's~~ control of the division of wildlife against wrongful 7487
use or occupancy that will ensure the carrying out of the intent 7488
of this section, protect those lands, waters, and property from 7489
depredations, and preserve them from molestation, spoilation, 7490
destruction, or any improper use or occupancy thereof, including 7491
rules with respect to recreational activities and for the 7492
government and use of such lands, waters, and property. 7493

(2) The chief may adopt rules benefiting wild animals, fish 7494
or game management, preservation, propagation, and protection, 7495
outdoor and nature activities, public fishing and hunting grounds, 7496
and flora and fauna preservation, and regulating the taking and 7497
possession of wild animals on any lands or waters owned or leased 7498
or under the division's supervision and control and, for a 7499
specified period of years, may prohibit or recall the taking and 7500
possession of any wild animal on any portion of such lands or 7501
waters. The division clearly shall define and mark the boundaries 7502
of the lands and waters owned or leased or under its supervision 7503

and control upon which the taking of any wild animal is 7504
prohibited. 7505

(C) The chief, with the approval of the director, may acquire 7506
by gift, lease, or purchase land for the purpose of establishing 7507
state fish hatcheries and game farms and may erect on it buildings 7508
or structures that are necessary. 7509

The title to or lease of such lands and waters shall be taken 7510
by the chief in the name of the state. The lease or purchase price 7511
of all such lands and waters may be paid from hunting and trapping 7512
and fishing licenses and any other funds. 7513

(D) To provide more public recreation, stream and lake 7514
agreements for public fishing only may be obtained under rules 7515
adopted by the chief. 7516

(E) The chief, with the approval of the director, may 7517
establish user fees for the use of special public facilities or 7518
participation in special activities on lands and waters 7519
administered by the division. The special facilities and 7520
activities may include hunting or fishing on special designated 7521
public lands and waters intensively managed or stocked with 7522
artificially propagated game birds or fish, field trial 7523
facilities, wildlife nature centers, firearm ranges, boat mooring 7524
facilities, camping sites, and other similar special facilities 7525
and activities. The chief shall determine whether the user fees 7526
are refundable and shall ensure that that information is provided 7527
at the time the user fees are paid. 7528

(F) The chief, with the approval of the director, may enter 7529
into lease agreements for rental of concessions or other special 7530
projects situated on state-owned or leased lands or waters or 7531
other property under the division's control. The chief shall set 7532
and collect the fees for concession rentals or other special 7533
projects; regulate through contracts between the division and 7534

concessionaires the sale of tangible objects at concessions or 7535
other special projects; and keep a record of all such fee payments 7536
showing the amount received, from whom received, and for what 7537
purpose the fee was collected. 7538

(G) The chief may sell or donate conservation-related items 7539
or items that promote wildlife conservation, including, but not 7540
limited to, stamps, pins, badges, books, bulletins, maps, 7541
publications, calendars, and any other educational article or 7542
artifact pertaining to wild animals; sell confiscated or forfeited 7543
items; and sell surplus structures and equipment, and timber or 7544
crops from lands owned, administered, leased, or controlled by the 7545
division. 7546

(H) The chief may sell, lease, or transfer minerals or 7547
mineral rights, with the approval of the director, when the chief 7548
and the director determine it to be in the best interest of the 7549
state. Upon approval of the director, the chief may make, execute, 7550
and deliver contracts, including leases, to mine, drill, or 7551
excavate iron ore, stone, coal, petroleum, gas, salt, and other 7552
minerals upon and under lands owned by the state and administered 7553
by the division to any person who complies with the terms of such 7554
a contract. No such contract shall be valid for more than fifty 7555
years from its effective date. Consideration for minerals and 7556
mineral rights shall be by rental or royalty basis as prescribed 7557
by the chief and payable as prescribed by contract. Moneys 7558
collected under this division shall be paid into the state 7559
treasury to the credit of the wildlife habitat fund created in 7560
section 1531.33 of the Revised Code. Contracts entered into under 7561
this division also may provide for consideration for minerals or 7562
mineral rights in the form of acquisition of lands as provided 7563
under divisions (A) and (C) of this section. 7564

(I) All moneys received under divisions (E), (F), and (G) of 7565
this section shall be paid into the state treasury to the credit 7566

of a fund that shall be used for the purposes outlined in section 7567
1533.15 of the Revised Code and for the management of other wild 7568
animals for their ecological and nonconsumptive recreational value 7569
or benefit. 7570

(J) The chief, with the approval of the director, may barter 7571
or sell wild animals to other states, state or federal agencies, 7572
and conservation or zoological organizations. Moneys received from 7573
the sale of wild animals shall be deposited into the wild animal 7574
fund created in section 1531.34 of the Revised Code. 7575

(K) The chief shall adopt rules establishing standards and 7576
guidelines for the administration of contraceptive chemicals to 7577
noncaptive wild animals. The rules may specify chemical delivery 7578
methods and devices and monitoring requirements. 7579

The chief shall establish criteria for the issuance of and 7580
shall issue permits for the administration of contraceptive 7581
chemicals to noncaptive wild animals. No person shall administer 7582
contraceptive chemicals to noncaptive wild animals without a 7583
permit issued by the chief. 7584

(L) All fees set by the chief under this section shall be 7585
approved by the wildlife council. 7586

(M) Information contained in the wildlife diversity database 7587
that is established pursuant to division (B)(2) of this section 7588
and section 1531.25 of the Revised Code may be made available to 7589
any individual or public or private agency for research, 7590
educational, environmental, land management, or other similar 7591
purposes that are not detrimental to the conservation of a species 7592
or feature. Information regarding sensitive site locations of 7593
species that are listed pursuant to section 1531.25 of the Revised 7594
Code and of features that are included in the wildlife diversity 7595
database is not subject to section 149.43 of the Revised Code if 7596
the chief determines that the release of the information could be 7597

detrimental to the conservation of a species or feature.

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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 7628
and place of seizure, and the name of the person owning or using 7629
it at the time of seizure. If the name is unknown, that fact shall 7630
be stated. Upon the filing of the affidavit, the court shall issue 7631
a summons setting forth the facts stated in the affidavit and 7632
fixing a time and place for the hearing of the complaint. A copy 7633
of the summons shall be served on the owner or person using the 7634
property at the time of its seizure, if the owner or user is 7635
known, or by leaving a copy thereof at the owner's or user's usual 7636
residence or place of business in the county, at least three days 7637
before the time fixed for the hearing of the complaint. If the 7638
owner or user is unknown or a nonresident of the county or cannot 7639
be found therein, a copy of the summons shall be posted at a 7640
suitable place nearest the place of seizure, but if the owner's or 7641
user's address is known, a copy of the summons shall be mailed to 7642
the owner or user at least three days before the time fixed for 7643
the hearing of the complaint. On the date fixed for the hearing, 7644
the officer making the service shall make a return of the time and 7645
manner of making the service. Upon the proper cause shown, the 7646
court may postpone the hearing. 7647

If A proceeding for the forfeiture of seized property that is 7648
initiated under this section shall not progress to actual 7649
forfeiture of the seized property unless so ordered by the court. 7650
The court may order the actual forfeiture of the seized property 7651
as part of the sentence that it imposes if the owner or person 7652
unlawfully using the property at the time of its seizure is 7653
arrested convicted, pleads guilty, and or confesses that the 7654
property at the time of its seizure was being used by the owner or 7655
user in violation of law or division rule, ~~no proceeding of~~ 7656
~~forfeiture shall be instituted, but the court in imposing sentence~~ 7657
~~shall order the.~~ Forfeited property ~~so seized forfeited to~~ shall 7658
be the property of the state, to be disposed of ~~thereafter~~ as the 7659
chief of the division of wildlife directs. 7660

~~Notwithstanding any other provision of this section to the contrary, a proceeding of forfeiture shall not be instituted under this section unless the owner of the property or the person unlawfully using the property is convicted of a violation of law or division rule.~~

Sec. 1531.27. The chief of the division of wildlife shall pay to the treasurers of the several counties wherein lands owned by the state and administered by the division are located an annual amount determined in the following manner: in each such county one per cent of the total value of such lands exclusive of improvements, as shown on the auditor's records of taxable value of real property existing at the time when the state acquired the tract or tracts comprising the lands.

The payments shall be made from funds accruing to the division ~~from the sale of hunting or fishing licenses and~~ from fines, penalties, restitution, and forfeitures deposited into the state treasury to the credit of the wildlife fund created in section 1531.17 of the Revised Code. The allocation of amounts to be paid from those sources shall be determined by the director of natural resources.

The payments to the treasurers of the several counties shall be credited to the fund for school purposes within the school districts wherein the lands are located.

Sec. 1531.99. (A) Whoever violates section 1531.02 of the Revised Code, or any division rule, other than a rule adopted under section 1531.25 of the Revised Code, is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 1531.02 of the Revised Code concerning the taking or possession of deer or violates division (K) of section 1531.06 or section 1531.07 or 1531.29 of the

Revised Code is guilty of a misdemeanor of the third degree on a 7691
first offense; on each subsequent offense, that person is guilty 7692
of a misdemeanor of the first degree. 7693

(C) Whoever violates section 1531.25 of the Revised Code is 7694
guilty of a misdemeanor of the first degree. 7695

(D) Whoever violates section 1531.02 of the Revised Code 7696
concerning the buying, selling, or offering for sale of any wild 7697
animals or parts of wild animals, the minimum value of which 7698
animals or parts, in the aggregate, is ~~more than~~ one thousand 7699
dollars or more as established under section 1531.201 of the 7700
Revised Code, is guilty of a felony of the fifth degree. 7701

(E) A court that imposes sentence for a violation of any 7702
section of this chapter governing the holding, taking, buying, 7703
selling, or possession of wild animals, including, without 7704
limitation, section 1531.11 of the Revised Code, shall require the 7705
person who is convicted of or pleads guilty to the offense, in 7706
addition to any fine, term of imprisonment, seizure, and 7707
forfeiture imposed, to make restitution for the minimum value of 7708
the wild animal illegally held, taken, bought, sold, or possessed 7709
as established under section 1531.201 of the Revised Code. An 7710
officer who collects moneys paid as restitution under this section 7711
shall pay those moneys to the treasurer of state who shall deposit 7712
them in the state treasury to the credit of the wildlife fund 7713
established under section 1531.17 of the Revised Code. 7714

Sec. 1533.07. No person shall catch, kill, injure, pursue, or 7715
have in the person's possession, either dead or alive, or 7716
purchase, expose for sale, transport, or ship to a point within or 7717
without the state, or receive or deliver for transportation any 7718
bird other than a game bird, or have in the person's possession 7719
any part of the plumage, skin, or body of any bird other than a 7720
game bird, except as permitted in Chapter 1531. and this chapter 7721

of the Revised Code, or disturb or destroy the eggs, nest, or 7722
young of such a bird. 7723

This section does not prohibit the lawful taking, killing, 7724
pursuing, or possession of any game bird during the open season 7725
for the bird. ~~Hawks or owls causing damage to domestic animals or~~ 7726
~~fowl may be killed by the owner of the domestic animal or fowl~~ 7727
~~while the damage is occurring.~~ Bald or golden eagles and ospreys 7728
shall not be killed or possessed at any time, except that eagles 7729
or ospreys may be possessed for educational purposes by 7730
governmental or municipal zoological parks, museums, and 7731
scientific or educational institutions. European starlings, 7732
English sparrows, and common pigeons, other than homing pigeons, 7733
may be killed at any time and their nests or eggs may be 7734
destroyed, at any time. Blackbirds may be killed at any time when 7735
doing damage to grain or other property or when they become a 7736
nuisance. 7737

Each bird or any part thereof taken or had in possession 7738
contrary to this section constitutes a separate offense. 7739

Sec. 1533.08. Except as otherwise provided by division rule, 7740
any person desiring to collect or possess wild animals that are 7741
protected by law or their nests or eggs for scientific study, 7742
school instruction, other educational uses, or rehabilitation 7743
shall make an annual application to the chief of the division of 7744
wildlife for a wild animal ~~collecting~~ permit on a form furnished 7745
by the chief. Each applicant for a wild animal ~~collecting~~ permit, 7746
other than an applicant desiring to rehabilitate wild animals, 7747
shall pay an annual fee of twenty-five dollars for each permit. No 7748
fee shall be charged to an applicant desiring to rehabilitate wild 7749
animals. ~~When it appears that the application is made in good~~ 7750
~~faith, the~~ The chief ~~shall~~ may issue to the applicant a permit to 7751
take, possess, and transport at any time and in ~~any~~ a manner that 7752

is acceptable to the chief specimens of wild animals protected by 7753
law or their nests and eggs for scientific study, school 7754
instruction, other educational uses, or rehabilitation and under 7755
any additional rules recommended by the wildlife council. Upon the 7756
receipt of a permit, the holder may take, possess, and transport 7757
those wild animals in accordance with the permit. 7758

Each holder of a permit engaged in collecting or who 7759
possesses such wild animals shall carry the permit at all times 7760
and shall exhibit it upon demand to any ~~wildlife officer,~~ 7761
~~constable, sheriff, deputy sheriff, or police~~ peace officer, as 7762
defined in section 2935.01 of the Revised Code, or to the owner or 7763
person in lawful control of the land upon which the permit holder 7764
is collecting, ~~or to any other person~~ possesses the wild animals. 7765
Failure to so carry or exhibit the permit constitutes an offense 7766
under this section. 7767

Each permit holder shall keep a daily record of all specimens 7768
collected or possessed under the permit and the disposition of the 7769
specimens and shall exhibit the daily record to any official of 7770
the division upon demand. 7771

Each permit shall remain in effect for one year from the date 7772
of issuance unless it is revoked sooner by the chief. 7773

All moneys received as fees for the issuance of a wild animal 7774
collecting permit shall be transmitted to the director of natural 7775
resources to be paid into the state treasury to the credit of the 7776
fund created by section 1533.15 of the Revised Code. 7777

Sec. 1533.09. Before the ~~first~~ fifteenth day of ~~February~~ 7778
~~March~~ of each year, each wild animal ~~collecting~~ permit holder 7779
shall file with the division of wildlife a written report of ~~his~~ 7780
the permit holder's operations under the permit and the 7781
disposition of the specimens collected or possessed during the 7782
preceding calendar year on report blanks furnished by the chief of 7783

the division. Failure to file a report shall cause the permit to 7784
be forfeited as of the ~~first~~ fifteenth day of ~~February~~ March. 7785
Permits are not transferable. No permit holder or person 7786
collecting or possessing wild animals under authority of such a 7787
permit shall take, possess, or transport the wild animals for any 7788
purpose not specified in the permit. 7789

Conviction of a violation of this section, failure to carry a 7790
permit and exhibit it to any person requesting to see it as 7791
provided in section 1533.08 of the Revised Code, or the violation 7792
of any other law concerning wild animals constitutes a revocation 7793
and forfeiture of the permit involved. The former permit holder 7794
shall not be entitled to another permit for a period of one year 7795
from the date of the conviction. 7796

Sec. 1533.10. Except as provided in this section or division 7797
(A)(2) of section 1533.12 of the Revised Code, no person shall 7798
hunt any wild bird or wild quadruped without a hunting license. 7799
Each day that any person hunts within the state without procuring 7800
such a license constitutes a separate offense. Except as otherwise 7801
provided in this section, every applicant for a hunting license 7802
who is a resident of the state and eighteen years of age or more 7803
shall procure a resident hunting license or an apprentice resident 7804
hunting license, the fee for which shall be eighteen dollars⁷ 7805
unless the rules adopted under division (B) of section 1533.12 of 7806
the Revised Code provide for issuance of a resident hunting 7807
license to the applicant free of charge. Except as provided in 7808
rules adopted under division (B)(2) of that section, each 7809
applicant who is a resident of this state and who at the time of 7810
application is sixty-six years of age or older shall procure a 7811
special senior hunting license, the fee for which shall be 7812
one-half of the regular hunting license fee. Every applicant who 7813
is under the age of eighteen years shall procure a special youth 7814
hunting license or an apprentice youth hunting license, the fee 7815

for which shall be one-half of the regular hunting license fee. 7816
The owner of lands in the state and the owner's children of any 7817
age and grandchildren under eighteen years of age may hunt on the 7818
lands without a hunting license. The tenant and children of the 7819
tenant, residing on lands in the state, may hunt on them without a 7820
hunting license. Except as otherwise provided in division (A)(1) 7821
of section 1533.12 of the Revised Code, every applicant for a 7822
hunting license who is a nonresident of the state and who is 7823
eighteen years of age or older shall procure a nonresident hunting 7824
license or an apprentice nonresident hunting license, the fee for 7825
which shall be one hundred twenty-four dollars, unless the 7826
applicant is a resident of a state that is a party to an agreement 7827
under section 1533.91 of the Revised Code, in which case the fee 7828
shall be eighteen dollars. Apprentice resident hunting licenses, 7829
apprentice youth hunting licenses, and apprentice nonresident 7830
hunting licenses are subject to the requirements established under 7831
section 1533.102 of the Revised Code and rules adopted pursuant to 7832
it. 7833

The chief of the division of wildlife may issue a small game 7834
hunting license expiring three days from the effective date of the 7835
license to a nonresident of the state, the fee for which shall be 7836
thirty-nine dollars. No person shall take or possess deer, wild 7837
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 7838
animal while possessing only a small game hunting license. A small 7839
game hunting license or an apprentice nonresident hunting license 7840
does not authorize the taking or possessing of ducks, geese, or 7841
brant without having obtained, in addition to the small game 7842
hunting license or the apprentice nonresident hunting license, a 7843
wetlands habitat stamp as provided in section 1533.112 of the 7844
Revised Code. A small game hunting license or an apprentice 7845
nonresident hunting license does not authorize the taking or 7846
possessing of deer, wild turkeys, or fur-bearing animals. A 7847
nonresident of the state who wishes to take or possess deer, wild 7848

turkeys, or fur-bearing animals in this state shall procure, 7849
respectively, a ~~special~~ deer or wild turkey permit as provided in 7850
section 1533.11 of the Revised Code or a fur taker permit as 7851
provided in section 1533.111 of the Revised Code in addition to a 7852
nonresident hunting license, an apprentice nonresident hunting 7853
license, a special youth hunting license, or an apprentice youth 7854
hunting license, as applicable, as provided in this section. 7855
7856

No person shall procure or attempt to procure a hunting 7857
license by fraud, deceit, misrepresentation, or any false 7858
statement. 7859

This section does not authorize the taking and possessing of 7860
deer or wild turkeys without first having obtained, in addition to 7861
the hunting license required by this section, a ~~special~~ deer or 7862
wild turkey permit as provided in section 1533.11 of the Revised 7863
Code or the taking and possessing of ducks, geese, or brant 7864
without first having obtained, in addition to the hunting license 7865
required by this section, a wetlands habitat stamp as provided in 7866
section 1533.112 of the Revised Code. 7867

This section does not authorize the hunting or trapping of 7868
fur-bearing animals without first having obtained, in addition to 7869
a hunting license required by this section, a fur taker permit as 7870
provided in section 1533.111 of the Revised Code. 7871

No hunting license shall be issued unless it is accompanied 7872
by a written explanation of the law in section 1533.17 of the 7873
Revised Code and the penalty for its violation, including a 7874
description of terms of imprisonment and fines that may be 7875
imposed. 7876

No hunting license, other than an apprentice hunting license, 7877
shall be issued unless the applicant presents to the agent 7878
authorized to issue the license a previously held hunting license 7879

or evidence of having held such a license in content and manner 7880
approved by the chief, a certificate of completion issued upon 7881
completion of a hunter education and conservation course approved 7882
by the chief, or evidence of equivalent training in content and 7883
manner approved by the chief. A previously held apprentice hunting 7884
license does not satisfy the requirement concerning the 7885
presentation of a previously held hunting license or evidence of 7886
it. 7887

No person shall issue a hunting license, except an apprentice 7888
hunting license, to any person who fails to present the evidence 7889
required by this section. No person shall purchase or obtain a 7890
hunting license, other than an apprentice hunting license, without 7891
presenting to the issuing agent the evidence required by this 7892
section. Issuance of a hunting license in violation of the 7893
requirements of this section is an offense by both the purchaser 7894
of the illegally obtained hunting license and the clerk or agent 7895
who issued the hunting license. Any hunting license issued in 7896
violation of this section is void. 7897

The chief, with approval of the wildlife council, shall adopt 7898
rules prescribing a hunter education and conservation course for 7899
first-time hunting license buyers, other than buyers of apprentice 7900
hunting licenses, and for volunteer instructors. The course shall 7901
consist of subjects including, but not limited to, hunter safety 7902
and health, use of hunting implements, hunting tradition and 7903
ethics, the hunter and conservation, the law in section 1533.17 of 7904
the Revised Code along with the penalty for its violation, 7905
including a description of terms of imprisonment and fines that 7906
may be imposed, and other law relating to hunting. Authorized 7907
personnel of the division or volunteer instructors approved by the 7908
chief shall conduct such courses with such frequency and at such 7909
locations throughout the state as to reasonably meet the needs of 7910
license applicants. The chief shall issue a certificate of 7911

completion to each person who successfully completes the course 7912
and passes an examination prescribed by the chief. 7913

Sec. 1533.11. (A) Except as provided in this section, no 7914
person shall hunt deer on lands of another without first obtaining 7915
an annual ~~special~~ deer permit. Except as provided in this section, 7916
no person shall hunt wild turkeys on lands of another without 7917
first obtaining an annual ~~special~~ wild turkey permit. Each 7918
applicant for a ~~special~~ deer or wild turkey permit shall pay an 7919
annual fee of twenty-three dollars for each permit unless the 7920
rules adopted under division (B) of section 1533.12 of the Revised 7921
Code provide for issuance of a deer or wild turkey permit to the 7922
applicant free of charge. Except as provided in rules adopted 7923
under division (B)(2) of that section, each applicant who is a 7924
resident of this state and who at the time of application is 7925
sixty-six years of age or older shall procure a ~~special~~ senior 7926
deer or wild turkey permit, the fee for which shall be one-half of 7927
the regular ~~special~~ deer or wild turkey permit fee. Each applicant 7928
who is under the age of eighteen years shall procure a ~~special~~ 7929
youth deer or wild turkey permit, the fee for which shall be 7930
one-half of the regular ~~special~~ deer or wild turkey permit fee. 7931
Except as provided in division (A)(2) of section 1533.12 of the 7932
Revised Code, a deer or wild turkey permit shall run concurrently 7933
with the hunting license. The money received shall be paid into 7934
the state treasury to the credit of the wildlife fund, created in 7935
section 1531.17 of the Revised Code, exclusively for the use of 7936
the division of wildlife in the acquisition and development of 7937
land for deer or wild turkey management, for investigating deer or 7938
wild turkey problems, and for the stocking, management, and 7939
protection of deer or wild turkey. Every person, while hunting 7940
deer or wild turkey on lands of another, shall carry the person's 7941
~~special~~ deer or wild turkey permit and exhibit it to any 7942
enforcement officer so requesting. Failure to so carry and exhibit 7943

such a permit constitutes an offense under this section. The chief 7944
of the division of wildlife shall adopt any additional rules the 7945
chief considers necessary to carry out this section and section 7946
1533.10 of the Revised Code. 7947

The owner and the children of the owner of lands in this 7948
state may hunt deer or wild turkey thereon without a ~~special~~ deer 7949
or wild turkey permit. The tenant and children of the tenant may 7950
hunt deer or wild turkey on lands where they reside without a 7951
~~special~~ deer or wild turkey permit. 7952

(B) A ~~special~~ deer or wild turkey permit is not transferable. 7953
No person shall carry a ~~special~~ deer or wild turkey permit issued 7954
in the name of another person. 7955

(C) The wildlife refunds fund is hereby created in the state 7956
treasury. The fund shall consist of money received from 7957
application fees for ~~special~~ deer permits that are not issued. 7958
Money in the fund shall be used to make refunds of such 7959
application fees. 7960

Sec. 1533.12. (A)(1) Except as otherwise provided in division 7961
(A)(2) of this section, every person on active duty in the armed 7962
forces of the United States who is stationed in this state and who 7963
wishes to engage in an activity for which a license, permit, or 7964
stamp is required under this chapter first shall obtain the 7965
requisite license, permit, or stamp. Such a person is eligible to 7966
obtain a resident hunting or fishing license regardless of whether 7967
the person qualifies as a resident of this state. To obtain a 7968
resident hunting or fishing license, the person shall present a 7969
card or other evidence identifying the person as being on active 7970
duty in the armed forces of the United States and as being 7971
stationed in this state. 7972

(2) Every person on active duty in the armed forces of the 7973
United States, while on leave or furlough, may take or catch fish 7974

of the kind lawfully permitted to be taken or caught within the 7975
state, may hunt any wild bird or wild quadruped lawfully permitted 7976
to be hunted within the state, and may trap fur-bearing animals 7977
lawfully permitted to be trapped within the state, without 7978
procuring a fishing license, a hunting license, a fur taker 7979
permit, or a wetlands habitat stamp required by this chapter, 7980
provided that the person shall carry on the person when fishing, 7981
hunting, or trapping, a card or other evidence identifying the 7982
person as being on active duty in the armed forces of the United 7983
States, and provided that the person is not otherwise violating 7984
any of the hunting, fishing, and trapping laws of this state. 7985

In order to hunt deer or wild turkey, any such person shall 7986
obtain a ~~special~~ deer or wild turkey permit, as applicable, under 7987
section 1533.11 of the Revised Code. However, the person need not 7988
obtain a hunting license in order to obtain such a permit. 7989

(B) The chief of the division of wildlife shall provide by 7990
rule adopted under section 1531.10 of the Revised Code all of the 7991
following: 7992

(1) Every resident of this state with a disability that has 7993
been determined by the veterans administration to be permanently 7994
and totally disabling, who receives a pension or compensation from 7995
the veterans administration, and who received an honorable 7996
discharge from the armed forces of the United States, and every 7997
veteran to whom the registrar of motor vehicles has issued a set 7998
of license plates under section 4503.41 of the Revised Code, shall 7999
be issued ~~an annual~~ a fishing license, hunting license, fur taker 8000
permit, deer or wild turkey permit, or wetlands habitat stamp, or 8001
any combination of those licenses, permits, and stamp, free of 8002
charge on an annual, multi-year, or lifetime basis as determined 8003
appropriate by the chief when application is made to the chief in 8004
the manner prescribed by and on forms provided by the chief. 8005

(2) Every resident of the state who was born on or before 8006
December 31, 1937, shall be issued an annual fishing license, 8007
hunting license, fur taker permit, deer or wild turkey permit, or 8008
wetlands habitat stamp, or any combination of those licenses, 8009
permits, and stamp, free of charge when application is made to the 8010
chief in the manner prescribed by and on forms provided by the 8011
chief. 8012

(3) Every resident of state or county institutions, 8013
charitable institutions, and military homes in this state shall be 8014
issued an annual fishing license free of charge when application 8015
is made to the chief in the manner prescribed by and on forms 8016
provided by the chief. 8017

(4) Any mobility impaired or blind person, as defined in 8018
section 955.011 of the Revised Code, who is a resident of this 8019
state and who is unable to engage in fishing without the 8020
assistance of another person shall be issued an annual fishing 8021
license free of charge when application is made to the chief in 8022
the manner prescribed by and on forms provided by the chief. The 8023
person who is assisting the mobility impaired or blind person may 8024
assist in taking or catching fish of the kind permitted to be 8025
taken or caught without procuring the license required under 8026
section 1533.32 of the Revised Code, provided that only one line 8027
is used by both persons. 8028

(5) As used in division (B)(5) of this section, "prisoner of 8029
war" means any regularly appointed, enrolled, enlisted, or 8030
inducted member of the military forces of the United States who 8031
was captured, separated, and incarcerated by an enemy of the 8032
United States. 8033

Any person who has been a prisoner of war, was honorably 8034
discharged from the military forces, and is a resident of this 8035
state shall be issued ~~an annual~~ a fishing license, hunting 8036

license, fur taker permit, or wetlands habitat stamp, or any 8037
combination of those licenses, permits, and stamp, free of charge 8038
on an annual, multi-year, or lifetime basis as determined 8039
appropriate by the chief when application is made to the chief in 8040
the manner prescribed by and on forms provided by the chief. 8041

(C) The chief shall adopt rules pursuant to section 1531.08 8042
of the Revised Code designating not more than two days, which need 8043
not be consecutive, in each year as "free sport fishing days" on 8044
which any resident may exercise the privileges accorded the holder 8045
of a fishing license issued under section 1533.32 of the Revised 8046
Code without procuring such a license, provided that the person is 8047
not otherwise violating any of the fishing laws of this state. 8048

Sec. 1533.131. The chief of the division of wildlife may sell 8049
gift certificates that may be used to obtain hunting and fishing 8050
licenses, fur taker, ~~special~~ deer, and ~~special~~ wild turkey 8051
permits, and wetlands habitat stamps. For the purposes of this 8052
section, the chief shall adopt rules in accordance with section 8053
1531.10 of the Revised Code doing all of the following: 8054

(A) Providing that a gift certificate may be used to obtain a 8055
resident or nonresident hunting license under section 1533.10 of 8056
the Revised Code, a resident or nonresident fishing license under 8057
section 1533.32 of the Revised Code, a fur taker permit under 8058
section 1533.111 of the Revised Code, a ~~special~~ deer or wild 8059
turkey permit under section 1533.11 of the Revised Code, a 8060
wetlands habitat stamp under section 1533.112 of the Revised Code, 8061
or a combination of those licenses, permits, and stamps; 8062

(B) Prescribing the form for the gift certificates; 8063

(C) Authorizing persons who are designated and authorized 8064
under section 1533.13 of the Revised Code to sell licenses and 8065
permits under this chapter also to sell gift certificates under 8066
this section; 8067

(D) Establishing fees for the gift certificates, which shall 8068
equal the total of the fee for a resident or nonresident hunting 8069
license, a resident or nonresident fishing license, a fur taker 8070
permit, a ~~special~~ deer or wild turkey permit, a wetlands habitat 8071
stamp, or a combination of those licenses, permits, and ~~stamps~~ 8072
stamp, as applicable, and the fee established under section 8073
1533.13 of the Revised Code; 8074

(E) Requiring gift certificates to expire one year after the 8075
date of purchase. 8076

Nothing in this section or rules adopted under it relieves an 8077
individual who receives a gift certificate for a hunting license 8078
from complying with the requirement established under section 8079
1533.10 of the Revised Code to present, when applying for the 8080
license, a previously held hunting license or evidence of having 8081
held such a license in content and manner approved by the chief, a 8082
certificate of completion issued upon completion of a hunter 8083
education and conservation course approved by the chief, or 8084
evidence of equivalent training in content and manner approved by 8085
the chief. 8086

Nothing in this section or rules adopted under it relieves an 8087
individual who receives a gift certificate for a fur taker permit 8088
from complying with the requirements established under section 8089
1533.111 of the Revised Code to present, when applying for the 8090
permit, a previously held hunting license or trapping or fur taker 8091
permit or evidence of having held such a license or permit in 8092
content and manner approved by the chief, a certificate of 8093
completion issued upon completion of a trapper education course 8094
approved by the chief, or evidence of equivalent training in 8095
content and manner approved by the chief. 8096

Sec. 1533.171. (A) No person, in the act of hunting, 8097
pursuing, taking, or killing a wild animal, shall act in a 8098

negligent, careless, or reckless manner so as to injure persons or property. 8099
8100

(B) The court before whom any person is convicted of or pleads guilty to a violation of division (A) of this section shall report that fact, together with the violator's name and address, to the chief of the division of wildlife not later than ten days after the date of conviction or plea. 8101
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(C) Not later than seven days after receiving a notification under division (B) of this section, the chief shall revoke, for not less than one year nor more than five years, each hunting license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild turkey permit, and wetlands habitat stamp issued to that person under this chapter. No fee paid for such a license, permit, or stamp shall be returned to the person. 8106
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Upon revoking a license, permit, or stamp, or a combination thereof, under this division, the chief immediately shall send a notice of that action by certified mail to the last known address of the person. The notice shall state the action taken, order the person to surrender the revoked license, permit, or stamp, or combination thereof, and state that the department of natural resources will not afford a hearing as required under section 119.06 of the Revised Code. 8113
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(D) If, after receiving a notice under division (C) of this section, the person decides to petition for a review of the revocation, the person shall file a petition for such a review not later than thirty days after receiving the notice in the municipal court or the county court, or, if the person is under eighteen years of age, the juvenile court, in whose jurisdiction the violation occurred. The review shall be limited to the question of the appropriateness of the period of revocation. The court shall send a copy of the petition to the chief by certified mail together with timely notice of the date, time, and place of a 8121
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hearing on the petition. The filing of a petition for a review 8131
shall not stay the revocation during the pendency of the appeal. 8132

(E) No person whose license, permit, or stamp, or a 8133
combination thereof, has been revoked under this section shall 8134
attempt to purchase, purchase, apply for, or receive any hunting 8135
license, fur taker permit, ~~special~~ deer permit, ~~special~~ wild 8136
turkey permit, or wetlands habitat stamp issued under this chapter 8137
or engage in hunting during the time any such license, permit, or 8138
stamp, or a combination thereof, is revoked. 8139

Sec. 1533.42. Except as otherwise provided by division rule, 8140
every licensee taking fish with commercial fishing gear, except a 8141
trotline of seventy hooks or less, in any of the waters mentioned 8142
in this chapter and Chapter 1531. ~~and this chapter~~ of the Revised 8143
Code or division rule, shall keep accurate reports for each day's 8144
catch upon forms provided, and in the manner prescribed, by the 8145
chief of the division of wildlife. 8146

Every commercial fishing licensee shall keep an accurate 8147
record of each day's catch as prescribed upon a monthly report 8148
form. The report shall include at least the number of pounds of 8149
each kind of fish taken, the locality fished, the kind and amount 8150
of fishing gear lifted, the number of fishing nights, the number 8151
of lifts, and any other data the biologists employed by the 8152
division of wildlife require in following the trend of the 8153
fisheries. The licensee shall report each month, under oath when 8154
requested to do so, those data to the chief. 8155

The daily catch data shall be recorded accurately on the 8156
respective date upon a report form approved by the chief no later 8157
than twelve noon on the day following the day in which the fish 8158
were taken. The monthly report and any other report required 8159
pursuant to this section shall be submitted to the division no 8160
later than the fifteenth day of the month following the end of the 8161

calendar month in which the fish were taken. 8162

A licensee shall contact the chief or the chief's designee 8163
when the licensee is in transit to the licensee's trap nets to 8164
lift, move, pull, remove, clean, or maintain the trap nets for any 8165
reason and also shall contact the chief or the chief's designee 8166
when returning to land with a daily catch of fish from a trap net 8167
indicating the licensee's estimated time of arrival at a specific 8168
port and any other information required by the chief. The licensee 8169
shall contact the chief or the chief's designee by using a 8170
cellular telephone, radio, or other communication device in a 8171
manner prescribed by the chief. 8172

No person shall fail to comply with any report procedure 8173
provided for in this section, other provisions of this section, or 8174
division rule adopted pursuant thereto. 8175

In addition to other penalties provided in the Revised Code, 8176
the license of any person who is convicted of two violations of 8177
this section that occurred within a twelve-month period is 8178
suspended upon the second such conviction by operation of law for 8179
a period of sixty fishing season days immediately following that 8180
conviction. 8181

In addition to other penalties provided in the Revised Code, 8182
the license of any person who is convicted of three or more 8183
violations of this section that occurred within a twelve-month 8184
period is suspended upon the third or subsequent such conviction 8185
by operation of law for a period of eighteen fishing season months 8186
immediately following that conviction. 8187

During any period of suspension, no person shall use or 8188
engage in fishing with commercial gear owned, used, or controlled 8189
at the time of conviction by the licensee whose license has been 8190
suspended. 8191

Sec. 1533.632. (A) As used in this section:	8192
(1) "Aquaculture" means a form of agriculture that involves the propagation and rearing of aquatic species in controlled environments under private control, including, but not limited to, for the purpose of sale for consumption as food.	8193 8194 8195 8196
(2) "Aquaculture species" means any aquatic species that may be raised through aquaculture that is either a class A aquaculture species or a class B aquaculture species.	8197 8198 8199
(3) "Class A aquaculture species" includes all of the following:	8200 8201
(a) Trout and salmon (Onchorhynchus sp., Salmo sp., Salvelinus sp.);	8202 8203
(b) Walleye (Stizostedion vitreum);	8204
(c) Sauger (Stizostedion canadense);	8205
(d) Bluegill (Lepomis macrochirus);	8206
(e) Redear sunfish (Lepomis microlophus);	8207
(f) Green sunfish (Lepomis cyanellus);	8208
(g) White crappie (Pomoxis annularis);	8209
(h) Black crappie (Pomoxis nigromaculatus);	8210
(i) Blue catfish (Ictalurus furcatus);	8211
(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>	8212 8213 8214 8215 8216
(4) "Class B aquaculture species" includes any species, except for class A aquaculture species, designated as such by the chief of the division of wildlife <u>in rules adopted under division</u>	8217 8218 8219

(B) of this section. 8220

(5) "Aquaculture production facility" means a facility ~~used~~ 8221
~~for aquaculture that has suitable infrastructure and equipment, as~~ 8222
~~determined by the chief, and that is solely dedicated to the~~ 8223
~~propagation and rearing of an aquaculture species.~~ 8224

(6) "Suitable infrastructure" includes ponds, raceways, and 8225
tanks. 8226

(B) The chief, in accordance with Chapter 119. of the Revised 8227
Code, shall adopt rules for the regulation of aquaculture and may 8228
issue permits to persons wishing to engage in aquaculture for the 8229
production of aquaculture species. Rules adopted under this 8230
section shall ensure the protection and preservation of the 8231
wildlife and natural resources of this state. The legal length and 8232
weight limitations established under section 1533.63 of the 8233
Revised Code do not apply to class A or class B aquaculture 8234
species. 8235

A permit may be issued upon application to any person who 8236
satisfies the chief that the person ~~has suitable equipment, of~~ 8237
~~which the person is the owner or lessee, to engage in aquaculture~~ 8238
~~for a given aquaculture species or group of~~ owns or leases an 8239
aquaculture ~~species~~ production facility. Each permit shall be in 8240
such form as the chief prescribes. The permits shall be classified 8241
as either class A or class B. A class A permit shall be required 8242
for all class A aquaculture species that are ~~specified in this~~ 8243
~~section or~~ designated by rule as a class A aquaculture species. 8244
Class B permits shall be issued on a case-by-case basis. In 8245
determining whether to issue a class B permit, the chief shall 8246
take into account the species for which the class B permit is 8247
requested, the location of the aquaculture production facility, 8248
and any other information determined by the chief to be necessary 8249
to protect the wildlife and natural resources of this state. The 8250
annual fee for a class A permit shall be fifty dollars unless 8251

otherwise provided by rule by the chief. The annual fee for a 8252
class B permit shall be set by the chief at a level between one 8253
hundred and five hundred dollars. In determining the fee to be 8254
charged for a class B permit, the chief shall take into account 8255
the additional costs to the division for the inspection of 8256
aquaculture facilities used to raise a given class B aquaculture 8257
species. 8258

The chief may revoke a permit upon a determination that the 8259
person to whom the permit was issued has violated any rule adopted 8260
under this section. The permit shall be reissued upon a showing by 8261
the person that the person is in compliance with the rules adopted 8262
under this section. A holder of an aquaculture permit may receive 8263
a permit issued under section 1533.301 or 1533.40 of the Revised 8264
Code without payment of the fee for that permit if the conditions 8265
for the issuance of the permit have been met. 8266

(C) No person shall knowingly sell any aquatic species under 8267
an aquaculture permit issued under this section that was not 8268
raised in an aquaculture production facility. In addition to any 8269
other penalties prescribed for violation of this division, the 8270
chief may revoke the permit of any person convicted of a violation 8271
of this division for any period of time the chief considers 8272
necessary. 8273

(D) No person who does not hold a current valid aquaculture 8274
permit shall knowingly sell an aquaculture species while claiming 8275
to possess an aquaculture permit. 8276

Sec. 1533.68. If a person is convicted of a violation of any 8277
law relative to the taking, possession, protection, preservation, 8278
or propagation of wild animals, or a violation of division (C) of 8279
section 2909.08 of the Revised Code while hunting, or is convicted 8280
of a violation of any rule of the division of wildlife, the court 8281
or magistrate before whom the conviction is had, as an additional 8282

part of the penalty in each case, ~~shall~~ may suspend or revoke each 8283
license or permit issued to the person in accordance with any 8284
section of the Revised Code pertaining to the hunting, fishing, 8285
trapping, breeding, and sale of wild animals or the sale of their 8286
hides, skins, or pelts. No fee paid for such a license or permit 8287
shall be returned to the person. 8288

No person having a license or permit suspended or revoked as 8289
provided in this section, in the event of a hunting or trapping 8290
violation, shall engage in hunting or trapping, in the event of a 8291
violation of division (C) of section 2909.08 of the Revised Code 8292
while hunting, shall engage in hunting, or in the event of a 8293
fishing violation, shall engage in fishing, or purchase, apply 8294
for, or receive any such license or permit for the following 8295
periods of time, as applicable: 8296

(A) Three years after the date of conviction if the person is 8297
convicted of taking or possessing a deer in violation of section 8298
1531.02 of the Revised Code; 8299

(B) Not more than three years after the date of conviction if 8300
the person is convicted of taking or possessing any other wild 8301
animal in violation of section 1531.02 of the Revised Code, is 8302
convicted of a misdemeanor violation of division (C) of section 8303
2909.08 of the Revised Code while hunting, or is convicted of a 8304
second or subsequent violation of section 1533.17 of the Revised 8305
Code within a period of three consecutive years after the date of 8306
conviction of the immediately preceding violation of that section; 8307

(C) Not more than five years after the date of conviction if 8308
the person is convicted of violating section 1533.171 or of taking 8309
or possessing an eagle or osprey in violation of section 1533.07 8310
of the Revised Code or is convicted of a felony violation of 8311
division (C) of section 2909.08 of the Revised Code while hunting; 8312

(D) Not more than five years after the date of conviction if 8313

the person is convicted of violating any section of this chapter 8314
or Chapter 1531. of the Revised Code not specified in division 8315
(A), (B), or (C) of this section. 8316

All licenses and permits suspended or revoked as provided in 8317
this section shall be taken up by the magistrate and sent to the 8318
department of natural resources where they shall be filed with a 8319
record of the arrest until the person who held the suspended or 8320
revoked license or permit is lawfully entitled to obtain another 8321
license or permit. 8322

Sec. 1533.86. As used in sections 1533.86 to 1533.90 of the 8323
Revised Code: 8324

(A) "Ginseng" means the plant *Panax quinquefolius* L., also 8325
known as *Panax quinquefolium* L., commonly known as American 8326
ginseng. 8327

(B) "Wild ginseng" means ginseng that grows in an 8328
uncultivated state and in its natural habitat whether the plant 8329
occurs naturally from that habitat or was introduced or increased 8330
in abundance by sowing ginseng seed or transplanting ginseng 8331
plants from other areas and performing no other cultivation 8332
practices. 8333

(C) "Cultivated ginseng" means ginseng that grows or has been 8334
grown in tilled beds under the shade of artificial structures or 8335
natural shade and is cultivated according to standard ginseng 8336
horticultural practices. 8337

(D) "Harvest" means to cut, pick, dig, root up, gather, or 8338
otherwise collect ginseng. 8339

(E) "Person" includes any legal entity defined as a person 8340
under section ~~1-59~~ 6111.01 of the Revised Code and any political 8341
subdivision, instrumentality, or agency of ~~this state,~~ another 8342
state, ~~or the United States.~~ 8343

(F) "Collector" means a person who harvests ginseng.	8344
(G) "Grower" means a person who grows cultivated ginseng.	8345
(H) "Dealer" means a person who buys or otherwise acquires or conveys ginseng for resale.	8346 8347
(I) "Buy" includes trade or barter.	8348
(J) "Sell" includes trade or barter.	8349
Sec. 1533.882. No person shall do any of the following:	8350
(A) Without written authorization from the chief of the division of wildlife, harvest wild ginseng except during the harvesting season as established by rule adopted pursuant to section 1533.88 of the Revised Code;	8351 8352 8353 8354
(B) Without first obtaining written permission from the person entitled to the ginseng, willfully destroy, injure, or harvest ginseng that is the property of that person;	8355 8356 8357
(C) <u>Attempt to harvest ginseng in a manner that, if harvested, would constitute a violation of division (A) or (B) of this section;</u>	8358 8359 8360
<u>(D)</u> Ship or otherwise transport out of state ginseng that has not been certified in accordance with rules adopted pursuant to division (B) of section 1533.88 of the Revised Code;	8361 8362 8363
(D) <u>(E)</u> Except during the buying season as established by rule adopted pursuant to section 1533.88 of the Revised Code, buy, otherwise acquire, or sell uncertified ginseng;	8364 8365 8366
(E) <u>(F)</u> Fail to keep records as established by rule adopted pursuant to section 1533.88 of the Revised Code;	8367 8368
(F) <u>(G)</u> Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;	8369 8370 8371

~~(G)~~(H) Knowingly provide incorrect or false information on or 8372
in any permit application, report, export certificate, or other 8373
document required by rules adopted pursuant to section 1533.88 of 8374
the Revised Code; 8375

~~(H)~~(I) Violate any provision of sections 1533.86 to 1533.90 8376
of the Revised Code or rules adopted pursuant to section 1533.88 8377
of the Revised Code. 8378

Sec. 1533.99. (A) Whoever violates section 1533.17 of the 8379
Revised Code is guilty of a misdemeanor of the third degree on a 8380
first offense and a misdemeanor of the second degree on each 8381
subsequent offense. In addition to any other sanction imposed 8382
under this division, on a second or subsequent offense occurring 8383
within a period of three consecutive years after the date of 8384
conviction of the immediately preceding violation of that section 8385
any firearms or other hunting implements in the possession or 8386
under the control of the offender at the time of the violation are 8387
subject to seizure in accordance with section 1531.20 of the 8388
Revised Code. If the offender persists in the offense after 8389
reasonable warning or request to desist, the offender is guilty of 8390
a misdemeanor of the second degree. 8391

(B) Whoever violates section 1533.161, 1533.23, 1533.24, 8392
1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511, 1533.55, 8393
1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71, 1533.72, 8394
1533.73, 1533.74, 1533.75, 1533.76, 1533.77, ~~1533.78~~, 1533.79, or 8395
1533.80, division (F) of section 1533.731, or division (B) or (C) 8396
of section 1533.97 of the Revised Code is guilty of a misdemeanor 8397
of the third degree. 8398

(C) Whoever violates division (B) of section 1533.03, section 8399
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 8400
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, 1533.721, 1533.881, 8401
or 1533.882, division (B)(2) or (3) of section 1533.731, or 8402

division (A) of section 1533.97 of the Revised Code is guilty of a
misdemeanor of the first degree.

(D) Whoever violates division (D) of section 1533.97 of the
Revised Code is guilty of a misdemeanor of the fourth degree. The
court shall require any person who is convicted of or pleads
guilty to the offense to refund to all participants in the fishing
tournament operated by the person any entry fees paid by the
participants.

(E) Whoever violates division (C) or (D) of section 1533.632
of the Revised Code is guilty of a felony of the fifth degree.

(F) Whoever violates any section of this chapter for which no
penalty is otherwise provided is guilty of a misdemeanor of the
fourth degree.

(G) A court that imposes sentence for a violation of any
section of this chapter governing the holding, taking, or
possession of wild animals shall require the person who is
convicted of or pleads guilty to the offense, in addition to any
fine, term of imprisonment, seizure, and forfeiture imposed, to
make restitution for the minimum value of the wild animal or
animals illegally held, taken, or possessed as established under
section 1531.201 of the Revised Code. An officer who collects
moneys paid as restitution under this section shall pay those
moneys to the treasurer of state who shall deposit them in the
state treasury to the credit of the wildlife fund established
under section 1531.17 of the Revised Code.

Sec. 1541.03. All lands and waters dedicated and set apart
for state park purposes shall be under the control and management
of the division of parks and recreation, which shall protect,
maintain, and keep them in repair. The division shall have the
following powers over all such lands and waters:

(A) To make alterations and improvements;	8433
(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;	8434 8435
(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;	8436 8437 8438
(D) Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:	8439 8440 8441 8442 8443
(1) Governing opening and closing times and dates of the parks;	8444 8445
(2) Establishing fees and charges for use of facilities in state parks;	8446 8447
(3) Governing camps, camping, and fees for camps and camping;	8448
(4) Governing the application for and rental of, rental fees for, and the use of cabins <u>cottages</u> ;	8449 8450
(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;	8451 8452 8453
(6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;	8454 8455 8456 8457 8458
(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are defined in section 1547.01 of	8459 8460 8461 8462

the Revised Code, over waters under the control of the division 8463
and establishing reasonable fees for the construction of and 8464
annual use permits for those structures and devices; 8465

(8) Governing state beaches, swimming, inflatable devices, 8466
and fees for them; 8467

(9) Governing the removal and disposition of any watercraft, 8468
rowboat, sailboat, or powercraft, as those terms are defined in 8469
section 1547.01 of the Revised Code, left unattended for more than 8470
seven days on any lands or waters under the control of the 8471
division; 8472

(10) Governing the establishment and collection of check 8473
collection charges for checks that are returned to the division or 8474
dishonored for any reason. 8475

The division shall adopt rules under this section 8476
establishing a discount program for all persons who are issued a 8477
golden buckeye card under section 173.06 of the Revised Code. The 8478
discount program shall provide a discount for all park services 8479
and rentals, but shall not provide a discount for the purchase of 8480
merchandise. 8481

The division shall not adopt rules establishing fees or 8482
charges for parking a motor vehicle in a state park or for 8483
admission to a state park. 8484

Every resident of this state with a disability that has been 8485
determined by the veterans administration to be permanently and 8486
totally disabling, who receives a pension or compensation from the 8487
veterans administration, and who received an honorable discharge 8488
from the armed forces of the United States, and every veteran to 8489
whom the registrar of motor vehicles has issued a set of license 8490
plates under section 4503.41 of the Revised Code, shall be exempt 8491
from the fees for camping, provided that the resident or veteran 8492
carries in the state park such evidence of the resident's or 8493

veteran's disability as the chief of the division of parks and recreation prescribes by rule. 8494
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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. 8496
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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. 8507
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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. 8513
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Sec. 1541.05. (A) The chief of the division of parks and 8524

recreation, with the approval of the director of natural 8525
resources, may dispose of any of the following by sale, donation, 8526
trade, trade-in, recycling, or any other lawful means, in a manner 8527
that will benefit the division: 8528

(1) Standing timber that as a result of wind, storm, 8529
pestilence, or any other natural occurrence may present a hazard 8530
to life or property, ~~or~~ timber that has weakened or fallen on 8531
lands under the control and management of the division, or any 8532
timber that requires management to improve wildlife habitat, 8533
protect against wildfires, provide access to recreational 8534
facilities, or improve the safety, quality, or appearance of any 8535
state park area; 8536

(2) Spoils of a dredging operation conducted by the division 8537
in waters under the control and management of the division. Prior 8538
to the disposition of any spoils under this division, the chief 8539
shall notify the director of environmental protection of ~~his~~ the 8540
chief's intent so that the director may determine if the spoils 8541
constitute solid wastes or hazardous waste, as those terms are 8542
defined in section 3734.01 of the Revised Code, that ~~shall~~ must be 8543
disposed of in accordance with Chapter 3734. of the Revised Code. 8544
If the director does not notify the chief within thirty days after 8545
receiving notice of the disposition that the spoils ~~shall~~ must be 8546
disposed of in accordance with Chapter 3734. of the Revised Code, 8547
the chief may proceed with the disposition. 8548

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 8549
Code, excess supplies and surplus supplies, as those terms are 8550
defined in section 125.12 of the Revised Code; 8551

(4) Agricultural products that are grown or raised by the 8552
division. As used in this division, "agricultural products" 8553
includes products of apiculture, animal husbandry, or poultry 8554
husbandry, field crops, fruits, and vegetables. 8555

(5) Abandoned personal property, including golf balls that 8556
are found on property under the control and management of the 8557
division. 8558

(B) In accordance with Chapter 119. of the Revised Code, the 8559
chief shall adopt, and may amend and rescind, such rules as are 8560
necessary to administer this section. 8561

(C) Proceeds from the disposition of items under this section 8562
shall be deposited in the state treasury to the credit of the 8563
state park fund created in section 1541.22 of the Revised Code. 8564

Sec. 1541.40. There is hereby created in the division of 8565
parks and recreation an Ohio parks and recreation council, which 8566
shall consist of seven members to be appointed by the governor 8567
with the advice and consent of the senate. By reason of ~~his~~ 8568
vocation, employment, or affiliation one of ~~such~~ the members shall 8569
be classed as a representative of municipal parks, one as a 8570
representative of metropolitan park districts, one as a 8571
representative of conservancy districts, one as a representative 8572
of ~~soil conservation districts or of~~ soil and water conservation 8573
districts, one as a representative of private recreational 8574
facilities, and two as representatives of the public. 8575

Terms of office shall be for ~~two~~ three years, commencing on 8576
the first day of February and ending on the thirty-first day of 8577
January, ~~except that upon expiration of the terms ending on~~ 8578
~~February 3, 1973, the new terms which succeed them shall commence~~ 8579
~~on February 4, 1974 and end on January 31, 1976, and upon~~ 8580
~~expiration of the terms ending on February 2, 1975, the new terms~~ 8581
~~which succeed them shall commence on February 3, 1975 and end on~~ 8582
~~January 31, 1977.~~ Each member shall hold office from the date of 8583
~~his~~ appointment until the end of the term for which ~~he~~ the member 8584
was appointed. Any member appointed to fill a vacancy occurring 8585
prior to the expiration of the term for which ~~his~~ the member's 8586

predecessor was appointed shall hold office for the remainder of 8587
~~such that~~ term. Any member shall continue in office subsequent to 8588
the expiration date of ~~his~~ the member's term until ~~his~~ the 8589
member's successor takes office, or until a period of sixty days 8590
has elapsed, whichever occurs first. 8591

The council shall annually select from among its members a 8592
~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. 8593

Members of the council shall receive no compensation, but 8594
shall be reimbursed for their actual and necessary expenses 8595
incurred in the performance of their official duties as members of 8596
the council. 8597

The council shall hold at least one regular meeting in each 8598
quarter of each calendar year, and shall keep a record of its 8599
proceedings, which shall be open to the public for inspection. 8600
Special meetings may be called by the ~~chairman~~ chairperson, and 8601
shall be called by ~~him~~ the chairperson upon receipt of a written 8602
request therefor signed by two or more members of the council. A 8603
written notice of the time and place of each meeting shall be sent 8604
to each member of the council. A majority of the members of the 8605
council shall constitute a quorum. 8606

The chief of the division of parks and recreation shall act 8607
as secretary of the council. Technical, legal, and other services 8608
required by the council in the performance of its official duties 8609
shall be furnished by the personnel of the division of parks and 8610
recreation. 8611

The governor may remove any member of the council at any time 8612
for inefficiency, neglect of duty, or malfeasance in office. 8613

Sec. 1547.05. No person born on or after January 1, 1982, 8614
shall operate on the waters in this state a powercraft powered by 8615
more than ten horsepower, unless the operator successfully has 8616

completed either a safe boater course approved by the national 8617
association of state boating law administrators or a proctored or 8618
nonproctored proficiency examination that tests knowledge of 8619
information included in the curriculum of such a course, and has 8620
received a certificate as evidence of successful completion of the 8621
course or examination. 8622

No person shall permit a powercraft to be operated on the 8623
waters in this state in violation of this section. 8624

Sec. 1547.08. (A) No person shall operate a vessel within or 8625
through a designated bathing area or within or through any area 8626
that has been buoyed off designating it as an area in which 8627
vessels are prohibited. 8628

(B)(1) No person shall operate a vessel at greater than idle 8629
speed or at a speed that creates a wake under any of the following 8630
circumstances: 8631

(a) Within three hundred feet of any marina, boat docking 8632
facility, boat gasoline dock, launch ramp, recreational boat 8633
harbor, or harbor entrance on Lake Erie or on the Ohio river; 8634

(b) During the period from sunset to sunrise according to 8635
local time within any water between the Dan Beard bridge and the 8636
Brent Spence bridge on the Ohio river for any vessel not 8637
documented by the United States coast guard as commercial; 8638

(c) Within any area buoyed or marked as a no wake area on the 8639
waters in this state. 8640

(2) Division (B)(1) of this section does not apply in either 8641
of the following places: 8642

(a) An area designated by the chief of the division of 8643
watercraft unless it is marked by a buoy or sign as a no wake or 8644
idle speed area; 8645

(b) Within any water between the Dan Beard bridge and the 8646

Brent Spence bridge on the Ohio river when the United States coast guard has authorized the holding of a special event of a community nature on that water. 8647
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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. 8650
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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. 8653
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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. 8656
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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. 8663
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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. 8670
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(F) No person shall enter, operate a vessel that enters, or allow a vessel to enter a federally declared security zone as defined in 33 C.F.R. Chapter I, subparts 6.01-1, 6.01-2, 6.01-3, 6.01-4, 6.01-5, 6.04-1, 6.04-5, 6.04-6, 6.04-7, and 6.04-8.

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

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

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

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

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner is renewing the registration personally and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, rowboats, and inflatable watercraft that are numbered under section 1547.53 of the Revised Code, twelve dollars;

(b) For canoes, row boats, and inflatable watercraft that are not numbered under section 1547.53 of the Revised Code, seventeen dollars;

(c) For class A watercraft, including motorized canoes, thirty dollars;

(d) For class 1 watercraft, forty-five dollars;

(e) For class 2 watercraft, sixty dollars;

(f) For class 3 watercraft, seventy-five dollars;

(g) For class 4 watercraft, ninety dollars.

(3) For the purpose of registration, any watercraft operated by means of power, sail, or any other mechanical or electrical

means of propulsion, except motorized canoes, shall be registered 8738
by length as prescribed in this section. 8739

(4) If an application for registration is filed by two 8740
persons as owners under division (A)(1)(a) of this section, the 8741
person who is listed first on the title shall serve as and perform 8742
the duties of the "owner" and shall be considered the person "in 8743
whose name the watercraft is registered" for purposes of divisions 8744
(B) to (Q) of this section and for purposes of all other sections 8745
in this chapter. 8746

(B) All registration certificates issued under this section 8747
are valid for three years and are renewable on a triennial basis 8748
unless sooner terminated or discontinued in accordance with this 8749
chapter. The renewal date shall be printed on the registration 8750
certificate. A registration certificate may be renewed by the 8751
owner in the manner prescribed by the chief. All fees shall be 8752
charged according to a proration of the time remaining in the 8753
registration cycle to the nearest year. 8754

(C) In addition to the fees set forth in this section, the 8755
chief, or any authorized agent, shall charge an additional fee of 8756
three dollars for any registration certificate the chief or 8757
authorized agent issues. When the registration certificate is 8758
issued by an authorized agent, the additional fee of three dollars 8759
shall be retained by the issuing agent. When the registration 8760
certificate is issued by the chief, the additional fee of three 8761
dollars shall be deposited to the credit of the waterways safety 8762
fund established in section 1547.75 of the Revised Code. 8763

(D)(1) Upon receipt of the application in approved form, the 8764
chief shall enter the same upon the records of the office of the 8765
division of watercraft, assign a number to the watercraft if a 8766
number is required under section 1547.53 of the Revised Code, and 8767
issue to the applicant a registration certificate. If a number is 8768

assigned by the chief, it shall be set forth on the certificate. 8769
The registration certificate shall be on the watercraft for which 8770
it is issued and available at all times for inspection whenever 8771
the watercraft is in operation, except that livery operators may 8772
retain the registration certificate at the livery where it shall 8773
remain available for inspection at all times and except as 8774
otherwise provided in division (D)(2) of this section. 8775

(2) A person who is operating on the waters of this state a 8776
canoe, rowboat, or inflatable watercraft that has not been 8777
numbered under section 1547.53 of the Revised Code and who is 8778
stopped by a law enforcement officer in the enforcement of this 8779
chapter or rules adopted under it shall present to the officer, 8780
not later than seventy-two hours after being stopped, a 8781
registration certificate. The registration certificate shall have 8782
been obtained under this section for the canoe, rowboat, or 8783
inflatable watercraft prior to the time that it was stopped. 8784
Failure of the person to present the registration certificate 8785
within seventy-two hours constitutes prima-facie evidence of a 8786
violation of this section. 8787

(E) No person shall issue or be issued a registration 8788
certificate for a watercraft that is required to be issued a 8789
certificate of title under Chapter 1548. of the Revised Code 8790
except upon presentation of a certificate of title for the 8791
watercraft as provided in that chapter, proof of current 8792
documentation by the United States coast guard, a renewal 8793
registration form provided by the division of watercraft, or a 8794
certificate of registration issued under this section that has 8795
expired if there is no change in the ownership or description of 8796
the watercraft. 8797

(F) Whenever the ownership of a watercraft changes, a new 8798
application form together with the prescribed fee shall be filed 8799
with the chief or the chief's agent and a new registration 8800

certificate shall be issued. The application shall be signed 8801
manually by the person or persons specified in ~~division~~ divisions 8802
(A)(1)(a) to (c) of this section and shall be accompanied by a 8803
two-dollar transfer fee. Any remaining time on the registration 8804
shall be transferred. An authorized agent of the chief shall 8805
charge an additional fee of three dollars, which shall be retained 8806
by the issuing agent. If the certificate is issued by the chief, 8807
an additional fee of three dollars for each certificate issued 8808
shall be collected. 8809

(G) If an agency of the United States has in force an overall 8810
system of identification numbering for watercraft or certain types 8811
of watercraft within the United States, the numbering system 8812
employed by the division shall be in conformity with that system. 8813

(H)(1) The chief may assign any registration certificates to 8814
any authorized agent for the assignment of the registration 8815
certificates. If a person accepts that authorization, the person 8816
may be assigned a block of numbers and certificates that upon 8817
assignment, in conformity with this chapter and Chapter 1548. of 8818
the Revised Code and with rules of the division, shall be valid as 8819
if assigned directly by the division. Any person so designated as 8820
an agent by the chief shall post with the division security as may 8821
be required by the director of natural resources. The chief may 8822
issue an order temporarily or permanently restricting or 8823
suspending an agent's authorization without a hearing if the chief 8824
finds that the agent has violated this chapter or Chapter 1548. of 8825
the Revised Code, rules adopted under them, or any agreements 8826
prescribed by the chief. 8827

(2) A clerk of the court of common pleas may apply for 8828
designation as an authorized agent of the chief. The division 8829
shall accept the clerk's bond that is required under section 8830
2303.02 of the Revised Code for any security that is required for 8831
agents under this division, provided that the bond includes a 8832

rider or other provision specifically covering the clerk's duties 8833
as an authorized agent of the chief. 8834

(I) All records of the division made or kept pursuant to this 8835
section shall be public records. Those records shall be available 8836
for inspection at reasonable hours and in a manner compatible with 8837
normal operations of the division. 8838

(J) The owner shall furnish the division notice within 8839
fifteen days of the following: 8840

(1) The transfer, other than through the creation of a 8841
security interest in any watercraft, of all or any part of the 8842
owner's interest or, if the watercraft is owned by two persons 8843
under joint ownership with right of survivorship established under 8844
section 2131.12 of the Revised Code, of all or any part of the 8845
joint interest of either of the two persons. The transfer shall 8846
not terminate the registration certificate. 8847

(2) Any change in the address appearing on the certificate 8848
~~and, as~~ As a part of the notification, the owner shall furnish 8849
the chief with the owner's new address. 8850

(3) The destruction or abandonment of the watercraft. 8851

(K) The chief may issue duplicate registration certificates 8852
or duplicate tags to owners of currently registered watercraft, 8853
the fee for which shall be four dollars. 8854

(L) If the chief finds that a registration certificate 8855
previously issued to an owner is in error to a degree that would 8856
impair its basic purpose and use, the chief may issue a corrected 8857
certificate to the owner without charge. 8858

(M) No authorized agent shall issue and no person shall 8859
receive or accept from an authorized agent a registration 8860
certificate assigned to the authorized agent under division (H) of 8861
this section unless the exact month, day, and year of issue are 8862

plainly written on the certificate by the agent. Certificates 8863
issued with incorrect dates of issue are void from the time they 8864
are issued. 8865

(N) The chief, in accordance with Chapter 119. of the Revised 8866
Code, shall adopt rules governing the renewal of watercraft 8867
registrations by electronic means. 8868

(O) As used in this section: 8869

(1) "Disabled veteran" means a person who is included in 8870
either of the following categories: 8871

(a) Because of a service-connected disability, has been or is 8872
awarded funds for the purchase of a motor vehicle under the 8873
"Disabled Veterans' and Servicemen's Automobile Assistance Act of 8874
1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto; 8875

(b) Has a service-connected disability rated at one hundred 8876
per cent by the veterans administration. 8877

(2) "Prisoner of war" means any regularly appointed, 8878
enrolled, enlisted, or inducted member of the military forces of 8879
the United States who was captured, separated, and incarcerated by 8880
an enemy of the United States at any time, and any regularly 8881
appointed, enrolled, or enlisted member of the military forces of 8882
Great Britain, France, Australia, Belgium, Brazil, Canada, China, 8883
Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, 8884
South Africa, or the republics formerly associated with the Union 8885
of Soviet Socialist Republics or Yugoslavia who was a citizen of 8886
the United States at the time of the appointment, enrollment, or 8887
enlistment, and was captured, separated, and incarcerated by an 8888
enemy of this country during World War II. 8889

(P) Any disabled veteran, congressional medal of honor 8890
awardee, or prisoner of war may apply to the chief for a 8891
certificate of registration, or for a renewal of the certificate 8892

of registration, without the payment of any fee required by this 8893
section. The application for a certificate of registration shall 8894
be accompanied by evidence of disability or by documentary 8895
evidence in support of a congressional medal of honor that the 8896
chief requires by rule. The application for a certificate of 8897
registration by any person who has been a prisoner of war shall be 8898
accompanied by written evidence in the form of a record of 8899
separation, a letter from one of the armed forces of a country 8900
listed in division (O)(2) of this section, or other evidence that 8901
the chief may require by rule, that the person was honorably 8902
discharged or is currently residing in this state on active duty 8903
with one of the branches of the armed forces of the United States, 8904
or was a prisoner of war and was honorably discharged or received 8905
an equivalent discharge or release from one of the armed forces of 8906
a country listed in division (O)(2) of this section. 8907

(Q) Annually by the fifteenth day of January, the director of 8908
natural resources shall determine the amount of fees that would 8909
have been collected in the prior calendar year for each 8910
certificate of registration issued or renewed pursuant to division 8911
(P) of this section and shall certify the total amount of foregone 8912
revenue to the director of budget and management for 8913
reimbursement. The director of budget and management shall 8914
transfer the amount certified from the general revenue fund to the 8915
waterways safety fund created pursuant to section 1547.75 of the 8916
Revised Code. 8917

Sec. 1547.541. The owner of a ~~wooden~~ watercraft that is more 8918
than twenty-five years old, is essentially as originally 8919
constructed, and is owned primarily as a collector's item and for 8920
participation in club activities, exhibitions, tours, parades, and 8921
similar uses, but is not used for general recreation may apply to 8922
the chief of the division of watercraft for an historic watercraft 8923

identification plate. The chief, by rule, may establish additional 8924
criteria for the registration of historic watercraft that the 8925
chief considers necessary. 8926

The chief shall prescribe the form of application and shall 8927
issue an historic watercraft identification plate, which shall be 8928
securely affixed to the watercraft. The plate shall bear no date, 8929
but shall bear the inscription "historic watercraft." A 8930
registration number assigned by the chief shall be shown on the 8931
plate. The plate is valid without renewal as long as the 8932
watercraft exists and ownership does not change. The fee for the 8933
plate is twenty-five dollars. 8934

Whenever the ownership of an historic watercraft changes, an 8935
application for transfer of registration, together with a fee of 8936
ten dollars, shall be filed with the division of watercraft, and a 8937
new certificate of registration shall be issued. 8938

The historic watercraft identification plate shall be shown 8939
on the watercraft in the same manner as a number required under 8940
sections 1547.53 and 1547.57 of the Revised Code. 8941

If the watercraft is to be used for general recreation, it 8942
also shall be registered as required by section 1547.54 of the 8943
Revised Code. 8944

Sec. 1547.99. (A) Whoever violates section 1547.91 of the 8945
Revised Code is guilty of a felony of the fourth degree. 8946

(B) Whoever violates division (F) of section 1547.08, section 8947
1547.10, division (I) of section 1547.111, section 1547.13, or 8948
section 1547.66 of the Revised Code is guilty of a misdemeanor of 8949
the first degree. 8950

(C) Whoever violates a provision of this chapter or a rule 8951
adopted thereunder, for which no penalty is otherwise provided, is 8952
guilty of a minor misdemeanor. 8953

(D) Whoever violates section 1547.07 or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07 or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (M) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1)

of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, or a combination of them, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, of division (A)(1) of section 2903.06 of the Revised Code, or of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or section 2903.06 or 2903.07 of the Revised Code as they existed prior to March 23, 2000, in a case in which the jury or judge found that the offender was under the influence of

alcohol, a drug of abuse, or a combination of them, the court
shall sentence the offender to a jail term of ten consecutive days
and may sentence the offender pursuant to section 2929.24 of the
Revised Code to a longer jail term. In addition, the court shall
impose upon the offender a fine of not less than one hundred fifty
nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the
offender, the court may require the offender to attend a drivers'
intervention program that is certified pursuant to section 3793.10
of the Revised Code.

(3) If, within six years of the offense, the offender has
been convicted of or pleaded guilty to more than one violation
identified in division (G)(2) of this section, the court shall
sentence the offender to a jail term of thirty consecutive days
and may sentence the offender to a longer jail term of not more
than one year. In addition, the court shall impose upon the
offender a fine of not less than one hundred fifty nor more than
one thousand dollars.

In addition to any other sentence that it imposes upon the
offender, the court may require the offender to attend a drivers'
intervention program that is certified pursuant to section 3793.10
of the Revised Code.

(4) Upon a showing that serving a jail term would seriously
affect the ability of an offender sentenced pursuant to division
(G)(1), (2), or (3) of this section to continue the offender's
employment, the court may authorize that the offender be granted
work release after the offender has served the mandatory jail term
of three, ten, or thirty consecutive days that the court is
required by division (G)(1), (2), or (3) of this section to
impose. No court shall authorize work release during the mandatory
jail term of three, ten, or thirty consecutive days that the court

is required by division (G)(1), (2), or (3) of this section to
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.

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(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.

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(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.

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

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guilty of a misdemeanor of the fourth degree and also shall be 9080
assessed any costs incurred by the state or a county, township, 9081
municipal corporation, or other political subdivision in disposing 9082
of an abandoned junk vessel or outboard motor, less any money 9083
accruing to the state, county, township, municipal corporation, or 9084
other political subdivision from that disposal. 9085

(I) Whoever violates division (B) or (C) of section 1547.49 9086
of the Revised Code is guilty of a minor misdemeanor. 9087

(J) Whoever violates section 1547.31 of the Revised Code is 9088
guilty of a misdemeanor of the fourth degree on a first offense. 9089
On each subsequent offense, the person is guilty of a misdemeanor 9090
of the third degree. 9091

(K) Whoever violates section 1547.05 or 1547.051 of the 9092
Revised Code is guilty of a misdemeanor of the fourth degree if 9093
the violation is not related to a collision, injury to a person, 9094
or damage to property and a misdemeanor of the third degree if the 9095
violation is related to a collision, injury to a person, or damage 9096
to property. 9097

(L) The sentencing court, in addition to the penalty provided 9098
under this section for a violation of this chapter or a rule 9099
adopted under it that involves a powercraft powered by more than 9100
ten horsepower and that, in the opinion of the court, involves a 9101
threat to the safety of persons or property, shall order the 9102
offender to complete successfully a boating course approved by the 9103
national association of state boating law administrators before 9104
the offender is allowed to operate a powercraft powered by more 9105
than ten horsepower on the waters in this state. Violation of a 9106
court order entered under this division is punishable as contempt 9107
under Chapter 2705. of the Revised Code. 9108

Sec. 1548.02. The chief of the division of watercraft shall 9109

adopt such rules as the chief considers necessary to ensure 9110
uniform and orderly operation of this chapter, and the clerks of 9111
the courts of common pleas shall conform to those rules. The chief 9112
shall receive and file in the chief's office all information 9113
forwarded to the chief by the clerks under this chapter and shall 9114
maintain indexes covering the state at large for that information. 9115
These indexes shall be for the state at large and not for 9116
individual counties. 9117

The chief shall check with the chief's record all duplicate 9118
certificates of title received in the chief's office from the 9119
clerks. 9120

If it appears that any certificate of title has been 9121
improperly issued or is no longer required, the chief shall cancel 9122
the certificate. Upon the cancellation of any certificate of 9123
title, the chief shall notify the clerk who issued it, and the 9124
clerk shall enter the cancellation in the clerk's records. The 9125
chief also shall notify the person to whom the certificate of 9126
title was issued, as well as any lienholders appearing on it, of 9127
the cancellation and, if it is a physical certificate of title, 9128
shall demand the surrender of the certificate of title, but the 9129
cancellation shall not affect the validity of any lien noted on 9130
it. The holder of a physical certificate of title shall return it 9131
to the chief immediately. 9132

The clerks shall keep on hand a sufficient supply of blank 9133
forms that, except certificate of title and memorandum certificate 9134
forms, shall be furnished and distributed without charge to 9135
registered manufacturers or dealers or to other persons residing 9136
within the county. The clerks shall provide the certificates of 9137
title, the ribbons for data processing, and removable backup media 9138
from moneys provided to the clerks from the automated title 9139
processing fund in accordance with division (B)(3)(b) of section 9140
4505.09 of the Revised Code. The clerks shall furnish all other 9141

supplies from other moneys available to the clerks.

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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 9172
person is not required to obtain a physical certificate of title 9173
to the watercraft in order to transfer ownership to the dealer. 9174
The person shall present the dealer, in a manner approved by the 9175
chief of the division of watercraft, with sufficient proof of the 9176
person's identity and complete and sign a form prescribed by the 9177
chief attesting to the person's identity and assigning the 9178
watercraft to the dealer. Except as otherwise provided in this 9179
section, the watercraft dealer shall present the assignment form 9180
to any clerk of a court of common pleas together with an 9181
application for a certificate of title and payment of the fees 9182
prescribed by section 1548.10 of the Revised Code. 9183

In a case in which an electronic certificate of title has 9184
been issued and either the buyer or seller of the watercraft is an 9185
electronic watercraft dealer, the electronic watercraft dealer 9186
instead may inform a clerk of a court of common pleas via 9187
electronic means of the sale of the watercraft and assignment of 9188
ownership of the watercraft. The clerk shall enter the information 9189
relating to the assignment into the automated title processing 9190
system, and ownership of the watercraft passes to the applicant 9191
when the clerk enters this information into the system. The dealer 9192
is not required to obtain a physical certificate of title to the 9193
watercraft in the dealer's name. 9194

(2) A clerk shall charge and collect from a dealer a fee of 9195
five dollars for each watercraft assignment sent by the dealer to 9196
the clerk under division (A)(1) of this section. The fee shall be 9197
distributed in accordance with section 1548.10 of the Revised 9198
Code. 9199

(B) If a person who is not an electronic watercraft dealer 9200
owns a watercraft for which a physical certificate of title has 9201
not been issued by a clerk of a court of common pleas and the 9202

person sells the watercraft to a person who is not a watercraft 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. 9203
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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. 9208
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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. 9211
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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. 9214
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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. 9217
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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: 9220
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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. 9225
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(B) No wood or inflammable material shall be permitted within 9229

twenty-five feet of the engine. 9230

(C) The supply tank from which the gasoline, naphtha, 9231
kerosene, or fuel oil is fed to the engine, shall be of metal, 9232
with a suitable screw cap opening, fitted with a gasket, so as to 9233
make the tank airtight and prevent the escape of gas into the 9234
atmosphere, and the tank kept free from leaks. 9235

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed 9236
from a tank to the carburetor or mixer by metal tubes securely 9237
connected so as to reduce the possibility of leaks to a minimum. 9238

(E) The exhaust from the engine shall be conducted by means 9239
of metal pipes into the return air current, so that the combustion 9240
fumes will not enter the workings of the mine where the ~~worker's~~ 9241
workers are required to work, or be conducted in an upcast shaft 9242
or slope not used as a means of ingress or egress or through metal 9243
pipes to the surface. 9244

(F) At no time shall more than five gallons of such gasoline, 9245
naphtha, kerosene, or fuel oil be taken into the mine, including 9246
that in the supply tank. 9247

(G) No gasoline, naphtha, kerosene, or fuel oil shall be 9248
taken into the mine except in metallic cans, with a screw cap 9249
opening at the top, fitted with a suitable gasket. 9250

(H) No package, can, or supply tank of an engine, containing 9251
gasoline, naphtha, kerosene, or fuel oil, shall be opened until 9252
ready to make the transfer from the package or can to the supply 9253
tank, and in transferring, a funnel shall be used so as to avoid 9254
spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap 9255
on the supply tank shall be immediately closed. 9256

(I) In no case shall the package, can, or supply tank be 9257
opened when an open light or other thing containing fire is within 9258
twenty-five feet of the same, provided that subject to the 9259

approval of the chief, the restrictions in the use of fuel oil in 9260
a mine shall not apply to mobile or portable machinery, if ~~such~~ 9261
the mobile or portable machinery is used in a clay, limestone, 9262
shale, or any other mine not a coal mine. 9263

Nothing in this section shall be construed to prohibit or 9264
impede the use of diesel equipment in an underground coal mine, 9265
provided that the chief approves the use of the equipment in 9266
underground mines and the equipment satisfies requirements 9267
established in rules adopted by the chief under section 1513.02 of 9268
the Revised Code governing the use of diesel equipment in 9269
underground mines. 9270

No owner, lessee, agent, or operator of a mine shall violate 9271
this section. 9272

Sec. 1571.011. Nothing in this chapter applies to activities 9273
that are permitted and regulated under Chapter 1514. of the 9274
Revised Code. 9275

Sec. 2305.041. With respect to a lease or license by which a 9276
right is granted to operate or to sink or drill wells on land in 9277
this state for natural gas or petroleum and that is recorded in 9278
accordance with section 5301.09 of the Revised Code, an action 9279
alleging breach of any express or implied provision of the lease 9280
or license concerning the calculation or payment of royalties 9281
shall be brought within the time period that is specified in 9282
section 1302.98 of the Revised Code. An action alleging a breach 9283
with respect to any other issue that the lease or license involves 9284
shall be brought within the time period specified in section 9285
2305.06 of the Revised Code. 9286

Sec. 3734.13. (A) The director of environmental protection 9287
may issue, modify, suspend, or revoke enforcement orders in 9288

accordance with Chapter 3745. of the Revised Code to a holder of a 9289
registration certificate, permit, or license issued by the 9290
director or a board of health under this chapter, or to another 9291
person, directing the holder or person to abate a violation, or to 9292
prevent any threatened violation, of any section of this chapter 9293
other than sections 3734.90 to 3734.9013 of the Revised Code, a 9294
rule adopted thereunder, or a term or condition of a permit, 9295
license, or variance issued thereunder within a specified, 9296
reasonable time. 9297

(B) Notwithstanding division (C) of section 3734.85 of the 9298
Revised Code, if the director determines that an emergency exists 9299
requiring immediate action to protect the public health or safety 9300
or the environment, ~~he~~ the director may issue an order, without 9301
notice or hearing, reciting the existence of the emergency and 9302
requiring that such action be taken as necessary to meet the 9303
emergency. The order shall take effect immediately. Any person to 9304
whom the order is directed shall comply immediately, but on 9305
application to the director shall be afforded a hearing as soon as 9306
possible and not later than thirty days after application. On the 9307
basis of the hearing, the director shall continue the order in 9308
effect, revoke it, or modify it. No emergency order shall remain 9309
in effect for more than one hundred twenty days after its 9310
issuance. 9311

(C) If the director determines that any person is violating 9312
or has violated this chapter, a rule adopted thereunder, or a term 9313
or condition of a permit, license, variance, or order issued 9314
thereunder, the director may request in writing that the attorney 9315
general bring a civil action for appropriate relief, including a 9316
temporary restraining order, preliminary or permanent injunction, 9317
and civil penalties in any court of competent jurisdiction. Such 9318
an action shall have precedence over all other cases. Except as 9319
otherwise provided in this division with regard to a violation of 9320

the provisions of this chapter governing scrap tires, a rule 9321
adopted under those provisions, a term or condition of a permit or 9322
license issued under them, or a term or condition of an order 9323
issued pertaining to scrap tires, the court may impose upon the 9324
person a civil penalty of not more than ten thousand dollars for 9325
each day of each violation of this chapter other than a violation 9326
of section 3734.60 of the Revised Code ~~or~~, a violation of sections 9327
3734.90 to 3734.9013 of the Revised Code or a rule adopted under 9328
those sections, a rule adopted thereunder other than a rule 9329
adopted under division (B) of section 3734.122 of the Revised 9330
Code, or a term or condition of a permit, license, variance, or 9331
order issued thereunder, or a violation of sections 3734.62 to 9332
3734.65 of the Revised Code. The court may impose upon a person 9333
who violates a rule adopted under division (B) of section 3734.122 9334
of the Revised Code a civil penalty of not more than twenty-five 9335
thousand dollars for each day of each violation of the rule. The 9336
court may impose upon a person who violates section 3734.60 of the 9337
Revised Code a civil penalty of not more than two hundred fifty 9338
dollars for each day of violation of that section. The court may 9339
impose upon a person who violates any of the provisions of this 9340
chapter governing scrap tires, a rule adopted under those 9341
provisions, a term or condition of a permit or license issued 9342
under them, or a term or condition of an order issued pertaining 9343
to scrap tires a civil penalty of not more than five thousand 9344
dollars for each day of each violation, except that if the 9345
violation is of a provision, rule, or term or condition that 9346
relates to the open burning or open dumping of scrap tires, or if 9347
the violation is of an emergency order of the director issued 9348
under division (B) of section 3734.13 of the Revised Code that 9349
pertains to scrap tires, the court may impose a civil penalty of 9350
not more than ten thousand dollars for each day of each violation. 9351
The court may impose upon a person who violates section 3734.62 of 9352
the Revised Code a civil penalty of not more than one hundred 9353

dollars for each violation of that section. The court may impose 9354
upon a person who violates section 3734.63, 3734.64, or 3734.65 of 9355
the Revised Code a civil penalty of not more than five thousand 9356
dollars for each day of each violation of the applicable section, 9357
but the total amount of a civil penalty imposed upon a person for 9358
a violation of the applicable section shall not exceed twenty-five 9359
thousand dollars. 9360

Any action under this section is a civil action, governed by 9361
the Rules of Civil Procedure. 9362

(D) No person shall violate any term or condition of any 9363
order issued under this section. 9364

(E) Except as otherwise provided in this division, moneys 9365
resulting from civil penalties imposed under division (C) of this 9366
section shall be paid into the hazardous waste clean-up fund 9367
created in section 3734.28 of the Revised Code. Moneys resulting 9368
from civil penalties imposed under division (C) of this section 9369
for violations of any of the provisions of this chapter governing 9370
scrap tires, rules adopted under those provisions, terms or 9371
conditions of permits or licenses issued under them, or terms or 9372
conditions of orders issued pertaining to scrap tires shall be 9373
credited to the scrap tire management fund created in section 9374
3734.82 of the Revised Code. 9375

Sec. 3734.61. As used in sections 3734.61 to 3734.65 of the 9376
Revised Code: 9377

(A) "Manufacturer" means any person that produces a 9378
mercury-containing thermometer or serves as an importer or 9379
domestic distributor of a mercury-containing thermometer that is 9380
produced outside the United States. In the case of a 9381
multicomponent mercury-containing thermometer, "manufacturer" 9382
means the last manufacturer to produce or assemble the thermometer 9383
unless the multicomponent mercury-containing thermometer is 9384

produced outside the United States, in which case "manufacturer" 9385
means the importer or domestic distributor. 9386

(B) "Mercury" means elemental mercury and mercury compounds. 9387

(C) "Mercury-added measuring device" means an instrument 9388
containing mercury that is designed to measure an amount or 9389
quantity of humidity, pressure, temperature, or vacuum or the 9390
force of wind, including, but not limited to, anemometers, 9391
barometers, flow meters, hydrometers, hygrometers, manometers, 9392
sphygmomanometers, and thermometers. 9393

(D) "Mercury-added novelty" means a product in which mercury 9394
is present and that is intended mainly for personal or household 9395
enjoyment or adornment, including, but not limited to, products 9396
intended for use as practical jokes, figurines, adornments, toys, 9397
games, cards, ornaments, yard statues and figures, candles, 9398
jewelry, holiday decorations, footwear, other items of apparel, or 9399
similar products. "Mercury-added novelty" does not include a 9400
product that solely includes a fluorescent light bulb. 9401

Sec. 3734.62. On and after the effective date of this 9402
section, no school district or educational service center 9403
established under Chapter 3311. of the Revised Code, community 9404
school established under Chapter 3314. of the Revised Code, or 9405
nonpublic school for which the state board of education prescribes 9406
standards under section 3301.07 of the Revised Code and no 9407
employee of such a school district, educational service center, 9408
community school, or nonpublic school shall purchase mercury or a 9409
mercury-added measuring device for classroom use. 9410

If a school district, educational service center, community 9411
school, or nonpublic school or an employee of a school district, 9412
educational service center, community school, or nonpublic school 9413
purchases mercury or a mercury-added measuring device for 9414

classroom use on or after the effective date of this section in 9415
violation of this section, but properly recycles or disposes of 9416
the mercury or mercury-added measuring device upon learning of or 9417
being informed of the violation and creates and implements a 9418
mercury reduction plan, the director of environmental protection 9419
shall consider the recycling or disposal of the mercury or 9420
mercury-added measuring device and the implementation of and 9421
compliance with the mercury reduction plan as mitigating 9422
circumstances for purposes of enforcement of a violation of this 9423
section. 9424

Sec. 3734.63. (A)(1) Beginning six months after the effective 9425
date of this section, and except as otherwise provided in division 9426
(A)(2) of this section, no manufacturer shall offer a 9427
mercury-containing thermometer for sale or distribute a 9428
mercury-containing thermometer for promotional purposes in this 9429
state unless the sale or distribution of a mercury-containing 9430
thermometer is required in order to comply with federal law, a 9431
person demonstrates to the director that a mercury-containing 9432
thermometer is the only temperature measuring device that is 9433
feasible for a research, quality control, or manufacturing 9434
application, or the only component of the thermometer that 9435
contains mercury is a button cell battery. 9436

(2) Division (A)(1) of this section does not apply to the 9437
sale of a mercury-containing thermometer to a person who purchases 9438
a mercury-containing thermometer pursuant to a valid prescription. 9439

(B) Beginning six months after the effective date of this 9440
section, a manufacturer of a mercury-containing thermometer that 9441
lawfully offers for sale or distributes such a thermometer in this 9442
state shall do both of the following: 9443

(1) Provide notice in a conspicuous manner on the packaging 9444
of the thermometer that the thermometer contains mercury; 9445

(2) Provide clear instructions with the thermometer regarding 9446
careful handling of the thermometer to avoid breakage, proper 9447
cleanup of mercury if the thermometer breaks, and proper 9448
management and disposal of the thermometer. 9449

Sec. 3734.64. Beginning six months after the effective date 9450
of this section, no person shall offer a mercury-added novelty for 9451
sale or distribute such a novelty for promotional purposes in this 9452
state unless the only mercury in the mercury-added novelty is a 9453
removable button cell battery. Beginning January 1, 2011, no 9454
person shall offer any mercury-added novelty for sale or 9455
distribute any mercury-added novelty for promotional purposes in 9456
this state. 9457

Sec. 3734.65. Beginning one year after the effective date of 9458
this section, no person shall offer a mercury-containing 9459
thermostat for sale in this state or install a mercury-containing 9460
thermostat in this state unless the mercury-containing thermostat 9461
is installed in the residence of a visually impaired person or the 9462
thermostat is used to sense and control temperatures as a part of 9463
a manufacturing process. 9464

Sec. 3745.01. There is hereby created the environmental 9465
protection agency, headed by the director of environmental 9466
protection. The agency, under the supervision of the director, 9467
shall administer the laws pertaining to chemical emergency 9468
planning, community right-to-know, and toxic chemical release 9469
reporting; the cessation of chemical handling operations; the 9470
prevention, control, and abatement of air and water pollution; 9471
public water supply; comprehensive water resource management 9472
planning; products that contain mercury as defined in section 9473
3734.61 of the Revised Code; and the disposal and treatment of 9474
solid wastes, infectious wastes, construction and demolition 9475

debris, hazardous waste, sewage, industrial waste, and other 9476
wastes. The director may do all of the following: 9477

(A) Provide such methods of administration, appoint such 9478
personnel, make such reports, and take such other action as may be 9479
necessary to comply with the requirements of the federal laws and 9480
regulations pertaining to chemical emergency planning, community 9481
right-to-know, and toxic chemical release reporting; air and water 9482
pollution control; public water supply; water resource planning; 9483
and waste disposal and treatment; 9484

(B) Procure by contract the temporary or intermittent 9485
services of experts or consultants, or organizations thereof, when 9486
those services are to be performed on a part-time or 9487
fee-for-service basis and do not involve the performance of 9488
administrative duties; 9489

(C) Advise, consult, cooperate, and enter into contracts or 9490
agreements with any other agencies of the state, the federal 9491
government, other states, and interstate agencies and with 9492
affected groups, political subdivisions, and industries in 9493
furtherance of the purposes of this chapter and Chapters 3704., 9494
3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code; 9495

(D) Establish advisory boards in accordance with section 9496
121.13 of the Revised Code; 9497

(E) Accept on behalf of the state any grant, gift, or 9498
contribution made for toxic chemical release reporting, air or 9499
water pollution control, public water supply, water resource 9500
planning, waste disposal or treatment, or related purposes, and 9501
expend it for those purposes; 9502

(F) Make an annual report to the governor and the general 9503
assembly on activities and expenditures as well as recommendations 9504
for such additional legislation as the director considers 9505
appropriate to carry out the director's duties or accomplish the 9506

purposes of this section;

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(G) Enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

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The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

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The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

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Sec. 3745.08. (A) An officer of an agency of the state or of a political subdivision, acting in ~~his~~ the officer's

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representative capacity, or any person who is or will be aggrieved 9538
or adversely affected by a violation that has occurred, is 9539
occurring, or will occur may file a complaint, in writing and 9540
verified by the affidavit of the complainant, ~~his~~ the 9541
complainant's agent, or attorney, with the director of 9542
environmental protection, in accordance with the rules of the 9543
director adopted pursuant to Chapter 119. of the Revised Code, 9544
alleging that another person has violated, is violating, or will 9545
violate any law, rule, standard, or order relating to air 9546
pollution, water pollution, solid waste, infectious wastes, 9547
construction and demolition debris, public water supply, hazardous 9548
waste, products that contain mercury, or cessation of chemical 9549
handling operations, or, if the person is in possession of a valid 9550
license, permit, variance, or plan approval relating to air 9551
pollution, water pollution, solid waste, infectious wastes, 9552
construction and demolition debris, public water supply, or 9553
hazardous waste, that the person has violated, is violating, or 9554
will violate the conditions of the license, permit, variance, or 9555
plan approval. The affidavit verifying a complaint authorized by 9556
this section may be made before any person authorized by law to 9557
administer oaths and shall be signed by the person who makes it. 9558
The person before whom it was taken shall certify that it was 9559
sworn to before ~~him~~ that person and signed in ~~his~~ that person's 9560
presence, and ~~his~~ that person's certificate signed officially by 9561
~~him~~ that person shall be evidence that the affidavit was made, 9562
that the name of the person making the affidavit was written by 9563
~~himself~~ the maker of the affidavit, and that ~~he~~ the maker of the 9564
affidavit was that person. 9565

(B) Upon receipt of a complaint authorized by this section, 9566
the director shall cause a prompt investigation to be conducted 9567
such as is reasonably necessary to determine whether a violation, 9568
as alleged, has occurred, is occurring, or will occur. The 9569
investigation shall include a discussion of the complaint with the 9570

alleged violator. If, upon completion of the investigation, the
director determines that a violation, as alleged, has occurred, is
occurring, or will occur, ~~he~~ the director may enter such order as
may be necessary, request the attorney general to commence
appropriate legal proceedings, or, where ~~he~~ the director
determines that prior violations have been terminated and that
future violations of the same kind are unlikely to occur, ~~he~~ the
director may dismiss the complaint. If the director does not
determine that a violation, as alleged, has occurred, is
occurring, or will occur, ~~he~~ the director shall dismiss the
complaint. Before taking any action under this division, the
director may commence a hearing. Twenty days prior to any hearing,
the director shall cause publication of notice of the hearing in a
newspaper with general circulation in the county wherein the
alleged violation has occurred, is occurring, or will occur, and
also shall mail written notice by certified mail, return receipt
requested, to the person who filed the complaint and to the
alleged violator. If the director enters an order pursuant to this
division without having commenced a hearing, the director or ~~his~~
the director's delegate, prior to entry of the order, shall
provide an opportunity to the complainant and the alleged violator
to attend a conference with the director or ~~his~~ the director's
delegate concerning the alleged violation.

(C) Any hearing commenced under this section shall be
conducted before the director or a hearing examiner designated by
the director. The agency and the alleged violator shall be
parties. The person who filed the verified complaint may
participate as a party by filing with the director, at any time
prior to the hearing, a written notice of ~~his~~ the complainant's
intent to so participate. Any other person may be permitted to
intervene upon the granting by the director or hearing examiner of
a motion to intervene filed in accordance with the rules of the

director adopted pursuant to Chapter 119. of the Revised Code. 9603

(D) A complaint filed under this section may be consolidated 9604
with any other complaint filed under this section, or any finding 9605
of the director, where the director determines that consolidation 9606
will facilitate enforcement of any law that the agency is charged 9607
with administering under section 3745.01 of the Revised Code and 9608
there are one or more issues of fact or law in common. Not more 9609
than one hearing under this section shall be conducted with 9610
respect to each violation alleged. 9611

Sec. 4115.04. (A)(1) Every public authority authorized to 9612
contract for or construct with its own forces a public 9613
improvement, before advertising for bids or undertaking such 9614
construction with its own forces, shall have the director of 9615
commerce determine the prevailing rates of wages of mechanics and 9616
laborers in accordance with section 4115.05 of the Revised Code 9617
for the class of work called for by the public improvement, in the 9618
locality where the work is to be performed. ~~Such~~ Except as 9619
provided in division (A)(2) of this section, that schedule of 9620
wages shall be attached to and made part of the specifications for 9621
the work, and shall be printed on the bidding blanks where the 9622
work is done by contract. A copy of the bidding blank shall be 9623
filed with the director before ~~such~~ the contract is awarded. A 9624
minimum rate of wages for common laborers, on work coming under 9625
the jurisdiction of the department of transportation, shall be 9626
fixed in each county of the state by ~~said~~ the department of 9627
transportation, in accordance with section 4115.05 of the Revised 9628
Code. 9629

(2) In the case of contracts that are administered by the 9630
department of natural resources, the director of natural resources 9631
or the director's designee shall include language in the contracts 9632
requiring wage rate determinations and updates to be obtained 9633

directly from the department of commerce through electronic or 9634
other means as appropriate. Contracts that include this 9635
requirement are exempt from the requirements established in 9636
division (A)(1) of this section that involve attaching the 9637
schedule of wages to the specifications for the work, making the 9638
schedule part of those specifications, and printing the schedule 9639
on the bidding blanks where the work is done by contract. 9640

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 9641
apply to: 9642

(1) Public improvements in any case where the federal 9643
government or any of its agencies furnishes by loan or grant all 9644
or any part of the funds used in constructing such improvements, 9645
provided that the federal government or any of its agencies 9646
prescribes predetermined minimum wages to be paid to mechanics and 9647
laborers employed in the construction of such improvements; 9648

(2) A participant in a work activity, developmental activity, 9649
or an alternative work activity under sections 5107.40 to 5107.69 9650
of the Revised Code when a public authority directly uses the 9651
labor of the participant to construct a public improvement if the 9652
participant is not engaged in paid employment or subsidized 9653
employment pursuant to the activity; 9654

(3) Public improvements undertaken by, or under contract for, 9655
the board of education of any school district or the governing 9656
board of any educational service center; 9657

(4) Public improvements undertaken by, or under contract for, 9658
a county hospital operated pursuant to Chapter 339. of the Revised 9659
Code or a municipal hospital operated pursuant to Chapter 749. of 9660
the Revised Code if none of the funds used in constructing the 9661
improvements are the proceeds of bonds or other obligations ~~which~~ 9662
that are secured by the full faith and credit of the state, a 9663
county, a township, or a municipal corporation and none of the 9664

funds used in constructing the improvements, including funds used 9665
to repay any amounts borrowed to construct the improvements, are 9666
funds that have been appropriated for that purpose by the state, a 9667
board of county commissioners, a township, or a municipal 9668
corporation from funds generated by the levy of a tax~~+~~₁ provided~~+~~ 9669
~~however,~~ that a county hospital or municipal hospital may elect to 9670
apply sections 4115.03 to 4115.16 of the Revised Code to a public 9671
improvement undertaken by, or under contract for, the hospital. 9672

Sec. 4501.01. As used in this chapter and Chapters 4503., 9673
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 9674
Revised Code, and in the penal laws, except as otherwise provided: 9675

(A) "Vehicles" means everything on wheels or runners, 9676
including motorized bicycles, but does not mean electric personal 9677
assistive mobility devices, vehicles that are operated exclusively 9678
on rails or tracks or from overhead electric trolley wires, and 9679
vehicles that belong to any police department, municipal fire 9680
department, or volunteer fire department, or that are used by such 9681
a department in the discharge of its functions. 9682

(B) "Motor vehicle" means any vehicle, including mobile homes 9683
and recreational vehicles, that is propelled or drawn by power 9684
other than muscular power or power collected from overhead 9685
electric trolley wires. "Motor vehicle" does not include utility 9686
vehicles as defined in division (VV) of this section, motorized 9687
bicycles, road rollers, traction engines, power shovels, power 9688
cranes, and other equipment used in construction work and not 9689
designed for or employed in general highway transportation, 9690
well-drilling machinery, ditch-digging machinery, farm machinery, 9691
trailers that are used to transport agricultural produce or 9692
agricultural production materials between a local place of storage 9693
or supply and the farm when drawn or towed on a public road or 9694
highway at a speed of twenty-five miles per hour or less, 9695

threshing machinery, hay-baling machinery, corn sheller, 9696
hammermill and agricultural tractors, machinery used in the 9697
production of horticultural, agricultural, and vegetable products, 9698
and trailers that are designed and used exclusively to transport a 9699
boat between a place of storage and a marina, or in and around a 9700
marina, when drawn or towed on a public road or highway for a 9701
distance of no more than ten miles and at a speed of twenty-five 9702
miles per hour or less. 9703

(C) "Agricultural tractor" and "traction engine" mean any 9704
self-propelling vehicle that is designed or used for drawing other 9705
vehicles or wheeled machinery, but has no provisions for carrying 9706
loads independently of such other vehicles, and that is used 9707
principally for agricultural purposes. 9708

(D) "Commercial tractor," except as defined in division (C) 9709
of this section, means any motor vehicle that has motive power and 9710
either is designed or used for drawing other motor vehicles, or is 9711
designed or used for drawing another motor vehicle while carrying 9712
a portion of the other motor vehicle or its load, or both. 9713

(E) "Passenger car" means any motor vehicle that is designed 9714
and used for carrying not more than nine persons and includes any 9715
motor vehicle that is designed and used for carrying not more than 9716
fifteen persons in a ridesharing arrangement. 9717

(F) "Collector's vehicle" means any motor vehicle or 9718
agricultural tractor or traction engine that is of special 9719
interest, that has a fair market value of one hundred dollars or 9720
more, whether operable or not, and that is owned, operated, 9721
collected, preserved, restored, maintained, or used essentially as 9722
a collector's item, leisure pursuit, or investment, but not as the 9723
owner's principal means of transportation. "Licensed collector's 9724
vehicle" means a collector's vehicle, other than an agricultural 9725
tractor or traction engine, that displays current, valid license 9726

tags issued under section 4503.45 of the Revised Code, or a 9727
similar type of motor vehicle that displays current, valid license 9728
tags issued under substantially equivalent provisions in the laws 9729
of other states. 9730

(G) "Historical motor vehicle" means any motor vehicle that 9731
is over twenty-five years old and is owned solely as a collector's 9732
item and for participation in club activities, exhibitions, tours, 9733
parades, and similar uses, but that in no event is used for 9734
general transportation. 9735

(H) "Noncommercial motor vehicle" means any motor vehicle, 9736
including a farm truck as defined in section 4503.04 of the 9737
Revised Code, that is designed by the manufacturer to carry a load 9738
of no more than one ton and is used exclusively for purposes other 9739
than engaging in business for profit. 9740

(I) "Bus" means any motor vehicle that has motor power and is 9741
designed and used for carrying more than nine passengers, except 9742
any motor vehicle that is designed and used for carrying not more 9743
than fifteen passengers in a ridesharing arrangement. 9744

(J) "Commercial car" or "truck" means any motor vehicle that 9745
has motor power and is designed and used for carrying merchandise 9746
or freight, or that is used as a commercial tractor. 9747

(K) "Bicycle" means every device, other than a tricycle that 9748
is designed solely for use as a play vehicle by a child, that is 9749
propelled solely by human power upon which any person may ride, 9750
and that has either two tandem wheels, or one wheel in front and 9751
two wheels in the rear, any of which is more than fourteen inches 9752
in diameter. 9753

(L) "Motorized bicycle" means any vehicle that either has two 9754
tandem wheels or one wheel in the front and two wheels in the 9755
rear, that is capable of being pedaled, and that is equipped with 9756
a helper motor of not more than fifty cubic centimeters piston 9757

displacement that produces no more than one brake horsepower and 9758
is capable of propelling the vehicle at a speed of no greater than 9759
twenty miles per hour on a level surface. 9760

(M) "Trailer" means any vehicle without motive power that is 9761
designed or used for carrying property or persons wholly on its 9762
own structure and for being drawn by a motor vehicle, and includes 9763
any such vehicle that is formed by or operated as a combination of 9764
a semitrailer and a vehicle of the dolly type such as that 9765
commonly known as a trailer dolly, a vehicle used to transport 9766
agricultural produce or agricultural production materials between 9767
a local place of storage or supply and the farm when drawn or 9768
towed on a public road or highway at a speed greater than 9769
twenty-five miles per hour, and a vehicle that is designed and 9770
used exclusively to transport a boat between a place of storage 9771
and a marina, or in and around a marina, when drawn or towed on a 9772
public road or highway for a distance of more than ten miles or at 9773
a speed of more than twenty-five miles per hour. "Trailer" does 9774
not include a manufactured home or travel trailer. 9775

(N) "Noncommercial trailer" means any trailer, except a 9776
travel trailer or trailer that is used to transport a boat as 9777
described in division (B) of this section, but, where applicable, 9778
includes a vehicle that is used to transport a boat as described 9779
in division (M) of this section, that has a gross weight of no 9780
more than three thousand pounds, and that is used exclusively for 9781
purposes other than engaging in business for a profit. 9782

(O) "Mobile home" means a building unit or assembly of closed 9783
construction that is fabricated in an off-site facility, is more 9784
than thirty-five body feet in length or, when erected on site, is 9785
three hundred twenty or more square feet, is built on a permanent 9786
chassis, is transportable in one or more sections, and does not 9787
qualify as a manufactured home as defined in division (C)(4) of 9788
section 3781.06 of the Revised Code or as an industrialized unit 9789

as defined in division (C)(3) of section 3781.06 of the Revised Code. 9790
9791

(P) "Semitrailer" means any vehicle of the trailer type that 9792
does not have motive power and is so designed or used with another 9793
and separate motor vehicle that in operation a part of its own 9794
weight or that of its load, or both, rests upon and is carried by 9795
the other vehicle furnishing the motive power for propelling 9796
itself and the vehicle referred to in this division, and includes, 9797
for the purpose only of registration and taxation under those 9798
chapters, any vehicle of the dolly type, such as a trailer dolly, 9799
that is designed or used for the conversion of a semitrailer into 9800
a trailer. 9801

(Q) "Recreational vehicle" means a vehicular portable 9802
structure that meets all of the following conditions: 9803

(1) It is designed for the sole purpose of recreational 9804
travel. 9805

(2) It is not used for the purpose of engaging in business 9806
for profit. 9807

(3) It is not used for the purpose of engaging in intrastate 9808
commerce. 9809

(4) It is not used for the purpose of commerce as defined in 9810
49 C.F.R. 383.5, as amended. 9811

(5) It is not regulated by the public utilities commission 9812
pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. 9813

(6) It is classed as one of the following: 9814

(a) "Travel trailer" means a nonself-propelled recreational 9815
vehicle that does not exceed an overall length of thirty-five 9816
feet, exclusive of bumper and tongue or coupling, and contains 9817
less than three hundred twenty square feet of space when erected 9818
on site. "Travel trailer" includes a tent-type fold-out camping 9819

trailer as defined in section 4517.01 of the Revised Code. 9820

(b) "Motor home" means a self-propelled recreational vehicle 9821
that has no fifth wheel and is constructed with permanently 9822
installed facilities for cold storage, cooking and consuming of 9823
food, and for sleeping. 9824

(c) "Truck camper" means a nonself-propelled recreational 9825
vehicle that does not have wheels for road use and is designed to 9826
be placed upon and attached to a motor vehicle. "Truck camper" 9827
does not include truck covers that consist of walls and a roof, 9828
but do not have floors and facilities enabling them to be used as 9829
a dwelling. 9830

(d) "Fifth wheel trailer" means a vehicle that is of such 9831
size and weight as to be movable without a special highway permit, 9832
that has a gross trailer area of four hundred square feet or less, 9833
that is constructed with a raised forward section that allows a 9834
bi-level floor plan, and that is designed to be towed by a vehicle 9835
equipped with a fifth-wheel hitch ordinarily installed in the bed 9836
of a truck. 9837

(e) "Park trailer" means a vehicle that is commonly known as 9838
a park model recreational vehicle, meets the American national 9839
standard institute standard A119.5 (1988) for park trailers, is 9840
built on a single chassis, has a gross trailer area of four 9841
hundred square feet or less when set up, is designed for seasonal 9842
or temporary living quarters, and may be connected to utilities 9843
necessary for the operation of installed features and appliances. 9844

(R) "Pneumatic tires" means tires of rubber and fabric or 9845
tires of similar material, that are inflated with air. 9846

(S) "Solid tires" means tires of rubber or similar elastic 9847
material that are not dependent upon confined air for support of 9848
the load. 9849

(T) "Solid tire vehicle" means any vehicle that is equipped 9850
with two or more solid tires. 9851

(U) "Farm machinery" means all machines and tools that are 9852
used in the production, harvesting, and care of farm products, and 9853
includes trailers that are used to transport agricultural produce 9854
or agricultural production materials between a local place of 9855
storage or supply and the farm when drawn or towed on a public 9856
road or highway at a speed of twenty-five miles per hour or less. 9857

(V) "Owner" includes any person or firm, other than a 9858
manufacturer or dealer, that has title to a motor vehicle, except 9859
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 9860
includes in addition manufacturers and dealers. 9861

(W) "Manufacturer" and "dealer" include all persons and firms 9862
that are regularly engaged in the business of manufacturing, 9863
selling, displaying, offering for sale, or dealing in motor 9864
vehicles, at an established place of business that is used 9865
exclusively for the purpose of manufacturing, selling, displaying, 9866
offering for sale, or dealing in motor vehicles. A place of 9867
business that is used for manufacturing, selling, displaying, 9868
offering for sale, or dealing in motor vehicles shall be deemed to 9869
be used exclusively for those purposes even though snowmobiles or 9870
all-purpose vehicles are sold or displayed for sale thereat, even 9871
though farm machinery is sold or displayed for sale thereat, or 9872
even though repair, accessory, gasoline and oil, storage, parts, 9873
service, or paint departments are maintained thereat, or, in any 9874
county having a population of less than seventy-five thousand at 9875
the last federal census, even though a department in a place of 9876
business is used to dismantle, salvage, or rebuild motor vehicles 9877
by means of used parts, if such departments are operated for the 9878
purpose of furthering and assisting in the business of 9879
manufacturing, selling, displaying, offering for sale, or dealing 9880
in motor vehicles. Places of business or departments in a place of 9881

business used to dismantle, salvage, or rebuild motor vehicles by 9882
means of using used parts are not considered as being maintained 9883
for the purpose of assisting or furthering the manufacturing, 9884
selling, displaying, and offering for sale or dealing in motor 9885
vehicles. 9886

(X) "Operator" includes any person who drives or operates a 9887
motor vehicle upon the public highways. 9888

(Y) "Chauffeur" means any operator who operates a motor 9889
vehicle, other than a taxicab, as an employee for hire; or any 9890
operator whether or not the owner of a motor vehicle, other than a 9891
taxicab, who operates such vehicle for transporting, for gain, 9892
compensation, or profit, either persons or property owned by 9893
another. Any operator of a motor vehicle who is voluntarily 9894
involved in a ridesharing arrangement is not considered an 9895
employee for hire or operating such vehicle for gain, 9896
compensation, or profit. 9897

(Z) "State" includes the territories and federal districts of 9898
the United States, and the provinces of Canada. 9899

(AA) "Public roads and highways" for vehicles includes all 9900
public thoroughfares, bridges, and culverts. 9901

(BB) "Manufacturer's number" means the manufacturer's 9902
original serial number that is affixed to or imprinted upon the 9903
chassis or other part of the motor vehicle. 9904

(CC) "Motor number" means the manufacturer's original number 9905
that is affixed to or imprinted upon the engine or motor of the 9906
vehicle. 9907

(DD) "Distributor" means any person who is authorized by a 9908
motor vehicle manufacturer to distribute new motor vehicles to 9909
licensed motor vehicle dealers at an established place of business 9910
that is used exclusively for the purpose of distributing new motor 9911

vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a

specified destination or for a particular itinerary, either agreed 9942
upon in advance or modified by the chartered group after having 9943
left the place of origin. 9944

(HH) "International registration plan" means a reciprocal 9945
agreement of member jurisdictions that is endorsed by the American 9946
association of motor vehicle administrators, and that promotes and 9947
encourages the fullest possible use of the highway system by 9948
authorizing apportioned registration of fleets of vehicles and 9949
recognizing registration of vehicles apportioned in member 9950
jurisdictions. 9951

(II) "Restricted plate" means a license plate that has a 9952
restriction of time, geographic area, mileage, or commodity, and 9953
includes license plates issued to farm trucks under division (J) 9954
of section 4503.04 of the Revised Code. 9955

(JJ) "Gross vehicle weight," with regard to any commercial 9956
car, trailer, semitrailer, or bus that is taxed at the rates 9957
established under section 4503.042 of the Revised Code, means the 9958
unladen weight of the vehicle fully equipped plus the maximum 9959
weight of the load to be carried on the vehicle. 9960

(KK) "Combined gross vehicle weight" with regard to any 9961
combination of a commercial car, trailer, and semitrailer, that is 9962
taxed at the rates established under section 4503.042 of the 9963
Revised Code, means the total unladen weight of the combination of 9964
vehicles fully equipped plus the maximum weight of the load to be 9965
carried on that combination of vehicles. 9966

(LL) "Chauffeured limousine" means a motor vehicle that is 9967
designed to carry nine or fewer passengers and is operated for 9968
hire on an hourly basis pursuant to a prearranged contract for the 9969
transportation of passengers on public roads and highways along a 9970
route under the control of the person hiring the vehicle and not 9971
over a defined and regular route. "Prearranged contract" means an 9972

agreement, made in advance of boarding, to provide transportation 9973
from a specific location in a chauffeured limousine at a fixed 9974
rate per hour or trip. "Chauffeured limousine" does not include 9975
any vehicle that is used exclusively in the business of funeral 9976
directing. 9977

(MM) "Manufactured home" has the same meaning as in division 9978
(C)(4) of section 3781.06 of the Revised Code. 9979

(NN) "Acquired situs," with respect to a manufactured home or 9980
a mobile home, means to become located in this state by the 9981
placement of the home on real property, but does not include the 9982
placement of a manufactured home or a mobile home in the inventory 9983
of a new motor vehicle dealer or the inventory of a manufacturer, 9984
remanufacturer, or distributor of manufactured or mobile homes. 9985

(OO) "Electronic" includes electrical, digital, magnetic, 9986
optical, electromagnetic, or any other form of technology that 9987
entails capabilities similar to these technologies. 9988

(PP) "Electronic record" means a record generated, 9989
communicated, received, or stored by electronic means for use in 9990
an information system or for transmission from one information 9991
system to another. 9992

(QQ) "Electronic signature" means a signature in electronic 9993
form attached to or logically associated with an electronic 9994
record. 9995

(RR) "Financial transaction device" has the same meaning as 9996
in division (A) of section 113.40 of the Revised Code. 9997

(SS) "Electronic motor vehicle dealer" means a motor vehicle 9998
dealer licensed under Chapter 4517. of the Revised Code whom the 9999
registrar of motor vehicles determines meets the criteria 10000
designated in section 4503.035 of the Revised Code for electronic 10001
motor vehicle dealers and designates as an electronic motor 10002

vehicle dealer under that section. 10003

(TT) "Electric personal assistive mobility device" means a 10004
self-balancing two non-tandem wheeled device that is designed to 10005
transport only one person, has an electric propulsion system of an 10006
average of seven hundred fifty watts, and when ridden on a paved 10007
level surface by an operator who weighs one hundred seventy pounds 10008
has a maximum speed of less than twenty miles per hour. 10009

(UU) "Limited driving privileges" means the privilege to 10010
operate a motor vehicle that a court grants under section 4510.021 10011
of the Revised Code to a person whose driver's or commercial 10012
driver's license or permit or nonresident operating privilege has 10013
been suspended. 10014

(VV) "Utility vehicle" means a self-propelled vehicle 10015
designed with a bed, principally for the purpose of transporting 10016
material or cargo in connection with construction, agricultural, 10017
forestry, grounds maintenance, lawn and garden, materials 10018
handling, or similar activities. "Utility vehicle" includes a 10019
vehicle with a maximum attainable speed of twenty miles per hour 10020
or less that is used exclusively within the boundaries of state 10021
parks by state park employees or volunteers for the operation or 10022
maintenance of state park facilities. 10023

Sec. 5577.081. (A) Except when transferring unfinished 10024
aggregate material between facilities that are under the control 10025
of the same owner or operator that is subject to Chapter 1514. of 10026
the Revised Code or when unloading or loading finished aggregate 10027
product within a ten-mile radius of a surface mining operation 10028
that is permitted and regulated under that chapter, all vehicles 10029
entering or leaving such an operation that have a gross vehicle 10030
weight as defined in division (JJ) of section 4501.01 of the 10031
Revised Code that is in excess of sixty-six thousand pounds shall 10032
use the specific roads designated pursuant to sections 303.14 and 10033

303.141 or 519.14 and 519.141 of the Revised Code as the primary 10034
means of ingress to and egress from the facilities or operation. 10035

(B) The owner or operator of a surface mining operation that 10036
is permitted under Chapter 1514. of the Revised Code and that is 10037
subject to the use of specific roads as the primary means of 10038
ingress to and egress from the operation pursuant to sections 10039
303.14 and 303.141 or 519.14 and 519.141 of the Revised Code shall 10040
post a sign in a conspicuous location to inform the drivers of 10041
trucks entering and leaving the operation of the roads to use as 10042
the primary means of ingress to and egress from the operation. 10043

(C)(1) Whoever violates this section shall receive a written 10044
warning in such a manner that it becomes a part of the person's 10045
permanent record that is maintained by the bureau of motor 10046
vehicles and assists in monitoring violations of this section. 10047

(2) A person who commits a second offense within one year 10048
after committing the first offense is guilty of a minor 10049
misdemeanor. 10050

(3) A person who commits a third or subsequent offense within 10051
one year after committing the first offense is guilty of a 10052
misdemeanor of the fourth degree. 10053

(D) Fine money that is collected under division (C) of this 10054
section shall be deposited in the state treasury to the credit of 10055
the surface mining fund created in section 1514.06 of the Revised 10056
Code. 10057

Sec. 5749.02. (A) For the purpose of providing revenue to 10058
administer the state's coal mining and reclamation regulatory 10059
program, to meet the environmental and resource management needs 10060
of this state, and to reclaim land affected by mining, an excise 10061
tax is hereby levied on the privilege of engaging in the severance 10062
of natural resources from the soil or water of this state. The tax 10063

shall be imposed upon the severer and shall be:	10064
(1) Seven <u>Ten</u> cents per ton of coal;	10065
(2) Four cents per ton of salt;	10066
(3) Two cents per ton of limestone or dolomite;	10067
(4) Two cents per ton of sand and gravel;	10068
(5) Ten cents per barrel of oil;	10069
(6) Two and one-half cents per thousand cubic feet of natural gas;	10070 10071
(7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite;	10072 10073
(8) <u>Except as otherwise provided in this division or in rules adopted by the reclamation forfeiture fund advisory board under section 1513.182 of the Revised Code, an additional fourteen cents per ton of coal produced from an area under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code for which the performance security is provided under division (C)(2) of section 1513.08 of the Revised Code. If at the end of a fiscal biennium the balance of the reclamation forfeiture fund created in section 1513.18 of the Revised Code is equal to or greater than ten million dollars, the rate levied shall be twelve cents per ton. If at the end of a fiscal biennium the balance of the fund is at least five million dollars, but less than ten million dollars, the rate levied shall be fourteen cents per ton. If at the end of a fiscal biennium the balance of the fund is less than five million dollars, the rate levied shall be sixteen cents per ton. Not later than thirty days after the close of a fiscal biennium, the chief of the division of mineral resources management shall certify to the tax commissioner the amount of the balance of the reclamation forfeiture fund as of the close of the fiscal biennium. Any necessary adjustment of the rate levied shall</u>	10074 10075 10076 10077 10078 10079 10080 10081 10082 10083 10084 10085 10086 10087 10088 10089 10090 10091 10092 10093

take effect on the first day of the following January and shall 10094
remain in effect during the calendar biennium that begins on that 10095
date. 10096

(9) An additional one and two-tenths cents per ton of coal 10097
mined by surface mining methods. 10098

(B) Of the moneys received by the treasurer of state from the 10099
tax levied in division (A)(1) of this section, ~~six and~~ 10100
~~three tenths~~ four and seventy-six-hundredths per cent shall be 10101
credited to the geological mapping fund created in section 1505.09 10102
of the Revised Code, ~~fourteen and two tenths per cent shall be~~ 10103
~~credited to the reclamation forfeiture fund created in section~~ 10104
~~1513.18 of the Revised Code, fifty seven and nine tenths~~ eighty 10105
and ninety-five-hundredths per cent shall be credited to the coal 10106
mining administration and reclamation reserve fund created in 10107
section 1513.181 of the Revised Code, and ~~the remainder~~ fourteen 10108
and twenty-nine-hundredths per cent shall be credited to the 10109
unreclaimed lands fund created in section 1513.30 of the Revised 10110
Code. ~~When, at any time during a fiscal year, the chief of the~~ 10111
~~division of mineral resources management finds that the balance of~~ 10112
~~the coal mining administration and reclamation reserve fund is~~ 10113
~~below two million dollars, the chief shall certify that fact to~~ 10114
~~the director of budget and management. Upon receipt of the chief's~~ 10115
~~certification, the director shall direct the tax commissioner to~~ 10116
~~instead credit to the coal mining administration and reclamation~~ 10117
~~reserve fund during the remainder of the fiscal year for which the~~ 10118
~~certification is made the fourteen and two tenths per cent of the~~ 10119
~~moneys collected from the tax levied in division (A)(1) of this~~ 10120
~~section and otherwise required by this division to be credited to~~ 10121
~~the reclamation forfeiture fund.~~ 10122

Fifteen per cent of the moneys received by the treasurer of 10123
state from the tax levied in division (A)(2) of this section shall 10124
be credited to the geological mapping fund and the remainder shall 10125

be credited to the unreclaimed lands fund.

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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.

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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.

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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.

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All of the moneys received by the treasurer of state from the tax levied in division (A)(9) of this section shall be credited to the unreclaimed lands fund.

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~~(C) For the purpose of paying the state's expenses for reclaiming mined lands that the operator failed to reclaim under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code, or under a surface mining permit issued under Chapter 1514. of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (D) of this~~

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~~section. The tax shall be imposed at the rate of one cent per ton 10157
of coal. Moneys received by the treasurer of state from the tax 10158
levied under this division shall be credited to the reclamation 10159
forfeiture fund created in section 1513.18 of the Revised Code. 10160~~

~~(D) For the purpose of paying the state's expenses for 10161
reclaiming coal mined lands that the operator failed to reclaim in 10162
accordance with Chapter 1513. of the Revised Code under a coal 10163
mining and reclamation permit issued after April 10, 1972, but 10164
before September 1, 1981, for which the operator's bond is not 10165
sufficient to pay the state's expense for reclamation and paying 10166
the expenses for administering the state's coal mining and 10167
reclamation regulatory program, there is hereby levied an excise 10168
tax on the privilege of engaging in the severance of coal from the 10169
soil or water of this state in addition to the taxes levied by 10170
divisions (A)(1) and (C) of this section. The tax shall be imposed 10171
at the rate of one cent per ton of coal as prescribed in this 10172
division. Moneys received by the treasurer of state from the tax 10173
levied by this division shall be credited to the reclamation 10174
forfeiture fund created in section 1513.18 of the Revised Code. 10175~~

When, at the close of any fiscal year, the chief finds that 10176
the balance of the reclamation forfeiture fund, plus estimated 10177
transfers to it from the coal mining administration and 10178
reclamation reserve fund under section 1513.181 of the Revised 10179
Code, plus the estimated revenues from the tax levied by ~~this~~ 10180
division (A)(8) of this section for the remainder of the calendar 10181
year that includes the close of the fiscal year, are sufficient to 10182
complete the reclamation of ~~such~~ lands for which the performance 10183
security has been provided under division (C)(2) of section 10184
1513.08 of the Revised Code, the purposes for which the tax under 10185
~~this~~ division (A)(8) of this section is levied shall be deemed 10186
accomplished at the end of that calendar year. The chief, within 10187
thirty days after the close of the fiscal year, shall certify 10188

those findings to the tax commissioner, and the tax levied under 10189
division (A)(8) of this section shall cease to be imposed after 10190
the last day of that calendar year on coal produced under a coal 10191
mining and reclamation permit issued under Chapter 1513. of the 10192
Revised Code if the permittee has made tax payments under division 10193
(A)(8) of this section during each of the preceding five full 10194
calendar years. Not later than thirty days after the close of a 10195
fiscal year, the chief shall certify to the tax commissioner the 10196
identity of any permittees who accordingly no longer are required 10197
to pay the tax levied under division (A)(8) of this section. 10198

Sec. 5749.11. (A) There is hereby allowed a nonrefundable 10199
credit against the taxes imposed under division (A)(8) of section 10200
5749.02 of the Revised Code for any severer to which a reclamation 10201
tax credit certificate is issued under section 1513.171 of the 10202
Revised Code. The credit shall be claimed in the amount shown on 10203
the certificate. The credit shall be claimed by deducting the 10204
amount of the credit from the amount of the first tax payment due 10205
under section 5749.06 of the Revised Code after the certificate is 10206
issued. 10207

If the amount of the credit shown on a certificate exceeds 10208
the amount of the tax otherwise due with that first payment, the 10209
excess shall be claimed against the amount of tax otherwise due on 10210
succeeding payment dates until the entire credit amount has been 10211
deducted. The total amount of credit claimed against payments 10212
shall not exceed the total amount of credit shown on the 10213
certificate. 10214

(B) A severer claiming a credit under this section shall 10215
retain a reclamation tax credit certificate for not less than four 10216
years following the date of the last tax payment against which the 10217
credit allowed under that certificate was applied. Severers shall 10218
make tax credit certificates available for inspection by the tax 10219

commissioner upon the tax commissioner's request.

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Section 2. That existing sections 123.04, 303.14, 307.37, 10221
519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 10222
1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 10223
1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 10224
1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 10225
1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 10226
1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 10227
1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 10228
1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 10229
1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 10230
1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 10231
1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 10232
1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 10233
1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 10234
3745.08, 4115.04, 4501.01, and 5749.02 and sections 1502.11, 10235
1513.10, 1521.08, and 1533.78 of the Revised Code are hereby 10236
repealed. 10237

Section 3. It is the intent of the General Assembly to 10238
appropriate five million dollars for the reclamation of land 10239
affected by the surface mining of coal. Of that five million 10240
dollars, not more than fifty thousand dollars shall be used to 10241
study the management of the financial resources of the coal mining 10242
regulatory program of the Division of Mineral Resources Management 10243
in the Department of Natural Resources. The Chief of the Division 10244
of Mineral Resources Management, in consultation with a statewide 10245
association representing the coal mining industry and a statewide 10246
association representing environmental advocacy, shall develop an 10247
outline of the subjects for the study. The Chief shall select an 10248
objective third party that has knowledge in the management of 10249
finances to conduct the study. Upon completion of the study, the 10250

third party shall prepare a report of its findings and submit the 10251
report to the Director of Natural Resources. 10252

Section 4. Not later than five years after the effective date 10253
of this act, the Chief of the Division of Mineral Resources 10254
Management shall submit a report to the Governor summarizing the 10255
activities of the Division of Mineral Resources Management under 10256
sections 1514.40 to 1514.47 of the Revised Code, as enacted by 10257
this act, trends in miner accident rates, and the number and 10258
causes of life-threatening accidents and fatalities since the 10259
effective date of this act. In addition, the report shall compare 10260
those trends and accident rates with the trends and accident rates 10261
that occurred ten years prior to the effective date of this act 10262
and, if necessary, recommend changes to those sections in order to 10263
improve miner health or safety. 10264

Section 5. The amendment of section 1541.40 of the Revised 10265
Code by this act applies to members appointed to the Ohio Parks 10266
and Recreation Council on and after the effective date of this 10267
act. 10268

Section 6. Section 5749.02 of the Revised Code as amended by 10269
this act shall take effect on April 1, 2007. 10270

Section 7. Section 1533.10 of the Revised Code is presented 10271
in this act as a composite of the section as amended by both Am. 10272
Sub. H.B. 66 and H.B. 296 of the 126th General Assembly. Section 10273
1547.54 of the Revised Code is presented in this act as a 10274
composite of the section as amended by both Sub. H.B. 345 and Sub. 10275
S.B. 150 of the 124th General Assembly. The General Assembly, 10276
applying the principle stated in division (B) of section 1.52 of 10277
the Revised Code that amendments are to be harmonized if 10278
reasonably capable of simultaneous operation, finds that the 10279

composites are the resulting versions of the sections in effect	10280
prior to the effective date of the sections as presented in this	10281
act.	10282