

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 386

Senator Grendell

**Cosponsors: Senators Wilson, Carey, Cafaro, Padgett, Schaffer, Seitz,
Niehaus**

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A B I L L

To amend sections 1513.02, 1513.07, 1513.181, 1
1513.99, 3745.114, 6111.03, 6111.035, 6111.04, 2
6111.30, and 6111.44 and to enact sections 1513.50 3
to 1513.59 of the Revised Code to transfer 4
authority to issue section 401 water quality 5
certifications, installation permits for disposal 6
systems, and NPDES permits with respect to coal 7
mining and reclamation operations from the 8
Director of Environmental Protection to the Chief 9
of the Division of Mineral Resources Management in 10
the Department of Natural Resources and to provide 11
for the timely issuance of coal mining and 12
reclamation permits, and to amend the versions of 13
sections 6111.04 and 6111.44 of the Revised Code 14
that are scheduled to take effect July 1, 2009, to 15
continue the provisions of this act on and after 16
that effective date. 17

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

Section 1. That sections 1513.02, 1513.07, 1513.181, 1513.99, 18
3745.114, 6111.03, 6111.035, 6111.04, 6111.30, and 6111.44 be 19

amended and sections 1513.50, 1513.51, 1513.52, 1513.53, 1513.54, 20
1513.55, 1513.56, 1513.57, 1513.58, and 1513.59 of the Revised 21
Code be enacted to read as follows: 22

Sec. 1513.02. (A) The division of mineral resources 23
management shall administer, enforce, and implement this chapter. 24
The chief of the division of mineral resources management shall do 25
all of the following: 26

(1) Adopt, amend, and rescind rules: 27

(a) To administer and enforce this chapter; 28

(b) To implement the requirements of this chapter for the 29
reclamation of lands affected by coal mining, including such rules 30
governing mining practices and procedures, segregation and 31
placement of soil and topsoil, backfilling, grading, terracing, 32
resoiling, soil conditioning and reconditioning, planting, 33
establishment of drainage patterns, construction of impoundments, 34
and the construction, maintenance, and disposition of haul roads, 35
ditches, and dikes, as may be necessary or desirable, under 36
varying conditions of slope, drainage, physical and chemical 37
characteristics of soil and overburden, erodability of materials, 38
season, growth characteristics of plants, and other factors 39
affecting coal mining and reclamation, to facilitate the return of 40
the land to a condition required by this chapter; to prevent 41
pollution or substantial diminution of waters of the state, 42
substantial erosion, substantial deposition of sediment, 43
landslides, accumulation and discharge of acid water, and 44
flooding, both during mining and reclamation and thereafter; to 45
restore the recharge capacity of the mined area to approximate 46
premining conditions; and to ensure full compliance with all 47
requirements of this chapter relating to reclamation, and the 48
attainment of those objectives in the interest of the public 49

health, safety, and welfare to which these reclamation	50
requirements are directed;	51
(c) To meet the requirements of the "Surface Mining Control	52
and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.	53
(2) Issue orders to enforce this chapter and rules adopted	54
under it;	55
(3) Adopt rules for the internal management of the division	56
that do not affect private rights;	57
(4) Adopt programs, rules, and procedures designed to assist	58
the coal operator in this state with the permitting process and	59
complying with the environmental standards of this chapter. Upon	60
request of the applicant for a permit, the chief shall make a	61
determination of the probable hydrologic consequences required in	62
division (B)(1)(k) of section 1513.07 of the Revised Code within	63
sixty days after a permit has been submitted to the division for	64
those applications requesting the chief to perform the study. The	65
chief shall perform the chemical analysis of test borings or core	66
samplings for operators who have a total annual production of coal	67
at all locations that does not exceed one hundred thousand tons.	68
(5) Adopt programs, rules, and procedures designed to ensure	69
that reclamation is performed on operations for which the	70
performance security has been forfeited pursuant to section	71
1513.16 of the Revised Code;	72
(6) Receive, administer, and expend moneys obtained from the	73
United States department of the interior and other federal	74
agencies to implement the state's permanent coal regulatory	75
program;	76
(7)(a) Regulate the beneficial use of coal combustion	77
byproducts at coal mining and reclamation operations and abandoned	78
mine lands that are regulated under this chapter and rules adopted	79
under it. The beneficial use of coal combustion byproducts at such	80

coal mining and reclamation operations and abandoned mine lands is 81
subject to all applicable performance standards and requirements 82
established under this chapter and rules adopted under it, 83
including, without limitation, standards and requirements 84
established under section 1513.16 of the Revised Code and rules 85
adopted pursuant to it. 86

The beneficial use of coal combustion byproducts that is 87
authorized at coal mining and reclamation operations and abandoned 88
mine lands that are regulated under this chapter and rules adopted 89
under it is not subject to Chapter 6111. of the Revised Code and 90
rules adopted under it and to the following provisions of ~~Chapters~~ 91
Chapter 3734. ~~and 6111.~~ of the Revised Code and rules adopted 92
under those provisions: 93

(i) Permit and license requirements for solid waste 94
facilities established under sections 3734.02 and 3734.05 of the 95
Revised Code; 96

(ii) The prohibition against the open dumping of solid wastes 97
established in section 3734.03 of the Revised Code; 98

(iii) Solid waste generation and disposal fees established 99
under sections 3734.57 to 3734.574 of the Revised Code; 100

~~(iv) Permit to install and plan approval requirements 101
established under sections 6111.03, 6111.44, and 6111.45 of the 102
Revised Code. 103~~

Nothing in division (A)(7) of this section shall be construed 104
to limit any other requirements that are applicable to the 105
beneficial use of coal combustion byproducts and that are 106
established under Chapter 3704., 3714., or 3734., ~~or 6111.~~ of the 107
Revised Code or under local or federal laws, including, without 108
limitation, requirements governing air pollution control permits, 109
and hazardous waste, ~~national pollutant discharge elimination 110
system permits, and section 401 water quality certifications. 111~~

(b) As used in division (A)(7) of this section:	112
(i) "Coal combustion byproducts" means fly ash, bottom ash,	113
coal slag, flue gas desulphurization and fluidized bed combustion	114
byproducts, air or water pollution control residues from the	115
operation of a coal-fired electric or steam generation facility,	116
and any material from a clean coal technology demonstration	117
project or other innovative process at a coal-fired electric or	118
steam generation facility.	119
(ii) "Beneficial use" means the use of coal combustion	120
byproducts in a manner that is not equivalent to the establishment	121
of a disposal system or a solid waste disposal facility and that	122
is unlikely to affect human health or safety or the environment	123
adversely or to degrade the existing quality of the land, air, or	124
water. "Beneficial use" includes, without limitation, land	125
application uses for agronomic value; land reclamation uses; and	126
discrete, controlled uses for structural fill, pavement aggregate,	127
pipe bedding aggregate, mine sealing, alternative drainage or	128
capping material, and pilot demonstration projects.	129
(iii) "Structural fill" means the discrete, controlled use of	130
a coal combustion byproduct as a substitute for a conventional	131
aggregate, raw material, or soil under or immediately adjacent to	132
a building or structure. "Structural fill" does not include uses	133
that involve general filling or grading operations or valley	134
fills.	135
(iv) "Pavement aggregate" means the discrete, controlled use	136
of a coal combustion byproduct as a subbase material or drainage	137
layer under or immediately adjacent to a paved road or a paved	138
parking lot where the coal combustion byproduct is a substitute	139
for a conventional aggregate, raw material, or soil.	140
(v) "Pipe bedding aggregate" means the discrete, controlled	141
use of a coal combustion byproduct as a substitute for a	142

conventional aggregate, raw material, or soil under, around, or 143
immediately adjacent to a water, sewer, or other pipeline. 144

(vi) "Coal-fired electric or steam generation facility" 145
includes any boiler that is fired with coal or with coal in 146
combination with petroleum coke, oil, natural gas, or any other 147
fossil fuel. 148

(vii) "Solid waste disposal facility" means a facility for 149
the disposal of solid wastes as provided in Chapter 3734. of the 150
Revised Code and rules adopted under it. 151

(viii) "Disposal system" has the same meaning as in section 152
6111.01 of the Revised Code. 153

(8) Establish programs and adopt rules and procedures 154
governing terms, limitations, and conditions for the use of diesel 155
equipment in an underground coal mine. 156

(B) The chief, by rule, may designate as unsuitable for coal 157
mining natural areas maintained on the registry of natural areas 158
of the department of natural resources pursuant to Chapter 1517. 159
of the Revised Code, wild, scenic, or recreational river areas 160
designated pursuant to that chapter, publicly owned or dedicated 161
parks, and other areas of unique and irreplaceable natural beauty 162
or condition, or areas within specified distances of a public 163
road, occupied dwelling, public building, school, church, 164
community, or institutional building, public park, or cemetery. 165
Such a designation may include land adjacent to the perimeters of 166
those areas that may be necessary to protect their integrity. 167

(C)(1) The adoption, amendment, and rescission of rules under 168
divisions (A)(1), (4), (5), and (8), (B), and (J) of this section 169
are subject to Chapter 119. of the Revised Code. 170

(2) The issuance of orders under division (A)(2) of this 171
section and appeals therefrom are not governed by or subject to 172
Chapter 119. of the Revised Code, but are governed by this 173

chapter. 174

(D)(1) When the chief or an authorized representative of the 175
chief determines that any condition or practice exists or that any 176
permittee is in violation of any requirement of this chapter or 177
any permit condition required by this chapter, which condition, 178
practice, or violation creates an imminent danger to the health or 179
safety of the public or is causing, or can reasonably be expected 180
to cause, significant, imminent environmental harm to land, air, 181
or water resources, the chief or the authorized representative 182
immediately shall order the cessation of coal mining and 183
reclamation operations or the portion thereof relevant to the 184
condition, practice, or violation. The cessation order shall 185
remain in effect until the chief or the authorized representative 186
determines that the condition, practice, or violation has been 187
abated or until the order is modified, vacated, or terminated by 188
the chief or the authorized representative pursuant to division 189
(D)(4) of this section or by the reclamation commission pursuant 190
to section 1513.13 of the Revised Code. When the chief or the 191
authorized representative finds that the ordered cessation of coal 192
mining and reclamation operations or any portion thereof will not 193
completely abate the imminent danger to the health or safety of 194
the public or the significant, imminent environmental harm to 195
land, air, or water resources, the chief or the authorized 196
representative, in addition to the cessation order, shall order 197
the operator to take whatever steps the chief or the authorized 198
representative considers necessary to abate the imminent danger or 199
the significant environmental harm. 200

(2) When the chief or an authorized representative of the 201
chief determines that any person is in violation of any 202
requirement of this chapter or any permit condition required by 203
this chapter, but the violation does not create an imminent danger 204
to the health or safety of the public or cannot reasonably be 205

expected to cause significant, imminent environmental harm to 206
land, air, or water resources, the chief or the authorized 207
representative shall issue a notice of violation to the person or 208
the person's agent fixing a reasonable time for the abatement of 209
the violation, provided that the time afforded a person to abate 210
the violation shall not exceed the time limitations prescribed by 211
the secretary of the interior in 30 C.F.R. Part 843 for an 212
approvable state regulatory program under the "Surface Mining 213
Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 214
1201. 215

If, upon expiration of the period of time as originally fixed 216
or subsequently extended for good cause shown and upon the written 217
finding of the chief or the authorized representative, the chief 218
or the authorized representative finds that the violation has not 219
been abated, the chief or the authorized representative 220
immediately shall order the cessation of coal mining and 221
reclamation operations or the portion thereof relevant to the 222
violation. The cessation order shall remain in effect until the 223
chief or the authorized representative determines that the 224
violation has been abated or until the order is modified, vacated, 225
or terminated by the chief or the authorized representative 226
pursuant to division (D)(4) of this section or by the reclamation 227
commission pursuant to section 1513.13 of the Revised Code. In a 228
cessation order issued under division (D)(2) of this section, the 229
chief or the authorized representative shall prescribe the steps 230
necessary to abate the violation in the most expeditious manner 231
possible. 232

(3) When in the judgment of the chief or an authorized 233
representative of the chief a pattern of violations of any 234
requirements of this chapter or any permit conditions required by 235
this chapter exists or has existed and the violations are caused 236
by the unwarranted failure of the permittee to comply with any 237

requirements of this chapter or any permit conditions or are 238
willfully caused by the permittee, the chief or the authorized 239
representative immediately shall issue an order to the permittee 240
to show cause why the permit should not be suspended or revoked. 241
If a hearing is requested, the chief shall inform all interested 242
parties of the time and place of the hearing and conduct the 243
hearing pursuant to division (D) of section 1513.13 of the Revised 244
Code. Upon the permittee's failure to show cause why the permit 245
should not be suspended or revoked, the chief or the authorized 246
representative immediately shall suspend or revoke the permit. 247

(4) Notices of violation and orders issued pursuant to this 248
section shall set forth with reasonable specificity the nature of 249
the violation and the remedial action required, the period of time 250
established for abatement, and a reasonable description of the 251
portion of the coal mining and reclamation operation to which the 252
notice or order applies. Each notice or order issued under this 253
section shall be given promptly to the alleged violator or the 254
agent of the alleged violator by the chief or an authorized 255
representative of the chief who issues the notice or order. 256
Notices and orders shall be in writing and shall be signed by the 257
chief or the authorized representative and may be modified, 258
vacated, or terminated by the chief or the authorized 259
representative. Any notice or order issued pursuant to this 260
section that requires cessation of mining by the operator shall 261
expire within thirty days after actual notice to the operator 262
unless a public hearing pursuant to section 1513.13 of the Revised 263
Code is held at the site or within such reasonable proximity to 264
the site that any viewings of the site can be conducted during the 265
course of the public hearing. 266

(E)(1) A person who violates a permit condition or any other 267
provision of this chapter may be assessed a civil penalty by the 268
chief, except that if the violation leads to the issuance of a 269

cessation order under division (D) of this section, the civil 270
penalty shall be assessed for each day until the person initiates 271
the necessary corrective steps. The penalty shall not exceed five 272
thousand dollars for each violation. Each day of continuing 273
violation may be deemed a separate violation for purposes of 274
penalty assessments. In determining the amount of the penalty, 275
consideration shall be given to the person's history of previous 276
violation at the particular coal mining operation; the seriousness 277
of the violation, including any irreparable harm to the 278
environment and any hazard to the health or safety of the public; 279
whether the person was negligent; and the demonstrated diligence 280
of the person charged in attempting to achieve rapid compliance 281
after notification of the violation. 282

(2) A civil penalty shall be assessed by the chief only after 283
the person charged with a violation under division (E)(1) of this 284
section has been given an opportunity for a public hearing. If a 285
person charged with such a violation fails to avail oneself of the 286
opportunity for a public hearing, a civil penalty shall be 287
assessed by the chief after the chief has determined that a 288
violation did occur, and the amount of the penalty that is 289
warranted, and has issued an order requiring that the penalty be 290
paid. 291

(3) Upon the issuance of a notice or order charging that a 292
violation of this chapter has occurred, the chief shall inform the 293
operator within thirty days of the proposed amount of the penalty 294
and provide opportunity for an adjudicatory hearing pursuant to 295
section 1513.13 of the Revised Code. The person charged with the 296
penalty then shall have thirty days to pay the proposed penalty in 297
full or, if the person wishes to contest either the amount of the 298
penalty or the fact of the violation, file a petition for review 299
of the proposed assessment with the secretary of the reclamation 300
commission pursuant to section 1513.13 of the Revised Code. If, 301

after the hearing, the commission affirms or modifies the proposed 302
amount of the penalty, the person charged with the penalty then 303
shall have thirty days after receipt of the written decision to 304
pay the amount in full or file an appeal with the court of appeals 305
in accordance with section 1513.14 of the Revised Code. At the 306
time the petition for review of the proposed assessment is filed 307
with the secretary, the person shall forward the amount of the 308
penalty to the secretary for placement in the reclamation penalty 309
fund, which is hereby created. The fund shall be in the custody of 310
the treasurer of state, but shall not be a part of the state 311
treasury. Pursuant to administrative or judicial review of the 312
penalty, the secretary, within thirty days, shall remit the 313
appropriate amount of the penalty to the person, with interest, if 314
it is determined that no violation occurred or that the amount of 315
the penalty should be reduced, and the secretary shall forward the 316
balance of the penalty or, if the penalty was not reduced, the 317
entire amount of the penalty, with interest, to the chief for 318
deposit in the reclamation forfeiture fund created in section 319
1513.18 of the Revised Code. Failure to forward the money to the 320
secretary within thirty days after the chief informs the operator 321
of the proposed amount of the penalty shall result in a waiver of 322
all legal rights to contest the violation or the amount of the 323
penalty. Within fifteen days after being informed of the penalty, 324
the person charged with the penalty may request in writing an 325
informal assessment conference to review the amount of the 326
penalty. The conference shall be presided over by the chief or an 327
individual appointed by the chief other than the inspector that 328
issued the notice of violation or order upon which the penalty is 329
based. The chief shall adopt rules governing procedures to be 330
followed in informal conferences. Time allowed for payment of the 331
penalty or appeal to the commission shall be tolled while the 332
penalty is being reviewed in an informal conference. 333

(4) An operator who fails to correct a violation for which a 334

notice of violation or order has been issued under division (D) of 335
this section within the period permitted for its correction shall 336
be assessed a civil penalty of not less than seven hundred fifty 337
dollars for each day during which the failure or violation 338
continues. However, a civil penalty shall not be assessed under 339
division (E)(4) of this section if the commission orders the 340
suspension of the abatement requirement after determining, based 341
upon the findings of an expedited hearing held under section 342
1513.13 of the Revised Code at the request of the operator, that 343
the operator will suffer irreparable loss or damage from the 344
application of the abatement requirement or if the court orders 345
suspension of the abatement requirement pursuant to review 346
proceedings held under section 1513.14 of the Revised Code at the 347
request of the operator. 348

(F) The chief may enter into a cooperative agreement with the 349
secretary of the interior to provide for state regulation of coal 350
mining and reclamation operations on federal lands within the 351
state. 352

(G) The chief may prohibit augering if necessary to maximize 353
the utilization, recoverability, or conservation of the solid fuel 354
resources or to protect against adverse water quality impacts. 355

(H) The chief shall transmit to the director of environmental 356
protection for verification copies of all schedules submitted 357
under section 1513.07 of the Revised Code pertaining to violations 358
of air quality laws or to violations of water quality laws 359
concerning which the director has or had authority, and rules 360
adopted and orders issued under those laws, in connection with 361
coal mining operations ~~to the director of environmental protection~~ 362
~~for verification.~~ 363

(I) For the purposes of sections 1513.18, 1513.24, 1513.37, 364
and 1514.06 of the Revised Code, the chief triennially shall 365
determine the average wage rate for companies performing 366

reclamation work for the division under those sections by 367
averaging the wage rate paid by all companies performing such 368
reclamation work during the three years immediately preceding the 369
determination. However, in making the initial determination under 370
this division, the chief shall average the wage rate paid by all 371
companies performing such reclamation work during the ten years 372
immediately preceding October 29, 1995. 373

(J) If this state becomes covered by a state programmatic 374
general permit issued by the United States army corps of engineers 375
for the discharge of dredged or fill material into the waters of 376
the United States by operations that conduct surface and 377
underground coal mining and reclamation operations and the 378
restoration of abandoned mine lands, the chief may establish 379
programs and adopt rules and procedures designed to implement the 380
terms, limitations, and conditions of the permit. The purpose of 381
the programs, rules, and procedures shall be to enable the state 382
to reduce or eliminate duplicative state and federal project 383
evaluation, simplify the regulatory approval process, provide 384
environmental protection for aquatic resources that is equivalent 385
to federal protection, and satisfy the requirements of the United 386
States army corps of engineers regulatory program under which the 387
permit is issued and that is established under section 404 of the 388
"Federal Water Pollution Control Act," 86 Stat. 48 (1972), 33 389
U.S.C. 1344, as amended by the "Clean Water Act of 1977," 91 Stat. 390
1600, 33 U.S.C. 1344; section 10 of the "Rivers and Harbors Act of 391
1899," 30 Stat. 1151, 33 U.S.C. 403; and section 103 of the 392
"Marine Protection, Research, and Sanctuaries Act of 1972," 86 393
Stat. 1055, 33 U.S.C. 1413. 394

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 395
operation without a permit for the operation issued by the chief 396
of the division of mineral resources management. 397

(2) All permits issued pursuant to this chapter shall be 398
issued for a term not to exceed five years, except that, if the 399
applicant demonstrates that a specified longer term is reasonably 400
needed to allow the applicant to obtain necessary financing for 401
equipment and the opening of the operation and if the application 402
is full and complete for the specified longer term, the chief may 403
grant a permit for the longer term. A successor in interest to a 404
permittee who applies for a new permit within thirty days after 405
succeeding to the interest and who is able to obtain the 406
performance security of the original permittee may continue coal 407
mining and reclamation operations according to the approved mining 408
and reclamation plan of the original permittee until the 409
successor's application is granted or denied. 410

(3) A permit shall terminate if the permittee has not 411
commenced the coal mining operations covered by the permit within 412
three years after the issuance of the permit, except that the 413
chief may grant reasonable extensions of the time upon a showing 414
that the extensions are necessary by reason of litigation 415
precluding the commencement or threatening substantial economic 416
loss to the permittee or by reason of conditions beyond the 417
control and without the fault or negligence of the permittee, and 418
except that with respect to coal to be mined for use in a 419
synthetic fuel facility or specified major electric generating 420
facility, the permittee shall be deemed to have commenced coal 421
mining operations at the time construction of the synthetic fuel 422
or generating facility is initiated. 423

(4)(a) Any permit issued pursuant to this chapter shall carry 424
with it the right of successive renewal upon expiration with 425
respect to areas within the boundaries of the permit. The holders 426
of the permit may apply for renewal and the renewal shall be 427
issued unless the chief determines by written findings, subsequent 428
to fulfillment of the public notice requirements of this section 429

and section 1513.071 of the Revised Code through demonstrations by 430
opponents of renewal or otherwise, that one or more of the 431
following circumstances exists: 432

(i) The terms and conditions of the existing permit are not 433
being satisfactorily met. 434

(ii) The present coal mining and reclamation operation is not 435
in compliance with the environmental protection standards of this 436
chapter. 437

(iii) The renewal requested substantially jeopardizes the 438
operator's continuing responsibilities on existing permit areas. 439

(iv) The applicant has not provided evidence that the 440
performance security in effect for the operation will continue in 441
effect for any renewal requested in the application. 442

(v) Any additional, revised, or updated information required 443
by the chief has not been provided. Prior to the approval of any 444
renewal of a permit, the chief shall provide notice to the 445
appropriate public authorities as prescribed by rule of the chief. 446

(b) If an application for renewal of a valid permit includes 447
a proposal to extend the mining operation beyond the boundaries 448
authorized in the existing permit, the portion of the application 449
for renewal of a valid permit that addresses any new land areas 450
shall be subject to the full standards applicable to new 451
applications under this chapter. 452

(c) A permit renewal shall be for a term not to exceed the 453
period of the original permit established by this chapter. 454
Application for permit renewal shall be made at least one hundred 455
twenty days prior to the expiration of the valid permit. 456

(5) A permit issued pursuant to this chapter does not 457
eliminate the requirements for obtaining a permit to install or 458
modify a disposal system or any part thereof or to discharge 459

sewage, industrial waste, or other wastes into the waters of the 460
state in accordance with ~~Chapter 6111.~~ sections 1513.50 to 1513.59 461
of the Revised Code. 462

(B)(1) The permit application shall be submitted in a manner 463
satisfactory to the chief and shall contain, among other things, 464
all of the following: 465

(a) The names and addresses of all of the following: 466

(i) The permit applicant; 467

(ii) Every legal owner of record of the property, surface and 468
mineral, to be mined; 469

(iii) The holders of record of any leasehold interest in the 470
property; 471

(iv) Any purchaser of record of the property under a real 472
estate contract; 473

(v) The operator if different from the applicant; 474

(vi) If any of these are business entities other than a 475
single proprietor, the names and addresses of the principals, 476
officers, and statutory agent for service of process. 477

(b) The names and addresses of the owners of record of all 478
surface and subsurface areas adjacent to any part of the permit 479
area; 480

(c) A statement of any current or previous coal mining 481
permits in the United States held by the applicant, the permit 482
identification, and any pending applications; 483

(d) If the applicant is a partnership, corporation, 484
association, or other business entity, the following where 485
applicable: the names and addresses of every officer, partner, 486
director, or person performing a function similar to a director, 487
of the applicant, the name and address of any person owning, of 488
record, ten per cent or more of any class of voting stock of the 489

applicant, a list of all names under which the applicant, partner, 490
or principal shareholder previously operated a coal mining 491
operation within the United States within the five-year period 492
preceding the date of submission of the application, and a list of 493
the person or persons primarily responsible for ensuring that the 494
applicant complies with the requirements of this chapter and rules 495
adopted pursuant thereto while mining and reclaiming under the 496
permit; 497

(e) A statement of whether the applicant, any subsidiary, 498
affiliate, or persons controlled by or under common control with 499
the applicant, any partner if the applicant is a partnership, any 500
officer, principal shareholder, or director if the applicant is a 501
corporation, or any other person who has a right to control or in 502
fact controls the management of the applicant or the selection of 503
officers, directors, or managers of the applicant: 504

(i) Has ever held a federal or state coal mining permit that 505
in the five-year period prior to the date of submission of the 506
application has been suspended or revoked or has had a coal mining 507
bond, performance security, or similar security deposited in lieu 508
of bond forfeited and, if so, a brief explanation of the facts 509
involved; 510

(ii) Has been an officer, partner, director, principal 511
shareholder, or person having the right to control or has in fact 512
controlled the management of or the selection of officers, 513
directors, or managers of a business entity that has had a coal 514
mining or surface mining permit that in the five-year period prior 515
to the date of submission of the application has been suspended or 516
revoked or has had a coal mining or surface mining bond, 517
performance security, or similar security deposited in lieu of 518
bond forfeited and, if so, a brief explanation of the facts 519
involved. 520

(f) A copy of the applicant's advertisement to be published 521

in a newspaper of general circulation in the locality of the 522
proposed site at least once a week for four successive weeks, 523
which shall include the ownership of the proposed mine, a 524
description of the exact location and boundaries of the proposed 525
site sufficient to make the proposed operation readily 526
identifiable by local residents, and the location where the 527
application is available for public inspection; 528

(g) A description of the type and method of coal mining 529
operation that exists or is proposed, the engineering techniques 530
proposed or used, and the equipment used or proposed to be used; 531

(h) The anticipated or actual starting and termination dates 532
of each phase of the mining operation and number of acres of land 533
to be affected; 534

(i) An accurate map or plan, to an appropriate scale, clearly 535
showing the land to be affected and the land upon which the 536
applicant has the legal right to enter and commence coal mining 537
operations, copies of those documents upon which is based the 538
applicant's legal right to enter and commence coal mining 539
operations, and a statement whether that right is the subject of 540
pending litigation. This chapter does not authorize the chief to 541
adjudicate property title disputes. 542

(j) The name of the watershed and location of the surface 543
stream or tributary into which drainage from the operation will be 544
discharged; 545

(k) A determination of the probable hydrologic consequences 546
of the mining and reclamation operations, both on and off the mine 547
site, with respect to the hydrologic regime, providing information 548
on the quantity and quality of water in surface and ground water 549
systems including the dissolved and suspended solids under 550
seasonal flow conditions and the collection of sufficient data for 551
the mine site and surrounding areas so that an assessment can be 552

made by the chief of the probable cumulative impacts of all 553
anticipated mining in the area upon the hydrology of the area and 554
particularly upon water availability, but this determination shall 555
not be required until hydrologic information of the general area 556
prior to mining is made available from an appropriate federal or 557
state agency; however, the permit shall not be approved until the 558
information is available and is incorporated into the application; 559

(l) When requested by the chief, the climatological factors 560
that are peculiar to the locality of the land to be affected, 561
including the average seasonal precipitation, the average 562
direction and velocity of prevailing winds, and the seasonal 563
temperature ranges; 564

(m) Accurate maps prepared by or under the direction of and 565
certified by a qualified registered professional engineer, 566
registered surveyor, or licensed landscape architect to an 567
appropriate scale clearly showing all types of information set 568
forth on topographical maps of the United States geological survey 569
of a scale of not more than four hundred feet to the inch, 570
including all artificial features and significant known 571
archeological sites. The map, among other things specified by the 572
chief, shall show all boundaries of the land to be affected, the 573
boundary lines and names of present owners of record of all 574
surface areas abutting the permit area, and the location of all 575
buildings within one thousand feet of the permit area. 576

(n)(i) Cross-section maps or plans of the land to be affected 577
including the actual area to be mined, prepared by or under the 578
direction of and certified by a qualified registered professional 579
engineer or certified professional geologist with assistance from 580
experts in related fields such as hydrology, hydrogeology, 581
geology, and landscape architecture, showing pertinent elevations 582
and locations of test borings or core samplings and depicting the 583
following information: the nature and depth of the various strata 584

of overburden; the nature and thickness of any coal or rider seam 585
above the coal seam to be mined; the nature of the stratum 586
immediately beneath the coal seam to be mined; all mineral crop 587
lines and the strike and dip of the coal to be mined within the 588
area to be affected; existing or previous coal mining limits; the 589
location and extent of known workings of any underground mines, 590
including mine openings to the surface; the location of spoil, 591
waste, or refuse areas and topsoil preservation areas; the 592
location of all impoundments for waste or erosion control; any 593
settling or water treatment facility; constructed or natural 594
drainways and the location of any discharges to any surface body 595
of water on the land to be affected or adjacent thereto; profiles 596
at appropriate cross sections of the anticipated final surface 597
configuration that will be achieved pursuant to the operator's 598
proposed reclamation plan; the location of subsurface water, if 599
encountered; the location and quality of aquifers; and the 600
estimated elevation of the water table. Registered surveyors shall 601
be allowed to perform all plans, maps, and certifications under 602
this chapter as they are authorized under Chapter 4733. of the 603
Revised Code. 604

(ii) A statement of the quality and locations of subsurface 605
water. The chief shall provide by rule the number of locations to 606
be sampled, frequency of collection, and parameters to be analyzed 607
to obtain the statement required. 608

(o) A statement of the results of test borings or core 609
samplings from the permit area, including logs of the drill holes, 610
the thickness of the coal seam found, an analysis of the chemical 611
properties of the coal, the sulfur content of any coal seam, 612
chemical analysis of potentially acid or toxic forming sections of 613
the overburden, and chemical analysis of the stratum lying 614
immediately underneath the coal to be mined, except that this 615
division may be waived by the chief with respect to the specific 616

application by a written determination that its requirements are 617
unnecessary. If the test borings or core samplings from the permit 618
area indicate the existence of potentially acid forming or toxic 619
forming quantities of sulfur in the coal or overburden to be 620
disturbed by mining, the application also shall include a 621
statement of the acid generating potential and the acid 622
neutralizing potential of the rock strata to be disturbed as 623
calculated in accordance with the calculation method established 624
under section 1513.075 of the Revised Code or with another 625
calculation method. 626

(p) For those lands in the permit application that a 627
reconnaissance inspection suggests may be prime farmlands, a soil 628
survey shall be made or obtained according to standards 629
established by the secretary of the United States department of 630
agriculture in order to confirm the exact location of the prime 631
farmlands, if any; 632

(q) A certificate issued by an insurance company authorized 633
to do business in this state certifying that the applicant has a 634
public liability insurance policy in force for the coal mining and 635
reclamation operations for which the permit is sought or evidence 636
that the applicant has satisfied other state self-insurance 637
requirements. The policy shall provide for personal injury and 638
property damage protection in an amount adequate to compensate any 639
persons damaged as a result of coal mining and reclamation 640
operations, including the use of explosives, and entitled to 641
compensation under the applicable provisions of state law. The 642
policy shall be maintained in effect during the term of the permit 643
or any renewal, including the length of all reclamation 644
operations. The insurance company shall give prompt notice to the 645
permittee and the chief if the public liability insurance policy 646
lapses for any reason including the nonpayment of insurance 647
premiums. Upon the lapse of the policy, the chief may suspend the 648

permit and all other outstanding permits until proper insurance coverage is obtained. 649
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(r) The business telephone number of the applicant; 651

(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. 652
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(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. 664
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(3)(a) If the chief finds that the probable total annual production at all locations of any operator will not exceed three hundred thousand tons, the following activities, upon the written request of the operator in connection with a permit application, shall be performed by a qualified public or private laboratory or another public or private qualified entity designated by the chief, and the cost of the activities shall be assumed by the chief, provided that sufficient moneys for such assistance are available: 672
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(i) The determination of probable hydrologic consequences required under division (B)(1)(k) of this section;	681 682
(ii) The development of cross-section maps and plans required under division (B)(1)(n)(i) of this section;	683 684
(iii) The geologic drilling and statement of results of test borings and core samplings required under division (B)(1)(o) of this section;	685 686 687
(iv) The collection of archaeological information required under division (B)(1)(m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby;	688 689 690 691
(v) Pre-blast surveys required under division (E) of section 1513.161 of the Revised Code;	692 693
(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter.	694 695 696 697
(b) A coal operator that has received assistance under division (B)(3)(a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit.	698 699 700 701 702 703 704
(4) Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this chapter.	705 706 707
(5) Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public	708 709 710

inspection with the county recorder or an appropriate public 711
office approved by the chief in the county where the mining is 712
proposed to occur. 713

(6) Each applicant for a coal mining and reclamation permit 714
shall submit to the chief as part of the permit application a 715
blasting plan that describes the procedures and standards by which 716
the operator will comply with section 1513.161 of the Revised 717
Code. 718

(C) Each reclamation plan submitted as part of a permit 719
application shall include, in the detail necessary to demonstrate 720
that reclamation required by this chapter can be accomplished, a 721
statement of: 722

(1) The identification of the lands subject to coal mining 723
operations over the estimated life of those operations and the 724
size, sequence, and timing of the subareas for which it is 725
anticipated that individual permits for mining will be sought; 726

(2) The condition of the land to be covered by the permit 727
prior to any mining including all of the following: 728

(a) The uses existing at the time of the application and, if 729
the land has a history of previous mining, the uses that preceded 730
any mining; 731

(b) The capability of the land prior to any mining to support 732
a variety of uses, giving consideration to soil and foundation 733
characteristics, topography, and vegetative cover and, if 734
applicable, a soil survey prepared pursuant to division (B)(1)(p) 735
of this section; 736

(c) The productivity of the land prior to mining, including 737
appropriate classification as prime farmlands as well as the 738
average yield of food, fiber, forage, or wood products obtained 739
from the land under high levels of management. 740

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

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

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

(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;

(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(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;	772
(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;	773 774 775
(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;	776 777 778
(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;	779 780 781 782
(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;	783 784 785 786 787 788 789 790 791 792
(13) A detailed description of the measures to be taken during the mining and reclamation process to ensure the protection of all of the following:	793 794 795
(a) The quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process;	796 797 798
(b) The rights of present users to such water;	799
(c) The quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and	800 801

reclamation process or, where such protection of quantity cannot
be assured, provision of alternative sources of water.

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

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

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

(E)(1) Upon the basis of a complete mining application and
reclamation plan or a revision or renewal thereof, as required by
this chapter, and information obtained as a result of public
notification and ~~public hearing~~ an informal conference, if any, as
provided by section 1513.071 of the Revised Code, the chief shall
grant, ~~require modification of~~, or deny the application for a
permit ~~in a reasonable time set by the chief~~ and notify the
applicant in writing in accordance with division (I) of this
section. The An application is deemed to be complete as submitted
to the chief unless the chief, within fourteen days of the
submission, identifies deficiencies in the application in writing
and subsequently submits a copy of a written list of deficiencies
to the applicant.

A decision of the chief denying a permit shall state in
writing the specific reasons for the denial. After the denial and
if the applicant has amended the application and resubmitted it to
the chief, the chief shall grant or deny the amended application

not later than thirty days after the application is resubmitted. 833
If the chief fails to grant or deny the resubmitted application 834
not later than thirty days after it is resubmitted, the 835
application shall be deemed to be approved unless the failure to 836
grant or deny the application by the chief was caused by the 837
applicant's failure to supply information to the chief as required 838
by this chapter. 839

The applicant for a permit or revision of a permit has the 840
burden of establishing that the application is in compliance with 841
all the requirements of this chapter. Within ten days after the 842
granting of a permit, the chief shall notify the boards of 843
township trustees and county commissioners, the mayor, and the 844
legislative authority in the township, county, and municipal 845
corporation in which the area of land to be affected is located 846
that a permit has been issued and shall describe the location of 847
the land. However, failure of the chief to notify the local 848
officials shall not affect the status of the permit. 849

(2) ~~No~~ A permit application or application for revision of an 850
existing permit shall be approved ~~unless~~ if the application 851
affirmatively demonstrates and the chief finds in writing on the 852
basis of the information set forth in the application or from 853
information otherwise available, which shall be documented in the 854
approval and made available to the applicant, that all of the 855
following apply: 856

(a) The application is accurate and complete and all the 857
requirements of this chapter have been complied with. 858

(b) The applicant has demonstrated that the reclamation 859
required by this chapter can be accomplished under the reclamation 860
plan contained in the application. 861

(c)(i) Assessment of the probable cumulative impact of all 862
anticipated mining in the general and adjacent area on the 863

hydrologic balance specified in division (B)(1)(k) of this section 864
has been made by the chief, and the proposed operation has been 865
designed to prevent material damage to hydrologic balance outside 866
the permit area. 867

(ii) There shall be an ongoing process conducted by the chief 868
in cooperation with other state and federal agencies to review all 869
assessments of probable cumulative impact of coal mining in light 870
of post-mining data and any other hydrologic information as it 871
becomes available to determine if the assessments were realistic. 872
The chief shall take appropriate action as indicated in the review 873
process. 874

(d) The area proposed to be mined is not included within an 875
area designated unsuitable for coal mining pursuant to section 876
1513.073 of the Revised Code or is not within an area under study 877
for such designation in an administrative proceeding commenced 878
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 879
Revised Code unless in an area as to which an administrative 880
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 881
section 1513.073 of the Revised Code, the operator making the 882
permit application demonstrates that, prior to January 1, 1977, 883
the operator made substantial legal and financial commitments in 884
relation to the operation for which a permit is sought. 885

(e) In cases where the private mineral estate has been 886
severed from the private surface estate, the applicant has 887
submitted to the chief one of the following: 888

(i) The written consent of the surface owner to the 889
extraction of coal by strip mining methods; 890

(ii) A conveyance that expressly grants or reserves the right 891
to extract the coal by strip mining methods; 892

(iii) If the conveyance does not expressly grant the right to 893
extract coal by strip mining methods, the surface-subsurface legal 894

relationship shall be determined under the law of this state. This 895
chapter does not authorize the chief to adjudicate property rights 896
disputes. 897

(3)(a) The applicant shall file with the permit application a 898
schedule listing all notices of violations of any law, rule, or 899
regulation of the United States or of any department or agency 900
thereof or of any state pertaining to air or water environmental 901
protection incurred by the applicant in connection with any coal 902
mining operation during the three-year period prior to the date of 903
application. The schedule also shall indicate the final resolution 904
of such a notice of violation. Upon receipt of an application, the 905
chief shall provide a schedule listing all notices of violations 906
of this chapter pertaining to air or water environmental 907
protection incurred by the applicant during the three-year period 908
prior to receipt of the application and the final resolution of 909
all such notices of violation. The chief shall provide this 910
schedule to the applicant for filing by the applicant with the 911
application filed for public review, as required by division 912
(B)(5) of this section. When the schedule or other information 913
available to the chief indicates that any coal mining operation 914
owned or controlled by the applicant is currently in violation of 915
such laws, the permit shall not be issued until the applicant 916
submits proof that the violation has been corrected or is in the 917
process of being corrected to the satisfaction of the regulatory 918
authority, department, or agency that has jurisdiction over the 919
violation and that any civil penalties owed to the state for a 920
violation and not the subject of an appeal have been paid. No 921
permit shall be issued to an applicant after a finding by the 922
chief that the applicant or the operator specified in the 923
application controls or has controlled mining operations with a 924
demonstrated pattern of willful violations of this chapter of a 925
nature and duration to result in irreparable damage to the 926
environment as to indicate an intent not to comply with or a 927

disregard of this chapter. 928

(b) For the purposes of division (E)(3)(a) of this section, 929
any violation resulting from an unanticipated event or condition 930
at a surface coal mining operation on lands eligible for remining 931
under a permit held by the person submitting an application for a 932
coal mining permit under this section shall not prevent issuance 933
of that permit. As used in this division, "unanticipated event or 934
condition" means an event or condition encountered in a remining 935
operation that was not contemplated by the applicable surface coal 936
mining and reclamation permit. 937

(4)(a) In addition to finding the application in compliance 938
with division (E)(2) of this section, if the area proposed to be 939
mined contains prime farmland as determined pursuant to division 940
(B)(1)(p) of this section, the chief, after consultation with the 941
secretary of the United States department of agriculture and 942
pursuant to regulations issued by the secretary of the interior 943
with the concurrence of the secretary of agriculture, may grant a 944
permit to mine on prime farmland if the chief finds in writing 945
that the operator has the technological capability to restore the 946
mined area, within a reasonable time, to equivalent or higher 947
levels of yield as nonmined prime farmland in the surrounding area 948
under equivalent levels of management and can meet the soil 949
reconstruction standards in section 1513.16 of the Revised Code. 950

(b) Division (E)(4)(a) of this section does not apply to a 951
permit issued prior to August 3, 1977, or revisions or renewals 952
thereof. 953

(5) The chief shall issue an order denying a permit after 954
finding that the applicant has misrepresented or omitted any 955
material fact in the application for the permit. 956

(6) The chief may issue an order denying a permit after 957
finding that the applicant, any partner, if the applicant is a 958

partnership, any officer, principal shareholder, or director, if 959
the applicant is a corporation, or any other person who has a 960
right to control or in fact controls the management of the 961
applicant or the selection of officers, directors, or managers of 962
the applicant has been a sole proprietor or partner, officer, 963
director, principal shareholder, or person having the right to 964
control or has in fact controlled the management of or the 965
selection of officers, directors, or managers of a business entity 966
that ever has had a coal mining license or permit issued by this 967
or any other state or the United States suspended or revoked, ever 968
has forfeited a coal or surface mining bond, performance security, 969
or similar security deposited in lieu of bond in this or any other 970
state or with the United States, or ever has substantially or 971
materially failed to comply with this chapter. 972

(7) When issuing a permit under this section, the chief may 973
authorize an applicant to conduct coal mining and reclamation 974
operations on areas to be covered by the permit that were affected 975
by coal mining operations before August 3, 1977, that have 976
resulted in continuing water pollution from or on the previously 977
mined areas for the purpose of potentially reducing the pollution 978
loadings of pH, iron, and manganese from discharges from or on the 979
previously mined areas. Following the chief's authorization to 980
conduct such operations on those areas, the areas shall be 981
designated as pollution abatement areas for the purposes of this 982
chapter. 983

The chief shall not grant an authorization under division 984
(E)(7) of this section to conduct coal mining and reclamation 985
operations on any such previously mined areas unless the applicant 986
demonstrates to the chief's satisfaction that all of the following 987
conditions are met: 988

(a) The applicant's pollution abatement plan for mining and 989
reclaiming the previously mined areas represents the best 990

available technology economically achievable.	991
(b) Implementation of the plan will potentially reduce	992
pollutant loadings of pH, iron, and manganese resulting from	993
discharges of surface waters or ground water from or on the	994
previously mined areas within the permit area.	995
(c) Implementation of the plan will not cause any additional	996
degradation of surface water quality off the permit area with	997
respect to pH, iron, and manganese.	998
(d) Implementation of the plan will not cause any additional	999
degradation of ground water.	1000
(e) The plan meets the requirements governing mining and	1001
reclamation of such previously mined pollution abatement areas	1002
established by the chief in rules adopted under section 1513.02 of	1003
the Revised Code.	1004
(f) Neither the applicant; any partner, if the applicant is a	1005
partnership; any officer, principal shareholder, or director, if	1006
the applicant is a corporation; any other person who has a right	1007
to control or in fact controls the management of the applicant or	1008
the selection of officers, directors, or managers of the	1009
applicant; nor any contractor or subcontractor of the applicant,	1010
has any of the following:	1011
(i) Responsibility or liability under this chapter or rules	1012
adopted under it as an operator for treating the discharges of	1013
water pollutants from or on the previously mined areas for which	1014
the authorization is sought;	1015
(ii) Any responsibility or liability under this chapter or	1016
rules adopted under it for reclaiming the previously mined areas	1017
for which the authorization is sought;	1018
(iii) During the eighteen months prior to submitting the	1019
permit application requesting an authorization under division	1020

(E)(7) of this section, had a coal mining and reclamation permit 1021
suspended or revoked under division (D)(3) of section 1513.02 of 1022
the Revised Code for violating this chapter or Chapter 6111. of 1023
the Revised Code or rules adopted under them with respect to water 1024
quality, effluent limitations, or surface or ground water 1025
monitoring; 1026

(iv) Ever forfeited a coal or surface mining bond, 1027
performance security, or similar security deposited in lieu of a 1028
bond in this or any other state or with the United States. 1029

(8) In the case of the issuance of a permit that involves a 1030
conflict of results between various methods of calculating 1031
potential acidity and neutralization potential for purposes of 1032
assessing the potential for acid mine drainage to occur at a mine 1033
site, the permit shall include provisions for monitoring and 1034
record keeping to identify the creation of unanticipated acid 1035
water at the mine site. If the monitoring detects the creation of 1036
acid water at the site, the permit shall impose on the permittee 1037
additional requirements regarding mining practices and site 1038
reclamation to prevent the discharge of acid mine drainage from 1039
the mine site. As used in division (E)(8) of this section, 1040
"potential acidity" and "neutralization potential" have the same 1041
meanings as in section 1513.075 of the Revised Code. 1042

(F)(1) During the term of the permit, the permittee may 1043
submit an application for a revision of the permit, together with 1044
a revised reclamation plan, to the chief. 1045

(2) An application for a revision of a permit shall not be 1046
approved unless the chief finds that reclamation required by this 1047
chapter can be accomplished under the revised reclamation plan. 1048
The revision shall be approved or disapproved within ninety days 1049
after receipt of a complete revision application. The chief shall 1050
establish, by rule, criteria for determining the extent to which 1051
all permit application information requirements and procedures, 1052

including notice and hearings, shall apply to the revision 1053
request, except that any revisions that propose significant 1054
alterations in the reclamation plan, at a minimum, shall be 1055
subject to notice and hearing requirements. 1056

(3) Any extensions to the area covered by the permit except 1057
incidental boundary revisions shall be made by application for a 1058
permit. 1059

(G) No transfer, assignment, or sale of the rights granted 1060
under a permit issued pursuant to this chapter shall be made 1061
without the written approval of the chief. 1062

(H) The chief, within a time limit prescribed in the chief's 1063
rules, shall review outstanding permits and may require reasonable 1064
revision or modification of a permit. A revision or modification 1065
shall be based upon a written finding and subject to notice and 1066
hearing requirements established by rule of the chief. 1067

(I)(1) If an informal conference has been held pursuant to 1068
section 1513.071 of the Revised Code, the chief shall issue and 1069
furnish the applicant for a permit, persons who participated in 1070
the informal conference, and persons who filed written objections 1071
pursuant to division (B) of section 1513.071 of the Revised Code, 1072
with the written finding of the chief granting or denying the 1073
permit in whole or in part and stating the reasons therefor within 1074
sixty fourteen days of the conference and not later than one 1075
hundred eighty days after the applicant's submission of a complete 1076
application. If the chief fails to grant or deny the application 1077
not later than one hundred eighty days after a complete 1078
application was submitted, the application shall be deemed to be 1079
approved unless the failure to grant or deny the application by 1080
the chief was caused by the applicant's failure to supply 1081
information to the chief as required by this chapter. 1082

(2) If there has been no informal conference held pursuant to 1083

section 1513.071 of the Revised Code, the chief shall ~~notify~~ 1084
~~submit to the applicant for a permit within a reasonable time as~~ 1085
~~provided by rule of the chief, taking into account the time needed~~ 1086
~~for proper investigation of the site, the complexity of the permit~~ 1087
~~application, whether or not a written objection to the application~~ 1088
~~has been filed, and whether the application has been approved or~~ 1089
~~disapproved in whole or in part~~ the written finding of the chief 1090
granting or denying the permit in whole or in part as soon as 1091
possible, but not later than one hundred eighty days after the 1092
applicant's submission of a complete application. If the chief 1093
fails to grant or deny the application not later than one hundred 1094
eighty days after a complete application was submitted, the 1095
application shall be deemed to be approved unless the failure to 1096
grant or deny the application by the chief was caused by the 1097
applicant's failure to supply information to the chief as required 1098
by this chapter. 1099

(3) When necessary to meet the mandatory deadlines for 1100
granting or denying an application for a permit under this 1101
section, the chief shall approve staff overtime and, if necessary, 1102
enter into contracts with persons having the requisite experience 1103
to assist with the review of permit applications. With respect to 1104
a permit application, persons with whom the chief contracts shall 1105
not have been employed by the permit applicant for a period of one 1106
hundred eighty days prior to the time when the complete permit 1107
application was submitted. Such persons shall not be employed by 1108
the permit applicant during the permit application process. 1109

(4) If the application is approved, the permit shall be 1110
issued. If the application is disapproved, specific reasons 1111
therefor shall be set forth in the notification. Within thirty 1112
days after the applicant is notified of the final decision of the 1113
chief on the permit application, the applicant or any person with 1114
an interest that is or may be adversely affected may appeal the 1115

decision to the reclamation commission pursuant to section 1513.13 1116
of the Revised Code. 1117

~~(4)~~(5) Any applicant or any person with an interest that is 1118
or may be adversely affected who has participated in the 1119
administrative proceedings as an objector and is aggrieved by the 1120
decision of the reclamation commission, or if the commission fails 1121
to act within the time limits specified in this chapter, may 1122
appeal in accordance with section 1513.14 of the Revised Code. 1123

Sec. 1513.181. (A) There is hereby created in the state 1124
treasury the coal mining administration and reclamation reserve 1125
fund. The fund shall be used for the administration and 1126
enforcement of this chapter. ~~The~~ 1127

(B) Money in the fund also shall be used to hire additional 1128
full-time technical review staff for the purpose of meeting 1129
mandatory deadlines established for granting or denying permits in 1130
division (I) of section 1513.07 of the Revised Code. If the chief 1131
of the division of mineral resources management determines it to 1132
be necessary, the chief may request the general assembly to 1133
increase the coal severance tax that is levied in section 5749.02 1134
of the Revised Code by up to four cents per ton if the chief 1135
determines that additional funding is necessary to ensure 1136
compliance with those mandatory deadlines. Any money derived from 1137
an increase in the coal severance tax that is requested by the 1138
chief under this division shall be used only to hire additional 1139
full-time technical review staff for the purpose of meeting those 1140
mandatory deadlines. 1141

~~(C) The chief of the division of mineral resources management 1142
may transfer not more than one million dollars annually from the 1143
fund to the reclamation forfeiture fund created in section 1513.18 1144
of the Revised Code to complete reclamation of lands affected by 1145
coal mining under a permit issued under this chapter that the 1146~~

operator failed to reclaim and for which the operator's 1147
performance security is insufficient to complete the reclamation. 1148
Within ten days before or after the beginning of each calendar 1149
quarter, the chief may certify to the director of budget and 1150
management the amount of money needed to perform such reclamation 1151
during the quarter for transfer from the coal mining 1152
administration and reclamation reserve fund to the reclamation 1153
forfeiture fund. 1154

(D) If the director of natural resources determines it to be 1155
necessary, the director may request the controlling board to 1156
transfer an amount of money from the coal mining administration 1157
and reclamation reserve fund to the unreclaimed lands fund created 1158
in section 1513.30 of the Revised Code. 1159

Sec. 1513.50. As used in sections 1513.50 to 1513.57 of the 1160
Revised Code: 1161

(A) "Federal Water Pollution Control Act" has the same 1162
meaning as in section 6111.01 of the Revised Code. 1163

(B) "Installation permit" has the same meaning as in section 1164
903.01 of the Revised Code. 1165

(C) "NPDES permit" means a permit issued under the national 1166
pollutant discharge elimination system established in section 402 1167
of the Federal Water Pollution Control Act and includes the 1168
renewal of such a permit. 1169

(D) "Rule" or "rules" mean rules adopted by the chief of the 1170
division of mineral resources management under section 1513.57 of 1171
the Revised Code. 1172

(E) "Section 401 water quality certification" means 1173
certification issued pursuant to section 401 of the Federal Water 1174
Pollution Control Act, sections 1513.51 and 1513.52 of the Revised 1175
Code, and rules that any discharge related to a coal mining and 1176

reclamation operation will comply with sections 301, 302, 303, 1177
306, and 307 of the Federal Water Pollution Control Act. 1178

Sec. 1513.51. Notwithstanding Chapter 6111. of the Revised 1179
Code and on and after the effective date of the rules adopted by 1180
the chief of the division of mineral resources management, the 1181
operator of a coal mining and reclamation operation that is 1182
required to obtain a federal license or permit for which a section 1183
401 water quality certification is a prerequisite shall obtain 1184
that certification from the chief. After the rules are adopted, if 1185
a coal mining and reclamation operation includes a project for 1186
which a section 401 water quality certification is required, the 1187
director of environmental protection shall not issue the 1188
certification. Instead, the certification shall be issued by the 1189
chief in accordance with section 1513.52 of the Revised Code and 1190
rules. 1191

Sec. 1513.52. (A) The operator of a coal mining and 1192
reclamation operation that includes a project for which a section 1193
401 water quality certification is required shall submit an 1194
application for the certification on a form provided by the chief 1195
of the division of mineral resources management. If a section 401 1196
water quality certification is required in order for a person to 1197
receive a coal mining and reclamation permit, the application for 1198
the section 401 water quality certification shall be submitted 1199
contemporaneously with the application for the coal mining and 1200
reclamation permit. The application for the section 401 water 1201
quality certification shall include all information that is 1202
required on the form as well as all of the following: 1203

(1) A copy of a letter from the United States army corps of 1204
engineers documenting its jurisdiction over the wetlands, streams, 1205
or other waters of the state that are the subject of the section 1206
401 water quality certification application; 1207

<u>(2) If the project involves impacts to a wetland, a wetland</u>	1208
<u>characterization analysis consistent with the Ohio rapid</u>	1209
<u>assessment method;</u>	1210
<u>(3) A specific and detailed mitigation proposal, including</u>	1211
<u>the location and proposed legal mechanism for protecting the</u>	1212
<u>property in perpetuity;</u>	1213
<u>(4) Applicable fees;</u>	1214
<u>(5) Site photographs;</u>	1215
<u>(6) Adequate documentation confirming that the applicant has</u>	1216
<u>requested comments from appropriate divisions in the department of</u>	1217
<u>natural resources and the United States fish and wildlife service</u>	1218
<u>regarding threatened and endangered species, including the</u>	1219
<u>presence or absence of critical habitat;</u>	1220
<u>(7) Descriptions, schematics, and appropriate economic</u>	1221
<u>information concerning the applicant's preferred alternative,</u>	1222
<u>nondegradation alternatives, and minimum degradation alternatives</u>	1223
<u>for the design and operation of the project;</u>	1224
<u>(8) The applicant's investigation report of the waters of the</u>	1225
<u>United States in support of a section 404 permit application</u>	1226
<u>concerning the project;</u>	1227
<u>(9) A copy of the United States army corps of engineers'</u>	1228
<u>public notice regarding the section 404 permit application</u>	1229
<u>concerning the project.</u>	1230
<u>(B) Not later than fifteen business days after the receipt of</u>	1231
<u>an application for a section 401 water quality certification, the</u>	1232
<u>chief shall review the application to determine if it is complete</u>	1233
<u>and shall notify the applicant in writing as to whether the</u>	1234
<u>application is complete. If the chief fails to notify the</u>	1235
<u>applicant within fifteen business days regarding the completeness</u>	1236
<u>of the application, the application is considered complete. If the</u>	1237

chief determines that the application is not complete, the chief 1238
shall include with the written notification an itemized list of 1239
the information or materials that are necessary to complete the 1240
application. If the applicant fails to provide the information or 1241
materials within sixty days after the chief's receipt of the 1242
application, the chief may return the incomplete application to 1243
the applicant and take no further action on the application. If 1244
the application is returned to the applicant because it is 1245
incomplete, the chief shall return any application fee levied by 1246
rules. 1247

(C) Not later than twenty-one days after a determination that 1248
an application is complete under division (B) of this section, the 1249
applicant shall publish public notice of the chief's receipt of 1250
the complete application in a newspaper of general circulation in 1251
the county in which the project that is the subject of the 1252
application is located. The public notice shall be in a form 1253
acceptable to the chief. The applicant shall promptly provide the 1254
chief with proof of publication. 1255

The chief shall apply the antidegradation policy adopted 1256
under section 6111.12 of the Revised Code to certifications issued 1257
under this section to the same degree and under the same 1258
circumstances as it applies to permits issued under Chapter 6111. 1259
of the Revised Code. 1260

(D) If the chief determines that there is significant public 1261
interest in a public hearing as evidenced by the public comments 1262
received concerning the application and by other requests for a 1263
public hearing on the application, the chief or the chief's 1264
representative shall conduct a public hearing concerning the 1265
application. Notice of the public hearing shall be published by 1266
the applicant, subject to review and approval by the chief, at 1267
least thirty days prior to the date of the hearing in a newspaper 1268
of general circulation in the county in which the project that is 1269

the subject of the application is to take place. If a public hearing is requested concerning an application, the chief shall accept comments concerning the application until five business days after the public hearing. A public hearing conducted under this division shall take place not later than one hundred days after the application is determined to be complete. 1270
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(E) The chief shall forward all public comments concerning an application submitted under this section that are received through the public involvement process required by this section and rules to the applicant not later than five business days after receipt of the comments by the chief. 1276
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(F) The applicant shall respond in writing to written comments or to deficiencies identified by the chief during the course of reviewing the application not later than fifteen days after receiving or being notified of them. 1281
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(G) The chief shall issue or deny a section 401 water quality certification not later than one hundred eighty days after the complete application for the certification is received. The chief shall provide an applicant for a section 401 water quality certification with an opportunity to review the certification prior to its issuance. 1285
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(H) The director of environmental protection shall provide the chief with access to the database established under section 6111.30 of the Revised Code that includes environmentally beneficial water restoration and protection projects that may serve as potential mitigation projects for projects in the state for which a section 401 water quality certification is required. 1291
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(I) Notwithstanding any other provision of this chapter, appeals of actions of the chief regarding section 401 water quality certifications shall be made to the reclamation commission under section 1513.13 of the Revised Code. 1297
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Sec. 1513.53. (A)(1) Not later than one hundred eighty days 1301
after the effective date of this section, the chief of the 1302
division of mineral resources management shall prepare a program 1303
for the issuance of permits to install for disposal systems at 1304
coal mining and reclamation operations under this section. 1305

(2) On and after the date on which the chief has finalized 1306
the program required under division (A)(1) of this section, no 1307
person shall modify an existing or construct a new disposal system 1308
at a coal mining and reclamation operation without first obtaining 1309
a permit to install issued by the chief under this section. 1310

(B) The chief or the chief's authorized representative may 1311
help an applicant for a permit to install during the permitting 1312
process by providing guidance and technical assistance. 1313

(C) An applicant for a permit to install shall submit an 1314
application to the chief on a form that the chief prescribes and 1315
provides together with a fee in an amount established by rule. The 1316
applicant shall include with the application all of the following 1317
information: 1318

(1) The name and address of the applicant, of all partners if 1319
the applicant is a partnership or of all officers and directors if 1320
the applicant is a corporation, and of any other person who has a 1321
right to control or in fact controls management of the applicant 1322
or the selection of officers, directors, or managers of the 1323
applicant; 1324

(2) Designs and plans for the proposed construction of the 1325
disposal system that include the proposed location of the 1326
construction, design and construction plans and specifications, 1327
anticipated beginning and ending dates for work performed, and any 1328
other information that the chief requires by rule; 1329

(3) A statement of the quantity of water that the disposal 1330

system will utilize on an average daily and annual basis, a 1331
detailed description of the basis for the calculation utilized in 1332
determining the quantity of water utilized, and a statement 1333
identifying the source for the water; 1334

(4) Any other information required by rule. 1335

Information required to be included in an application for the 1336
modification of a permit to install, together with the applicable 1337
fee amount, shall be established in rules. 1338

(D) The chief shall issue permits to install in accordance 1339
with rules. The chief shall deny a permit to install if either of 1340
the following applies: 1341

(1) The permit application contains misleading or false 1342
information. 1343

(2) The designs and plans fail to conform to best management 1344
practices. 1345

Additional grounds for the denial of a permit to install 1346
shall be those established in rules. 1347

(E) A permit to install shall expire after a period specified 1348
by the chief unless the applicant has undertaken a continuing 1349
program of construction or has entered into a binding contractual 1350
obligation to undertake and complete a continuing program of 1351
construction within a reasonable time. The chief may extend the 1352
expiration date of a permit to install upon request of the 1353
applicant. 1354

(F) The chief may modify, suspend, or revoke a permit to 1355
install in accordance with rules. 1356

(G) Notwithstanding any other provision of this chapter, 1357
appeals of actions of the chief regarding permits to install shall 1358
be made to the reclamation commission under section 1513.13 of the 1359
Revised Code. 1360

Sec. 1513.54. (A) On and after the date on which the chief of the division of mineral resources management has finalized the program required under division (A)(1) of section 1513.53 of the Revised Code, the authority to enforce terms and conditions of installation permits that previously were issued to coal mining and reclamation operations shall be transferred from the director of environmental protection to the chief. Thereafter, the director of environmental protection shall have no authority to enforce the terms and conditions of those installation permits. On and after the date on which the chief has finalized the program required under division (A)(1) of section 1513.53 of the Revised Code, an installation permit concerning which enforcement authority has been transferred shall be deemed to have been issued under that section.

(B) Not later than two years after the date on which the chief has finalized the program required under division (A)(1) of section 1513.53 of the Revised Code, the chief shall review the installation permit that previously was issued to a coal mining and reclamation operation and shall inspect the operation to determine if it is in compliance with that permit.

Sec. 1513.55. (A)(1) The chief of the division of mineral resources management is authorized to participate in the national pollutant discharge elimination system in accordance with the Federal Water Pollution Control Act with respect to coal mining and reclamation operations. Not later than one hundred eighty days after the effective date of this section, the chief shall prepare a state program in accordance with 40 C.F.R. 123.21 for coal mining and reclamation operations at which point sources are located and shall submit the program to the United States environmental protection agency for approval.

(2) On and after the date on which the United States

environmental protection agency approves the state program 1392
submitted under division (A)(1) of this section, the authority to 1393
enforce terms and conditions of NPDES permits previously issued to 1394
operators of coal mining and reclamation operations under division 1395
(J) of section 6111.03 of the Revised Code for discharges into the 1396
waters of the state is transferred from the director of 1397
environmental protection to the chief of the division of mineral 1398
resources management. Thereafter, the director of environmental 1399
protection shall have no authority to enforce the terms and 1400
conditions of those NPDES permits. After the transfer of authority 1401
under division (A)(2) of this section, the NPDES permits 1402
concerning which authority has been transferred shall be 1403
considered to have been issued under this section. 1404

(B)(1) On and after the date on which the United States 1405
environmental protection agency approves the NPDES program 1406
submitted by the chief of the division of mineral resources 1407
management under this section, no coal mining and reclamation 1408
operation shall discharge wastes of any sort from a point source 1409
into the waters of the state without first obtaining a NPDES 1410
permit issued by the chief under this section. The chief is 1411
authorized to issue, revoke, modify, or deny such an individual 1412
NPDES permit as defined in rules or issue, revoke, or deny 1413
coverage under a general NPDES permit as defined in rules in 1414
compliance with all requirements of the Federal Water Pollution 1415
Control Act. Violation of division (B)(1) of this section is 1416
hereby declared to be a public nuisance for purposes of state 1417
enforcement of this section. 1418

(2) Coal mining and reclamation operations that have been 1419
issued a NPDES permit by the director of environmental protection 1420
under division (J) of section 6111.03 of the Revised Code for 1421
discharges into the waters of the state prior to the date on which 1422
the United States environmental protection agency approves the 1423

NPDES program submitted by the chief under this section may 1424
continue to operate under that NPDES permit until it expires or is 1425
modified or revoked. Such a NPDES permit shall be enforced by the 1426
chief upon the transfer of authority to enforce the terms and 1427
conditions of the NPDES permit under division (A)(2) of this 1428
section. 1429

(C)(1) On and after the date on which the United States 1430
environmental protection agency approves the NPDES program 1431
submitted by the chief under this section, no person shall 1432
discharge storm water resulting from a coal mining and reclamation 1433
operation without first obtaining a NPDES permit issued by the 1434
chief in accordance with rules when such a NPDES permit is 1435
required by the Federal Water Pollution Control Act. Violation of 1436
division (C)(1) of this section is hereby declared to be a public 1437
nuisance for purposes of state enforcement of this section. 1438

(2) Persons that have been issued a NPDES permit by the 1439
director of environmental protection under Chapter 6111. of the 1440
Revised Code for the discharge of storm water from a coal mining 1441
and reclamation operation prior to the date on which the United 1442
States environmental protection agency approves the NPDES program 1443
submitted by the chief under this section may continue to operate 1444
under that NPDES permit until it expires or is modified or 1445
revoked. Such a NPDES permit shall be enforced by the chief upon 1446
the transfer of authority to enforce the terms and conditions of 1447
the NPDES permit under division (A)(2) of this section. 1448

(D) In accordance with rules, an applicant for a NPDES permit 1449
issued under this section shall submit a fee in an amount 1450
established by rule together with, except as otherwise provided in 1451
division (F) of this section, an application for the NPDES permit 1452
to the chief on a form prescribed by the chief. The application 1453
shall include any information required by rule. The chief or the 1454
chief's authorized representative may help an applicant for a 1455

NPDES permit during the application process by providing guidance 1456
and technical assistance. 1457

(E) The chief shall issue NPDES permits in accordance with 1458
this section and section 1513.56 of the Revised Code. The chief 1459
shall deny an application for a NPDES permit if any of the 1460
following applies: 1461

(1) The application contains misleading or false information. 1462

(2) The administrator of the United States environmental 1463
protection agency objects in writing to the issuance of the NPDES 1464
permit in accordance with section 402(d) of the Federal Water 1465
Pollution Control Act. 1466

(3) The chief determines that the proposed discharge or 1467
source would conflict with an areawide waste treatment management 1468
plan adopted in accordance with section 208 of the Federal Water 1469
Pollution Control Act. 1470

Additional grounds for the denial of a NPDES permit shall be 1471
those established in rules. 1472

(F) To the extent consistent with the Federal Water Pollution 1473
Control Act, the chief shall issue general NPDES permits that will 1474
apply in lieu of individual NPDES permits for categories of point 1475
sources from coal mining and reclamation operations for which the 1476
chief determines that all of the following apply: 1477

(1) Any discharges authorized by a general NPDES permit will 1478
have only minimal cumulative adverse effects on the environment 1479
when the discharges are considered collectively and individually. 1480

(2) The discharges are more appropriately authorized by a 1481
general NPDES permit than by an individual NPDES permit. 1482

(3) Each category of point sources satisfies the criteria 1483
established in rules. 1484

A person who is required to obtain a NPDES permit shall 1485

submit to the chief a notice of the person's intent to be covered 1486
under an existing general NPDES permit or, at the person's option, 1487
an application for an individual NPDES permit. Upon receipt of a 1488
notice of intent for coverage under an existing general NPDES 1489
permit, the chief shall notify the applicant in writing that the 1490
person is covered by the general NPDES permit if the person 1491
satisfies the criteria established in rules for eligibility for 1492
such coverage. If the person is ineligible for coverage under the 1493
general NPDES permit, the chief shall require the submission of an 1494
application for an individual NPDES permit. 1495

(G) The chief shall establish terms and conditions of NPDES 1496
permits in accordance with rules. Terms and conditions shall be 1497
designed to achieve and maintain full compliance with national 1498
effluent limitations, national standards of performance for new 1499
sources, the most current water quality standards adopted under 1500
section 6111.041 of the Revised Code, the most current 1501
antidegradation policy adopted under section 6111.12 of the 1502
Revised Code, and other requirements of the Federal Water 1503
Pollution Control Act. In establishing the terms and conditions of 1504
a NPDES permit, the chief, to the extent consistent with that act, 1505
shall consider technical feasibility and economic costs and shall 1506
allow a reasonable period of time for coming into compliance with 1507
the NPDES permit. 1508

(H) A NPDES permit may be issued under this section for a 1509
period not to exceed five years. 1510

(I) A NPDES permit issued under this section may be renewed. 1511
An application for renewal of a NPDES permit shall be submitted to 1512
the chief at least one hundred eighty days prior to the expiration 1513
date of the NPDES permit and shall comply with the requirements 1514
governing applications for NPDES permits established under this 1515
section and by rule. 1516

(J)(1) No person shall make any false statement, 1517

representation, or certification in an application for a NPDES permit or in any form, notice, or report required to be submitted to the chief pursuant to terms and conditions established in a NPDES permit issued under this section. 1518
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(2) No person shall render inaccurate any monitoring method or device that is required under the terms and conditions of a NPDES permit issued under this section. 1522
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(K)(1) The chief may modify, suspend, or revoke a NPDES permit issued under this section for cause as established by rules. No NPDES permit issued under this section shall be modified, suspended, or revoked without a written order stating the findings that led to the modification, suspension, or revocation. In addition, the permittee has a right to an administrative hearing in accordance with Chapter 119. of the Revised Code, except that section 119.12 of the Revised Code does not apply. 1525
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(2) Notwithstanding any other provision of this chapter, appeals of actions of the chief regarding NPDES permits shall be made to the reclamation commission under section 1513.13 of the Revised Code. 1534
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(L)(1) No person shall violate any effluent limitation established by rules. 1538
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(2) No person shall violate any other provision of a NPDES permit issued under this section. 1540
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(3) Compliance with a NPDES permit issued under this section constitutes compliance with this section. 1542
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(M) This section, including the state program authorized in division (A)(1) of this section, shall be administered in a manner consistent with the Federal Water Pollution Control Act. 1544
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Sec. 1513.56. (A) Prior to issuing or modifying a NPDES 1547

permit, the chief of the division of mineral resources management 1548
shall issue a draft NPDES permit. The chief or the chief's 1549
representative shall mail notice of the issuance of a draft NPDES 1550
permit to the applicant and shall publish the notice once in a 1551
newspaper of general circulation in the county in which the coal 1552
mining and reclamation operation is located or proposed to be 1553
located. The chief shall mail notice of the issuance of a draft 1554
NPDES permit and a copy of the draft NPDES permit to the board of 1555
county commissioners of the county and the board of township 1556
trustees of the township in which the operation is located or 1557
proposed to be located. The chief or the chief's representative 1558
also shall provide notice of the issuance of a draft NPDES permit 1559
to any other persons that are entitled to notice under the Federal 1560
Water Pollution Control Act. Notice of the issuance of a draft 1561
NPDES permit shall include the address where written comments 1562
concerning the draft NPDES permit may be submitted and the period 1563
of time during which comments will be accepted as established by 1564
rule. 1565

If the chief receives written comments in an amount that 1566
demonstrates significant public interest, as defined by rule, in 1567
the draft NPDES permit, the chief shall schedule one public 1568
meeting to provide information to the public and to hear comments 1569
pertinent to the draft NPDES permit. The notice of the public 1570
meeting shall be provided in the same manner as the notice of the 1571
issuance of the draft NPDES permit. 1572

(B) The chief shall apply the antidegradation policy adopted 1573
under section 6111.12 of the Revised Code to NPDES permits issued 1574
under this section and section 1513.55 of the Revised Code to the 1575
same degree and under the same circumstances as it applies to 1576
permits issued under Chapter 6111. of the Revised Code. The chief 1577
shall hold one public meeting to consider antidegradation issues 1578
when such a meeting is required by the antidegradation policy. 1579

When allowed by the antidegradation policy, the chief shall hold the public meeting on antidegradation issues concurrently with any public meeting held for the draft NPDES permit. 1580
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(C) The chief or the chief's representative shall publish notice of the issuance of a final NPDES permit once in a newspaper of general circulation in the county in which the coal mining and reclamation operation is located or is proposed to be located. 1583
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(D) Failure of the chief to provide notice or a public meeting shall invalidate a NPDES permit only if the failure is raised by, and was relied upon to the detriment of, a person that is entitled to appeal the NPDES permit. Notice of a public meeting is not required for the modification of a NPDES permit made with the consent of the permittee for the correction of typographical errors. 1587
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(E) The denial, modification, suspension, or revocation of a NPDES permit without the consent of the applicant or permittee shall be preceded by a proposed action stating the chief's intention to issue an order with respect to the NPDES permit and the reasons for it. 1594
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(F) The chief shall mail to the applicant or the permittee notice of the chief's proposed action to deny, suspend, or revoke a NPDES permit. The chief shall publish the notice once in a newspaper of general circulation in the county in which the coal mining and reclamation operation is located or proposed to be located. The chief shall mail a copy of the notice of the proposed action to the board of county commissioners of the county and to the board of township trustees of the township in which the coal mining and reclamation operation is located or proposed to be located. The chief also shall provide notice of the chief's proposed action to deny, suspend, or revoke a NPDES permit to any other person that is entitled to notice under the Federal Water Pollution Control Act. The notice of the chief's proposed action 1599
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to deny, suspend, or revoke a NPDES permit shall include the 1612
address where written comments concerning the chief's proposed 1613
action may be submitted and the period of time during which 1614
comments will be accepted as established by rule. If the chief 1615
receives written comments in an amount that demonstrates 1616
significant public interest, as defined by rule, the chief shall 1617
schedule one public meeting to provide information to the public 1618
and to hear comments pertinent to the proposed action. The notice 1619
of the public meeting shall be provided in the same manner as the 1620
notice of the chief's proposed action. 1621

(G) The chief shall not issue an order that makes the 1622
proposed action final until the applicant or permittee has had an 1623
opportunity for an adjudication hearing in accordance with Chapter 1624
119. of the Revised Code, except that section 119.12 of the 1625
Revised Code does not apply. 1626

(H) In the case of the transfer of ownership of a coal mining 1627
and reclamation operation for which a NPDES permit has been 1628
issued, the NPDES permit shall be transferred in accordance with 1629
rules. 1630

(I) Applications for NPDES permits for the discharge of storm 1631
water resulting from a coal mining and reclamation operation that 1632
is pending before the director of environmental protection on the 1633
date on which the United States environmental protection agency 1634
approves the NPDES program submitted by the chief under section 1635
1513.55 of the Revised Code shall be transferred to the chief. 1636

Sec. 1513.57. The chief of the division of mineral resources 1637
management shall adopt rules in accordance with Chapter 119. of 1638
the Revised Code that do all of the following: 1639

(A) Establish requirements and procedures for the issuance of 1640
section 401 water quality certifications to coal mining and 1641
reclamation operations, including procedures for public notice and 1642

public hearings in addition to those established in section 1643
1513.52 of the Revised Code. The rules adopted under division (A) 1644
of this section shall be substantially similar to rules governing 1645
section 401 water quality certifications adopted by the director 1646
of environmental protection under Chapter 6111. of the Revised 1647
Code. In addition, the rules shall establish a schedule of fees to 1648
be charged for the issuance of section 401 water quality 1649
certifications. 1650

(B) Establish any procedures and requirements necessary for 1651
the transfer of the section 401 water quality certification 1652
program with respect to coal mining and reclamation operations 1653
from the environmental protection agency to the division of 1654
mineral resources management. The chief shall adopt rules under 1655
division (B) of this section in consultation with the director of 1656
environmental protection, the United States army corps of 1657
engineers, and the United States environmental protection agency. 1658

(C) Establish all of the following concerning permits to 1659
install: 1660

(1) A description of what constitutes a modification of a 1661
disposal system at a coal mining and reclamation operation; 1662

(2) The amount of the fee that must be submitted with each 1663
application for a permit to install and each application for a 1664
modification of a permit to install; 1665

(3) Information that must be included in the designs and 1666
plans required to be submitted with an application for a permit to 1667
install and criteria for approving, disapproving, or requiring 1668
modification of the designs and plans; 1669

(4) Information that must be included in an application for 1670
the modification of a permit to install; 1671

(5) Any additional information that must be included with an 1672
application for a permit to install; 1673

<u>(6) Procedures for the issuance, denial, modification,</u>	1674
<u>transfer, suspension, and revocation of permits to install;</u>	1675
<u>(7) Grounds for the denial, modification, suspension, or</u>	1676
<u>revocation of permits to install in addition to the grounds</u>	1677
<u>established in division (D) of section 1513.53 of the Revised</u>	1678
<u>Code.</u>	1679
<u>(D) Establish all of the following concerning NPDES permits:</u>	1680
<u>(1) The designation of coal mining and reclamation operations</u>	1681
<u>that are subject to NPDES permit requirements under section</u>	1682
<u>1513.55 of the Revised Code. The designation shall include only</u>	1683
<u>those point sources for which the issuance of NPDES permits is</u>	1684
<u>required under the Federal Water Pollution Control Act.</u>	1685
<u>(2) Effluent limitations governing discharges into waters of</u>	1686
<u>the state that are authorized by NPDES permits;</u>	1687
<u>(3) Variances from effluent limitations and other NPDES</u>	1688
<u>permit requirements to the extent that the variances are</u>	1689
<u>consistent with the Federal Water Pollution Control Act;</u>	1690
<u>(4) Terms and conditions to be included in a NPDES permit,</u>	1691
<u>including, as applicable, best management practices; installation</u>	1692
<u>of discharge or water quality monitoring methods or equipment;</u>	1693
<u>creation and retention of records; submission of periodic reports;</u>	1694
<u>schedules of compliance; and authorized duration and frequency of</u>	1695
<u>any discharges into waters of the state;</u>	1696
<u>(5) Procedures for the submission of applications for NPDES</u>	1697
<u>permits and notices of intent to be covered by general NPDES</u>	1698
<u>permits, including information that must be included in the</u>	1699
<u>applications and notices;</u>	1700
<u>(6) The amount of the fee that must be submitted with an</u>	1701
<u>application for a NPDES permit;</u>	1702
<u>(7) Procedures for processing NPDES permit applications,</u>	1703

including public notice and participation requirements; 1704

(8) Procedures for notifying the United States environmental protection agency of the submission of NPDES permit applications, the chief's action on those applications, and any other reasonable and relevant information; 1705
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(9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a NPDES permit; 1709
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(10) Procedures for the transfer of NPDES permits to new operators; 1712
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(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of NPDES permits, including general NPDES permits; 1714
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(12) A definition of "general NPDES permit" that establishes categories of sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit. 1717
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The rules adopted under division (D) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act. 1723
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(E) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (D)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of NPDES permits, including a definition of what constitutes significant public interest for the purposes of divisions (A) and (F) of section 1513.56 of the Revised Code and procedures for public meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that 1726
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are applicable to the NPDES permit application that is the subject 1735
of the public meeting. 1736

(F) Civil penalties for violations of sections 1513.50 to 1737
1513.57 of the Revised Code and rules; 1738

(G) Procedures for streamlining and combining procedures for 1739
the issuance of section 401 water quality certifications, permits 1740
to install, and NPDES permits under sections 1513.50 to 1513.57 of 1741
the Revised Code when appropriate; 1742

(H) Any other procedures or requirements that the chief 1743
determines to be necessary to implement sections 1513.50 to 1744
1513.59 of the Revised Code. 1745

Sec. 1513.58. (A) The attorney general, upon the request of 1746
the chief of the division of mineral resources management, shall 1747
prosecute to termination or bring an action for injunction against 1748
any person who has violated, is violating, or is threatening to 1749
violate sections 1513.50 to 1513.57 of the Revised Code, rules, or 1750
terms or conditions of a section 401 water quality certification, 1751
permit to install, NPDES permit, or order of the chief issued 1752
under those sections. The court of common pleas in which an action 1753
for injunction is filed has the jurisdiction to and shall grant 1754
preliminary and permanent injunctive relief upon a showing that 1755
the person against whom the action is brought has violated, is 1756
violating, or is threatening to violate any of those sections, 1757
rules, the terms or conditions of a certification or permit, or an 1758
order of the chief. 1759

(B) If the chief determines that any person has violated or 1760
is violating sections 1513.50 to 1513.57 of the Revised Code, a 1761
rule, or a term or condition of a certification, permit, or order 1762
of the chief issued under those sections, the chief may request in 1763
writing that the attorney general bring an action for civil 1764
penalties in a court of competent jurisdiction. The court may 1765

impose on the person a civil penalty in an amount established in 1766
rules for each day of each violation. 1767

(C) Money resulting from civil penalties imposed as a result 1768
of an action brought under this section shall be deposited in the 1769
state treasury to the credit of the coal mining administration and 1770
reclamation reserve fund created in section 1513.181 of the 1771
Revised Code. 1772

(D) The enforcement procedures and requirements established 1773
in this section apply to the enforcement of sections 1513.50 to 1774
1513.57 of the Revised Code. No other enforcement procedures and 1775
requirements established in this chapter apply to violations of 1776
sections 1513.50 to 1513.57 of the Revised Code, rules, or terms 1777
or conditions of a section 401 water quality certification, permit 1778
to install, NPDES permit, or order of the chief issued under those 1779
sections. 1780

Sec. 1513.59. All money from fees collected under sections 1781
1513.50 to 1513.57 of the Revised Code shall be deposited in the 1782
state treasury to the credit of the coal mining administration and 1783
reclamation reserve fund created in section 1513.181 of the 1784
Revised Code. 1785

Sec. 1513.99. (A) Whoever violates division (A)(1), (2), (3), 1786
(4), or (5) of section 1513.17 of the Revised Code shall be fined 1787
not less than one hundred nor more than ten thousand dollars, 1788
imprisoned for not more than one year, or both. 1789

(B) Whoever knowingly violates section 1513.04 of the Revised 1790
Code shall be fined not more than two thousand five hundred 1791
dollars, imprisoned not more than one year, or both. 1792

(C) Whoever violates division (A)(6) of section 1513.17 of 1793
the Revised Code shall be fined not less than one hundred nor more 1794
than one thousand dollars. 1795

(D) Whoever violates division (A)(2) of section 1513.53 of the Revised Code is guilty of a misdemeanor of the third degree on a first offense, a misdemeanor of the second degree on a second offense, and a misdemeanor of the first degree on a third or subsequent offense. Each ten-day period that the offense continues constitutes a separate offense.

(E) Whoever violates the terms and conditions of a permit to install issued under section 1513.53 of the Revised Code or the provisions of a NPDES permit issued under section 1513.55 of the Revised Code shall be fined not more than twenty-five thousand dollars. Each day of violation constitutes a separate offense.

(F) Whoever violates division (J) of section 1513.55 of the Revised Code shall be fined not more than twenty-five thousand dollars. Each day of violation constitutes a separate offense.

Sec. 3745.114. (A) A person that applies for a section 401 water quality certification under Chapter 6111. of the Revised Code and rules adopted under it shall pay an application fee of two hundred dollars at the time of application plus any of the following fees, as applicable:

(1) If the water resource to be impacted is a wetland, a review fee of five hundred dollars per acre of wetland to be impacted;

(2) If the water resource to be impacted is a stream one of the following fees, as applicable:

(a) For an ephemeral stream, a review fee of five dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater;

(b) For an intermittent stream, a review fee of ten dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater;

(c) For a perennial stream, a review fee of fifteen dollars 1826
per linear foot of stream to be impacted, or two hundred dollars, 1827
whichever is greater. 1828

(3) If the water resource to be impacted is a lake, a review 1829
fee of three dollars per cubic yard of dredged or fill material to 1830
be moved. 1831

(B) One-half of all applicable review fees levied under this 1832
section shall be due at the time of application for a section 401 1833
water quality certification. The remainder of the fees shall be 1834
paid upon the final disposition of the application for a section 1835
401 water quality certification. The total fee to be paid under 1836
this section shall not exceed twenty-five thousand dollars per 1837
application. However, if the applicant is a county, township, or 1838
municipal corporation in this state, the total fee to be paid 1839
shall not exceed five thousand dollars per application. 1840

(C) All money collected under this section shall be 1841
transmitted to the treasurer of state for deposit into the state 1842
treasury to the credit of the surface water protection fund 1843
created in section 6111.038 of the Revised Code. 1844

(D) The fees established under this section do not apply to 1845
any state agency as defined in section 119.01 of the Revised Code 1846
or to the United States army corps of engineers. 1847

(E) The fees established under this section do not apply to 1848
projects that are authorized by the environmental protection 1849
agency's general certifications of nationwide permits or general 1850
permits issued by the United States army corps of engineers. As 1851
used in this division, "general permit" and "nationwide permit" 1852
have the same meanings as in rules adopted under Chapter 6111. of 1853
the Revised Code. 1854

(F) Coal mining and reclamation operations that are 1855
authorized under Chapter 1513. of the Revised Code are exempt from 1856

the fees established under this section ~~for one year after the~~ 1857
~~effective date of this amendment.~~ 1858

(G) As used in this section: 1859

(1) "Ephemeral stream" means a stream that flows only in 1860
direct response to precipitation in the immediate watershed or in 1861
response to the melting of a cover of snow and ice and that has 1862
channel bottom that is always above the local water table. 1863

(2) "Intermittent stream" means a stream that is below the 1864
local water table and flows for at least a part of each year and 1865
that obtains its flow from both surface runoff and ground water 1866
discharge. 1867

(3) "Perennial stream" means a stream or a part of a stream 1868
that flows continuously during all of the calendar year as a 1869
result of ground water discharge or surface water runoff. 1870
"Perennial stream" does not include an intermittent stream or an 1871
ephemeral stream. 1872

Sec. 6111.03. The director of environmental protection may do 1873
any of the following: 1874

(A) Develop plans and programs for the prevention, control, 1875
and abatement of new or existing pollution of the waters of the 1876
state; 1877

(B) Advise, consult, and cooperate with other agencies of the 1878
state, the federal government, other states, and interstate 1879
agencies and with affected groups, political subdivisions, and 1880
industries in furtherance of the purposes of this chapter. Before 1881
adopting, amending, or rescinding a standard or rule pursuant to 1882
division (G) of this section or section 6111.041 or 6111.042 of 1883
the Revised Code, the director shall do all of the following: 1884

(1) Mail notice to each statewide organization that the 1885
director determines represents persons who would be affected by 1886

the proposed standard or rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(2) Mail a copy of each proposed standard or rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request therefor;

(3) Consult with appropriate state and local government agencies or their representatives, including statewide organizations of local government officials, industrial representatives, and other interested persons.

Although the director is expected to discharge these duties diligently, failure to mail any such notice or copy or to so consult with any person shall not invalidate any proceeding or action of the director.

(C) Administer grants from the federal government and from other sources, public or private, for carrying out any of its functions, all such moneys to be deposited in the state treasury and kept by the treasurer of state in a separate fund subject to the lawful orders of the director;

(D) Administer state grants for the construction of sewage and waste collection and treatment works;

(E) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution, and the causes, prevention, control, and abatement thereof, that are advisable and necessary for the discharge of the director's duties under this chapter;

(F) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;

(G) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code governing the procedure for

hearings, the filing of reports, the issuance of permits, the 1917
issuance of industrial water pollution control certificates, and 1918
all other matters relating to procedure; 1919

(H) Issue, modify, or revoke orders to prevent, control, or 1920
abate water pollution by such means as the following: 1921

(1) Prohibiting or abating discharges of sewage, industrial 1922
waste, or other wastes into the waters of the state; 1923

(2) Requiring the construction of new disposal systems or any 1924
parts thereof, or the modification, extension, or alteration of 1925
existing disposal systems or any parts thereof; 1926

(3) Prohibiting additional connections to or extensions of a 1927
sewerage system when the connections or extensions would result in 1928
an increase in the polluting properties of the effluent from the 1929
system when discharged into any waters of the state; 1930

(4) Requiring compliance with any standard or rule adopted 1931
under sections 6111.01 to 6111.05 of the Revised Code or term or 1932
condition of a permit. 1933

In the making of those orders, wherever compliance with a 1934
rule adopted under section 6111.042 of the Revised Code is not 1935
involved, consistent with the Federal Water Pollution Control Act, 1936
the director shall give consideration to, and base the 1937
determination on, evidence relating to the technical feasibility 1938
and economic reasonableness of complying with those orders and to 1939
evidence relating to conditions calculated to result from 1940
compliance with those orders, and their relation to benefits to 1941
the people of the state to be derived from such compliance in 1942
accomplishing the purposes of this chapter. 1943

(I) Review plans, specifications, or other data relative to 1944
disposal systems or any part thereof in connection with the 1945
issuance of orders, permits, and industrial water pollution 1946
control certificates under this chapter; 1947

(J)(1) Issue, revoke, modify, or deny sludge management 1948
permits and permits for the discharge of sewage, industrial waste, 1949
or other wastes into the waters of the state, and for the 1950
installation or modification of disposal systems or any parts 1951
thereof in compliance with all requirements of the Federal Water 1952
Pollution Control Act and mandatory regulations adopted 1953
thereunder, including regulations adopted under section 405 of the 1954
Federal Water Pollution Control Act, and set terms and conditions 1955
of permits, including schedules of compliance, where necessary. 1956
~~Any~~ 1957

Any person who discharges, transports, or handles storm water 1958
from an animal feeding facility, as defined in section 903.01 of 1959
the Revised Code, or manure, as defined in that section, is not 1960
required to obtain a permit under division (J)(1) of this section 1961
for the installation or modification of a disposal system 1962
involving manure or storm water or any parts of such a system on 1963
and after the date on which the director of agriculture has 1964
finalized the program required under division (A)(1) of section 1965
903.02 of the Revised Code. In addition, any person who 1966
discharges, transports, or handles storm water from an animal 1967
feeding facility, as defined in section 903.01 of the ~~revised code~~ 1968
Revised Code, or manure, as defined in that section, is not 1969
required to obtain a permit under division (J)(1) of this section 1970
for the discharge of storm water or manure on and after the date 1971
on which the United States environmental protection agency 1972
approves the NPDES program submitted by the director of 1973
agriculture under section 903.08 of the Revised Code. 1974

A coal mining and reclamation operation that is regulated 1975
under Chapter 1513. of the Revised Code and that discharges 1976
sewage, industrial waste, or other wastes into the waters of the 1977
state is not required to obtain a permit under division (J)(1) of 1978
this section for that discharge on and after the date on which the 1979

United States environmental protection agency approves the NPDES 1980
program submitted by the chief of the division of mineral 1981
resources management in the department of natural resources under 1982
section 1513.55 of the Revised Code. 1983

Any permit terms and conditions set by the director shall be 1984
designed to achieve and maintain full compliance with the national 1985
effluent limitations, national standards of performance for new 1986
sources, and national toxic and pretreatment effluent standards 1987
set under that act, and any other mandatory requirements of that 1988
act that are imposed by regulation of the administrator of the 1989
United States environmental protection agency. If an applicant for 1990
a sludge management permit also applies for a related permit for 1991
the discharge of sewage, industrial waste, or other wastes into 1992
the waters of the state, the director may combine the two permits 1993
and issue one permit to the applicant. 1994

A sludge management permit is not required for an entity that 1995
treats or transports sewage sludge or for a sanitary landfill when 1996
all of the following apply: 1997

(a) The entity or sanitary landfill does not generate the 1998
sewage sludge. 1999

(b) Prior to receipt at the sanitary landfill, the entity has 2000
ensured that the sewage sludge meets the requirements established 2001
in rules adopted by the director under section 3734.02 of the 2002
Revised Code concerning disposal of municipal solid waste in a 2003
sanitary landfill. 2004

(c) Disposal of the sewage sludge occurs at a sanitary 2005
landfill that complies with rules adopted by the director under 2006
section 3734.02 of the Revised Code. 2007

As used in division (J)(1) of this section, "sanitary 2008
landfill" means a sanitary landfill facility, as defined in rules 2009
adopted under section 3734.02 of the Revised Code, that is 2010

licensed as a solid waste facility under section 3734.05 of the Revised Code. 2011
2012

(2) An application for a permit or renewal thereof shall be denied if any of the following applies: 2013
2014

(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby; 2015
2016

(b) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act; 2017
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2020

(c) The administrator of the United States environmental protection agency objects in writing to the issuance or renewal of the permit in accordance with section 402 (d) of the Federal Water Pollution Control Act; 2021
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(d) The application is for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the United States. 2025
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(3) To achieve and maintain applicable standards of quality for the waters of the state adopted pursuant to section 6111.041 of the Revised Code, the director shall impose, where necessary and appropriate, as conditions of each permit, water quality related effluent limitations in accordance with sections 301, 302, 306, 307, and 405 of the Federal Water Pollution Control Act and, to the extent consistent with that act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of removing the polluting properties from those wastes and to evidence relating to conditions calculated to result from that action and their relation to benefits to the people of the state and to accomplishment of the purposes of this chapter. 2028
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(4) Where a discharge having a thermal component from a 2041

source that is constructed or modified on or after October 18, 2042
1972, meets national or state effluent limitations or more 2043
stringent permit conditions designed to achieve and maintain 2044
compliance with applicable standards of quality for the waters of 2045
the state, which limitations or conditions will ensure protection 2046
and propagation of a balanced, indigenous population of shellfish, 2047
fish, and wildlife in or on the body of water into which the 2048
discharge is made, taking into account the interaction of the 2049
thermal component with sewage, industrial waste, or other wastes, 2050
the director shall not impose any more stringent limitation on the 2051
thermal component of the discharge, as a condition of a permit or 2052
renewal thereof for the discharge, during a ten-year period 2053
beginning on the date of completion of the construction or 2054
modification of the source, or during the period of depreciation 2055
or amortization of the source for the purpose of section 167 or 2056
169 of the Internal Revenue Code of 1954, whichever period ends 2057
first. 2058

(5) The director shall specify in permits for the discharge 2059
of sewage, industrial waste, and other wastes, the net volume, net 2060
weight, duration, frequency, and, where necessary, concentration 2061
of the sewage, industrial waste, and other wastes that may be 2062
discharged into the waters of the state. The director shall 2063
specify in those permits and in sludge management permits that the 2064
permit is conditioned upon payment of applicable fees as required 2065
by section 3745.11 of the Revised Code and upon the right of the 2066
director's authorized representatives to enter upon the premises 2067
of the person to whom the permit has been issued for the purpose 2068
of determining compliance with this chapter, rules adopted 2069
thereunder, or the terms and conditions of a permit, order, or 2070
other determination. The director shall issue or deny an 2071
application for a sludge management permit or a permit for a new 2072
discharge, for the installation or modification of a disposal 2073
system, or for the renewal of a permit, within one hundred eighty 2074

days of the date on which a complete application with all plans, 2075
specifications, construction schedules, and other pertinent 2076
information required by the director is received. 2077

(6) The director may condition permits upon the installation 2078
of discharge or water quality monitoring equipment or devices and 2079
the filing of periodic reports on the amounts and contents of 2080
discharges and the quality of receiving waters that the director 2081
prescribes. The director shall condition each permit for a 2082
government-owned disposal system or any other "treatment works" as 2083
defined in the Federal Water Pollution Control Act upon the 2084
reporting of new introductions of industrial waste or other wastes 2085
and substantial changes in volume or character thereof being 2086
introduced into those systems or works from "industrial users" as 2087
defined in section 502 of that act, as necessary to comply with 2088
section 402(b)(8) of that act; upon the identification of the 2089
character and volume of pollutants subject to pretreatment 2090
standards being introduced into the system or works; and upon the 2091
existence of a program to ensure compliance with pretreatment 2092
standards by "industrial users" of the system or works. In 2093
requiring monitoring devices and reports, the director, to the 2094
extent consistent with the Federal Water Pollution Control Act, 2095
shall give consideration to technical feasibility and economic 2096
reasonableness and shall allow reasonable time for compliance. 2097

(7) A permit may be issued for a period not to exceed five 2098
years and may be renewed upon application for renewal and upon a 2099
finding by the director that the permit holder is making 2100
satisfactory progress toward the achievement of all applicable 2101
standards and has complied with the terms and conditions of the 2102
existing permit. A permit may be modified, suspended, or revoked 2103
for cause, including, but not limited to, violation of any 2104
condition of the permit, obtaining a permit by misrepresentation 2105
or failure to disclose fully all relevant facts of the permitted 2106

discharge or of the sludge use, storage, treatment, or disposal 2107
practice, or changes in any condition that requires either a 2108
temporary or permanent reduction or elimination of the permitted 2109
activity. No application shall be denied or permit revoked or 2110
modified without a written order stating the findings upon which 2111
the denial, revocation, or modification is based. A copy of the 2112
order shall be sent to the applicant or permit holder by certified 2113
mail. 2114

(K) Institute or cause to be instituted in any court of 2115
competent jurisdiction proceedings to compel compliance with this 2116
chapter or with the orders of the director issued under this 2117
chapter, or to ensure compliance with sections 204(b), 307, 308, 2118
and 405 of the Federal Water Pollution Control Act; 2119

(L) Issue, deny, revoke, or modify industrial water pollution 2120
control certificates; 2121

(M) Certify to the government of the United States or any 2122
agency thereof that an industrial water pollution control facility 2123
is in conformity with the state program or requirements for the 2124
control of water pollution whenever the certification may be 2125
required for a taxpayer under the Internal Revenue Code of the 2126
United States, as amended; 2127

(N) Issue, modify, and revoke orders requiring any 2128
"industrial user" of any publicly owned "treatment works" as 2129
defined in sections 212(2) and 502(18) of the Federal Water 2130
Pollution Control Act to comply with pretreatment standards; 2131
establish and maintain records; make reports; install, use, and 2132
maintain monitoring equipment or methods, including, where 2133
appropriate, biological monitoring methods; sample discharges in 2134
accordance with methods, at locations, at intervals, and in a 2135
manner that the director determines; and provide other information 2136
that is necessary to ascertain whether or not there is compliance 2137
with toxic and pretreatment effluent standards. In issuing, 2138

modifying, and revoking those orders, the director, to the extent 2139
consistent with the Federal Water Pollution Control Act, shall 2140
give consideration to technical feasibility and economic 2141
reasonableness and shall allow reasonable time for compliance. 2142

(O) Exercise all incidental powers necessary to carry out the 2143
purposes of this chapter; 2144

(P) Certify or deny certification to any applicant for a 2145
federal license or permit to conduct any activity that may result 2146
in any discharge into the waters of the state that the discharge 2147
will comply with the Federal Water Pollution Control Act; 2148

(Q) Administer and enforce the publicly owned treatment works 2149
pretreatment program in accordance with the Federal Water 2150
Pollution Control Act. In the administration of that program, the 2151
director may do any of the following: 2152

(1) Apply and enforce pretreatment standards; 2153

(2) Approve and deny requests for approval of publicly owned 2154
treatment works pretreatment programs, oversee those programs, and 2155
implement, in whole or in part, those programs under any of the 2156
following conditions: 2157

(a) The director has denied a request for approval of the 2158
publicly owned treatment works pretreatment program; 2159

(b) The director has revoked the publicly owned treatment 2160
works pretreatment program; 2161

(c) There is no pretreatment program currently being 2162
implemented by the publicly owned treatment works; 2163

(d) The publicly owned treatment works has requested the 2164
director to implement, in whole or in part, the pretreatment 2165
program. 2166

(3) Require that a publicly owned treatment works 2167
pretreatment program be incorporated in a permit issued to a 2168

publicly owned treatment works as required by the Federal Water 2169
Pollution Control Act, require compliance by publicly owned 2170
treatment works with those programs, and require compliance by 2171
industrial users with pretreatment standards; 2172

(4) Approve and deny requests for authority to modify 2173
categorical pretreatment standards to reflect removal of 2174
pollutants achieved by publicly owned treatment works; 2175

(5) Deny and recommend approval of requests for fundamentally 2176
different factors variances submitted by industrial users; 2177

(6) Make determinations on categorization of industrial 2178
users; 2179

(7) Adopt, amend, or rescind rules and issue, modify, or 2180
revoke orders necessary for the administration and enforcement of 2181
the publicly owned treatment works pretreatment program. 2182

Any approval of a publicly owned treatment works pretreatment 2183
program may contain any terms and conditions, including schedules 2184
of compliance, that are necessary to achieve compliance with this 2185
chapter. 2186

(R) Except as otherwise provided in this division, adopt 2187
rules in accordance with Chapter 119. of the Revised Code 2188
establishing procedures, methods, and equipment and other 2189
requirements for equipment to prevent and contain discharges of 2190
oil and hazardous substances into the waters of the state. The 2191
rules shall be consistent with and equivalent in scope, content, 2192
and coverage to section 311(j)(1)(c) of the Federal Water 2193
Pollution Control Act and regulations adopted under it. The 2194
director shall not adopt rules under this division relating to 2195
discharges of oil from oil production facilities and oil drilling 2196
and workover facilities as those terms are defined in that act and 2197
regulations adopted under it. 2198

(S)(1) Administer and enforce a program for the regulation of 2199

sludge management in this state. In administering the program, the 2200
director, in addition to exercising the authority provided in any 2201
other applicable sections of this chapter, may do any of the 2202
following: 2203

(a) Develop plans and programs for the disposal and 2204
utilization of sludge and sludge materials; 2205

(b) Encourage, participate in, or conduct studies, 2206
investigations, research, and demonstrations relating to the 2207
disposal and use of sludge and sludge materials and the impact of 2208
sludge and sludge materials on land located in the state and on 2209
the air and waters of the state; 2210

(c) Collect and disseminate information relating to the 2211
disposal and use of sludge and sludge materials and the impact of 2212
sludge and sludge materials on land located in the state and on 2213
the air and waters of the state; 2214

(d) Issue, modify, or revoke orders to prevent, control, or 2215
abate the use and disposal of sludge and sludge materials or the 2216
effects of the use of sludge and sludge materials on land located 2217
in the state and on the air and waters of the state; 2218

(e) Adopt and enforce, modify, or rescind rules necessary for 2219
the implementation of division (S) of this section. The rules 2220
reasonably shall protect public health and the environment, 2221
encourage the beneficial reuse of sludge and sludge materials, and 2222
minimize the creation of nuisance odors. 2223

The director may specify in sludge management permits the net 2224
volume, net weight, quality, and pollutant concentration of the 2225
sludge or sludge materials that may be used, stored, treated, or 2226
disposed of, and the manner and frequency of the use, storage, 2227
treatment, or disposal, to protect public health and the 2228
environment from adverse effects relating to those activities. The 2229
director shall impose other terms and conditions to protect public 2230

health and the environment, minimize the creation of nuisance 2231
odors, and achieve compliance with this chapter and rules adopted 2232
under it and, in doing so, shall consider whether the terms and 2233
conditions are consistent with the goal of encouraging the 2234
beneficial reuse of sludge and sludge materials. 2235

The director may condition permits on the implementation of 2236
treatment, storage, disposal, distribution, or application 2237
management methods and the filing of periodic reports on the 2238
amounts, composition, and quality of sludge and sludge materials 2239
that are disposed of, used, treated, or stored. 2240

An approval of a treatment works sludge disposal program may 2241
contain any terms and conditions, including schedules of 2242
compliance, necessary to achieve compliance with this chapter and 2243
rules adopted under it. 2244

(2) As a part of the program established under division 2245
(S)(1) of this section, the director has exclusive authority to 2246
regulate sewage sludge management in this state. For purposes of 2247
division (S)(2) of this section, that program shall be consistent 2248
with section 405 of the Federal Water Pollution Control Act and 2249
regulations adopted under it and with this section, except that 2250
the director may adopt rules under division (S) of this section 2251
that establish requirements that are more stringent than section 2252
405 of the Federal Water Pollution Control Act and regulations 2253
adopted under it with regard to monitoring sewage sludge and 2254
sewage sludge materials and establishing acceptable sewage sludge 2255
management practices and pollutant levels in sewage sludge and 2256
sewage sludge materials. 2257

This chapter authorizes the state to participate in any 2258
national sludge management program and the national pollutant 2259
discharge elimination system, to administer and enforce the 2260
publicly owned treatment works pretreatment program, and to issue 2261
permits for the discharge of dredged or fill materials, in 2262

accordance with the Federal Water Pollution Control Act. This 2263
chapter shall be administered, consistent with the laws of this 2264
state and federal law, in the same manner that the Federal Water 2265
Pollution Control Act is required to be administered. 2266

This section does not apply to animal waste disposal systems 2267
and related management and conservation practices subject to rules 2268
adopted pursuant to division (E)(4) of section 1511.02 of the 2269
Revised Code. However, until the date on which the United States 2270
environmental protection agency approves the NPDES program 2271
submitted by the director of agriculture under section 903.08 of 2272
the Revised Code, this exclusion does not apply to animal waste 2273
treatment works having a controlled direct discharge to the waters 2274
of the state or any concentrated animal feeding operation, as 2275
defined in 40 C.F.R. 122.23(b)(2). On and after the date on which 2276
the United States environmental protection agency approves the 2277
NPDES program submitted by the director of agriculture under 2278
section 903.08 of the Revised Code, this section does not apply to 2279
storm water from an animal feeding facility, as defined in section 2280
903.01 of the Revised Code, or to manure, as defined in that 2281
section. Neither of these exclusions applies to the discharge of 2282
animal waste into a publicly owned treatment works. 2283

Sec. 6111.035. (A) The director of environmental protection, 2284
consistent with the Federal Water Pollution Control Act and the 2285
regulations adopted thereunder, without application therefor, may 2286
issue, modify, revoke, or terminate a general permit under this 2287
chapter for both of the following: 2288

(1) Discharge of ~~stormwater; the discharge of liquids,~~ 2289
~~sediments, solids, or water borne mining related waste, such as,~~ 2290
~~but not limited to, acids, metallic cations, or their salts, from~~ 2291
~~coal mining and reclamation operations as defined in section~~ 2292
~~1513.01 of the Revised Code; storm water or treatment works whose~~ 2293

discharge would have de minimis impact on the waters of the state 2294
receiving the discharge; 2295

(2) Installation or modification of disposal systems or any 2296
parts thereof, including disposal systems for ~~stormwater or for~~ 2297
~~coal mining and reclamation operations as defined in section~~ 2298
~~1513.01 of the Revised Code~~ storm water. 2299

A general permit shall apply to a class or category of 2300
discharges or disposal systems or to persons conducting similar 2301
activities, within any area of the state, including the entire 2302
state. 2303

A general permit shall not be issued unless the director 2304
determines that the discharges authorized by the permit will have 2305
only minimal cumulative adverse effects on the environment when 2306
the discharges are considered collectively and individually and 2307
if, in the opinion of the director, the discharges, installations, 2308
or modifications authorized by the permit are more appropriately 2309
authorized by a general permit than by an individual permit. 2310

A general permit shall be issued subject to applicable 2311
mandatory provisions and may be issued subject to any applicable 2312
permissive provision of the Federal Water Pollution Control Act 2313
and the regulations adopted thereunder. 2314

The director, at the director's discretion, may require any 2315
person authorized to discharge or to install or modify a disposal 2316
system under a general permit to apply for and obtain an 2317
individual permit for the discharge, installation, or 2318
modification. When a particular discharge, installation, or 2319
modification is subject to an individual permit, a general permit 2320
shall not apply to that discharge, installation, or modification 2321
until the individual permit is revoked, terminated, or modified to 2322
exclude the discharge, installation, or modification. 2323

(B) Notwithstanding any requirement under Chapter 119. of the 2324

Revised Code concerning the manner in which notice of a permit 2325
action is provided, the director shall not be required to provide 2326
certified mail notice to persons subject to the issuance, 2327
modification, revocation, or termination of a general permit under 2328
division (A) of this section. 2329

Notwithstanding section 3745.07 of the Revised Code 2330
concerning the location of newspapers in which notices of permit 2331
actions are published, the director shall cause notice of the 2332
issuance, modification, revocation, or termination of a general 2333
permit to be published in the newspapers of general circulation 2334
determined by the director to provide reasonable notice to persons 2335
affected by the permit action in the geographic area covered by 2336
the general permit within the time periods prescribed by section 2337
3745.07 of the Revised Code. Any notice under this section or 2338
section 3745.07 of the Revised Code concerning the issuance, 2339
modification, revocation, or termination of a general permit shall 2340
include a summary of the permit action and instructions on how to 2341
obtain a copy of the full text of the permit action. The director 2342
may take other appropriate measures, such as press releases and 2343
notice to trade journals, associations, and other persons known to 2344
the director to desire notification, in order to provide notice of 2345
the director's actions concerning the issuance, modification, 2346
revocation, or termination of a general permit; however, the 2347
failure to provide such notice shall not invalidate any general 2348
permit. 2349

(C) Notwithstanding any other provision of the Revised Code, 2350
a person subject to the proposed issuance, modification, 2351
revocation, or termination of a general permit under division (A) 2352
of this section may request an adjudication hearing pursuant to 2353
section 119.07 of the Revised Code concerning the proposed action 2354
within thirty days after publication of the notice of the proposed 2355
action in newspapers of general circulation pursuant to division 2356

(B) of this section. This division shall not be interpreted to 2357
affect the authority of the director to take actions on general 2358
permits in forms other than proposed general permits. 2359

(D) The director may exercise all incidental powers required 2360
to carry out this section, including, without limitation, the 2361
adoption, amendment, and rescission of rules to implement a 2362
general permit program for classes or categories of dischargers or 2363
disposal systems. 2364

(E) On and after the date on which the United States 2365
environmental protection agency approves the NPDES program 2366
submitted by the director of agriculture under section 903.08 of 2367
the Revised Code, this section does not apply to storm water from 2368
an animal feeding facility, as defined in section 903.01 of the 2369
Revised Code, or to manure, as defined in that section. 2370

(F) On and after the date on which the United States 2371
environmental protection agency approves the NPDES program 2372
submitted by the chief of the division of mineral resources 2373
management in the department of natural resources under section 2374
1513.55 of the Revised Code, this section does not apply to the 2375
discharge of storm water or the discharge of liquids, sediments, 2376
solids, or water-borne mining related waste from coal mining and 2377
reclamation operations that are regulated under Chapter 1513. of 2378
the Revised Code. 2379

(G) As used in this section, "Federal Water Pollution Control 2380
Act" means the "Federal Water Pollution Control Act Amendments of 2381
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean 2382
Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of 2383
October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal 2384
Wastewater Treatment Construction Grant Amendments of 1981," 95 2385
Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 2386
101 Stat. 7, 33 U.S.C.A. 1251. 2387

Sec. 6111.04. (A) Both of the following apply except as 2388
otherwise provided in division (A) or (F) of this section: 2389

(1) No person shall cause pollution or place or cause to be 2390
placed any sewage, sludge, sludge materials, industrial waste, or 2391
other wastes in a location where they cause pollution of any 2392
waters of the state. 2393

(2) Such an action prohibited under division (A)(1) of this 2394
section is hereby declared to be a public nuisance. 2395

Divisions (A)(1) and (2) of this section do not apply if the 2396
person causing pollution or placing or causing to be placed wastes 2397
in a location in which they cause pollution of any waters of the 2398
state holds a valid, unexpired permit, or renewal of a permit, 2399
governing the causing or placement as provided in sections 6111.01 2400
to 6111.08 of the Revised Code or if the person's application for 2401
renewal of such a permit is pending. 2402

(B) If the director of environmental protection administers a 2403
sludge management program pursuant to division (S) of section 2404
6111.03 of the Revised Code, both of the following apply except as 2405
otherwise provided in division (B) or (F) of this section: 2406

(1) No person, in the course of sludge management, shall 2407
place on land located in the state or release into the air of the 2408
state any sludge or sludge materials. 2409

(2) An action prohibited under division (B)(1) of this 2410
section is hereby declared to be a public nuisance. 2411

Divisions (B)(1) and (2) of this section do not apply if the 2412
person placing or releasing the sludge or sludge materials holds a 2413
valid, unexpired permit, or renewal of a permit, governing the 2414
placement or release as provided in sections 6111.01 to 6111.08 of 2415
the Revised Code or if the person's application for renewal of 2416
such a permit is pending. 2417

(C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.

(D) No person to whom a sludge management permit has been issued shall place on the land or release into the air of the state any sludge or sludge materials in excess of the permissive amounts specified under the existing sludge management permit without first receiving a modification of the existing sludge management permit or a new sludge management permit to do so from the director.

(E) The director may require the submission of plans, specifications, and other information that the director considers relevant in connection with the issuance of permits.

(F) This section does not apply to any of the following:

(1) Waters used in washing sand, gravel, other aggregates, or mineral products when the washing and the ultimate disposal of the water used in the washing, including any sewage, industrial waste, or other wastes contained in the waters, are entirely confined to the land under the control of the person engaged in the recovery and processing of the sand, gravel, other aggregates, or mineral products and do not result in the pollution of waters of the state;

(2) Water, gas, or other material injected into a well to facilitate, or that is incidental to, the production of oil, gas, artificial brine, or water derived in association with oil or gas production and disposed of in a well, in compliance with a permit issued under Chapter 1509. of the Revised Code, or sewage, industrial waste, or other wastes injected into a well in

compliance with an injection well operating permit. Division 2449
(F)(2) of this section does not authorize, without a permit, any 2450
discharge that is prohibited by, or for which a permit is required 2451
by, regulation of the United States environmental protection 2452
agency. 2453

(3) Application of any materials to land for agricultural 2454
purposes or runoff of the materials from that application or 2455
pollution by animal waste or soil sediment, including attached 2456
substances, resulting from farming, silvicultural, or earthmoving 2457
activities regulated by Chapter 307. or 1511. of the Revised Code. 2458
Division (F)(3) of this section does not authorize, without a 2459
permit, any discharge that is prohibited by, or for which a permit 2460
is required by, the Federal Water Pollution Control Act or 2461
regulations adopted under it. 2462

(4) The excrement of domestic and farm animals defecated on 2463
land or runoff therefrom into any waters of the state. Division 2464
(F)(4) of this section does not authorize, without a permit, any 2465
discharge that is prohibited by, or for which a permit is required 2466
by, the Federal Water Pollution Control Act or regulations adopted 2467
under it. 2468

(5) On and after the date on which the United States 2469
environmental protection agency approves the NPDES program 2470
submitted by the director of agriculture under section 903.08 of 2471
the Revised Code, any discharge that is within the scope of the 2472
approved NPDES program submitted by the director of agriculture; 2473

(6) The discharge of sewage, industrial waste, or other 2474
wastes into a sewerage system tributary to a treatment works. 2475
Division (F)(6) of this section does not authorize any discharge 2476
into a publicly owned treatment works in violation of a 2477
pretreatment program applicable to the publicly owned treatment 2478
works. 2479

(7) Septic tanks or other disposal systems for the disposal 2480
or treatment of sewage from single-family, two-family, or 2481
three-family dwellings in compliance with the sanitary code and 2482
section 3707.01 of the Revised Code. Division (F)(7) of this 2483
section does not authorize, without a permit, any discharge that 2484
is prohibited by, or for which a permit is required by, regulation 2485
of the United States environmental protection agency. 2486

(8) Exceptional quality sludge generated outside of this 2487
state and contained in bags or other containers not greater than 2488
one hundred pounds in capacity. As used in division (F)(8) of this 2489
section, "exceptional quality sludge" has the same meaning as in 2490
division (Y) of section 3745.11 of the Revised Code. 2491

(9) On and after the date on which the United States 2492
environmental protection agency approves the NPDES program 2493
submitted by the chief of the division of mineral resources 2494
management in the department of natural resources under section 2495
1513.55 of the Revised Code, any discharge that is within the 2496
scope of the approved NPDES program submitted by the chief. The 2497
chief shall administer and enforce NPDES permits within the scope 2498
of that approved NPDES program. 2499

(G) The holder of a permit issued under section 402 (a) of 2500
the Federal Water Pollution Control Act need not obtain a permit 2501
for a discharge authorized by the permit until its expiration 2502
date. Except as otherwise provided in this division, the director 2503
of environmental protection shall administer and enforce those 2504
permits within this state and may modify their terms and 2505
conditions in accordance with division (J) of section 6111.03 of 2506
the Revised Code. On and after the date on which the United States 2507
environmental protection agency approves the NPDES program 2508
submitted by the director of agriculture under section 903.08 of 2509
the Revised Code, the director of agriculture shall administer and 2510
enforce those permits within this state that are issued for any 2511

discharge that is within the scope of the approved NPDES program 2512
submitted by the director of agriculture. On and after the date on 2513
which the United States environmental protection agency approves 2514
the NPDES program submitted by the chief of the division of 2515
mineral resources management under section 1513.55 of the Revised 2516
Code, the chief shall administer and enforce those permits within 2517
this state that are issued for any discharge that is within the 2518
scope of the approved NPDES program submitted by the chief. 2519

Sec. 6111.30. (A) Applications for a section 401 water 2520
quality certification required under division (P) of section 2521
6111.03 of the Revised Code shall be submitted on forms provided 2522
by the director of environmental protection and shall include all 2523
information required on those forms as well as all of the 2524
following: 2525

(1) A copy of a letter from the United States army corps of 2526
engineers documenting its jurisdiction over the wetlands, streams, 2527
or other waters of the state that are the subject of the section 2528
401 water quality certification application; 2529

(2) If the project involves impacts to a wetland, a wetland 2530
characterization analysis consistent with the Ohio rapid 2531
assessment method; 2532

~~(3) If the project involves a stream for which a specific 2533
aquatic life use designation has not been made, a use 2534
attainability analysis;~~ 2535

~~(4) A specific and detailed mitigation proposal, including 2536
the location and proposed legal mechanism for protecting the 2537
property in perpetuity;~~ 2538

~~(5)~~(4) Applicable fees; 2539

~~(6)~~(5) Site photographs; 2540

~~(7)~~(6) Adequate documentation confirming that the applicant 2541

has requested comments from the department of natural resources 2542
and the United States fish and wildlife service regarding 2543
threatened and endangered species, including the presence or 2544
absence of critical habitat; 2545

~~(8)~~(7) Descriptions, schematics, and appropriate economic 2546
information concerning the applicant's preferred alternative, 2547
nondegradation alternatives, and minimum degradation alternatives 2548
for the design and operation of the project; 2549

~~(9)~~(8) The applicant's investigation report of the waters of 2550
the United States in support of a section 404 permit application 2551
concerning the project; 2552

~~(10)~~(9) A copy of the United States army corps of engineers' 2553
public notice regarding the section 404 permit application 2554
concerning the project. 2555

(B) Not later than fifteen business days after the receipt of 2556
an application for a section 401 water quality certification, the 2557
director shall review the application to determine if it is 2558
complete and shall notify the applicant in writing as to whether 2559
the application is complete. If the director fails to notify the 2560
applicant within fifteen business days regarding the completeness 2561
of the application, the application is considered complete. If the 2562
director determines that the application is not complete, the 2563
director shall include with the written notification an itemized 2564
list of the information or materials that are necessary to 2565
complete the application. If the applicant fails to provide the 2566
information or materials within sixty days after the director's 2567
receipt of the application, the director may return the incomplete 2568
application to the applicant and take no further action on the 2569
application. If the application is returned to the applicant 2570
because it is incomplete, the director shall return the review fee 2571
levied under division (A)(1), (2), or (3) of section 3745.114 of 2572
the Revised Code to the applicant, but shall retain the 2573

application fee levied under that section. 2574

(C) Not later than twenty-one days after a determination that 2575
an application is complete under division (B) of this section, the 2576
applicant shall publish public notice of the director's receipt of 2577
the complete application in a newspaper of general circulation in 2578
the county in which the project that is the subject of the 2579
application is located. The public notice shall be in a form 2580
acceptable to the director. The applicant shall promptly provide 2581
the director with proof of publication. The applicant may choose, 2582
subject to review by and approval of the director, to include in 2583
the public notice an advertisement for an antidegradation public 2584
hearing on the application pursuant to section 6111.12 of the 2585
Revised Code. There shall be a public comment period of thirty 2586
days following the publication of the public notice. 2587

(D) If the director determines that there is significant 2588
public interest in a public hearing as evidenced by the public 2589
comments received concerning the application and by other requests 2590
for a public hearing on the application, the director or the 2591
director's representative shall conduct a public hearing 2592
concerning the application. Notice of the public hearing shall be 2593
published by the applicant, subject to review and approval by the 2594
director, at least thirty days prior to the date of the hearing in 2595
a newspaper of general circulation in the county in which the 2596
project that is the subject of the application is to take place. 2597
If a public hearing is requested concerning an application, the 2598
director shall accept comments concerning the application until 2599
five business days after the public hearing. A public hearing 2600
conducted under this division shall take place not later than one 2601
hundred days after the application is determined to be complete. 2602

(E) The director shall forward all public comments concerning 2603
an application submitted under this section that are received 2604
through the public involvement process required by rules adopted 2605

under this chapter to the applicant not later than five business 2606
days after receipt of the comments by the director. 2607

(F) The applicant shall respond in writing to written 2608
comments or to deficiencies identified by the director during the 2609
course of reviewing the application not later than fifteen days 2610
after receiving or being notified of them. 2611

(G) The director shall issue or deny a section 401 water 2612
quality certification not later than one hundred eighty days after 2613
the complete application for the certification is received. The 2614
director shall provide an applicant for a section 401 water 2615
quality certification with an opportunity to review the 2616
certification prior to its issuance. 2617

(H) The director shall maintain an accessible database that 2618
includes environmentally beneficial water restoration and 2619
protection projects that may serve as potential mitigation 2620
projects for projects in the state for which a section 401 water 2621
quality certification is required. A project's inclusion in the 2622
database does not constitute an approval of the project. 2623

(I) This section does not apply to coal mining and 2624
reclamation operations that are regulated under Chapter 1513. of 2625
the Revised Code. 2626

(J) As used in this section and ~~sections~~ section 6111.31 ~~and~~ 2627
~~6111.32~~ of the Revised Code, "section 401 water quality 2628
certification" means certification pursuant to section 401 of the 2629
Federal Water Pollution Control Act and this chapter and rules 2630
adopted under it that any discharge, as set forth in section 401, 2631
will comply with sections 301, 302, 303, 306, and 307 of the 2632
Federal Water Pollution Control Act. 2633

Sec. 6111.44. (A) Except as otherwise provided in division 2634
(B) of this section, in section 6111.14 of the Revised Code, or in 2635

rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons.

In granting an approval, the director may stipulate modifications, conditions, and rules that the public health and prevention of pollution may require. Any action taken by the director shall be a matter of public record and shall be entered in the director's journal. Each period of thirty days that a violation of this section continues, after a conviction for the violation, constitutes a separate offense.

(B) Sections 6111.45 and 6111.46 of the Revised Code and division (A) of this section do not apply to any of the following:

(1) Sewerage or treatment works for sewage installed or to be installed for the use of a private residence or dwelling;

(2) Sewerage systems, treatment works, or disposal systems for storm water from an animal feeding facility or manure, as "animal feeding facility" and "manure" are defined in section 903.01 of the Revised Code;

(3) Animal waste treatment or disposal works and related management and conservation practices that are subject to rules

adopted under division (E)(2) of section 1511.02 of the Revised Code; 2667
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(4) On and after the date on which the chief of the division of mineral resources management in the department of natural resources has finalized the permit to install program required under section 1513.53 of the Revised Code, disposal systems at coal mining and reclamation operations that are regulated under Chapter 1513. of the Revised Code. The chief shall administer and enforce permits to install within the scope of that program. 2669
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The exclusions established in divisions (B)(2) and (3) of this section do not apply to the construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works. 2676
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Section 2. That existing sections 1513.02, 1513.07, 1513.181, 1513.99, 3745.114, 6111.03, 6111.035, 6111.04, 6111.30, and 6111.44 of the Revised Code are hereby repealed. 2683
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Section 3. That the versions of sections 6111.04 and 6111.44 of the Revised Code that are scheduled to take effect July 1, 2009, be amended to read as follows: 2686
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Sec. 6111.04. (A) Both of the following apply except as otherwise provided in division (A) or (F) of this section: 2689
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(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. 2691
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(2) Such an action prohibited under division (A)(1) of this 2695

section is hereby declared to be a public nuisance. 2696

Divisions (A)(1) and (2) of this section do not apply if the 2697
person causing pollution or placing or causing to be placed wastes 2698
in a location in which they cause pollution of any waters of the 2699
state holds a valid, unexpired permit, or renewal of a permit, 2700
governing the causing or placement as provided in sections 6111.01 2701
to 6111.08 of the Revised Code or if the person's application for 2702
renewal of such a permit is pending. 2703

(B) If the director of environmental protection administers a 2704
sludge management program pursuant to division (S) of section 2705
6111.03 of the Revised Code, both of the following apply except as 2706
otherwise provided in division (B) or (F) of this section: 2707

(1) No person, in the course of sludge management, shall 2708
place on land located in the state or release into the air of the 2709
state any sludge or sludge materials. 2710

(2) An action prohibited under division (B)(1) of this 2711
section is hereby declared to be a public nuisance. 2712

Divisions (B)(1) and (2) of this section do not apply if the 2713
person placing or releasing the sludge or sludge materials holds a 2714
valid, unexpired permit, or renewal of a permit, governing the 2715
placement or release as provided in sections 6111.01 to 6111.08 of 2716
the Revised Code or if the person's application for renewal of 2717
such a permit is pending. 2718

(C) No person to whom a permit has been issued shall place or 2719
discharge, or cause to be placed or discharged, in any waters of 2720
the state any sewage, sludge, sludge materials, industrial waste, 2721
or other wastes in excess of the permissive discharges specified 2722
under an existing permit without first receiving a permit from the 2723
director to do so. 2724

(D) No person to whom a sludge management permit has been 2725
issued shall place on the land or release into the air of the 2726

state any sludge or sludge materials in excess of the permissive 2727
amounts specified under the existing sludge management permit 2728
without first receiving a modification of the existing sludge 2729
management permit or a new sludge management permit to do so from 2730
the director. 2731

(E) The director may require the submission of plans, 2732
specifications, and other information that the director considers 2733
relevant in connection with the issuance of permits. 2734

(F) This section does not apply to any of the following: 2735

(1) Waters used in washing sand, gravel, other aggregates, or 2736
mineral products when the washing and the ultimate disposal of the 2737
water used in the washing, including any sewage, industrial waste, 2738
or other wastes contained in the waters, are entirely confined to 2739
the land under the control of the person engaged in the recovery 2740
and processing of the sand, gravel, other aggregates, or mineral 2741
products and do not result in the pollution of waters of the 2742
state; 2743

(2) Water, gas, or other material injected into a well to 2744
facilitate, or that is incidental to, the production of oil, gas, 2745
artificial brine, or water derived in association with oil or gas 2746
production and disposed of in a well, in compliance with a permit 2747
issued under Chapter 1509. of the Revised Code, or sewage, 2748
industrial waste, or other wastes injected into a well in 2749
compliance with an injection well operating permit. Division 2750

(F)(2) of this section does not authorize, without a permit, any 2751
discharge that is prohibited by, or for which a permit is required 2752
by, regulation of the United States environmental protection 2753
agency. 2754

(3) Application of any materials to land for agricultural 2755
purposes or runoff of the materials from that application or 2756
pollution by animal waste or soil sediment, including attached 2757

substances, resulting from farming, silvicultural, or earthmoving 2758
activities regulated by Chapter 307. or 1511. of the Revised Code. 2759
Division (F)(3) of this section does not authorize, without a 2760
permit, any discharge that is prohibited by, or for which a permit 2761
is required by, the Federal Water Pollution Control Act or 2762
regulations adopted under it. 2763

(4) The excrement of domestic and farm animals defecated on 2764
land or runoff therefrom into any waters of the state. Division 2765
(F)(4) of this section does not authorize, without a permit, any 2766
discharge that is prohibited by, or for which a permit is required 2767
by, the Federal Water Pollution Control Act or regulations adopted 2768
under it. 2769

(5) On and after the date on which the United States 2770
environmental protection agency approves the NPDES program 2771
submitted by the director of agriculture under section 903.08 of 2772
the Revised Code, any discharge that is within the scope of the 2773
approved NPDES program submitted by the director of agriculture; 2774

(6) The discharge of sewage, industrial waste, or other 2775
wastes into a sewerage system tributary to a treatment works. 2776
Division (F)(6) of this section does not authorize any discharge 2777
into a publicly owned treatment works in violation of a 2778
pretreatment program applicable to the publicly owned treatment 2779
works. 2780

(7) A household sewage treatment system or a small flow 2781
on-site sewage treatment system, as applicable, as defined in 2782
section 3718.01 of the Revised Code that is installed in 2783
compliance with Chapter 3718. of the Revised Code and rules 2784
adopted under it. Division (F)(7) of this section does not 2785
authorize, without a permit, any discharge that is prohibited by, 2786
or for which a permit is required by, regulation of the United 2787
States environmental protection agency. 2788

(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)(8) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(9) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the chief of the division of mineral resources management in the department of natural resources under section 1513.55 of the Revised Code, any discharge that is within the scope of the approved NPDES program submitted by the chief. The chief shall administer and enforce NPDES permits within the scope of that approved NPDES program.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. Except as otherwise provided in this division, the director of environmental protection shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code. On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, the director of agriculture shall administer and enforce those permits within this state that are issued for any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture. On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the chief of the division of mineral resources management under section 1513.55 of the Revised Code, the chief shall administer and enforce those permits within this state that are issued for any discharge that is within the

scope of the approved NPDES program submitted by the chief. 2821

Sec. 6111.44. (A) Except as otherwise provided in division 2822
(B) of this section, in section 6111.14 of the Revised Code, or in 2823
rules adopted under division (G) of section 6111.03 of the Revised 2824
Code, no municipal corporation, county, public institution, 2825
corporation, or officer or employee thereof or other person shall 2826
provide or install sewerage or treatment works for sewage, sludge, 2827
or sludge materials disposal or treatment or make a change in any 2828
sewerage or treatment works until the plans therefor have been 2829
submitted to and approved by the director of environmental 2830
protection. Sections 6111.44 to 6111.46 of the Revised Code apply 2831
to sewerage and treatment works of a municipal corporation or part 2832
thereof, an unincorporated community, a county sewer district, or 2833
other land outside of a municipal corporation or any publicly or 2834
privately owned building or group of buildings or place, used for 2835
the assemblage, entertainment, recreation, education, correction, 2836
hospitalization, housing, or employment of persons. 2837

In granting an approval, the director may stipulate 2838
modifications, conditions, and rules that the public health and 2839
prevention of pollution may require. Any action taken by the 2840
director shall be a matter of public record and shall be entered 2841
in the director's journal. Each period of thirty days that a 2842
violation of this section continues, after a conviction for the 2843
violation, constitutes a separate offense. 2844

(B) Sections 6111.45 and 6111.46 of the Revised Code and 2845
division (A) of this section do not apply to any of the following: 2846

(1) Sewerage or treatment works for sewage installed or to be 2847
installed for the use of a private residence or dwelling; 2848

(2) Sewerage systems, treatment works, or disposal systems 2849
for storm water from an animal feeding facility or manure, as 2850
"animal feeding facility" and "manure" are defined in section 2851

903.01 of the Revised Code;	2852
(3) Animal waste treatment or disposal works and related management and conservation practices that are subject to rules adopted under division (E)(2) of section 1511.02 of the Revised Code;	2853 2854 2855 2856
(4) Sewerage or treatment works for the on-lot disposal or treatment of sewage from a small flow on-site sewage treatment system, as defined in section 3718.01 of the Revised Code, if the board of health of a city or general health district has notified the director of health and the director of environmental protection under section 3718.021 of the Revised Code that the board has chosen to regulate the system, provided that the board remains in compliance with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code;	2857 2858 2859 2860 2861 2862 2863 2864 2865
<u>(5) On and after the date on which the chief of the division of mineral resources management in the department of natural resources has finalized the permit to install program required under section 1513.53 of the Revised Code, disposal systems at coal mining and reclamation operations that are regulated under Chapter 1513. of the Revised Code. The chief shall administer and enforce permits to install within the scope of that program.</u>	2866 2867 2868 2869 2870 2871 2872
The exclusions established in divisions (B)(2) and (3) of this section do not apply to the construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works.	2873 2874 2875 2876 2877 2878 2879
Section 4. That the existing versions of sections 6111.04 and 6111.44 of the Revised Code that are scheduled to take effect July 1, 2009, are hereby repealed.	2880 2881 2882

Section 5. Sections 3 and 4 of this act shall take effect 2883
July 1, 2009. 2884

Section 6. (A) On the date on which the chief of the Division 2885
of Mineral Resources Management in the Department of Natural 2886
Resources has finalized the program required under division (A)(1) 2887
of section 1513.53 of the Revised Code, as enacted by this act, 2888
the Director of Environmental Protection shall provide the Chief 2889
with both of the following: 2890

(1) Copies of all permits issued under division (J)(1) of 2891
section 6111.03 of the Revised Code for the installation of 2892
disposal systems at coal mining and reclamation operations that 2893
were issued on or before that date together with any related 2894
information that the Chief requests; 2895

(2) All permit applications and accompanying information for 2896
the installation of disposal systems at coal mining and 2897
reclamation operations that were submitted under division (J)(1) 2898
of section 6111.03 of the Revised Code prior to the date specified 2899
in division (A) of this section. 2900

(B) On the date on which the United States Environmental 2901
Protection Agency approves the NPDES program submitted by the 2902
Chief of the Division of Mineral Resources Management under 2903
section 1513.55 of the Revised Code, as enacted by this act, the 2904
Director of Environmental Protection shall provide the Chief with 2905
all of the following: 2906

(1) Copies of all NPDES permits issued under division (J)(1) 2907
of section 6111.03 of the Revised Code applicable to coal mining 2908
and reclamation operations that were issued on or before that date 2909
together with any related information that the Chief requests; 2910

(2) All NPDES permit applications and accompanying 2911
information that pertain to coal mining and reclamation operations 2912

that were submitted under division (J)(1) of section 6111.03 of 2913
the Revised Code prior to the date specified in division (B) of 2914
this section; 2915

(3) Information identifying all coal mining and reclamation 2916
operations that are covered by or have applied for coverage under 2917
a general permit issued under section 6111.035 of the Revised Code 2918
on or prior to the date specified in division (B) of this section, 2919
as applicable. 2920

(C) As used in this section, "coal mining and reclamation 2921
operations" means coal mining and reclamation operations that are 2922
regulated under Chapter 1513. of the Revised Code. 2923