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**Am. Sub. H. B. No. 163**

**Representative Balderson**

**Cosponsors: Representatives Carey, Derickson, Boose, Adams, J.,  
Blessing, Combs, Hackett, Stebelton, Buchy, Amstutz, Anielski, Barnes,  
Beck, Blair, Bubp, Burke, Dovilla, Gardner, Garland, Gerberry, Grossman,  
Hagan, C., Hayes, Hottinger, Letson, Lundy, Maag, Mallory, Martin, McClain,  
Mecklenborg, Newbold, Peterson, Roegner, Ruhl, Slaby, Stautberg, Szollosi,  
Thompson, Uecker, Wachtmann**

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**A B I L L**

To amend sections 1513.07, 1513.073, 1513.075, 1  
1513.081, 1513.16, 1513.18, and 1513.371 of the 2  
Revised Code to revise the coal mining laws 3  
regarding permit application, set-back, and 4  
alternative water treatment or supply 5  
requirements. 6

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

**Section 1.** That sections 1513.07, 1513.073, 1513.075, 7  
1513.081, 1513.16, 1513.18, and 1513.371 of the Revised Code be 8  
amended to read as follows: 9

**Sec. 1513.07.** (A)(1) No operator shall conduct a coal mining 10  
operation without a permit for the operation issued by the chief 11  
of the division of mineral resources management. 12

(2) All permits issued pursuant to this chapter shall be 13  
issued for a term not to exceed five years, except that, if the 14

applicant demonstrates that a specified longer term is reasonably 15  
needed to allow the applicant to obtain necessary financing for 16  
equipment and the opening of the operation and if the application 17  
is full and complete for the specified longer term, the chief may 18  
grant a permit for the longer term. A successor in interest to a 19  
permittee who applies for a new permit within thirty days after 20  
succeeding to the interest and who is able to obtain the 21  
performance security of the original permittee may continue coal 22  
mining and reclamation operations according to the approved mining 23  
and reclamation plan of the original permittee until the 24  
successor's application is granted or denied. 25

(3) A permit shall terminate if the permittee has not 26  
commenced the coal mining operations covered by the permit within 27  
three years after the issuance of the permit, except that the 28  
chief may grant reasonable extensions of the time upon a showing 29  
that the extensions are necessary by reason of litigation 30  
precluding the commencement or threatening substantial economic 31  
loss to the permittee or by reason of conditions beyond the 32  
control and without the fault or negligence of the permittee, and 33  
except that with respect to coal to be mined for use in a 34  
synthetic fuel facility or specified major electric generating 35  
facility, the permittee shall be deemed to have commenced coal 36  
mining operations at the time construction of the synthetic fuel 37  
or generating facility is initiated. 38

(4)(a) Any permit issued pursuant to this chapter shall carry 39  
with it the right of successive renewal upon expiration with 40  
respect to areas within the boundaries of the permit. The holders 41  
of the permit may apply for renewal and the renewal shall be 42  
issued unless the chief determines by written findings, subsequent 43  
to fulfillment of the public notice requirements of this section 44  
and section 1513.071 of the Revised Code through demonstrations by 45  
opponents of renewal or otherwise, that one or more of the 46

following circumstances exists:	47
(i) The terms and conditions of the existing permit are not being satisfactorily met.	48 49
(ii) The present coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter.	50 51 52
(iii) The renewal requested substantially jeopardizes the operator's continuing responsibilities on existing permit areas.	53 54
(iv) The applicant has not provided evidence that the performance security in effect for the operation will continue in effect for any renewal requested in the application.	55 56 57
(v) Any additional, revised, or updated information required by the chief has not been provided. Prior to the approval of any renewal of a permit, the chief shall provide notice to the appropriate public authorities as prescribed by rule of the chief.	58 59 60 61
(b) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter.	62 63 64 65 66 67
(c) A permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.	68 69 70 71
(5) A permit issued pursuant to this chapter does not eliminate the requirements for obtaining a permit to install or modify a disposal system or any part thereof or to discharge sewage, industrial waste, or other wastes into the waters of the state in accordance with Chapter 6111. of the Revised Code.	72 73 74 75 76

(B)(1) The permit application shall be submitted in a manner	77
satisfactory to the chief and shall contain, among other things,	78
all of the following:	79
(a) The names and addresses of all of the following:	80
(i) The permit applicant;	81
(ii) Every legal owner of record of the property, surface and	82
mineral, to be mined;	83
(iii) The holders of record of any leasehold interest in the	84
property;	85
(iv) Any purchaser of record of the property under a real	86
estate contract;	87
(v) The operator if different from the applicant;	88
(vi) If any of these are business entities other than a	89
single proprietor, the names and addresses of the principals,	90
officers, and statutory agent for service of process.	91
(b) The names and addresses of the owners of record of all	92
surface and subsurface areas adjacent to any part of the permit	93
area;	94
(c) A statement of any current or previous coal mining	95
permits in the United States held by the applicant, the permit	96
identification, and any pending applications;	97
(d) If the applicant is a partnership, corporation,	98
association, or other business entity, the following where	99
applicable: the names and addresses of every officer, partner,	100
director, or person performing a function similar to a director,	101
of the applicant, the name and address of any person owning, of	102
record, ten per cent or more of any class of voting stock of the	103
applicant, a list of all names under which the applicant, partner,	104
or principal shareholder previously operated a coal mining	105
operation within the United States within the five-year period	106

preceding the date of submission of the application, and a list of 107  
the person or persons primarily responsible for ensuring that the 108  
applicant complies with the requirements of this chapter and rules 109  
adopted pursuant thereto while mining and reclaiming under the 110  
permit; 111

(e) A statement of whether the applicant, any subsidiary, 112  
affiliate, or persons controlled by or under common control with 113  
the applicant, any partner if the applicant is a partnership, any 114  
officer, principal shareholder, or director if the applicant is a 115  
corporation, or any other person who has a right to control or in 116  
fact controls the management of the applicant or the selection of 117  
officers, directors, or managers of the applicant: 118

(i) Has ever held a federal or state coal mining permit that 119  
in the five-year period prior to the date of submission of the 120  
application has been suspended or revoked or has had a coal mining 121  
bond, performance security, or similar security deposited in lieu 122  
of bond forfeited and, if so, a brief explanation of the facts 123  
involved; 124

(ii) Has been an officer, partner, director, principal 125  
shareholder, or person having the right to control or has in fact 126  
controlled the management of or the selection of officers, 127  
directors, or managers of a business entity that has had a coal 128  
mining or surface mining permit that in the five-year period prior 129  
to the date of submission of the application has been suspended or 130  
revoked or has had a coal mining or surface mining bond, 131  
performance security, or similar security deposited in lieu of 132  
bond forfeited and, if so, a brief explanation of the facts 133  
involved. 134

(f) A copy of the applicant's advertisement to be published 135  
in a newspaper of general circulation in the locality of the 136  
proposed site at least once a week for four successive weeks, 137  
which shall include the ownership of the proposed mine, a 138

description of the exact location and boundaries of the proposed 139  
site sufficient to make the proposed operation readily 140  
identifiable by local residents, and the location where the 141  
application is available for public inspection; 142

(g) A description of the type and method of coal mining 143  
operation that exists or is proposed, the engineering techniques 144  
proposed or used, and the equipment used or proposed to be used; 145

(h) The anticipated or actual starting and termination dates 146  
of each phase of the mining operation and number of acres of land 147  
to be affected; 148

(i) An accurate map or plan, to an appropriate scale, clearly 149  
showing the land to be affected and the land upon which the 150  
applicant has the legal right to enter and commence coal mining 151  
operations, copies of those documents upon which is based the 152  
applicant's legal right to enter and commence coal mining 153  
operations, and a statement whether that right is the subject of 154  
pending litigation. This chapter does not authorize the chief to 155  
adjudicate property title disputes. 156

(j) The name of the watershed and location of the surface 157  
stream or tributary into which drainage from the operation will be 158  
discharged; 159

(k) A determination of the probable hydrologic consequences 160  
of the mining and reclamation operations, both on and off the mine 161  
site, with respect to the hydrologic regime, providing information 162  
on the quantity and quality of water in surface and ground water 163  
systems including the dissolved and suspended solids under 164  
seasonal flow conditions and the collection of sufficient data for 165  
the mine site and surrounding areas so that an assessment can be 166  
made by the chief of the probable cumulative impacts of all 167  
anticipated mining in the area upon the hydrology of the area and 168  
particularly upon water availability, but this determination shall 169

not be required until hydrologic information of the general area 170  
prior to mining is made available from an appropriate federal or 171  
state agency; however, the permit shall not be approved until the 172  
information is available and is incorporated into the application; 173

(l) When requested by the chief, the climatological factors 174  
that are peculiar to the locality of the land to be affected, 175  
including the average seasonal precipitation, the average 176  
direction and velocity of prevailing winds, and the seasonal 177  
temperature ranges; 178

(m) Accurate maps prepared by or under the direction of and 179  
certified by a qualified registered professional engineer, 180  
registered surveyor, or licensed landscape architect to an 181  
appropriate scale clearly showing all types of information set 182  
forth on topographical maps of the United States geological survey 183  
of a scale of not more than four hundred feet to the inch, 184  
including all artificial features and significant known 185  
archeological sites. The map, among other things specified by the 186  
chief, shall show all boundaries of the land to be affected, the 187  
boundary lines and names of present owners of record of all 188  
surface areas abutting the permit area, and the location of all 189  
buildings within one thousand feet of the permit area. 190

(n)(i) Cross-section maps or plans of the land to be affected 191  
including the actual area to be mined, prepared by or under the 192  
direction of and certified by a qualified registered professional 193  
engineer or certified professional geologist with assistance from 194  
experts in related fields such as hydrology, hydrogeology, 195  
geology, and landscape architecture, showing pertinent elevations 196  
and locations of test borings or core samplings and depicting the 197  
following information: the nature and depth of the various strata 198  
of overburden; the nature and thickness of any coal or rider seam 199  
above the coal seam to be mined; the nature of the stratum 200  
immediately beneath the coal seam to be mined; all mineral crop 201

lines and the strike and dip of the coal to be mined within the 202  
area to be affected; existing or previous coal mining limits; the 203  
location and extent of known workings of any underground mines, 204  
including mine openings to the surface; the location of spoil, 205  
waste, or refuse areas and topsoil preservation areas; the 206  
location of all impoundments for waste or erosion control; any 207  
settling or water treatment facility; constructed or natural 208  
drainways and the location of any discharges to any surface body 209  
of water on the land to be affected or adjacent thereto; profiles 210  
at appropriate cross sections of the anticipated final surface 211  
configuration that will be achieved pursuant to the operator's 212  
proposed reclamation plan; the location of subsurface water, if 213  
encountered; the location and quality of aquifers; and the 214  
estimated elevation of the water table. Registered surveyors shall 215  
be allowed to perform all plans, maps, and certifications under 216  
this chapter as they are authorized under Chapter 4733. of the 217  
Revised Code. 218

(ii) A statement of the quality and locations of subsurface 219  
water. The chief shall provide by rule the number of locations to 220  
be sampled, frequency of collection, and parameters to be analyzed 221  
to obtain the statement required. 222

(o) A statement of the results of test borings or core 223  
samplings from the permit area, including logs of the drill holes, 224  
the thickness of the coal seam found, an analysis of the chemical 225  
properties of the coal, the sulfur content of any coal seam, 226  
chemical analysis of potentially acid or toxic forming sections of 227  
the overburden, and chemical analysis of the stratum lying 228  
immediately underneath the coal to be mined, except that this 229  
division may be waived by the chief with respect to the specific 230  
application by a written determination that its requirements are 231  
unnecessary. If the test borings or core samplings from the permit 232  
area indicate the existence of potentially acid forming or toxic 233



forming quantities of sulfur in the coal or overburden to be 234  
disturbed by mining, the application also shall include a 235  
statement of the acid generating potential and the acid 236  
neutralizing potential of the rock strata to be disturbed as 237  
calculated in accordance with the calculation method established 238  
under section 1513.075 of the Revised Code or with another 239  
calculation method. 240

(p) For those lands in the permit application that a 241  
reconnaissance inspection suggests may be prime farmlands, a soil 242  
survey shall be made or obtained according to standards 243  
established by the secretary of the United States department of 244  
agriculture in order to confirm the exact location of the prime 245  
farmlands, if any; 246

(q) A certificate issued by an insurance company authorized 247  
to do business in this state certifying that the applicant has a 248  
public liability insurance policy in force for the coal mining and 249  
reclamation operations for which the permit is sought or evidence 250  
that the applicant has satisfied other state self-insurance 251  
requirements. The policy shall provide for personal injury and 252  
property damage protection in an amount adequate to compensate any 253  
persons damaged as a result of coal mining and reclamation 254  
operations, including the use of explosives, and entitled to 255  
compensation under the applicable provisions of state law. The 256  
policy shall be maintained in effect during the term of the permit 257  
or any renewal, including the length of all reclamation 258  
operations. The insurance company shall give prompt notice to the 259  
permittee and the chief if the public liability insurance policy 260  
lapses for any reason including the nonpayment of insurance 261  
premiums. Upon the lapse of the policy, the chief may suspend the 262  
permit and all other outstanding permits until proper insurance 263  
coverage is obtained. 264

(r) The business telephone number of the applicant; 265

(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.

(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.

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

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

(ii) The development of cross-section maps and plans required

under division (B)(1)(n)(i) of this section;	298
(iii) The geologic drilling and statement of results of test borings and core samplings required under division (B)(1)(o) of this section;	299 300 301
(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;	302 303 304 305
(v) Pre-blast surveys required under division (E) of section 1513.161 of the Revised Code;	306 307
(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.	308 309 310 311
(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.	312 313 314 315 316 317 318
(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.	319 320 321
(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 inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur.	322 323 324 325 326 327

(6) Each applicant for a coal mining and reclamation permit 328  
shall submit to the chief as part of the permit application a 329  
blasting plan that describes the procedures and standards by which 330  
the operator will comply with section 1513.161 of the Revised 331  
Code. 332

(C) Each reclamation plan submitted as part of a permit 333  
application shall include, in the detail necessary to demonstrate 334  
that reclamation required by this chapter can be accomplished and 335  
in the detail necessary for the chief to determine the estimated 336  
cost of reclamation if the reclamation has to be performed by the 337  
division of mineral resources management in the event of 338  
forfeiture of the performance security by the applicant, a 339  
statement of: 340

(1) The identification of the lands subject to coal mining 341  
operations over the estimated life of those operations and the 342  
size, sequence, and timing of the subareas for which it is 343  
anticipated that individual permits for mining will be sought; 344

(2) The condition of the land to be covered by the permit 345  
prior to any mining, including all of the following: 346

(a) The uses existing at the time of the application and, if 347  
the land has a history of previous mining, the uses that preceded 348  
any mining; 349

(b) The capability of the land prior to any mining to support 350  
a variety of uses, giving consideration to soil and foundation 351  
characteristics, topography, and vegetative cover and, if 352  
applicable, a soil survey prepared pursuant to division (B)(1)(p) 353  
of this section; 354

(c) The productivity of the land prior to mining, including 355  
appropriate classification as prime farmlands as well as the 356  
average yield of food, fiber, forage, or wood products obtained 357  
from the land under high levels of management. 358

(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 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;

(9) The steps to be taken to comply with applicable air and 390  
water quality laws and regulations and any applicable health and 391  
safety standards; 392

(10) A description of the degree to which the reclamation 393  
plan is consistent with local physical, environmental, and 394  
climatological conditions; 395

(11) A description of all lands, interests in lands, or 396  
options on such interests held by the applicant or pending bids on 397  
interests in lands by the applicant, which lands are contiguous to 398  
the area to be covered by the permit; 399

(12) The results of test borings that the applicant has made 400  
at the area to be covered by the permit, or other equivalent 401  
information and data in a form satisfactory to the chief, 402  
including the location of subsurface water, and an analysis of the 403  
chemical properties, including acid forming properties of the 404  
mineral and overburden; except that information that pertains only 405  
to the analysis of the chemical and physical properties of the 406  
coal, excluding information regarding mineral or elemental 407  
contents that are potentially toxic in the environment, shall be 408  
kept confidential and not made a matter of public record; 409

(13) A detailed description of the measures to be taken 410  
during the mining and reclamation process to ensure the protection 411  
of all of the following: 412

(a) The quality of surface and ground water systems, both on- 413  
and off-site, from adverse effects of the mining and reclamation 414  
process; 415

(b) The rights of present users to such water; 416

(c) The quantity of surface and ground water systems, both 417  
on- and off-site, from adverse effects of the mining and 418  
reclamation process or, where such protection of quantity cannot 419  
be assured, provision of alternative sources of water. 420

(14) Any other requirements the chief prescribes by rule. 421

(D)(1) Any information required by division (C) of this 422  
section that is not on public file pursuant to this chapter shall 423  
be held in confidence by the chief. 424

(2) With regard to requests for an exemption from the 425  
requirements of this chapter for coal extraction incidental to the 426  
extraction of other minerals, as described in division (H)(1)(a) 427  
of section 1513.01 of the Revised Code, confidential information 428  
includes and is limited to information concerning trade secrets or 429  
privileged commercial or financial information relating to the 430  
competitive rights of the persons intending to conduct the 431  
extraction of minerals. 432

(E)(1) Upon the basis of a complete mining application and 433  
reclamation plan or a revision or renewal thereof, as required by 434  
this chapter, and information obtained as a result of public 435  
notification and public hearing, if any, as provided by section 436  
1513.071 of the Revised Code, the chief shall grant, require 437  
modification of, or deny the application for a permit and notify 438  
the applicant in writing in accordance with division (I)(3) of 439  
this section. An application is deemed to be complete as submitted 440  
to the chief unless the chief, within fourteen days of the 441  
submission, identifies deficiencies in the application in writing 442  
and subsequently submits a copy of a written list of deficiencies 443  
to the applicant. 444

A decision of the chief denying a permit shall state in 445  
writing the specific reasons for the denial. 446

The applicant for a permit or revision of a permit has the 447  
burden of establishing that the application is in compliance with 448  
all the requirements of this chapter. Within ten days after the 449  
granting of a permit, the chief shall notify the boards of 450  
township trustees and county commissioners, the mayor, and the 451

legislative authority in the township, county, and municipal 452  
corporation in which the area of land to be affected is located 453  
that a permit has been issued and shall describe the location of 454  
the land. However, failure of the chief to notify the local 455  
officials shall not affect the status of the permit. 456

(2) No permit application or application for revision of an 457  
existing permit shall be approved unless the application 458  
affirmatively demonstrates and the chief finds in writing on the 459  
basis of the information set forth in the application or from 460  
information otherwise available, which shall be documented in the 461  
approval and made available to the applicant, all of the 462  
following: 463

(a) The application is accurate and complete and all the 464  
requirements of this chapter have been complied with. 465

(b) The applicant has demonstrated that the reclamation 466  
required by this chapter can be accomplished under the reclamation 467  
plan contained in the application. 468

(c)(i) Assessment of the probable cumulative impact of all 469  
anticipated mining in the general and adjacent area on the 470  
hydrologic balance specified in division (B)(1)(k) of this section 471  
has been made by the chief, and the proposed operation has been 472  
designed to prevent material damage to hydrologic balance outside 473  
the permit area. 474

(ii) There shall be an ongoing process conducted by the chief 475  
in cooperation with other state and federal agencies to review all 476  
assessments of probable cumulative impact of coal mining in light 477  
of post-mining data and any other hydrologic information as it 478  
becomes available to determine if the assessments were realistic. 479  
The chief shall take appropriate action as indicated in the review 480  
process. 481

(d) The area proposed to be mined is not included within an 482



area designated unsuitable for coal mining pursuant to section 483  
1513.073 of the Revised Code or is not within an area under study 484  
for such designation in an administrative proceeding commenced 485  
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 486  
Revised Code unless in an area as to which an administrative 487  
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 488  
section 1513.073 of the Revised Code, the operator making the 489  
permit application demonstrates that, prior to January 1, 1977, 490  
the operator made substantial legal and financial commitments in 491  
relation to the operation for which a permit is sought. 492

(e) In cases where the private mineral estate has been 493  
severed from the private surface estate and surface disturbance 494  
will result from the applicant's proposed use of a strip mining 495  
method, the applicant has submitted to the chief one of the 496  
following: 497

(i) The written consent of the surface owner to the surface 498  
disturbance that will result from the extraction of coal by the 499  
applicant's proposed strip mining methods method; 500

(ii) A conveyance that expressly grants or reserves the right 501  
to extract the coal by strip mining methods that cause surface 502  
disturbance; 503

(iii) If the conveyance does not expressly grant the right to 504  
extract coal by strip mining methods that cause surface 505  
disturbance, the surface-subsurface legal relationship concerning 506  
surface disturbance shall be determined under the law of this 507  
state. This chapter does not authorize the chief to adjudicate 508  
property rights disputes. 509

(3)(a) The applicant shall file with the permit application a 510  
schedule listing all notices of violations of any law, rule, or 511  
regulation of the United States or of any department or agency 512  
thereof or of any state pertaining to air or water environmental 513

protection incurred by the applicant in connection with any coal 514  
mining operation during the three-year period prior to the date of 515  
application. The schedule also shall indicate the final resolution 516  
of such a notice of violation. Upon receipt of an application, the 517  
chief shall provide a schedule listing all notices of violations 518  
of this chapter pertaining to air or water environmental 519  
protection incurred by the applicant during the three-year period 520  
prior to receipt of the application and the final resolution of 521  
all such notices of violation. The chief shall provide this 522  
schedule to the applicant for filing by the applicant with the 523  
application filed for public review, as required by division 524  
(B)(5) of this section. When the schedule or other information 525  
available to the chief indicates that any coal mining operation 526  
owned or controlled by the applicant is currently in violation of 527  
such laws, the permit shall not be issued until the applicant 528  
submits proof that the violation has been corrected or is in the 529  
process of being corrected to the satisfaction of the regulatory 530  
authority, department, or agency that has jurisdiction over the 531  
violation and that any civil penalties owed to the state for a 532  
violation and not the subject of an appeal have been paid. No 533  
permit shall be issued to an applicant after a finding by the 534  
chief that the applicant or the operator specified in the 535  
application controls or has controlled mining operations with a 536  
demonstrated pattern of willful violations of this chapter of a 537  
nature and duration to result in irreparable damage to the 538  
environment as to indicate an intent not to comply with or a 539  
disregard of this chapter. 540

(b) For the purposes of division (E)(3)(a) of this section, 541  
any violation resulting from an unanticipated event or condition 542  
at a surface coal mining operation on lands eligible for remining 543  
under a permit held by the person submitting an application for a 544  
coal mining permit under this section shall not prevent issuance 545  
of that permit. As used in this division, "unanticipated event or 546

condition" means an event or condition encountered in a remining 547  
operation that was not contemplated by the applicable surface coal 548  
mining and reclamation permit. 549

(4)(a) In addition to finding the application in compliance 550  
with division (E)(2) of this section, if the area proposed to be 551  
mined contains prime farmland as determined pursuant to division 552  
(B)(1)(p) of this section, the chief, after consultation with the 553  
secretary of the United States department of agriculture and 554  
pursuant to regulations issued by the secretary of the interior 555  
with the concurrence of the secretary of agriculture, may grant a 556  
permit to mine on prime farmland if the chief finds in writing 557  
that the operator has the technological capability to restore the 558  
mined area, within a reasonable time, to equivalent or higher 559  
levels of yield as nonmined prime farmland in the surrounding area 560  
under equivalent levels of management and can meet the soil 561  
reconstruction standards in section 1513.16 of the Revised Code. 562

(b) Division (E)(4)(a) of this section does not apply to a 563  
permit issued prior to August 3, 1977, or revisions or renewals 564  
thereof. 565

(5) The chief shall issue an order denying a permit after 566  
finding that the applicant has misrepresented or omitted any 567  
material fact in the application for the permit. 568

(6) The chief may issue an order denying a permit after 569  
finding that the applicant, any partner, if the applicant is a 570  
partnership, any officer, principal shareholder, or director, if 571  
the applicant is a corporation, or any other person who has a 572  
right to control or in fact controls the management of the 573  
applicant or the selection of officers, directors, or managers of 574  
the applicant has been a sole proprietor or partner, officer, 575  
director, principal shareholder, or person having the right to 576  
control or has in fact controlled the management of or the 577  
selection of officers, directors, or managers of a business entity 578

that ever has had a coal mining license or permit issued by this 579  
or any other state or the United States suspended or revoked, ever 580  
has forfeited a coal or surface mining bond, performance security, 581  
or similar security deposited in lieu of bond in this or any other 582  
state or with the United States, or ever has substantially or 583  
materially failed to comply with this chapter. 584

(7) When issuing a permit under this section, the chief may 585  
authorize an applicant to conduct coal mining and reclamation 586  
operations on areas to be covered by the permit that were affected 587  
by coal mining operations before August 3, 1977, that have 588  
resulted in continuing water pollution from or on the previously 589  
mined areas for the purpose of potentially reducing the pollution 590  
loadings of pH, iron, and manganese from discharges from or on the 591  
previously mined areas. Following the chief's authorization to 592  
conduct such operations on those areas, the areas shall be 593  
designated as pollution abatement areas for the purposes of this 594  
chapter. 595

The chief shall not grant an authorization under division 596  
(E)(7) of this section to conduct coal mining and reclamation 597  
operations on any such previously mined areas unless the applicant 598  
demonstrates to the chief's satisfaction that all of the following 599  
conditions are met: 600

(a) The applicant's pollution abatement plan for mining and 601  
reclaiming the previously mined areas represents the best 602  
available technology economically achievable. 603

(b) Implementation of the plan will potentially reduce 604  
pollutant loadings of pH, iron, and manganese resulting from 605  
discharges of surface waters or ground water from or on the 606  
previously mined areas within the permit area. 607

(c) Implementation of the plan will not cause any additional 608  
degradation of surface water quality off the permit area with 609

respect to pH, iron, and manganese. 610

(d) Implementation of the plan will not cause any additional 611  
degradation of ground water. 612

(e) The plan meets the requirements governing mining and 613  
reclamation of such previously mined pollution abatement areas 614  
established by the chief in rules adopted under section 1513.02 of 615  
the Revised Code. 616

(f) Neither the applicant; any partner, if the applicant is a 617  
partnership; any officer, principal shareholder, or director, if 618  
the applicant is a corporation; any other person who has a right 619  
to control or in fact controls the management of the applicant or 620  
the selection of officers, directors, or managers of the 621  
applicant; nor any contractor or subcontractor of the applicant, 622  
has any of the following: 623

(i) Responsibility or liability under this chapter or rules 624  
adopted under it as an operator for treating the discharges of 625  
water pollutants from or on the previously mined areas for which 626  
the authorization is sought; 627

(ii) Any responsibility or liability under this chapter or 628  
rules adopted under it for reclaiming the previously mined areas 629  
for which the authorization is sought; 630

(iii) During the eighteen months prior to submitting the 631  
permit application requesting an authorization under division 632  
(E)(7) of this section, had a coal mining and reclamation permit 633  
suspended or revoked under division (D)(3) of section 1513.02 of 634  
the Revised Code for violating this chapter or Chapter 6111. of 635  
the Revised Code or rules adopted under them with respect to water 636  
quality, effluent limitations, or surface or ground water 637  
monitoring; 638

(iv) Ever forfeited a coal or surface mining bond, 639  
performance security, or similar security deposited in lieu of a 640

bond in this or any other state or with the United States. 641

(8) In the case of the issuance of a permit that involves a 642  
conflict of results between various methods of calculating 643  
potential acidity and neutralization potential for purposes of 644  
assessing the potential for acid mine drainage to occur at a mine 645  
site, the permit shall include provisions for monitoring and 646  
record keeping to identify the creation of unanticipated acid 647  
water at the mine site. If the monitoring detects the creation of 648  
acid water at the site, the permit shall impose on the permittee 649  
additional requirements regarding mining practices and site 650  
reclamation to prevent the discharge of acid mine drainage from 651  
the mine site. As used in division (E)(8) of this section, 652  
"potential acidity" and "neutralization potential" have the same 653  
meanings as in section 1513.075 of the Revised Code. 654

(F)(1) During the term of the permit, the permittee may 655  
submit an application for a revision of the permit, together with 656  
a revised reclamation plan, to the chief. 657

(2) An application for a revision of a permit shall not be 658  
approved unless the chief finds that reclamation required by this 659  
chapter can be accomplished under the revised reclamation plan. 660  
The revision shall be approved or disapproved within ninety days 661  
after receipt of a complete revision application. The chief shall 662  
establish, by rule, criteria for determining the extent to which 663  
all permit application information requirements and procedures, 664  
including notice and hearings, shall apply to the revision 665  
request, except that any revisions that propose significant 666  
alterations in the reclamation plan, at a minimum, shall be 667  
subject to notice and hearing requirements. 668

(3) Any extensions to the area covered by the permit except 669  
incidental boundary revisions shall be made by application for a 670  
permit. 671

(G) No transfer, assignment, or sale of the rights granted 672  
under a permit issued pursuant to this chapter shall be made 673  
without the written approval of the chief. 674

(H) The chief, within a time limit prescribed in the chief's 675  
rules, shall review outstanding permits and may require reasonable 676  
revision or modification of a permit. A revision or modification 677  
shall be based upon a written finding and subject to notice and 678  
hearing requirements established by rule of the chief. 679

(I)(1) If an informal conference has been held pursuant to 680  
section 1513.071 of the Revised Code, the chief shall issue and 681  
furnish the applicant for a permit, persons who participated in 682  
the informal conference, and persons who filed written objections 683  
pursuant to division (B) of section 1513.071 of the Revised Code, 684  
with the written finding of the chief granting or denying the 685  
permit in whole or in part and stating the reasons therefor within 686  
sixty days of the conference, provided that the chief shall comply 687  
with the time frames established in division (I)(3) of this 688  
section. 689

(2) If there has been no informal conference held pursuant to 690  
section 1513.071 of the Revised Code, the chief shall submit to 691  
the applicant for a permit the written finding of the chief 692  
granting or denying the permit in whole or in part and stating the 693  
reasons therefor within the time frames established in division 694  
(I)(3) of this section. 695

(3) The chief shall grant or deny a permit not later than two 696  
hundred forty days after the submission of a complete application 697  
for the permit. Any time during which the applicant is making 698  
revisions to an application or providing additional information 699  
requested by the chief regarding an application shall not be 700  
included in the two hundred forty days. If the chief determines 701  
that a permit cannot be granted or denied within the 702  
two-hundred-forty-day time frame, the chief, not later than two 703

hundred ten days after the submission of a complete application 704  
for the permit, shall provide the applicant with written notice of 705  
the expected delay. 706

(4) If the application is approved, the permit shall be 707  
issued. If the application is disapproved, specific reasons 708  
therefor shall be set forth in the notification. Within thirty 709  
days after the applicant is notified of the final decision of the 710  
chief on the permit application, the applicant or any person with 711  
an interest that is or may be adversely affected may appeal the 712  
decision to the reclamation commission pursuant to section 1513.13 713  
of the Revised Code. 714

(5) Any applicant or any person with an interest that is or 715  
may be adversely affected who has participated in the 716  
administrative proceedings as an objector and is aggrieved by the 717  
decision of the reclamation commission, or if the commission fails 718  
to act within the time limits specified in this chapter, may 719  
appeal in accordance with section 1513.14 of the Revised Code. 720

**Sec. 1513.073.** (A)(1) Upon petition pursuant to division (B) 721  
of this section, the chief of the division of mineral resources 722  
management shall designate an area as unsuitable for all or 723  
certain types of coal mining operations if the chief determines 724  
that reclamation pursuant to the requirements of this chapter is 725  
not technologically and economically feasible. 726

(2) Upon petition pursuant to division (B) of this section, a 727  
surface area may be designated unsuitable for all or certain types 728  
of coal mining operations if the operations will: 729

(a) Be incompatible with existing state or local land use 730  
plans or programs; 731

(b) Affect fragile or historic lands in which the operations 732  
could result in significant damage to important historic, 733



cultural, scientific, and esthetic values and natural systems; 734

(c) Affect renewable resource lands in which the operations 735  
could result in a substantial loss or reduction of long-range 736  
productivity of water supply or of food or fiber products, or 737  
aquifers and aquifer recharge areas; 738

(d) Affect natural hazard lands in which the operations could 739  
substantially endanger life and property, such lands to include 740  
areas subject to frequent flooding and areas of unstable geology. 741

(3) The chief shall develop the following: 742

(a) A data base and an inventory system that will permit 743  
proper evaluation of the capacity of different land areas of the 744  
state to support and permit reclamation of coal mining operations; 745

(b) A method or methods for implementing land use planning 746  
decisions concerning coal mining operations; 747

(c) Procedures for proper notice and opportunities for public 748  
participation, including a public meeting prior to making any 749  
designation or redesignation, pursuant to this section. 750

(4) Determinations of the unsuitablity of land for coal 751  
mining, as provided for in this section, shall be integrated as 752  
closely as possible with present and future land use planning and 753  
regulation processes at the federal, state, and local levels. 754

(5) The requirements of this section do not apply to lands on 755  
which coal mining operations were being conducted on August 3, 756  
1977, or under a permit issued pursuant to this chapter, or where 757  
substantial legal and financial commitments in the operation were 758  
in existence prior to January 4, 1977. 759

(B) A person having an interest that is or may be adversely 760  
affected may petition the chief to have an area designated as 761  
unsuitable for coal mining operations or to have such a 762  
designation terminated. The petition shall contain allegations of 763

facts with supporting evidence that would tend to establish the 764  
allegations. The chief shall hold a public meeting in the locality 765  
of the affected area, after appropriate notice and publication of 766  
the date, time, and location of the meeting within ninety days 767  
after receipt of the petition, provided that the chief may extend 768  
the time for holding the meeting an additional two hundred ten 769  
days when, in the chief's judgment, such additional time is needed 770  
for adequate review of the petition. Any person may appear at the 771  
meeting and present a statement or evidence regarding the 772  
petition. Within sixty days after the meeting, the chief shall 773  
issue and furnish to the petitioner and any other participant at 774  
the meeting a written decision regarding the petition, and the 775  
reasons therefor. 776

(C) Prior to designating any land areas as unsuitable for 777  
coal mining operations or terminating previous determinations of 778  
unsuitability, the chief shall prepare a detailed statement on: 779

(1) The potential coal resources of the area; 780

(2) The demand for coal resources; 781

(3) The impact of the designation on the environment, the 782  
economy, and the supply of coal. 783

(D) After August 3, 1977, and subject to valid existing 784  
rights, no coal mining operations except those that existed on 785  
August 3, 1977, shall be permitted: 786

(1) On any lands within the boundaries of units of the 787  
national park system, the national wildlife refuge systems, the 788  
national system of trails, the national wilderness preservation 789  
system, the wild and scenic rivers system, including study rivers 790  
designated under section 5(a) of the "Wild and Scenic Rivers Act," 791  
82 Stat. 906 (1968), 16 U.S.C.A. 1274, and national recreation 792  
areas designated by act of congress; 793

(2) On any federal lands within the boundaries of any 794

national forest unless approval is granted by the secretary of the 795  
United States department of the interior; 796

(3) That will adversely affect any publicly owned park or any 797  
places included in the national register of historic sites unless 798  
approved jointly by the chief and the federal, state, or local 799  
agency with jurisdiction over the park or the historic site; 800

(4) Within one hundred feet of the outside right-of-way line 801  
of any public road, measured horizontally, except where mine 802  
access roads or haulage roads join such right-of-way line and 803  
except that the chief may permit the roads to be relocated or the 804  
area affected to lie within one hundred feet of such road if after 805  
public notice and opportunity for public meeting in the locality 806  
of the affected area a written finding is made that the interests 807  
of the public and the landowners affected thereby will be 808  
protected; 809

(5) Within three hundred feet from any occupied dwelling, 810  
measured horizontally, unless waived by the owner thereof, nor 811  
within three hundred feet, measured horizontally, of any public 812  
building, school, church, community, or institutional building, or 813  
public park, nor within one hundred feet, measured horizontally, 814  
of a cemetery. 815

**Sec. 1513.075.** (A) As used in this section: 816

(1) "Potential acidity" means a laboratory measurement of the 817  
amount of acidity that could be produced by material in a rock 818  
strata proposed to be disturbed by mining and that is expressed by 819  
a numeral indicating the number of tons of that acidity that would 820  
be present in one thousand tons of disturbed overburden. 821

(2) "Neutralization potential" means a laboratory measurement 822  
of the alkalinity of a rock strata expressed as the amount of 823  
acidity that would be neutralized by material proposed to be 824

disturbed by mining and that is expressed by a numeral indicating 825  
the number of tons of that alkalinity that would be present in one 826  
thousand tons of disturbed overburden. 827

(3) "Test borings or core samplings" refer to test borings or 828  
core samplings performed on rock strata in an area proposed to be 829  
covered by a permit for a coal mining operation, the results of 830  
which must be stated in the permit application in accordance with 831  
division (B)(1)(o) of section 1513.07 of the Revised Code. 832

(B) For purposes of the determination of the chief of the 833  
division of mineral resources management regarding whether to 834  
approve an application for a permit for a coal mining operation 835  
based on criteria established in divisions (E)(2)(a) and (c) of 836  
section 1513.07 of the Revised Code and related performance 837  
standards established in division (A)(10) of section 1513.16 of 838  
the Revised Code, the potential acidity and the neutralization 839  
potential of the rock strata that would be disturbed under the 840  
permit may be calculated in accordance with this section. 841

(C) The measurement of potential acidity may be based on 842  
laboratory analyses of the sulfur content of the coal and 843  
overburden to be disturbed by mining. If the results of test 844  
borings or core samplings include laboratory analyses of the 845  
pyritic form of sulfur, the applicant may base the calculation of 846  
the potential acidity for the area on the pyritic sulfur content 847  
of the coal and overburden to be disturbed by mining rather than 848  
on the total sulfur content. 849

(D) The tons of rock in the area represented by each core 850  
hole resulting from test boring or core sampling may be estimated 851  
and used to calculate the tons of potential acidity and tons of 852  
neutralization potential for each rock stratum. The sum of those 853  
values across the proposed permit area may be used to calculate 854  
the site's overall neutralization potential and potential acidity. 855

(E) The proposed permit area may not be considered to have 856  
the potential to create acid or other toxic mine drainage if 857  
either of the following applies: 858

(1) The numeral that indicates the site's overall 859  
neutralization potential divided by the numeral that indicates the 860  
site's overall potential acidity results in a quotient that is 861  
equal to or greater than two. 862

(2) The numeral that indicates the neutralization potential 863  
subtracted from the numeral that indicates the potential acidity 864  
results in a remainder that is equal to or less than ~~either of the~~ 865  
~~following:~~ 866

~~(a) Negative five in the case that the total sulfur content 867  
of rock strata is used to calculate potential acidity;~~ 868

~~(b) Negative ten in the case that the pyritic sulfur content 869  
of rock strata is used to calculate potential acidity negative 870  
ten. 871~~

**Sec. 1513.081.** (A) If ~~an operator~~ a permittee becomes 872  
insolvent, or an alternative financial security to provide 873  
long-term water treatment or a long-term alternative water supply, 874  
or both, is not provided in accordance with division (F)(8) of 875  
section 1513.16 of the Revised Code, the division of mineral 876  
resources management shall have a priority lien in front of all 877  
other interested creditors against the assets of that ~~operator~~ 878  
permittee for the amount of any reclamation that is required as a 879  
result of the ~~operator's~~ permittee's mining activities. The chief 880  
of the division of mineral resources management shall file a 881  
statement in the office of the county recorder of each county in 882  
which the mined land lies of the estimated cost to reclaim the 883  
land and, if applicable, the cost to provide long-term water 884  
treatment or a long-term alternative water supply, or both. The 885  
estimated cost to reclaim the land and, if applicable, the cost to 886

provide long-term water treatment or a long-term alternative water supply, or both, shall include the direct and indirect costs of the development, design, construction, management, and administration of the reclamation and, if applicable, the long-term water treatment or long-term alternative water supply. The statement shall constitute a lien on the assets of the ~~operator~~ permittee as of the date of the filing. The lien shall continue in force so long as any portion of the lien remains unpaid or until the chief issues a certificate of release of the lien. If the chief issues a certificate of release of the lien, the chief shall file the certificate of release in the office of each applicable county recorder.

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

(1) Upon the repayment in full of the money that is necessary to complete the reclamation, develop and implement mine drainage plans, or provide alternative financial security for water treatment or to provide and maintain an alternative water supply, as applicable;

(2) Upon the transfer of an existing permit that includes the areas of the operation for which reclamation of land and water resources was not completed to a different ~~operator~~ applicant;

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

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

(D) The chief may authorize an agent to hold a certificate of release in escrow for a period not to exceed one hundred eighty

days for the purpose of facilitating the transfer of unreclaimed 917  
mine land. 918

(E) All money from the collection of liens under this section 919  
shall be deposited in the state treasury to the credit of the 920  
reclamation forfeiture fund created in section 1513.18 of the 921  
Revised Code. 922

**Sec. 1513.16.** (A) Any permit issued under this chapter to 923  
conduct coal mining operations shall require that the operations 924  
meet all applicable performance standards of this chapter and such 925  
other requirements as the chief of the division of mineral 926  
resources management shall adopt by rule. General performance 927  
standards shall apply to all coal mining and reclamation 928  
operations and shall require the operator at a minimum to do all 929  
of the following: 930

(1) Conduct coal mining operations so as to maximize the 931  
utilization and conservation of the solid fuel resource being 932  
recovered so that re-affecting the land in the future through coal 933  
mining can be minimized; 934

(2) Restore the land affected to a condition capable of 935  
supporting the uses that it was capable of supporting prior to any 936  
mining, or higher or better uses of which there is reasonable 937  
likelihood, so long as the uses do not present any actual or 938  
probable hazard to public health or safety or pose any actual or 939  
probable threat of diminution or pollution of the waters of the 940  
state, and the permit applicants' declared proposed land uses 941  
following reclamation are not considered to be impractical or 942  
unreasonable, to be inconsistent with applicable land use policies 943  
and plans, to involve unreasonable delay in implementation, or to 944  
violate federal, state, or local law; 945

(3) Except as provided in division (B) of this section, with 946  
respect to all coal mining operations, backfill, compact where 947

advisable to ensure stability or to prevent leaching of toxic 948  
materials, and grade in order to restore the approximate original 949  
contour of the land with all highwalls, spoil piles, and 950  
depressions eliminated unless small depressions are needed in 951  
order to retain moisture to assist revegetation or as otherwise 952  
authorized pursuant to this chapter, provided that if the operator 953  
demonstrates that due to volumetric expansion the amount of 954  
overburden and the spoil and waste materials removed in the course 955  
of the mining operation are more than sufficient to restore the 956  
approximate original contour, the operator shall backfill, grade, 957  
and compact the excess overburden and other spoil and waste 958  
materials to attain the lowest grade, but not more than the angle 959  
of repose, and to cover all acid-forming and other toxic materials 960  
in order to achieve an ecologically sound land use compatible with 961  
the surrounding region in accordance with the approved mining 962  
plan. The overburden or spoil shall be shaped and graded in such a 963  
way as to prevent slides, erosion, and water pollution and shall 964  
be revegetated in accordance with this chapter. 965

(4) Stabilize and protect all surface areas, including spoil 966  
piles affected by the coal mining and reclamation operation, to 967  
control erosion and attendant air and water pollution effectively; 968

(5) Remove the topsoil from the land in a separate layer, 969  
replace it on the backfill area, or, if not utilized immediately, 970  
segregate it in a separate pile from the spoil, and when the 971  
topsoil is not replaced on a backfill area within a time short 972  
enough to avoid deterioration of the topsoil, maintain a 973  
successful cover by quick-growing plants or other means thereafter 974  
so that the topsoil is preserved from wind and water erosion, 975  
remains free of any contamination by acid or other toxic material, 976  
and is in a usable condition for sustaining vegetation when 977  
restored during reclamation. If the topsoil is of insufficient 978  
quantity or of poor quality for sustaining vegetation or if other 979



strata can be shown to be more suitable for vegetation 980  
requirements, the operator shall remove, segregate, and preserve 981  
in a like manner such other strata as are best able to support 982  
vegetation. 983

(6) Restore the topsoil or the best available subsoil that is 984  
best able to support vegetation; 985

(7) For all prime farmlands as identified in division 986  
(B)(1)(p) of section 1513.07 of the Revised Code to be mined and 987  
reclaimed, perform soil removal, storage, replacement, and 988  
reconstruction in accordance with specifications established by 989  
the secretary of the United States department of agriculture under 990  
the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 991  
445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be 992  
required to do all of the following: 993

(a) Segregate the A horizon of the natural soil, except where 994  
it can be shown that other available soil materials will create a 995  
final soil having a greater productive capacity, and, if not 996  
utilized immediately, stockpile this material separately from the 997  
spoil and provide needed protection from wind and water erosion or 998  
contamination by acid or other toxic material; 999

(b) Segregate the B horizon of the natural soil, or 1000  
underlying C horizons or other strata, or a combination of such 1001  
horizons or other strata that are shown to be both texturally and 1002  
chemically suitable for plant growth and that can be shown to be 1003  
equally or more favorable for plant growth than the B horizon, in 1004  
sufficient quantities to create in the regraded final soil a root 1005  
zone of comparable depth and quality to that which existed in the 1006  
natural soil, and, if not utilized immediately, stockpile this 1007  
material separately from the spoil and provide needed protection 1008  
from wind and water erosion or contamination by acid or other 1009  
toxic material; 1010

(c) Replace and regrade the root zone material described in 1011  
division (A)(7)(b) of this section with proper compaction and 1012  
uniform depth over the regraded spoil material; 1013

(d) Redistribute and grade in a uniform manner the surface 1014  
soil horizon described in division (A)(7)(a) of this section. 1015

(8) Create, if authorized in the approved mining and 1016  
reclamation plan and permit, permanent impoundments of water on 1017  
mining sites as part of reclamation activities only when it is 1018  
adequately demonstrated by the operator that all of the following 1019  
conditions will be met: 1020

(a) The size of the impoundment is adequate for its intended 1021  
purposes. 1022

(b) The impoundment dam construction will be so designed as 1023  
to achieve necessary stability with an adequate margin of safety 1024  
compatible with that of structures constructed under the 1025  
"Watershed Protection and Flood Prevention Act," 68 Stat. 666 1026  
(1954), 16 U.S.C. 1001, as amended. 1027

(c) The quality of impounded water will be suitable on a 1028  
permanent basis for its intended use and discharges from the 1029  
impoundment will not degrade the water quality below water quality 1030  
standards established pursuant to applicable federal and state law 1031  
in the receiving stream. 1032

(d) The level of water will be reasonably stable. 1033

(e) Final grading will provide adequate safety and access for 1034  
proposed water users. 1035

(f) The water impoundments will not result in the diminution 1036  
of the quality or quantity of water utilized by adjacent or 1037  
surrounding landowners for agricultural, industrial, recreational, 1038  
or domestic uses. 1039

(9) Conduct any augering operation associated with strip 1040

mining in a manner to maximize recoverability of mineral reserves 1041  
remaining after the operation and reclamation are complete and 1042  
seal all auger holes with an impervious and noncombustible 1043  
material in order to prevent drainage, except where the chief 1044  
determines that the resulting impoundment of water in such auger 1045  
holes may create a hazard to the environment or the public health 1046  
or safety. The chief may prohibit augering if necessary to 1047  
maximize the utilization, recoverability, or conservation of the 1048  
solid fuel resources or to protect against adverse water quality 1049  
impacts. 1050

(10) Minimize the disturbances to the prevailing hydrologic 1051  
balance at the mine site and in associated offsite areas and to 1052  
the quality and quantity of water in surface and ground water 1053  
systems both during and after coal mining operations and during 1054  
reclamation by doing all of the following: 1055

(a) Avoiding acid or other toxic mine drainage by such 1056  
measures as, but not limited to: 1057

(i) Preventing or removing water from contact with toxic 1058  
producing deposits; 1059

(ii) Treating drainage to reduce toxic content that adversely 1060  
affects downstream water upon being released to water courses in 1061  
accordance with rules adopted by the chief in accordance with 1062  
section 1513.02 of the Revised Code; 1063

(iii) Casing, sealing, or otherwise managing boreholes, 1064  
shafts, and wells, and keeping acid or other toxic drainage from 1065  
entering ground and surface waters. 1066

(b)(i) Conducting coal mining operations so as to prevent, to 1067  
the extent possible using the best technology currently available, 1068  
additional contributions of suspended solids to streamflow or 1069  
runoff outside the permit area, but in no event shall 1070  
contributions be in excess of requirements set by applicable state 1071

or federal laws; 1072

(ii) Constructing any siltation structures pursuant to 1073  
division (A)(10)(b)(i) of this section prior to commencement of 1074  
coal mining operations. The structures shall be certified by 1075  
persons approved by the chief to be constructed as designed and as 1076  
approved in the reclamation plan. 1077

(c) Cleaning out and removing temporary or large settling 1078  
ponds or other siltation structures from drainways after disturbed 1079  
areas are revegetated and stabilized, and depositing the silt and 1080  
debris at a site and in a manner approved by the chief; 1081

(d) Restoring recharge capacity of the mined area to 1082  
approximate premining conditions; 1083

(e) Avoiding channel deepening or enlargement in operations 1084  
requiring the discharge of water from mines; 1085

(f) Such other actions as the chief may prescribe. 1086

(11) With respect to surface disposal of mine wastes, 1087  
tailings, coal processing wastes, and other wastes in areas other 1088  
than the mine working areas or excavations, stabilize all waste 1089  
piles in designated areas through construction in compacted 1090  
layers, including the use of noncombustible and impervious 1091  
materials if necessary, and ensure that the final contour of the 1092  
waste pile will be compatible with natural surroundings and that 1093  
the site can and will be stabilized and revegetated according to 1094  
this chapter; 1095

(12) Refrain from coal mining within five hundred feet of 1096  
active and abandoned underground mines in order to prevent 1097  
breakthroughs and to protect the health or safety of miners. The 1098  
chief shall permit an operator to mine near, through, or partially 1099  
through an abandoned underground mine or closer than five hundred 1100  
feet to an active underground mine if both of the following 1101  
conditions are met: 1102

(a) The nature, timing, and sequencing of the approximate 1103  
coincidence of specific strip mine activities with specific 1104  
underground mine activities are approved by the chief. 1105

(b) The operations will result in improved resource recovery, 1106  
abatement of water pollution, or elimination of hazards to the 1107  
health and safety of the public. 1108

(13) Design, locate, construct, operate, maintain, enlarge, 1109  
modify, and remove or abandon, in accordance with the standards 1110  
and criteria developed pursuant to rules adopted by the chief, all 1111  
existing and new coal mine waste piles consisting of mine wastes, 1112  
tailings, coal processing wastes, or other liquid and solid 1113  
wastes, and used either temporarily or permanently as dams or 1114  
embankments; 1115

(14) Ensure that all debris, acid-forming materials, toxic 1116  
materials, or materials constituting a fire hazard are treated or 1117  
buried and compacted or otherwise disposed of in a manner designed 1118  
to prevent contamination of ground or surface waters and that 1119  
contingency plans are developed to prevent sustained combustion; 1120

(15) Ensure that all reclamation efforts proceed in an 1121  
environmentally sound manner and as contemporaneously as 1122  
practicable with the coal mining operations, except that where the 1123  
applicant proposes to combine strip mining operations with 1124  
underground mining operations to ensure maximum practical recovery 1125  
of the mineral resources, the chief may grant a variance for 1126  
specific areas within the reclamation plan from the requirement 1127  
that reclamation efforts proceed as contemporaneously as 1128  
practicable to permit underground mining operations prior to 1129  
reclamation if: 1130

(a) The chief finds in writing that: 1131

(i) The applicant has presented, as part of the permit 1132  
application, specific, feasible plans for the proposed underground 1133

mining operations. 1134

(ii) The proposed underground mining operations are necessary 1135  
or desirable to ensure maximum practical recovery of the mineral 1136  
resource and will avoid multiple disturbance of the surface. 1137

(iii) The applicant has satisfactorily demonstrated that the 1138  
plan for the underground mining operations conforms to 1139  
requirements for underground mining in this state and that permits 1140  
necessary for the underground mining operations have been issued 1141  
by the appropriate authority. 1142

(iv) The areas proposed for the variance have been shown by 1143  
the applicant to be necessary for the implementing of the proposed 1144  
underground mining operations. 1145

(v) No substantial adverse environmental damage, either 1146  
on-site or off-site, will result from the delay in completion of 1147  
reclamation as required by this chapter. 1148

(vi) Provisions for the off-site storage of spoil will comply 1149  
with division (A)(21) of this section. 1150

(b) The chief has adopted specific rules to govern the 1151  
granting of such variances in accordance with this division and 1152  
has imposed such additional requirements as the chief considers 1153  
necessary. 1154

(c) Variances granted under this division shall be reviewed 1155  
by the chief not more than three years from the date of issuance 1156  
of the permit. 1157

(d) Liability under the performance security filed by the 1158  
applicant with the chief pursuant to section 1513.08 of the 1159  
Revised Code shall be for the duration of the underground mining 1160  
operations and until the requirements of this section and section 1161  
1513.08 of the Revised Code have been fully complied with. 1162

(16) Ensure that the construction, maintenance, and 1163

postmining conditions of access roads into and across the site of 1164  
operations will control or prevent erosion and siltation, 1165  
pollution of water, and damage to fish or wildlife or their 1166  
habitat, or to public or private property; 1167

(17) Refrain from the construction of roads or other access 1168  
ways up a stream bed or drainage channel or in such proximity to 1169  
the channel as to seriously alter the normal flow of water; 1170

(18) Establish, on the regraded areas and all other lands 1171  
affected, a diverse, effective, and permanent vegetative cover of 1172  
the same seasonal variety native to the area of land to be 1173  
affected and capable of self-regeneration and plant succession at 1174  
least equal in extent of cover to the natural vegetation of the 1175  
area, except that introduced species may be used in the 1176  
revegetation process where desirable and necessary to achieve the 1177  
approved postmining land use plan; 1178

(19)(a) Assume the responsibility for successful 1179  
revegetation, as required by division (A)(18) of this section, for 1180  
a period of five full years after the last year of augmented 1181  
seeding, fertilizing, irrigation, or other work in order to ensure 1182  
compliance with that division, except that when the chief approves 1183  
a long-term intensive agricultural postmining land use, the 1184  
applicable five-year period of responsibility for revegetation 1185  
shall commence at the date of initial planting for that long-term 1186  
intensive agricultural postmining land use, and except that when 1187  
the chief issues a written finding approving a long-term intensive 1188  
agricultural postmining land use as part of the mining and 1189  
reclamation plan, the chief may grant an exception to division 1190  
(A)(18) of this section; 1191

(b) On lands eligible for remining, assume the responsibility 1192  
for successful revegetation, as required by division (A)(18) of 1193  
this section, for a period of two full years after the last year 1194  
of augmented seeding, fertilizing, irrigation, or other work in 1195

order to ensure compliance with that division.	1196
(20) Protect off-site areas from slides or damage occurring	1197
during the coal mining and reclamation operations and not deposit	1198
spoil material or locate any part of the operations or waste	1199
accumulations outside the permit area;	1200
(21) Place all excess spoil material resulting from coal	1201
mining and reclamation operations in such a manner that all of the	1202
following apply:	1203
(a) Spoil is transported and placed in a controlled manner in	1204
position for concurrent compaction and in such a way as to ensure	1205
mass stability and to prevent mass movement.	1206
(b) The areas of disposal are within the permit areas for	1207
which performance security has been provided. All organic matter	1208
shall be removed immediately prior to spoil placement except in	1209
the zoned concept method.	1210
(c) Appropriate surface and internal drainage systems and	1211
diversion ditches are used so as to prevent spoil erosion and mass	1212
movement.	1213
(d) The disposal area does not contain springs, natural	1214
watercourses, or wet weather seeps unless lateral drains are	1215
constructed from the wet areas to the main underdrains in such a	1216
manner that filtration of the water into the spoil pile will be	1217
prevented unless the zoned concept method is used.	1218
(e) If placed on a slope, the spoil is placed upon the most	1219
moderate slope among those slopes upon which, in the judgment of	1220
the chief, the spoil could be placed in compliance with all the	1221
requirements of this chapter and is placed, where possible, upon,	1222
or above, a natural terrace, bench, or berm if that placement	1223
provides additional stability and prevents mass movement.	1224
(f) Where the toe of the spoil rests on a downslope, a rock	1225



toe buttress of sufficient size to prevent mass movement is 1226  
constructed. 1227

(g) The final configuration is compatible with the natural 1228  
drainage pattern and surroundings and suitable for intended uses. 1229

(h) Design of the spoil disposal area is certified by a 1230  
qualified registered professional engineer in conformance with 1231  
professional standards. 1232

(i) All other provisions of this chapter are met. 1233

(22) Meet such other criteria as are necessary to achieve 1234  
reclamation in accordance with the purpose of this chapter, taking 1235  
into consideration the physical, climatological, and other 1236  
characteristics of the site; 1237

(23) To the extent possible, using the best technology 1238  
currently available, minimize disturbances and adverse impacts of 1239  
the operation on fish, wildlife, and related environmental values, 1240  
and achieve enhancement of such resources where practicable; 1241

(24) Provide for an undisturbed natural barrier beginning at 1242  
the elevation of the lowest coal seam to be mined and extending 1243  
from the outslope for such distance as the chief shall determine 1244  
to be retained in place as a barrier to slides and erosion. 1245

(B)(1) The chief may permit mining operations for the 1246  
purposes set forth in division (B)(3) of this section. 1247

(2) When an applicant meets the requirements of divisions 1248  
(B)(3) and (4) of this section, a permit without regard to the 1249  
requirement to restore to approximate original contour known as 1250  
mountain top removal set forth in divisions (A)(3) or (C)(2) and 1251  
(3) of this section may be granted for the mining of coal where 1252  
the mining operation will remove an entire coal seam or seams 1253  
running through the upper fraction of a mountain, ridge, or hill, 1254  
except as provided in division (B)(4)(a) of this section, by 1255

removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accordance with this division.

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

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

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

(i) Compatible with adjacent land uses;

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

(iii) Assured of investment in necessary public facilities;

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

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

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

(vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the

site.	1286
(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs.	1287 1288
(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use.	1289 1290 1291 1292 1293 1294
(e) All other requirements of this chapter will be met.	1295
(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:	1296 1297
(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion.	1298 1299 1300
(b) The reclaimed area is stable.	1301
(c) The resulting plateau or rolling contour drains inward from the outslopes except at specified points.	1302 1303
(d) No damage will be done to natural watercourses.	1304
(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section.	1305 1306 1307 1308 1309
(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met.	1310 1311
(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of this section and may impose such additional requirements as the chief considers necessary.	1312 1313 1314 1315

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

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

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

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

(3) The operator shall not disturb land above the top of the highwall unless the chief finds that the disturbance will facilitate compliance with the environmental protection standards of this section, except that any such disturbance involving land above the highwall shall be limited to that amount of land necessary to facilitate compliance.

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

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

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

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

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

(c) After approval of the appropriate state environmental agencies, the watershed of the affected land is considered to be improved.

(4) In granting a variance pursuant to division (D) of this

section, the chief shall require that only such amount of spoil 1379  
will be placed off the mine bench as is necessary to achieve the 1380  
planned postmining land use, ensure stability of the spoil 1381  
retained on the bench, and meet all other requirements of this 1382  
chapter. All spoil placement off the mine bench shall comply with 1383  
division (A)(21) of this section. 1384

(5) The chief shall adopt specific rules to govern the 1385  
granting of variances under division (D) of this section and may 1386  
impose such additional requirements as the chief considers 1387  
necessary. 1388

(6) All variances granted under division (D) of this section 1389  
shall be reviewed not more than three years from the date of 1390  
issuance of the permit unless the permittee affirmatively 1391  
demonstrates that the proposed development is proceeding in 1392  
accordance with the terms of the reclamation plan. 1393

(E) The chief shall establish standards and criteria 1394  
regulating the design, location, construction, operation, 1395  
maintenance, enlargement, modification, removal, and abandonment 1396  
of new and existing coal mine waste piles referred to in division 1397  
(A)(13) of this section and division (A)(5) of section 1513.35 of 1398  
the Revised Code. The standards and criteria shall conform to the 1399  
standards and criteria used by the chief of the United States army 1400  
corps of engineers to ensure that flood control structures are 1401  
safe and effectively perform their intended function. In addition 1402  
to engineering and other technical specifications, the standards 1403  
and criteria developed pursuant to this division shall include 1404  
provisions for review and approval of plans and specifications 1405  
prior to construction, enlargement, modification, removal, or 1406  
abandonment; performance of periodic inspections during 1407  
construction; issuance of certificates of approval upon completion 1408  
of construction; performance of periodic safety inspections; and 1409  
issuance of notices for required remedial or maintenance work. 1410

(F)(1) The permittee may file a request with the chief for 1411  
release of a part of a performance security under division (F)(3) 1412  
of this section. Within thirty days after any request for 1413  
performance security release under this section has been filed 1414  
with the chief, the operator shall submit a copy of an 1415  
advertisement placed at least once a week for four successive 1416  
weeks in a newspaper of general circulation in the locality of the 1417  
coal mining operation. The advertisement shall be considered part 1418  
of any performance security release application and shall contain 1419  
a notification of the precise location of the land affected, the 1420  
number of acres, the permit number and the date approved, the 1421  
amount of the performance security filed and the portion sought to 1422  
be released, the type and appropriate dates of reclamation work 1423  
performed, and a description of the results achieved as they 1424  
relate to the operator's approved reclamation plan and, if 1425  
applicable, the operator's pollution abatement plan. In addition, 1426  
as part of any performance security release application, the 1427  
applicant shall submit copies of the letters sent to adjoining 1428  
property owners, local governmental bodies, planning agencies, and 1429  
sewage and water treatment authorities or water companies in the 1430  
locality in which the coal mining and reclamation activities took 1431  
place, notifying them of the applicant's intention to seek release 1432  
from the performance security. 1433

(2) Upon receipt of a copy of the advertisement and request 1434  
for release of a performance security under division (F)(3)(c) of 1435  
this section, the chief, within thirty days, shall conduct an 1436  
inspection and evaluation of the reclamation work involved. The 1437  
evaluation shall consider, among other things, the degree of 1438  
difficulty to complete any remaining reclamation, whether 1439  
pollution of surface and subsurface water is occurring, the 1440  
probability of continuation or future occurrence of the pollution, 1441  
and the estimated cost of abating the pollution. The chief shall 1442  
notify the permittee in writing of the decision to release or not 1443

to release all or part of the performance security within sixty 1444  
days after the filing of the request if no public hearing is held 1445  
pursuant to division (F)(6) of this section or, if there has been 1446  
a public hearing held pursuant to division (F)(6) of this section, 1447  
within thirty days thereafter. 1448

(3) The chief may release the performance security if the 1449  
reclamation covered by the performance security or portion thereof 1450  
has been accomplished as required by this chapter and rules 1451  
adopted under it according to the following schedule: 1452

(a) When the operator completes the backfilling, regrading, 1453  
and drainage control of an area for which performance security has 1454  
been provided in accordance with the approved reclamation plan, 1455  
and, if the area covered by the performance security is one for 1456  
which an authorization was made under division (E)(7) of section 1457  
1513.07 of the Revised Code, the operator has complied with the 1458  
approved pollution abatement plan and all additional requirements 1459  
established by the chief in rules adopted under section 1513.02 of 1460  
the Revised Code governing coal mining and reclamation operations 1461  
on pollution abatement areas, the chief shall grant a release of 1462  
fifty per cent of the performance security for the applicable 1463  
permit area. 1464

(b) After resoiling and revegetation have been established on 1465  
the regraded mined lands in accordance with the approved 1466  
reclamation plan, the chief shall grant a release in an amount not 1467  
exceeding thirty-five per cent of the original performance 1468  
security for all or part of the affected area under the permit. 1469  
When determining the amount of performance security to be released 1470  
after successful revegetation has been established, the chief 1471  
shall retain that amount of performance security for the 1472  
revegetated area that would be sufficient for a third party to 1473  
cover the cost of reestablishing revegetation for the period 1474  
specified for operator responsibility in this section for 1475



reestablishing revegetation. No part of the performance security 1476  
shall be released under this division so long as the lands to 1477  
which the release would be applicable are contributing suspended 1478  
solids to streamflow or runoff outside the permit area in excess 1479  
of the requirements of this section or until soil productivity for 1480  
prime farmlands has returned to equivalent levels of yield as 1481  
nonmined land of the same soil type in the surrounding area under 1482  
equivalent management practices as determined from the soil survey 1483  
performed pursuant to section 1513.07 of the Revised Code. If the 1484  
area covered by the performance security is one for which an 1485  
authorization was made under division (E)(7) of section 1513.07 of 1486  
the Revised Code, no part of the performance security shall be 1487  
released under this division until the operator has complied with 1488  
the approved pollution abatement plan and all additional 1489  
requirements established by the chief in rules adopted under 1490  
section 1513.02 of the Revised Code governing coal mining and 1491  
reclamation operations on pollution abatement areas. Where a silt 1492  
dam is to be retained as a permanent impoundment pursuant to 1493  
division (A)(10) of this section, the portion of performance 1494  
security may be released under this division so long as provisions 1495  
for sound future maintenance by the operator or the landowner have 1496  
been made with the chief. 1497

(c) When the operator has completed successfully all coal 1498  
mining and reclamation activities, including, if applicable, all 1499  
additional requirements established in the pollution abatement 1500  
plan approved under division (E)(7) of section 1513.07 of the 1501  
Revised Code and all additional requirements established by the 1502  
chief in rules adopted under section 1513.02 of the Revised Code 1503  
governing coal mining and reclamation operations on pollution 1504  
abatement areas, the chief shall release all or any of the 1505  
remaining portion of the performance security for all or part of 1506  
the affected area under a permit, but not before the expiration of 1507  
the period specified for operator responsibility in this section, 1508

except that the chief may adopt rules for a variance to the 1509  
operator period of responsibility considering vegetation success 1510  
and probability of continued growth and consent of the landowner, 1511  
provided that no performance security shall be fully released 1512  
until all reclamation requirements of this chapter are fully met. 1513

(4) If the chief disapproves the application for release of 1514  
the performance security or portion thereof, the chief shall 1515  
notify the permittee, in writing, stating the reasons for 1516  
disapproval and recommending corrective actions necessary to 1517  
secure the release, and allowing the opportunity for a public 1518  
adjudicatory hearing. 1519

(5) When any application for total or partial performance 1520  
security release is filed with the chief under this section, the 1521  
chief shall notify the municipal corporation in which the coal 1522  
mining operation is located by certified mail at least thirty days 1523  
prior to the release of all or a portion of the performance 1524  
security. 1525

(6) A person with a valid legal interest that might be 1526  
adversely affected by release of a performance security under this 1527  
section or the responsible officer or head of any federal, state, 1528  
or local government agency that has jurisdiction by law or special 1529  
expertise with respect to any environmental, social, or economic 1530  
impact involved in the operation or is authorized to develop and 1531  
enforce environmental standards with respect to such operations 1532  
may file written objections to the proposed release from the 1533  
performance security with the chief within thirty days after the 1534  
last publication of the notice required by division (F)(1) of this 1535  
section. If written objections are filed and an informal 1536  
conference is requested, the chief shall inform all interested 1537  
parties of the time and place of the conference. The date, time, 1538  
and location of the informal conference shall be advertised by the 1539  
chief in a newspaper of general circulation in the locality of the 1540

coal mining operation proposed for performance security release 1541  
for at least once a week for two consecutive weeks. The informal 1542  
conference shall be held in the locality of the coal mining 1543  
operation proposed for performance security release or in Franklin 1544  
county, at the option of the objector, within thirty days after 1545  
the request for the conference. An electronic or stenographic 1546  
record shall be made of the conference proceeding unless waived by 1547  
all parties. The record shall be maintained and shall be 1548  
accessible to the parties until final release of the performance 1549  
security at issue. In the event all parties requesting the 1550  
informal conference stipulate agreement prior to the requested 1551  
informal conference and withdraw their request, the informal 1552  
conference need not be held. 1553

(7) If an informal conference has been held pursuant to 1554  
division (F)(6) of this section, the chief shall issue and furnish 1555  
the applicant and persons who participated in the conference with 1556  
the written decision regarding the release within sixty days after 1557  
the conference. Within thirty days after notification of the final 1558  
decision of the chief regarding the performance security release, 1559  
the applicant or any person with an interest that is or may be 1560  
adversely affected by the decision may appeal the decision to the 1561  
reclamation commission pursuant to section 1513.13 of the Revised 1562  
Code. 1563

(8)(a) ~~Except as provided in division (F)(8)(c) of this~~ 1564  
~~section, if~~ If the chief determines that a permittee is 1565  
responsible for mine drainage that requires water treatment after 1566  
reclamation is completed under the terms of the permit or that a 1567  
permittee must provide an alternative water supply after 1568  
reclamation is completed under the terms of the permit, the 1569  
permittee shall provide alternative financial security in an 1570  
amount determined by the chief prior to the release of the 1571  
remaining portion of performance security under division (F)(3)(c) 1572

of this section. The alternative financial security shall be in an amount that is equal to or greater than the present value of the estimated cost over time to develop and implement mine drainage plans and provide water treatment or in an amount that is necessary to provide and maintain an alternative water supply, as applicable. The alternative financial security shall include a contract, trust, or other agreement or mechanism that is enforceable under law to provide long-term water treatment or a long-term alternative water supply, or both. The contract, trust, or other agreement or mechanism included with the alternative financial security may provide for the funding of the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on guarantees or other collateral provided by the permittee and approved by the chief for the balance of the alternative financial security required until the alternative financial security has been fully funded by the permittee.

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

~~(c) Division (F)(8)(a) of this section does not apply while the chief's determination of a permittee's responsibility under that division is the subject of a good faith administrative or judicial appeal contesting the validity of the determination. If after completion of the appeal there is an enforceable administrative or judicial decision affirming or modifying the chief's determination, the permittee shall provide the alternative financial security in an amount established in the administrative or judicial decision. If the chief determines that a permittee must provide alternative financial security under division (F)(8)(a) of this section and the performance security for the permit was provided under division (C)(2) of section 1513.08 of the Revised~~

Code, the permittee may fund the alternative financial security 1605  
incrementally over a period of time, not to exceed five years, 1606  
with reliance on the reclamation forfeiture fund created in 1607  
section 1513.18 of the Revised Code for the balance of the 1608  
alternative financial security required until the alternative 1609  
financial security has been fully funded by the permittee. The 1610  
permittee semiannually shall pay to the division of mineral 1611  
resources management a fee that is equal to seven and one-half per 1612  
cent of the average balance of the alternative financial security 1613  
that is being provided by reliance on the reclamation forfeiture 1614  
fund over the previous six months. All money received from the fee 1615  
shall be credited to the reclamation forfeiture fund. 1616

(9) Final release of the performance security in accordance 1617  
with division (F)(3)(c) of this section terminates the 1618  
jurisdiction of the chief under this chapter over the reclaimed 1619  
site of a surface coal mining and reclamation operation or 1620  
applicable portion of an operation. However, the chief shall 1621  
reassert jurisdiction over such a site if the release was based on 1622  
fraud, collusion, or misrepresentation of a material fact and the 1623  
chief, in writing, demonstrates evidence of the fraud, collusion, 1624  
or misrepresentation. Any person with an interest that is or may 1625  
be adversely affected by the chief's determination may appeal the 1626  
determination to the reclamation commission in accordance with 1627  
section 1513.13 of the Revised Code. 1628

(G) The chief shall adopt rules governing the criteria for 1629  
forfeiture of performance security, the method of determining the 1630  
forfeited amount, and the procedures to be followed in the event 1631  
of forfeiture. Cash received as the result of such forfeiture is 1632  
the property of the state. 1633

**Sec. 1513.18.** (A) All money that becomes the property of the 1634  
state under division (G) of section 1513.16 of the Revised Code 1635

shall be deposited in the reclamation forfeiture fund, which is 1636  
hereby created in the state treasury. Disbursements from the fund 1637  
shall be made by the chief of the division of mineral resources 1638  
management for the purpose of reclaiming areas of land affected by 1639  
coal mining under a coal mining and reclamation permit issued on 1640  
or after September 1, 1981, on which an operator has defaulted. 1641

(B) The fund also shall consist of all money from the 1642  
collection of liens under section 1513.081 of the Revised Code, 1643  
any moneys transferred to it under section 1513.181 of the Revised 1644  
Code from the coal mining and reclamation reserve fund created in 1645  
that section, all money credited to the fund from the fee levied 1646  
by division (F)(8)(c) of section 1513.16 of the Revised Code, 1647  
fines collected under division (E) of section 1513.02 and section 1648  
1513.99 of the Revised Code, fines collected for a violation of 1649  
section 2921.31 of the Revised Code that, prior to July 1, 1996, 1650  
would have been a violation of division (G) of section 1513.17 of 1651  
the Revised Code as it existed prior to that date, and moneys 1652  
collected and credited to it pursuant to section 5749.02 of the 1653  
Revised Code. Disbursements from the fund shall be made by the 1654  
chief in accordance with division (D) of this section for the 1655  
purpose of reclaiming areas that an operator has affected by 1656  
mining and failed to reclaim under a coal mining and reclamation 1657  
permit issued under this chapter. 1658

The chief may expend moneys from the fund to pay necessary 1659  
administrative costs, including engineering and design services, 1660  
incurred by the division of mineral resources management in 1661  
reclaiming these areas. The chief also may expend moneys from the 1662  
fund to pay necessary administrative costs of the reclamation 1663  
forfeiture fund advisory board created in section 1513.182 of the 1664  
Revised Code as authorized by the board under that section. 1665  
Expenditures from the fund to pay such administrative costs need 1666  
not be made under contract. 1667

(C) Except when paying necessary administrative costs 1668  
authorized by division (B) of this section, expenditures from the 1669  
fund shall be made under contracts entered into by the chief, with 1670  
the approval of the director of natural resources, in accordance 1671  
with procedures established by the chief, by rules adopted in 1672  
accordance with section 1513.02 of the Revised Code. The chief may 1673  
reclaim the land in the same manner as set forth in sections 1674  
1513.21 to 1513.24 of the Revised Code. Each contract awarded by 1675  
the chief shall be awarded to the lowest responsive and 1676  
responsible bidder, in accordance with section 9.312 of the 1677  
Revised Code, after sealed bids are received, opened, and 1678  
published at the time and place fixed by the chief. The chief 1679  
shall publish notice of the time and place at which bids will be 1680  
received, opened, and published, at least once and at least ten 1681  
days before the date of the opening of the bids, in a newspaper of 1682  
general circulation in the county in which the area of land to be 1683  
reclaimed under the contract is located. If, after advertising, no 1684  
bids are received at the time and place fixed for receiving them, 1685  
the chief may advertise again for bids, or, if the chief considers 1686  
the public interest will best be served, the chief may enter into 1687  
a contract for the reclamation of the area of land without further 1688  
advertisement for bids. The chief may reject any or all bids 1689  
received and again publish notice of the time and place at which 1690  
bids for contracts will be received, opened, and published. The 1691  
chief, with the approval of the director, may enter into a 1692  
contract with the landowner, a coal mine operator or surface mine 1693  
operator mining under a current, valid permit issued under this 1694  
chapter or Chapter 1514. of the Revised Code, or a contractor 1695  
hired by the surety or trustee, if the performance security is 1696  
held in trust, to complete reclamation ~~to carry out reclamation~~ on 1697  
land affected by coal mining on which an operator has defaulted, 1698  
or with a contractor hired by the trust administrator of an 1699  
alternative financial security that is provided in accordance with 1700

division (F)(8) of section 1513.16 of the Revised Code to provide 1701  
long-term water treatment or a long-term alternative water supply 1702  
on areas affected by coal mining on which a permittee has 1703  
defaulted or not fully funded an alternative financial security, 1704  
without advertising for bids. 1705

(D)(1) The chief shall expend money credited to the 1706  
reclamation forfeiture fund from the forfeiture of the performance 1707  
security applicable to an area of land to pay for the cost of ~~the~~ 1708  
completing reclamation of the land to the standards established by 1709  
this chapter and rules adopted under it. 1710

(2) If the performance security for the area of land was 1711  
provided under division (C)(1) of section 1513.08 of the Revised 1712  
Code, the chief shall use the money from the forfeited performance 1713  
security and any alternative financial security provided under 1714  
division (F)(8) of section 1513.16 of the Revised Code to complete 1715  
the reclamation that the operator failed to do under the 1716  
operator's applicable coal mining and reclamation permit issued 1717  
under this chapter. 1718

(3) If the performance security for the area of land was 1719  
provided under division (C)(2) of section 1513.08 of the Revised 1720  
Code, the chief shall use the money from the forfeited performance 1721  
security and any alternative financial security provided under 1722  
division (F)(8) of section 1513.16 of the Revised Code to complete 1723  
the reclamation that the operator failed to do under the 1724  
operator's applicable coal mining and reclamation permit issued 1725  
under this chapter. If the money credited to the reclamation 1726  
forfeiture fund from the forfeiture of the performance security 1727  
provided under division (C)(2) of section 1513.08 of the Revised 1728  
Code and any alternative financial security provided under 1729  
division (F)(8) of section 1513.16 of the Revised Code is not 1730  
sufficient to complete the reclamation to the standards 1731  
established by this chapter and rules adopted under it, the chief 1732



shall notify the reclamation forfeiture fund advisory board of the amount of the insufficiency. The chief may expend money credited to the reclamation forfeiture fund under section 5749.02 of the Revised Code, credited to the reclamation forfeiture fund from the fee levied by division (F)(8)(c) of section 1513.16 of the Revised Code, or transferred to the fund under section 1513.181 of the Revised Code to complete the reclamation to the standards established by this chapter and rules adopted under it. ~~The Except as provided in division (D)(5) of this section,~~ the chief shall not expend money from the fund in an amount that exceeds the difference between the amount of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code and the estimated cost of reclamation as determined by the chief under divisions (B) and (E) of that section.

(4) ~~Money~~ Except as provided in division (D)(5) of this section, money from the reclamation forfeiture fund shall not be used for reclamation of land or water resources affected by mine drainage that requires extended water treatment after reclamation is completed under the terms of the permit. In addition, money from the reclamation forfeiture fund shall not be used to supplement the performance security of an applicant or permittee that has provided performance security in accordance with division (C)(1) of section 1513.08 of the Revised Code.

(5) If a permittee relies in part on the reclamation forfeiture fund for alternative financial security under division (F)(8)(c) of section 1513.16 of the Revised Code, money from the reclamation forfeiture fund may be used for reclamation of the land or water resources affected by mine drainage that requires water treatment after reclamation is completed under the terms of the permit or an alternative water supply after reclamation is completed under the terms of the permit in an amount not to exceed the balance of the alternative financial security provided by the

reclamation forfeiture fund under that division. 1765

(E) The chief shall keep a detailed accounting of the 1766  
expenditures from the reclamation forfeiture fund to complete 1767  
reclamation of the land or water resources, as applicable, and, 1768  
upon completion of the reclamation, shall certify the expenditures 1769  
to the attorney general. Upon the chief's certification of the 1770  
expenditures from the reclamation forfeiture fund, the attorney 1771  
general shall bring an action for that amount of money. The 1772  
operator is liable for that expense in addition to any other 1773  
liabilities imposed by law. Moneys so recovered shall be credited 1774  
to the reclamation forfeiture fund. The chief shall not postpone 1775  
the reclamation because of any action brought by the attorney 1776  
general under this division. Prior to completing reclamation, the 1777  
chief may collect through the attorney general any additional 1778  
amount that the chief believes will be necessary for reclamation 1779  
in excess of the forfeited performance security and any 1780  
alternative financial security amount applicable to the land or 1781  
water resources that the operator should have, but failed to, 1782  
reclaim. 1783

(F) Except as otherwise provided in division (H) of this 1784  
section, if any part of the moneys in the reclamation forfeiture 1785  
fund remains in the fund after the chief has caused the area of 1786  
land to be reclaimed and has paid all the reclamation costs and 1787  
expenses, the chief may expend those moneys to complete other 1788  
reclamation work performed under this section on forfeiture areas 1789  
affected under a coal mining and reclamation permit issued on or 1790  
after September 1, 1981. 1791

(G) The chief shall require every contractor performing 1792  
reclamation work pursuant to this section to pay workers at the 1793  
greater of their regular rate of pay, as established by contract, 1794  
agreement, or prior custom or practice, or the average wage rate 1795  
paid in this state for the same or similar work as determined by 1796

the chief under section 1513.02 of the Revised Code. 1797

(H) All investment earnings of the fund shall be credited to 1798  
the fund and shall be used only for the reclamation of land for 1799  
which performance security was provided under division (C)(2) of 1800  
section 1513.08 of the Revised Code. 1801

**Sec. 1513.371.** There is hereby created in the state treasury 1802  
the mined land set aside fund consisting of grants made by the 1803  
United States secretary of the interior from the federal abandoned 1804  
mine reclamation fund pursuant to section 402 of the "Surface 1805  
Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 1806  
U.S.C. 1232. The chief of the division of mineral resources 1807  
management shall administer the fund. Money in the fund shall be 1808  
used solely for the purposes specified in divisions (B)(1) to 1809  
~~(4)(3)~~, (5), and (6) of section 1513.37 of the Revised Code. All 1810  
investment earnings of the fund shall be credited to the fund. 1811

**Section 2.** That existing sections 1513.07, 1513.073, 1812  
1513.075, 1513.081, 1513.16, 1513.18, and 1513.371 of the Revised 1813  
Code are hereby repealed. 1814