

**As Passed by the Senate**

**129th General Assembly  
Regular Session  
2011-2012**

**Sub. S. B. No. 315**

**Senator Jones  
(by request)**

**Cosponsors: Senators Coley, Bacon, Balderson, Beagle, Eklund, Lehner,  
Niehaus, Peterson, Schaffer**

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**A B I L L**

To amend sections 122.075, 123.011, 125.836, 131.50, 1  
133.06, 156.01, 156.02, 156.03, 156.04, 303.213, 2  
1509.01, 1509.02, 1509.03, 1509.04, 1509.06, 3  
1509.07, 1509.10, 1509.11, 1509.22, 1509.221, 4  
1509.222, 1509.223, 1509.23, 1509.28, 1509.33, 5  
1509.99, 1514.01, 1514.02, 1514.021, 1514.03, 6  
1514.05, 3706.27, 4905.03, 4905.90, 4905.91, 7  
4905.95, 4906.01, 4906.03, 4906.05, 4906.06, 8  
4906.07, 4906.10, 4906.20, 4928.01, 4928.02, 9  
4928.61, 4928.62, 4928.64, 4928.65, 4928.66, 10  
4935.04, and 5703.21; and to enact sections 11  
4905.911, 4905.912, 4928.111, 4928.70, 4928.71, 12  
4928.72, 5727.821, and 6301.12 of the Revised 13  
Code; and to amend section 245.10 of Am. Sub. H.B. 14  
153 of the 129th General Assembly to make changes 15  
to the energy and natural resources laws and 16  
related programs of the state and to make an 17  
appropriation. 18

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

**Section 101.01.** That sections 122.075, 123.011, 125.836, 19  
131.50, 133.06, 156.01, 156.02, 156.03, 156.04, 303.213, 1509.01, 20  
1509.02, 1509.03, 1509.04, 1509.06, 1509.07, 1509.10, 1509.11, 21  
1509.22, 1509.221, 1509.222, 1509.223, 1509.23, 1509.28, 1509.33, 22  
1509.99, 1514.01, 1514.02, 1514.021, 1514.03, 1514.05, 3706.27, 23  
4905.03, 4905.90, 4905.91, 4905.95, 4906.01, 4906.03, 4906.05, 24  
4906.06, 4906.07, 4906.10, 4906.20, 4928.01, 4928.02, 4928.61, 25  
4928.62, 4928.64, 4928.65, 4928.66, 4935.04, and 5703.21 be 26  
amended and sections 4905.911, 4905.912, 4928.111, 4928.70, 27  
4928.71, 4928.72, 5727.821, and 6301.12 of the Revised Code be 28  
enacted to read as follows: 29

**Sec. 122.075.** (A) As used in this section: 30

(1) "Alternative fuel" has the same meaning as in section 31  
125.831 of the Revised Code. 32

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 33  
fuel that is derived from vegetable oils or animal fats, or any 34  
combination of those reagents, and that meets American society for 35  
testing and materials specification D6751-03a for biodiesel fuel 36  
(B100) blend stock distillate fuels. 37

(3) "Diesel fuel" and "gasoline" have the same meanings as in 38  
section 5735.01 of the Revised Code. 39

(4) "Ethanol" has the same meaning as in section 5733.46 of 40  
the Revised Code. 41

(5) "Blended biodiesel" means diesel fuel containing at least 42  
twenty per cent biodiesel by volume. 43

(6) "Blended gasoline" means gasoline containing at least 44  
eighty-five per cent ethanol by volume. 45

(7) "Incremental cost" means either of the following: 46

(a) The difference in cost between blended gasoline and 47

gasoline containing ten per cent or less ethanol at the time that 48  
the blended gasoline is purchased; 49

(b) The difference in cost between blended biodiesel and 50  
diesel fuel containing two per cent or less biodiesel at the time 51  
that the blended biodiesel is purchased. 52

(B) For the purpose of improving the air quality in this 53  
state, the director of development shall establish an alternative 54  
fuel transportation ~~grant~~ program under which the director may 55  
make grants and loans to businesses, nonprofit organizations, 56  
public school systems, or local governments for the purchase and 57  
installation of alternative fuel refueling or distribution 58  
facilities and terminals, for the purchase and use of alternative 59  
fuel, and to pay the costs of educational and promotional 60  
materials and activities intended for prospective alternative fuel 61  
consumers, fuel marketers, and others in order to increase the 62  
availability and use of alternative fuel. 63

(C) The director, in consultation with the director of 64  
agriculture, shall adopt rules in accordance with Chapter 119. of 65  
the Revised Code that are necessary for the administration of the 66  
alternative fuel transportation ~~grant~~ program. The rules shall 67  
establish at least all of the following: 68

(1) An application form and procedures governing the 69  
application process for a ~~grant~~ receiving funds under the program; 70

(2) A procedure for prioritizing the award of grants and 71  
loans under the program. The procedures shall give preference to 72  
all of the following: 73

(a) Publicly accessible refueling facilities; 74

(b) Entities ~~seeking grants~~ applying to the program that have 75  
secured funding from other sources, including, but not limited to, 76  
private or federal ~~grants~~ incentives; 77

(c) Entities that have presented compelling evidence of demand in the market in which the facilities or terminals will be located;

(d) Entities that have committed to utilizing purchased or installed facilities or terminals for the greatest number of years;

(e) Entities that will be purchasing or installing facilities or terminals for any type of alternative fuel.

(3) A requirement that the maximum ~~grant~~ incentive for the purchase and installation of an alternative fuel refueling or distribution facility or terminal be eighty per cent of the cost of the facility or terminal, except that at least twenty per cent of the total net cost of the facility or terminal shall be incurred by the ~~grant~~ recipient and not compensated for by any other source;

(4) A requirement that the maximum ~~grant~~ incentive for the purchase of alternative fuel be eighty per cent of the cost of the fuel or, in the case of blended biodiesel or blended gasoline, eighty per cent of the incremental cost of the blended biodiesel or blended gasoline;

(5) Any other criteria, procedures, or guidelines that the director determines are necessary to administer the program, including fees, charges, interest rates, and payment schedules.

(D) An applicant for a grant or loan under this section that sells motor vehicle fuel at retail shall agree that if the applicant receives a ~~grant~~ funding, the applicant will report to the director the gallon or gallon equivalent amounts of alternative fuel the applicant sells at retail in this state for a period of three years after the ~~grant is awarded~~ project is completed.

The director shall enter into a written confidentiality

agreement with the applicant regarding the gallon or gallon 109  
equivalent amounts sold as described in this division, and upon 110  
execution of the agreement this information is not a public 111  
record. 112

(E) There is hereby created in the state treasury the 113  
alternative fuel transportation ~~grant~~ fund. The fund shall consist 114  
of money transferred to the fund under division (C) of section 115  
125.836 and under division (B)(2) of section 3706.27 of the 116  
Revised Code, money that is appropriated to it by the general 117  
assembly, and money as may be specified by the general assembly 118  
from the advanced energy fund created by section 4928.61 of the 119  
Revised Code. Money in the fund shall be used to make grants and 120  
loans under the alternative fuel transportation ~~grant~~ program and 121  
by the director in the administration of that program. 122

**Sec. 123.011.** (A) As used in this section: 123

(1) "Construct" includes reconstruct, improve, renovate, 124  
enlarge, or otherwise alter. 125

(2) "Energy consumption analysis" means the evaluation of all 126  
energy consuming systems, components, and equipment by demand and 127  
type of energy, including the internal energy load imposed on a 128  
facility by its occupants and the external energy load imposed by 129  
climatic conditions. 130

(3) "Energy performance index" means a number describing the 131  
energy requirements of a facility per square foot of floor space 132  
or per cubic foot of occupied volume as appropriate under defined 133  
internal and external ambient conditions over an entire seasonal 134  
cycle. 135

(4) "Facility" means a building or other structure, or part 136  
of a building or other structure, that includes provision for a 137  
heating, refrigeration, ventilation, cooling, lighting, hot water, 138

or other major energy consuming system, component, or equipment. 139

(5) "Life-cycle cost analysis" means a general approach to 140  
economic evaluation that takes into account all dollar costs 141  
related to owning, operating, maintaining, and ultimately 142  
disposing of a project over the appropriate study period. 143

(6) "Political subdivision" means a county, township, 144  
municipal corporation, board of education of any school district, 145  
or any other body corporate and politic that is responsible for 146  
government activities in a geographic area smaller than that of 147  
the state. 148

(7) "State funded" means funded in whole or in part through 149  
appropriation by the general assembly or through the use of any 150  
guarantee provided by this state. 151

(8) "State institution of higher education" has the same 152  
meaning as in section 3345.011 of the Revised Code. 153

(9) "Cogeneration" means the simultaneous production of 154  
thermal energy and electricity for use primarily within a building 155  
or complex of buildings. 156

(B) There is hereby created within the department of 157  
administrative services the office of energy services. The office 158  
shall be under the supervision of a manager, who shall be 159  
appointed by the director of administrative services. The director 160  
shall assign to the office such number of employees and furnish 161  
such equipment and supplies as are necessary for the performance 162  
of the office's duties. 163

The office shall develop energy efficiency and conservation 164  
programs in each of the following areas: 165

(1) New construction design and review; 166

(2) Existing building audit and retrofit; 167

(3) Energy efficient procurement; 168

(4) Alternative fuel vehicles. 169

The office may accept and administer grants from public and 170  
private sources for carrying out any of its duties under this 171  
section. 172

(C) No state agency, department, division, bureau, office, 173  
unit, board, commission, authority, quasi-governmental entity, or 174  
institution, including those agencies otherwise excluded from the 175  
jurisdiction of the department under division (A)(3) of section 176  
123.01 of the Revised Code, shall lease, construct, or cause to be 177  
leased or constructed, within the limits prescribed in this 178  
section, a state-funded facility, without a proper life-cycle cost 179  
analysis or, in the case of a lease, an energy consumption 180  
analysis, as computed or prepared by a qualified architect or 181  
engineer in accordance with the rules required by division (D) of 182  
this section. 183

Construction shall proceed only upon the disclosure to the 184  
office, for the facility chosen, of the life-cycle costs as 185  
determined in this section and the capitalization of the initial 186  
construction costs of the building. The results of life-cycle cost 187  
analysis shall be a primary consideration in the selection of a 188  
building design. That analysis shall be required only for 189  
construction of buildings with an area of five thousand square 190  
feet or greater. For projects with an estimated construction cost 191  
exceeding fifty million dollars, the analysis shall include a 192  
review of cogeneration as an energy source. An energy consumption 193  
analysis for the term of a proposed lease shall be required only 194  
for the leasing of an area of twenty thousand square feet or 195  
greater within a given building boundary. That analysis shall be a 196  
primary consideration in the selection of a facility to be leased. 197

Nothing in this section shall deprive or limit any state 198  
agency that has review authority over design, construction, or 199  
leasing plans from requiring a life-cycle cost analysis or energy 200

consumption analysis. 201

(D) For the purposes of assisting the department in its 202  
responsibility for state-funded facilities pursuant to section 203  
123.01 of the Revised Code and of cost-effectively reducing the 204  
energy consumption of those and any other state-funded facilities, 205  
thereby promoting fiscal, economic, and environmental benefits to 206  
this state, the office shall promulgate rules specifying 207  
cost-effective, energy efficiency and conservation standards that 208  
may govern the lease, design, construction, operation, and 209  
maintenance of all state-funded facilities, except facilities of 210  
state institutions of higher education or facilities operated by a 211  
political subdivision. The office of energy efficiency in the 212  
department of development shall cooperate in providing information 213  
and technical expertise to the office of energy services to ensure 214  
promulgation of rules of maximum effectiveness. The standards 215  
prescribed by rules promulgated under this division may draw from 216  
or incorporate, by reference or otherwise and in whole or in part, 217  
standards already developed or implemented by any competent, 218  
public or private standards organization or program. The rules 219  
also may include any of the following: 220

(1) Specifications for a life-cycle cost analysis that shall 221  
determine, for the economic life of such state-funded facility, 222  
the reasonably expected costs of facility ownership, operation, 223  
and maintenance including labor and materials. Life-cycle cost may 224  
be expressed as an annual cost for each year of the facility's 225  
use. 226

A life-cycle cost analysis additionally may include an energy 227  
consumption analysis that conforms to division (D)(2) of this 228  
section. 229

(2) Specifications for an energy consumption analysis of the 230  
facility's heating, refrigeration, ventilation, cooling, lighting, 231  
hot water, and other major energy consuming systems, components, 232



and equipment. 233

A life-cycle cost analysis and energy consumption analysis 234  
shall be based on the best currently available methods of 235  
analysis, such as those of the national institute of standards and 236  
technology, the United States department of energy or other 237  
federal agencies, professional societies, and directions developed 238  
by the department. 239

(3) Specifications for energy performance indices, to be used 240  
to audit and evaluate competing design proposals submitted to the 241  
state. 242

(4) A requirement that, not later than two years after April 243  
6, 2007, each state-funded facility, except a facility of a state 244  
institution of higher education or a facility operated by a 245  
political subdivision, is managed by at least one building 246  
operator certified under the building operator certification 247  
program or any equivalent program or standards as shall be 248  
prescribed in the rules and considered reasonably equivalent. 249

(5) An application process by which a manager of a specified 250  
state-funded facility, except a facility of a state institution of 251  
higher education or a facility operated by a political 252  
subdivision, may apply for a waiver of compliance with any 253  
provision of the rules required by divisions (D)(1) to (4) of this 254  
section. 255

(E) The office of energy services shall promulgate rules to 256  
ensure that energy efficiency and conservation will be considered 257  
in the purchase of products and equipment, except motor vehicles, 258  
by any state agency, department, division, bureau, office, unit, 259  
board, commission, authority, quasi-governmental entity, or 260  
institution. Minimum energy efficiency standards for purchased 261  
products and equipment may be required, based on federal testing 262  
and labeling where available or on standards developed by the 263

office. The rules shall apply to the competitive selection of 264  
energy consuming systems, components, and equipment under Chapter 265  
125. of the Revised Code where possible. 266

The office also shall ensure energy efficient and energy 267  
conserving purchasing practices by doing all of the following: 268

(1) Cooperatively with the office of energy efficiency, 269  
identifying available energy efficiency and conservation 270  
opportunities; 271

(2) Providing for interchange of information among purchasing 272  
agencies; 273

(3) Identifying laws, policies, rules, and procedures that 274  
need modification; 275

(4) Monitoring experience with and the cost-effectiveness of 276  
this state's purchase and use of motor vehicles and of major 277  
energy-consuming systems, components, equipment, and products 278  
having a significant impact on energy consumption by government; 279

(5) Cooperatively with the office of energy efficiency, 280  
providing technical assistance and training to state employees 281  
involved in the purchasing process. 282

The department of development shall make recommendations to 283  
the office regarding planning and implementation of purchasing 284  
policies and procedures supportive of energy efficiency and 285  
conservation. 286

(F)(1) The office of energy services shall require all state 287  
agencies, departments, divisions, bureaus, offices, units, 288  
commissions, boards, authorities, quasi-governmental entities, 289  
institutions, and state institutions of higher education to 290  
implement procedures ensuring that all their passenger automobiles 291  
acquired in each fiscal year, except for those passenger 292  
automobiles acquired for use in law enforcement or emergency 293

rescue work, achieve a fleet average fuel economy of not less than 294  
the fleet average fuel economy for that fiscal year as shall be 295  
prescribed by the office by rule. The office shall promulgate the 296  
rule prior to the beginning of the fiscal year in accordance with 297  
the average fuel economy standards established pursuant to federal 298  
law for passenger automobiles manufactured during the model year 299  
that begins during the fiscal year. 300

(2) Each state agency, department, division, bureau, office, 301  
unit, commission, board, authority, quasi-governmental entity, 302  
institution, and state institution of higher education shall 303  
determine its fleet average fuel economy by dividing: 304

(a) The total number of passenger vehicles acquired during 305  
the fiscal year, except for those passenger vehicles acquired for 306  
use in law enforcement or emergency rescue work, by 307

(b) A sum of terms, each of which is a fraction created by 308  
dividing: 309

(i) The number of passenger vehicles of a given make, model, 310  
and year, except for passenger vehicles acquired for use in law 311  
enforcement or emergency rescue work, acquired during the fiscal 312  
year, by 313

(ii) The fuel economy measured by the administrator of the 314  
United States environmental protection agency, for the given make, 315  
model, and year of vehicle, that constitutes an average fuel 316  
economy for combined city and highway driving. 317

As used in division (F)(2) of this section, "acquired" means 318  
leased for a period of sixty continuous days or more, or 319  
purchased. 320

(G) Each state agency, department, division, bureau, office, 321  
unit, board, commission, authority, quasi-governmental entity, 322  
institution, and state institution of higher education shall 323  
comply with any applicable provision of this section or of a rule 324

promulgated pursuant to division (D) or (F) of this section. 325

**Sec. 125.836.** (A) As used in this section: 326

(1) "Biodiesel," "blended biodiesel," and "diesel fuel" have 327  
the same meanings as in section 125.831 of the Revised Code. 328

(2) "Credit" means a credit generated by the acquisition of 329  
alternative fueled vehicles in accordance with the "Energy Policy 330  
Act of 1992," 106 Stat. 2897, 42 U.S.C. 13257. 331

(3) "Incremental cost" means the difference in cost between 332  
blended biodiesel and conventional petroleum-based diesel fuel at 333  
the time the blended biodiesel is purchased. 334

(B) The department of administrative services shall establish 335  
and administer a credit banking and selling program. The 336  
department may sell or trade credits in accordance with procedures 337  
established pursuant to the "Energy Policy Act of 1992," 106 Stat. 338  
2897, 42 U.S.C. 13258. 339

(C) There is hereby created in the state treasury the 340  
"biodiesel revolving fund," to which shall be credited moneys 341  
received from the sale of credits under this section, any moneys 342  
appropriated to the fund by the general assembly, and any other 343  
moneys obtained or accepted by the department for crediting to the 344  
fund. Moneys credited to the fund shall be used to pay for the 345  
incremental cost of biodiesel for use in vehicles owned or leased 346  
by the state that use diesel fuel. The director of administrative 347  
services, after consultation with the director of development, may 348  
direct the director of budget and management to transfer available 349  
moneys in the biodiesel revolving fund to the alternative fuel 350  
transportation ~~grant~~ fund created in section 122.075 of the 351  
Revised Code to be used by the department of development for the 352  
purposes specified in that section. 353

(D) The director of administrative services shall adopt rules 354

under Chapter 119. of the Revised Code that are necessary for the 355  
administration of the credit banking and selling program. 356

**Sec. 131.50.** (A) There is hereby created in the state 357  
treasury the state land royalty fund consisting of money credited 358  
to it under section 1509.73 of the Revised Code. Any investment 359  
proceeds earned on money in the fund shall be credited to the fund 360  
and used as required in division (B) or (C) of this section. 361

(B) Money Except as provided in division (C) of this section, 362  
money in the state land royalty fund shall be used by state 363  
agencies to acquire land and to pay capital costs of state 364  
agencies, including equipment and renovations and repairs of 365  
facilities, that have contributed to the fund under section 366  
1509.73 of the Revised Code. Such a state agency is entitled to 367  
receive from the fund the amount that the state agency contributed 368  
and a share of the investment earnings of the fund in an amount 369  
that is equivalent to the proportionate share of contributions 370  
made by the state agency to the fund. 371

(C) Money in the fund that is allocated to a state college or 372  
university may be used to pay for operating expenses associated 373  
with any property that is owned by the college or university and 374  
that is at least partially used for the exploration, development, 375  
and production of oil or gas if both of the following apply: 376

(1) The state college or university is engaged in research at 377  
the property or in education or outreach regarding the property. 378

(2) The research, education, or outreach is associated with 379  
furthering the public understanding of how oil and gas 380  
exploration, development, or production potentially benefits the 381  
public and impacts the use of the state's natural resources. 382

(D) As used in this section, "state agency" has the same 383  
meaning as in section 1509.70 of the Revised Code. 384

Sec. 133.06. (A) A school district shall not incur, without a 385  
vote of the electors, net indebtedness that exceeds an amount 386  
equal to one-tenth of one per cent of its tax valuation, except as 387  
provided in divisions (G) and (H) of this section and in division 388  
(C) of section 3313.372 of the Revised Code, or as prescribed in 389  
section 3318.052 or 3318.44 of the Revised Code, or as provided in 390  
division (J) of this section. 391

(B) Except as provided in divisions (E), (F), and (I) of this 392  
section, a school district shall not incur net indebtedness that 393  
exceeds an amount equal to nine per cent of its tax valuation. 394

(C) A school district shall not submit to a vote of the 395  
electors the question of the issuance of securities in an amount 396  
that will make the district's net indebtedness after the issuance 397  
of the securities exceed an amount equal to four per cent of its 398  
tax valuation, unless the superintendent of public instruction, 399  
acting under policies adopted by the state board of education, and 400  
the tax commissioner, acting under written policies of the 401  
commissioner, consent to the submission. A request for the 402  
consents shall be made at least one hundred twenty days prior to 403  
the election at which the question is to be submitted. 404

The superintendent of public instruction shall certify to the 405  
district the superintendent's and the tax commissioner's decisions 406  
within thirty days after receipt of the request for consents. 407

If the electors do not approve the issuance of securities at 408  
the election for which the superintendent of public instruction 409  
and tax commissioner consented to the submission of the question, 410  
the school district may submit the same question to the electors 411  
on the date that the next special election may be held under 412  
section 3501.01 of the Revised Code without submitting a new 413  
request for consent. If the school district seeks to submit the 414  
same question at any other subsequent election, the district shall 415

first submit a new request for consent in accordance with this 416  
division. 417

(D) In calculating the net indebtedness of a school district, 418  
none of the following shall be considered: 419

(1) Securities issued to acquire school buses and other 420  
equipment used in transporting pupils or issued pursuant to 421  
division (D) of section 133.10 of the Revised Code; 422

(2) Securities issued under division (F) of this section, 423  
under section 133.301 of the Revised Code, and, to the extent in 424  
excess of the limitation stated in division (B) of this section, 425  
under division (E) of this section; 426

(3) Indebtedness resulting from the dissolution of a joint 427  
vocational school district under section 3311.217 of the Revised 428  
Code, evidenced by outstanding securities of that joint vocational 429  
school district; 430

(4) Loans, evidenced by any securities, received under 431  
sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the 432  
Revised Code; 433

(5) Debt incurred under section 3313.374 of the Revised Code; 434

(6) Debt incurred pursuant to division (B)(5) of section 435  
3313.37 of the Revised Code to acquire computers and related 436  
hardware; 437

(7) Debt incurred under section 3318.042 of the Revised Code. 438

(E) A school district may become a special needs district as 439  
to certain securities as provided in division (E) of this section. 440

(1) A board of education, by resolution, may declare its 441  
school district to be a special needs district by determining both 442  
of the following: 443

(a) The student population is not being adequately serviced 444  
by the existing permanent improvements of the district. 445

(b) The district cannot obtain sufficient funds by the 446  
issuance of securities within the limitation of division (B) of 447  
this section to provide additional or improved needed permanent 448  
improvements in time to meet the needs. 449

(2) The board of education shall certify a copy of that 450  
resolution to the superintendent of public instruction with a 451  
statistical report showing all of the following: 452

(a) The history of and a projection of the growth of the tax 453  
valuation; 454

(b) The projected needs; 455

(c) The estimated cost of permanent improvements proposed to 456  
meet such projected needs. 457

(3) The superintendent of public instruction shall certify 458  
the district as an approved special needs district if the 459  
superintendent finds both of the following: 460

(a) The district does not have available sufficient 461  
additional funds from state or federal sources to meet the 462  
projected needs. 463

(b) The projection of the potential average growth of tax 464  
valuation during the next five years, according to the information 465  
certified to the superintendent and any other information the 466  
superintendent obtains, indicates a likelihood of potential 467  
average growth of tax valuation of the district during the next 468  
five years of an average of not less than one and one-half per 469  
cent per year. The findings and certification of the 470  
superintendent shall be conclusive. 471

(4) An approved special needs district may incur net 472  
indebtedness by the issuance of securities in accordance with the 473  
provisions of this chapter in an amount that does not exceed an 474  
amount equal to the greater of the following: 475



(a) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage by which the tax valuation has increased over the tax valuation on the first day of the sixtieth month preceding the month in which its board determines to submit to the electors the question of issuing the proposed securities;

(b) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage, determined by the superintendent of public instruction, by which that tax valuation is projected to increase during the next ten years.

(F) A school district may issue securities for emergency purposes, in a principal amount that does not exceed an amount equal to three per cent of its tax valuation, as provided in this division.

(1) A board of education, by resolution, may declare an emergency if it determines both of the following:

(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.

(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.

(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost,

in excess of any insurance or condemnation proceeds received by 507  
the district, of permanent improvements to respond to the 508  
emergency need. 509

(3) The procedures for the election shall be as provided in 510  
section 133.18 of the Revised Code, except that: 511

(a) The form of the ballot shall describe the emergency 512  
existing, refer to this division as the authority under which the 513  
emergency is declared, and state that the amount of the proposed 514  
securities exceeds the limitations prescribed by division (B) of 515  
this section; 516

(b) The resolution required by division (B) of section 133.18 517  
of the Revised Code shall be certified to the county auditor and 518  
the board of elections at least one hundred days prior to the 519  
election; 520

(c) The county auditor shall advise and, not later than 521  
ninety-five days before the election, confirm that advice by 522  
certification to, the board of education of the information 523  
required by division (C) of section 133.18 of the Revised Code; 524

(d) The board of education shall then certify its resolution 525  
and the information required by division (D) of section 133.18 of 526  
the Revised Code to the board of elections not less than ninety 527  
days prior to the election. 528

(4) Notwithstanding division (B) of section 133.21 of the 529  
Revised Code, the first principal payment of securities issued 530  
under this division may be set at any date not later than sixty 531  
months after the earliest possible principal payment otherwise 532  
provided for in that division. 533

(G) The board of education may contract with an architect, 534  
professional engineer, or other person experienced in the design 535  
and implementation of energy conservation measures for an analysis 536  
and recommendations pertaining to installations, modifications of 537

installations, or remodeling that would significantly reduce 538  
energy consumption in buildings owned by the district. The report 539  
shall include estimates of all costs of such installations, 540  
modifications, or remodeling, including costs of design, 541  
engineering, installation, maintenance, repairs, and debt service, 542  
forgone residual value of materials or equipment replaced by the 543  
energy conservation measure, as defined by the Ohio school 544  
facilities commission, a baseline analysis of actual energy 545  
consumption data for the preceding ~~five~~ three years, and estimates 546  
of the amounts by which energy consumption and resultant 547  
operational and maintenance costs, as defined by the commission, 548  
would be reduced. 549

If the board finds after receiving the report that the amount 550  
of money the district would spend on such installations, 551  
modifications, or remodeling is not likely to exceed the amount of 552  
money it would save in energy and resultant operational and 553  
maintenance costs over the ensuing fifteen years, the board may 554  
submit to the commission a copy of its findings and a request for 555  
approval to incur indebtedness to finance the making or 556  
modification of installations or the remodeling of buildings for 557  
the purpose of significantly reducing energy consumption. 558

If the commission determines that the board's findings are 559  
reasonable, it shall approve the board's request. Upon receipt of 560  
the commission's approval, the district may issue securities 561  
without a vote of the electors in a principal amount not to exceed 562  
nine-tenths of one per cent of its tax valuation for the purpose 563  
of making such installations, modifications, or remodeling, but 564  
the total net indebtedness of the district without a vote of the 565  
electors incurred under this and all other sections of the Revised 566  
Code, except section 3318.052 of the Revised Code, shall not 567  
exceed one per cent of the district's tax valuation. 568

So long as any securities issued under division (G) of this 569

section remain outstanding, the board of education shall monitor 570  
the energy consumption and resultant operational and maintenance 571  
costs of buildings in which installations or modifications have 572  
been made or remodeling has been done pursuant to division (G) of 573  
this section and shall maintain and annually update a report 574  
documenting the reductions in energy consumption and resultant 575  
operational and maintenance cost savings attributable to such 576  
installations, modifications, or remodeling. The report shall be 577  
certified by an architect or engineer independent of any person 578  
that provided goods or services to the board in connection with 579  
the energy conservation measures that are the subject of the 580  
report. The resultant operational and maintenance cost savings 581  
shall be certified by the school district treasurer. The report 582  
shall be submitted annually to the commission. 583

(H) With the consent of the superintendent of public 584  
instruction, a school district may incur without a vote of the 585  
electors net indebtedness that exceeds the amounts stated in 586  
divisions (A) and (G) of this section for the purpose of paying 587  
costs of permanent improvements, if and to the extent that both of 588  
the following conditions are satisfied: 589

(1) The fiscal officer of the school district estimates that 590  
receipts of the school district from payments made under or 591  
pursuant to agreements entered into pursuant to section 725.02, 592  
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 593  
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 594  
Code, or distributions under division (C) of section 5709.43 of 595  
the Revised Code, or any combination thereof, are, after 596  
accounting for any appropriate coverage requirements, sufficient 597  
in time and amount, and are committed by the proceedings, to pay 598  
the debt charges on the securities issued to evidence that 599  
indebtedness and payable from those receipts, and the taxing 600  
authority of the district confirms the fiscal officer's estimate, 601

which confirmation is approved by the superintendent of public 602  
instruction; 603

(2) The fiscal officer of the school district certifies, and 604  
the taxing authority of the district confirms, that the district, 605  
at the time of the certification and confirmation, reasonably 606  
expects to have sufficient revenue available for the purpose of 607  
operating such permanent improvements for their intended purpose 608  
upon acquisition or completion thereof, and the superintendent of 609  
public instruction approves the taxing authority's confirmation. 610

The maximum maturity of securities issued under division (H) 611  
of this section shall be the lesser of twenty years or the maximum 612  
maturity calculated under section 133.20 of the Revised Code. 613

(I) A school district may incur net indebtedness by the 614  
issuance of securities in accordance with the provisions of this 615  
chapter in excess of the limit specified in division (B) or (C) of 616  
this section when necessary to raise the school district portion 617  
of the basic project cost and any additional funds necessary to 618  
participate in a project under Chapter 3318. of the Revised Code, 619  
including the cost of items designated by the Ohio school 620  
facilities commission as required locally funded initiatives, the 621  
cost of other locally funded initiatives in an amount that does 622  
not exceed fifty per cent of the district's portion of the basic 623  
project cost, and the cost for site acquisition. The school 624  
facilities commission shall notify the superintendent of public 625  
instruction whenever a school district will exceed either limit 626  
pursuant to this division. 627

(J) A school district whose portion of the basic project cost 628  
of its classroom facilities project under sections 3318.01 to 629  
3318.20 of the Revised Code is greater than or equal to one 630  
hundred million dollars may incur without a vote of the electors 631  
net indebtedness in an amount up to two per cent of its tax 632  
valuation through the issuance of general obligation securities in 633

order to generate all or part of the amount of its portion of the 634  
basic project cost if the controlling board has approved the 635  
school facilities commission's conditional approval of the project 636  
under section 3318.04 of the Revised Code. The school district 637  
board and the Ohio school facilities commission shall include the 638  
dedication of the proceeds of such securities in the agreement 639  
entered into under section 3318.08 of the Revised Code. No state 640  
moneys shall be released for a project to which this section 641  
applies until the proceeds of any bonds issued under this section 642  
that are dedicated for the payment of the school district portion 643  
of the project are first deposited into the school district's 644  
project construction fund. 645

**Sec. 156.01.** As used in sections 156.01 to 156.05 of the 646  
Revised Code: 647

(A) "Avoided capital costs" means a measured reduction in the 648  
cost of future equipment or other capital purchases that results 649  
from implementation of one or more energy or water conservation 650  
measures, when compared to an established baseline for previous 651  
such cost. 652

(B) "Energy conservation measure" means an installation or 653  
modification of an installation in, or a remodeling of, an 654  
existing building in order to reduce energy consumption and 655  
operating costs. The term includes any of the following: 656

(1) Installation or modification of insulation in the 657  
building structure and systems within the building; 658

(2) Installation or modification of storm windows and doors, 659  
multiglazed windows and doors, and heat absorbing or heat 660  
reflective glazed and coated window and door systems; installation 661  
of additional glazing; reductions in glass area; and other window 662  
and door system modifications that reduce energy consumption and 663  
operating costs; 664

(3) Installation or modification of automatic energy control systems;	665 666
(4) Replacement or modification of heating, ventilating, or air conditioning systems;	667 668
(5) Application of caulking and weather stripping;	669
(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a building unless the increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;	670 671 672 673 674
(7) Installation or modification of energy recovery systems;	675
(8) Installation or modification of cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;	676 677 678 679
(9) <u>Installation or modification of trigeneration systems that produce heat and cooling, as well as electricity, for use primarily within a building or complex of buildings;</u>	680 681 682
(10) <u>Installation or modification of systems that harvest renewable energy from solar, wind, water, biomass, bio-gas, or geothermal sources, for use primarily within a building or complex of buildings;</u>	683 684 685 686
(11) <u>Retro-commissioning or recommissioning energy-related systems to verify that they are installed and calibrated to optimize energy and operational performance within a building or complex of buildings;</u>	687 688 689 690
(12) <u>Consolidation, virtualization, and optimization of computer servers, data storage devices, or other information technology hardware and infrastructure;</u>	691 692 693
(13) <u>Any other modification, installation, or remodeling</u>	694

approved by the director of administrative services as an energy 695  
conservation measure for one or more buildings owned by ~~the~~ either 696  
of the following: 697

(a) The state; 698

(b) A state institution of higher education as defined in 699  
section 3345.011 of the Revised Code that implements the energy 700  
conservation measure in consultation with the director. 701

(C) "Energy saving measure" means the acquisition and 702  
installation, by purchase, lease, lease-purchase, lease with an 703  
option to buy, or installment purchase, of an energy conservation 704  
measure and any attendant architectural and engineering consulting 705  
services. 706

(D) "Energy, water, or wastewater cost savings" means a 707  
measured reduction in, as applicable, the cost of fuel, energy or 708  
water consumption, wastewater production, or stipulated operation 709  
or maintenance resulting from the implementation of one or more 710  
energy or water conservation measures, when compared to an 711  
established baseline for previous such costs, respectively. 712

(E) "Operating cost savings" means a measured reduction in 713  
the cost of stipulated operation or maintenance created by the 714  
installation of new equipment or implementation of a new service, 715  
when compared with an established baseline for previous such 716  
stipulated costs. 717

(F) "Water conservation measure" means an installation or 718  
modification of an installation in, or a remodeling of, an 719  
existing building or the surrounding grounds in order to reduce 720  
water consumption. The term includes any of the following: 721

(1) Water-conserving fixture, appliance, or equipment, or the 722  
substitution of a nonwater-using fixture, appliance, or equipment; 723

(2) Water-conserving, landscape irrigation equipment; 724



(3) Landscaping measure that reduces storm water runoff 725  
demand and capture and hold applied water and rainfall, including 726  
landscape contouring such as the use of a berm, swale, or terrace 727  
and including the use of a soil amendment, including compost, that 728  
increases the water-holding capacity of the soil; 729

(4) Rainwater harvesting equipment or equipment to make use 730  
of water collected as part of a storm water system installed for 731  
water quality control; 732

(5) Equipment for recycling or reuse of water originating on 733  
the premises or from another source, including treated, municipal 734  
effluent; 735

(6) Equipment needed to capture water for nonpotable uses 736  
from any nonconventional, alternate source, including air 737  
conditioning condensate or gray water; 738

(7) Any other modification, installation, or remodeling 739  
approved by the ~~board of trustees of a state institution of higher~~ 740  
~~education as defined in section 3345.011 of the Revised Code~~ 741  
director of administrative services as a water conservation 742  
measure for one or more buildings or the surrounding grounds owned 743  
by either of the following: 744

(a) The state; 745

(b) A state institution of higher education as defined in 746  
section 3345.011 of the Revised Code that implements the water 747  
conservation measure in consultation with the director. 748

(G) "Water saving measure" means the acquisition and 749  
installation, by the purchase, lease, lease-purchase, lease with 750  
an option to buy, or installment purchases of a water conservation 751  
measure and any attendant architectural and engineering consulting 752  
services. 753

**Sec. 156.02. (A)** The director of administrative services may 754

~~contract with an energy services company, contractor, architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy conservation measures that would significantly reduce energy consumption and operating costs in any buildings owned by the state. The report shall include estimates of all costs of such measures, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the amounts by which energy consumption and operating costs would be reduced.~~

~~(B) Upon the request of the board of trustees or managing authority of a state institution of higher education as defined in section 3345.011 of the Revised Code, the director may contract with or a water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy or water conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures that result in energy, water, or wastewater cost savings, operating cost savings, or avoided capital costs for the institution. The report shall include estimates of all costs of such installations, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the energy, water, or wastewater cost savings, operating cost savings, and avoided capital costs created.~~

**Sec. 156.03.** (A) If the director of administrative services wishes to enter into an installment payment contract pursuant to section 156.04 of the Revised Code or any other contract to implement one or more ~~energy saving measures or, in the case of a state institution of higher education pursuant to division (B) of section 156.02 of the Revised Code,~~ energy or water saving

measures, the director may proceed under Chapter 153. of the 787  
Revised Code, or, alternatively, the director may request the 788  
controlling board to exempt the contract from Chapter 153. of the 789  
Revised Code. 790

If the controlling board by a majority vote approves an 791  
exemption, that chapter shall not apply to the contract and 792  
instead the director shall request proposals from at least three 793  
parties for the implementation of the energy or water saving 794  
measures. Prior to providing any interested party a copy of any 795  
such request, the director shall advertise, in a newspaper of 796  
general circulation in the county where the contract is to be 797  
performed, and may advertise by electronic means pursuant to rules 798  
adopted by the director, the director's intent to request 799  
proposals for the implementation of the energy or water saving 800  
measures. The notice shall invite interested parties to submit 801  
proposals for consideration and shall be published at least thirty 802  
days prior to the date for accepting proposals. 803

(B) Upon receiving the proposals, the director shall analyze 804  
them and, after considering the cost estimates of each proposal 805  
and the availability of funds to pay for each with current 806  
appropriations or by financing the cost of each through an 807  
installment payment contract under section 156.04 of the Revised 808  
Code, may select one or more proposals or reject all proposals. In 809  
selecting proposals, the director shall select the one or more 810  
proposals most likely to result in the greatest ~~savings when the~~ 811  
~~cost of the proposal is compared to the reduced energy and~~ 812  
~~operating costs that will result from implementing the proposal.~~ 813  
~~However, in the case of a state institution of higher education~~ 814  
~~pursuant to division (B) of section 156.02 of the Revised Code,~~ 815  
~~the director shall select the one or more proposals most likely to~~ 816  
~~result in the greatest energy, water, or wastewater savings,~~ 817  
operating costs savings, and avoided capital costs created. 818

~~(C)(1) No contract shall be awarded to implement energy or 819  
water saving measures under this section, ~~other than in the case~~ 820  
~~of a state institution of higher education, unless the director~~ 821  
~~finds that one or both of the following circumstances exists, as~~ 822  
~~applicable:~~ 823~~

~~(a) In the case of a contract for a cogeneration system 824  
described in division (H) of section 156.01 of the Revised Code, 825  
the cost of the contract is not likely to exceed the amount of 826  
money that would be saved in energy and operating costs over no 827  
more than five years;~~ 828

~~(b) In the case of any contract for any energy saving measure 829  
other than a cogeneration system, the cost of the contract is not 830  
likely to exceed the amount of money that would be saved in energy 831  
and operating costs over no more than ten years.~~ 832

~~(2) In the case of a state institution of higher education 833  
pursuant to division (B) of section 156.02 of the Revised Code, no 834  
contract shall be awarded to implement energy or water saving 835  
measures for the institution under this section unless the 836  
director finds that both of the following circumstances exists: 837~~

~~(a)(1) Not less than one-fifteenth of the costs of the 838  
contract shall be paid within two years from the date of purchase; 839~~

~~(b) The (2) In the case of a contract for a cogeneration 840  
system described in division (B)(8) of section 156.01 of the 841  
Revised Code, the remaining balance of the cost of the contract 842  
shall be paid within ~~fifteen~~ twenty years from the date of 843  
purchase, and, in the case of all other contracts, fifteen years. 844~~

**Sec. 156.04.** (A) In accordance with this section and section 845  
156.03 of the Revised Code, the director of administrative 846  
services may enter into an installment payment contract for the 847  
implementation of one or more energy or water saving measures. If 848

the director wishes an installment payment contract to be exempted 849  
from Chapter 153. of the Revised Code, the director shall proceed 850  
pursuant to section 156.03 of the Revised Code. 851

~~(B)(1) Any installment payment contract under this section, 852  
other than in the case of a state institution of higher education, 853  
for one or more energy saving measures shall provide that all 854  
payments, except payments for repairs and obligations on 855  
termination of the contract prior to its expiration, are to be a 856  
stated percentage of calculated savings of energy and operating 857  
costs attributable to the one or more measures over a defined 858  
period of time and are to be made only to the extent that those 859  
savings actually occur. No such contract shall contain any of the 860  
following: 861~~

~~(a) A requirement of any additional capital investment or 862  
contribution of funds, other than funds available from state or 863  
federal grants; 864~~

~~(b) In the case of a contract for an energy saving measure 865  
that is a cogeneration system described in division (H) of section 866  
156.01 of the Revised Code, a payment term longer than five years; 867~~

~~(c) In the case of a contract for any energy saving measure 868  
that is not a cogeneration system, a payment term longer than ten 869  
years. 870~~

~~(2) Any installment payment contract under this section for 871  
one or more energy or water saving measures for a state 872  
institution of higher education pursuant to division (B) of 873  
section 156.02 of the Revised Code, shall provide that all 874  
payments, except payments for repairs and obligations on 875  
termination of the contract prior to its expiration, are to be a 876  
stated percentage of calculated energy, water, or wastewater cost 877  
savings, operating costs, and avoided capital costs attributable 878  
to the one or more measures over a defined period of time and are 879~~

to be made only to the extent that those calculated amounts 880  
actually occur. No such contract shall contain either of the 881  
following: 882

~~(a)(1)~~ A requirement of any additional capital investment or 883  
contribution of funds, other than funds available from state or 884  
federal grants; 885

~~(b) A (2) In the case of a contract for a cogeneration system 886  
described in division (B)(8) of section 156.01 of the Revised 887  
Code, a payment term longer than twenty years, and, in the case of 888  
all other contracts, a payment term longer than fifteen years. 889~~

(C) Any installment payment contract entered into under this 890  
section shall terminate no later than the last day of the fiscal 891  
biennium for which funds have been appropriated to the department 892  
of administrative services by the general assembly and shall be 893  
renewed in each succeeding fiscal biennium in which any balance of 894  
the contract remains unpaid, provided that both an appropriation 895  
for that succeeding fiscal biennium and the certification required 896  
by section 126.07 of the Revised Code are made. 897

(D) Any installment payment contract entered into under this 898  
section shall be eligible for financing provided through the Ohio 899  
air quality development authority under Chapter 3706. of the 900  
Revised Code. 901

**Sec. 303.213.** (A) As used in this section, "small wind farm" 902  
means wind turbines and associated facilities with a single 903  
interconnection to the electrical grid and designed for, or 904  
capable of, operation at an aggregate capacity of less than five 905  
megawatts. 906

(B) Notwithstanding division (A) of section 303.211 of the 907  
Revised Code, sections 303.01 to 303.25 of the Revised Code confer 908  
power on a board of county commissioners or board of zoning 909

appeals to adopt zoning regulations governing the location, 910  
erection, construction, reconstruction, change, alteration, 911  
maintenance, removal, use, or enlargement of any small wind farm, 912  
whether publicly or privately owned, or the use of land for that 913  
purpose, which regulations may be more strict than the regulations 914  
prescribed in rules adopted under division ~~(C)~~(B)(2) of section 915  
4906.20 of the Revised Code. 916

(C) The designation under this section of a small wind farm 917  
as a public utility for purposes of sections 303.01 to 303.25 of 918  
the Revised Code shall not affect the classification of a small 919  
wind farm for purposes of state or local taxation. 920

(D) Nothing in division (C) of this section shall be 921  
construed as affecting the classification of a telecommunications 922  
tower as defined in division (B) or (E) of section 303.211 of the 923  
Revised Code or any other public utility for purposes of state and 924  
local taxation. 925

**Sec. 1509.01.** As used in this chapter: 926

(A) "Well" means any borehole, whether drilled or bored, 927  
within the state for production, extraction, or injection of any 928  
gas or liquid mineral, excluding potable water to be used as such, 929  
but including natural or artificial brines and oil field waters. 930

(B) "Oil" means crude petroleum oil and all other 931  
hydrocarbons, regardless of gravity, that are produced in liquid 932  
form by ordinary production methods, but does not include 933  
hydrocarbons that were originally in a gaseous phase in the 934  
reservoir. 935

(C) "Gas" means all natural gas and all other fluid 936  
hydrocarbons that are not oil, including condensate. 937

(D) "Condensate" means liquid hydrocarbons ~~that were~~ 938  
~~originally in the gaseous phase in the reservoir~~ separated at or 939

near the well pad or along the gas production or gathering system 940  
prior to gas processing. 941

(E) "Pool" means an underground reservoir containing a common 942  
accumulation of oil or gas, or both, but does not include a gas 943  
storage reservoir. Each zone of a geological structure that is 944  
completely separated from any other zone in the same structure may 945  
contain a separate pool. 946

(F) "Field" means the general area underlaid by one or more 947  
pools. 948

(G) "Drilling unit" means the minimum acreage on which one 949  
well may be drilled, but does not apply to a well for injecting 950  
gas into or removing gas from a gas storage reservoir. 951

(H) "Waste" includes all of the following: 952

(1) Physical waste, as that term generally is understood in 953  
the oil and gas industry; 954

(2) Inefficient, excessive, or improper use, or the 955  
unnecessary dissipation, of reservoir energy; 956

(3) Inefficient storing of oil or gas; 957

(4) Locating, drilling, equipping, operating, or producing an 958  
oil or gas well in a manner that reduces or tends to reduce the 959  
quantity of oil or gas ultimately recoverable under prudent and 960  
proper operations from the pool into which it is drilled or that 961  
causes or tends to cause unnecessary or excessive surface loss or 962  
destruction of oil or gas; 963

(5) Other underground or surface waste in the production or 964  
storage of oil, gas, or condensate, however caused. 965

(I) "Correlative rights" means the reasonable opportunity to 966  
every person entitled thereto to recover and receive the oil and 967  
gas in and under the person's tract or tracts, or the equivalent 968  
thereof, without having to drill unnecessary wells or incur other 969



unnecessary expense.	970
(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.	971 972
(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.	973 974 975 976 977 978 979 980 981 982 983 984 985
(L) "Royalty interest" means the fee holder's share in the production from a well.	986 987
(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.	988 989
(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of oil and gas resources management.	990 991 992 993 994
(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.	995 996
(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.	997 998
(Q) "Coal bearing township" means a township designated as	999

such by the chief of the division of mineral resources management 1000  
under section 1561.06 of the Revised Code. 1001

(R) "Gas storage reservoir" means a continuous area of a 1002  
subterranean porous sand or rock stratum or strata into which gas 1003  
is or may be injected for the purpose of storing it therein and 1004  
removing it therefrom and includes a gas storage reservoir as 1005  
defined in section 1571.01 of the Revised Code. 1006

(S) "Safe Drinking Water Act" means the "Safe Drinking Water 1007  
Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the 1008  
"Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 1009  
U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 1010  
100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water 1011  
Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and 1012  
regulations adopted under those acts. 1013

(T) "Person" includes any political subdivision, department, 1014  
agency, or instrumentality of this state; the United States and 1015  
any department, agency, or instrumentality thereof; and any legal 1016  
entity defined as a person under section 1.59 of the Revised Code. 1017

(U) "Brine" means all saline geological formation water 1018  
resulting from, obtained from, or produced in connection with 1019  
exploration, drilling, well stimulation, production of oil or gas, 1020  
or plugging of a well. 1021

(V) "Waters of the state" means all streams, lakes, ponds, 1022  
marshes, watercourses, waterways, springs, irrigation systems, 1023  
drainage systems, and other bodies of water, surface or 1024  
underground, natural or artificial, that are situated wholly or 1025  
partially within this state or within its jurisdiction, except 1026  
those private waters that do not combine or effect a junction with 1027  
natural surface or underground waters. 1028

(W) "Exempt Mississippian well" means a well that meets all 1029  
of the following criteria: 1030

(1) Was drilled and completed before January 1, 1980;	1031
(2) Is located in an unglaciated part of the state;	1032
(3) Was completed in a reservoir no deeper than the	1033
Mississippian Big Injun sandstone in areas underlain by	1034
Pennsylvanian or Permian stratigraphy, or the Mississippian Berea	1035
sandstone in areas directly underlain by Permian stratigraphy;	1036
(4) Is used primarily to provide oil or gas for domestic use.	1037
(X) "Exempt domestic well" means a well that meets all of the	1038
following criteria:	1039
(1) Is owned by the owner of the surface estate of the tract	1040
on which the well is located;	1041
(2) Is used primarily to provide gas for the owner's domestic	1042
use;	1043
(3) Is located more than two hundred feet horizontal distance	1044
from any inhabited private dwelling house other than an inhabited	1045
private dwelling house located on the tract on which the well is	1046
located;	1047
(4) Is located more than two hundred feet horizontal distance	1048
from any public building that may be used as a place of resort,	1049
assembly, education, entertainment, lodging, trade, manufacture,	1050
repair, storage, traffic, or occupancy by the public.	1051
(Y) "Urbanized area" means an area where a well or production	1052
facilities of a well are located within a municipal corporation or	1053
within a township that has an unincorporated population of more	1054
than five thousand in the most recent federal decennial census	1055
prior to the issuance of the permit for the well or production	1056
facilities.	1057
(Z) "Well stimulation" or "stimulation of a well" means the	1058
process of enhancing well productivity, including hydraulic	1059
fracturing operations.	1060

(AA) "Production operation" means all operations and 1061  
activities and all related equipment, facilities, and other 1062  
structures that may be used in or associated with the exploration 1063  
and production of oil, gas, or other mineral resources that are 1064  
regulated under this chapter, including operations and activities 1065  
associated with site preparation, site construction, access road 1066  
construction, well drilling, well completion, well stimulation, 1067  
well site activities, reclamation, and plugging. "Production 1068  
operation" also includes all of the following: 1069

(1) The piping, equipment, and facilities used for the 1070  
production and preparation of hydrocarbon gas or liquids for 1071  
transportation or delivery; 1072

(2) The processes of extraction and recovery, lifting, 1073  
stabilization, treatment, separation, production processing, 1074  
storage, waste disposal, and measurement of hydrocarbon gas and 1075  
liquids, including related equipment and facilities; 1076

(3) The processes and related equipment and facilities 1077  
associated with production compression, gas lift, gas injection, 1078  
fuel gas supply, well drilling, well stimulation, and well 1079  
completion activities, including dikes, pits, and earthen and 1080  
other impoundments used for the temporary storage of fluids and 1081  
waste substances associated with well drilling, well stimulation, 1082  
and well completion activities. 1083

(BB) "Annular overpressurization" means the accumulation of 1084  
fluids within an annulus with sufficient pressure to allow 1085  
migration of annular fluids into underground sources of drinking 1086  
water. 1087

(CC) "Idle and orphaned well" means a well for which a bond 1088  
has been forfeited or an abandoned well for which no money is 1089  
available to plug the well in accordance with this chapter and 1090  
rules adopted under it. 1091

(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.

(EE) "Material and substantial violation" means any of the following:

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;

(2) Failure to obtain ~~or~~, maintain, update, or submit proof of insurance coverage that is required under this chapter;

(3) Failure to obtain ~~or~~, maintain, update, or submit proof of a surety bond that is required under this chapter;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;

(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;

(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;

(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;

(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it.

(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.

(GG) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant,

Utica, or Marcellus formation and the well is stimulated. 1122

(HH) "Well pad" means the area that is cleared or prepared 1123

for the drilling of one or more horizontal wells. 1124

**Sec. 1509.02.** There is hereby created in the department of 1125  
natural resources the division of oil and gas resources 1126  
management, which shall be administered by the chief of the 1127  
division of oil and gas resources management. The division has 1128  
sole and exclusive authority to regulate the permitting, location, 1129  
and spacing of oil and gas wells and production operations within 1130  
the state, excepting only those activities regulated under federal 1131  
laws for which oversight has been delegated to the environmental 1132  
protection agency and activities regulated under sections 6111.02 1133  
to 6111.029 of the Revised Code. The regulation of oil and gas 1134  
activities is a matter of general statewide interest that requires 1135  
uniform statewide regulation, and this chapter and rules adopted 1136  
under it constitute a comprehensive plan with respect to all 1137  
aspects of the locating, drilling, well stimulation, completing, 1138  
and operating of oil and gas wells within this state, including 1139  
site construction and restoration, permitting related to those 1140  
activities, and the disposal of wastes from those wells. In order 1141  
to assist the division in the furtherance of its sole and 1142  
exclusive authority as established in this section, the chief may 1143  
enter into cooperative agreements with other state agencies for 1144  
advice and consultation, including visitations at the surface 1145  
location of a well on behalf of the division. Such cooperative 1146  
agreements do not confer on other state agencies any authority to 1147  
administer or enforce this chapter and rules adopted under it. In 1148  
addition, such cooperative agreements shall not be construed to 1149  
dilute or diminish the division's sole and exclusive authority as 1150  
established in this section. Nothing in this section affects the 1151  
authority granted to the director of transportation and local 1152  
authorities in section 723.01 or 4513.34 of the Revised Code, 1153

provided that the authority granted under those sections shall not 1154  
be exercised in a manner that discriminates against, unfairly 1155  
impedes, or obstructs oil and gas activities and operations 1156  
regulated under this chapter. 1157

The chief shall not hold any other public office, nor shall 1158  
the chief be engaged in any occupation or business that might 1159  
interfere with or be inconsistent with the duties as chief. 1160

All moneys collected by the chief pursuant to sections 1161  
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, ~~1509.221,~~ 1162  
1509.222, 1509.28, 1509.34, and 1509.50 of the Revised Code, 1163  
ninety per cent of moneys received by the treasurer of state from 1164  
the tax levied in divisions (A)(5) and (6) of section 5749.02 of 1165  
the Revised Code, all civil penalties paid under section 1509.33 1166  
of the Revised Code, and, notwithstanding any section of the 1167  
Revised Code relating to the distribution or crediting of fines 1168  
for violations of the Revised Code, all fines imposed under 1169  
divisions (A) and (B) of section 1509.99 of the Revised Code and 1170  
fines imposed under divisions (C) and (D) of section 1509.99 of 1171  
the Revised Code for all violations prosecuted by the attorney 1172  
general and for violations prosecuted by prosecuting attorneys 1173  
that do not involve the transportation of brine by vehicle shall 1174  
be deposited into the state treasury to the credit of the oil and 1175  
gas well fund, which is hereby created. Fines imposed under 1176  
divisions (C) and (D) of section 1509.99 of the Revised Code for 1177  
violations prosecuted by prosecuting attorneys that involve the 1178  
transportation of brine by vehicle and penalties associated with a 1179  
compliance agreement entered into pursuant to this chapter shall 1180  
be paid to the county treasury of the county where the violation 1181  
occurred. 1182

The fund shall be used solely and exclusively for the 1183  
purposes enumerated in division (B) of section 1509.071 of the 1184  
Revised Code, for the expenses of the division associated with the 1185

administration of this chapter and Chapter 1571. of the Revised 1186  
Code and rules adopted under them, and for expenses that are 1187  
critical and necessary for the protection of human health and 1188  
safety and the environment related to oil and gas production in 1189  
this state. The expenses of the division in excess of the moneys 1190  
available in the fund shall be paid from general revenue fund 1191  
appropriations to the department. 1192

**Sec. 1509.03.** (A) The chief of the division of oil and gas 1193  
resources management shall adopt, rescind, and amend, in 1194  
accordance with Chapter 119. of the Revised Code, rules for the 1195  
administration, implementation, and enforcement of this chapter. 1196  
The rules shall include an identification of the subjects that the 1197  
chief shall address when attaching terms and conditions to a 1198  
permit with respect to a well and production facilities of a well 1199  
that are located within an urbanized area or with respect to a 1200  
horizontal well and production facilities associated with a 1201  
horizontal well. The subjects shall include all of the following: 1202

(1) Safety concerning the drilling or operation of a well; 1203

(2) Protection of the public and private water supply, 1204  
including the amount of water used and the source or sources of 1205  
the water; 1206

(3) Fencing and screening of surface facilities of a well; 1207

(4) Containment and disposal of drilling and production 1208  
wastes; 1209

(5) Construction of access roads for purposes of the drilling 1210  
and operation of a well; 1211

(6) Noise mitigation for purposes of the drilling of a well 1212  
and the operation of a well, excluding safety and maintenance 1213  
operations. 1214

No person shall violate any rule of the chief adopted under 1215



this chapter. 1216

(B)(1) Any order issuing, denying, or modifying a permit or 1217  
notices required to be made by the chief pursuant to this chapter 1218  
shall be made in compliance with Chapter 119. of the Revised Code, 1219  
except that personal service may be used in lieu of service by 1220  
mail. Every order issuing, denying, or modifying a permit under 1221  
this chapter and described as such shall be considered an 1222  
adjudication order for purposes of Chapter 119. of the Revised 1223  
Code. Division (B)(1) of this section does not apply to a permit 1224  
issued under section 1509.06 of the Revised Code. 1225

(2) Where notice to the owners is required by this chapter, 1226  
the notice shall be given as prescribed by a rule adopted by the 1227  
chief to govern the giving of notices. The rule shall provide for 1228  
notice by publication except in those cases where other types of 1229  
notice are necessary in order to meet the requirements of the law. 1230

(C) The chief or the chief's authorized representative may at 1231  
any time enter upon lands, public or private, for the purpose of 1232  
administration or enforcement of this chapter, the rules adopted 1233  
or orders made thereunder, or terms or conditions of permits or 1234  
registration certificates issued thereunder and may examine and 1235  
copy records pertaining to the drilling, conversion, or operation 1236  
of a well for injection of fluids and logs required by division 1237  
(C) of section 1509.223 of the Revised Code. No person shall 1238  
prevent or hinder the chief or the chief's authorized 1239  
representative in the performance of official duties. If entry is 1240  
prevented or hindered, the chief or the chief's authorized 1241  
representative may apply for, and the court of common pleas may 1242  
issue, an appropriate inspection warrant necessary to achieve the 1243  
purposes of this chapter within the court's territorial 1244  
jurisdiction. 1245

(D) The chief may issue orders to enforce this chapter, rules 1246  
adopted thereunder, and terms or conditions of permits issued 1247

thereunder. Any such order shall be considered an adjudication 1248  
order for the purposes of Chapter 119. of the Revised Code. No 1249  
person shall violate any order of the chief issued under this 1250  
chapter. No person shall violate a term or condition of a permit 1251  
or registration certificate issued under this chapter. 1252

(E) Orders of the chief denying, suspending, or revoking a 1253  
registration certificate; approving or denying approval of an 1254  
application for revision of a registered transporter's plan for 1255  
disposal; or to implement, administer, or enforce division (A) of 1256  
section 1509.224 and sections 1509.22, 1509.222, 1509.223, 1257  
1509.225, and 1509.226 of the Revised Code pertaining to the 1258  
transportation of brine by vehicle and the disposal of brine so 1259  
transported are not adjudication orders for purposes of Chapter 1260  
119. of the Revised Code. The chief shall issue such orders under 1261  
division (A) or (B) of section 1509.224 of the Revised Code, as 1262  
appropriate. 1263

**Sec. 1509.04.** (A) The chief of the division of oil and gas 1264  
resources management, or the chief's authorized representatives, 1265  
shall enforce this chapter and the rules, terms and conditions of 1266  
permits and registration certificates, and orders adopted or 1267  
issued pursuant thereto, except that any peace officer, as defined 1268  
in section 2935.01 of the Revised Code, may arrest for violations 1269  
of this chapter involving transportation of brine by vehicle. The 1270  
enforcement authority of the chief includes the authority to issue 1271  
compliance notices and to enter into compliance agreements. 1272

(B)(1) The chief or the chief's authorized representative may 1273  
issue an administrative order to an owner for a violation of this 1274  
chapter or rules adopted under it, terms and conditions of a 1275  
permit issued under it, a registration certificate that is 1276  
required under this chapter, or orders issued under this chapter. 1277

(2)(a) If an owner or other person who is required to submit 1278

a report, test result, fee, or document by this chapter or rules 1279  
adopted under it submits a request for an extension of time to 1280  
submit the report, test result, fee, or document to the chief 1281  
prior to the date on which the report, test result, fee, or 1282  
document is due, the chief may grant an extension of not more than 1283  
sixty additional days from the original date on which the report, 1284  
test result, fee, or document is due. 1285

(b) If an owner or other person who is required to submit a 1286  
report, test result, fee, or document by this chapter or rules 1287  
adopted under it fails to submit the report, test result, fee, or 1288  
document before or on the date on which it is due and the chief 1289  
has not granted an extension of time under division (B)(2)(a) of 1290  
this section, the chief shall make reasonable attempts to notify 1291  
the owner or other person of the failure to submit the report, 1292  
test result, fee, or document. If an owner or other person who 1293  
receives such a notification fails to submit the report, test 1294  
result, fee, or document on or before thirty days after the date 1295  
on which the chief so notified the owner or other person, the 1296  
chief may issue an order under division (B)(2)(c) of this section. 1297  
The 1298

(c) The chief may issue an order finding that an owner has 1299  
committed a material and substantial violation. 1300

(C) The chief, by order, immediately may suspend drilling, 1301  
operating, or plugging activities that are related to a material 1302  
and substantial violation and suspend and revoke an unused permit 1303  
after finding either of the following: 1304

(1) An owner has failed to comply with an order issued under 1305  
division (B)(2)(c) of this section that is final and 1306  
nonappealable. 1307

(2) An owner is causing, engaging in, or maintaining a 1308  
condition or activity that the chief determines presents an 1309

imminent danger to the health or safety of the public or that 1310  
results in or is likely to result in immediate substantial damage 1311  
to the natural resources of this state. 1312

(D)(1) The chief may issue an order under division (C) of 1313  
this section without prior notification if reasonable attempts to 1314  
notify the owner have failed or if the owner is currently in 1315  
material breach of a prior order, but in such an event 1316  
notification shall be given as soon thereafter as practical. 1317

(2) Not later than five days after the issuance of an order 1318  
under division (C) of this section, the chief shall provide the 1319  
owner an opportunity to be heard and to present evidence that one 1320  
of the following applies: 1321

(a) The condition or activity does not present an imminent 1322  
danger to the public health or safety or is not likely to result 1323  
in immediate substantial damage to natural resources. 1324

(b) Required records, reports, or logs have been submitted. 1325

(3) If the chief, after considering evidence presented by the 1326  
owner under division (D)(2)(a) of this section, determines that 1327  
the activities do not present such a threat or that the required 1328  
records, reports, or logs have been submitted under division 1329  
(D)(2)(b) of this section, the chief shall revoke the order. The 1330  
owner may appeal an order to the court of common pleas of the 1331  
county in which the activity that is the subject of the order is 1332  
located. 1333

(E) The chief may issue a bond forfeiture order pursuant to 1334  
section 1509.071 of the Revised Code for failure to comply with a 1335  
final nonappealable order issued or compliance agreement entered 1336  
into under this section. 1337

(F) The chief may notify drilling contractors, transporters, 1338  
service companies, or other similar entities of the compliance 1339  
status of an owner. 1340

If the owner fails to comply with a prior enforcement action 1341  
of the chief, the chief may issue a suspension order without prior 1342  
notification, but in such an event the chief shall give notice as 1343  
soon thereafter as practical. Not later than five calendar days 1344  
after the issuance of an order, the chief shall provide the owner 1345  
an opportunity to be heard and to present evidence that required 1346  
records, reports, or logs have been submitted. If the chief, after 1347  
considering the evidence presented by the owner, determines that 1348  
the requirements have been satisfied, the chief shall revoke the 1349  
suspension order. The owner may appeal a suspension order to the 1350  
court of common pleas of the county in which the activity that is 1351  
the subject of the suspension order is located. 1352

(G) The prosecuting attorney of the county or the attorney 1353  
general, upon the request of the chief, may apply to the court of 1354  
common pleas in the county in which any of the provisions of this 1355  
chapter or any rules, terms or conditions of a permit or 1356  
registration certificate, or orders adopted or issued pursuant to 1357  
this chapter are being violated for a temporary restraining order, 1358  
preliminary injunction, or permanent injunction restraining any 1359  
person from such violation. 1360

**Sec. 1509.06.** (A) An application for a permit to drill a new 1361  
well, drill an existing well deeper, reopen a well, convert a well 1362  
to any use other than its original purpose, or plug back a well to 1363  
a different source of supply, including associated production 1364  
operations, shall be filed with the chief of the division of oil 1365  
and gas resources management upon such form as the chief 1366  
prescribes and shall contain each of the following that is 1367  
applicable: 1368

(1) The name and address of the owner and, if a corporation, 1369  
the name and address of the statutory agent; 1370

(2) The signature of the owner or the owner's authorized 1371

agent. When an authorized agent signs an application, it shall be 1372  
accompanied by a certified copy of the appointment as such agent. 1373

(3) The names and addresses of all persons holding the 1374  
royalty interest in the tract upon which the well is located or is 1375  
to be drilled or within a proposed drilling unit; 1376

(4) The location of the tract or drilling unit on which the 1377  
well is located or is to be drilled identified by section or lot 1378  
number, city, village, township, and county; 1379

(5) Designation of the well by name and number; 1380

(6)(a) The geological formation to be tested or used and the 1381  
proposed total depth of the well; 1382

(b) If the well is for the injection of a liquid, identity of 1383  
the geological formation to be used as the injection zone and the 1384  
composition of the liquid to be injected. 1385

(7) The type of drilling equipment to be used; 1386

~~(8) If the well is for the injection of a liquid, identity of 1387  
the geological formation to be used as the injection zone and the 1388  
composition of the liquid to be injected; 1389~~

(a) An identification, to the best of the owner's knowledge, 1390  
of each proposed source of ground water and surface water that 1391  
will be used in the production operations of the well. The 1392  
identification of each proposed source of water shall indicate if 1393  
the water will be withdrawn from the Lake Erie watershed or the 1394  
Ohio river watershed. In addition, the owner shall provide, to the 1395  
best of the owner's knowledge, the proposed estimated rate and 1396  
volume of the water withdrawal for the production operations. If 1397  
recycled water will be used in the production operations, the 1398  
owner shall provide the estimated volume of recycled water to be 1399  
used. The owner shall submit to the chief an update of any of the 1400  
information that is required by division (A)(8)(a) of this section 1401

if any of that information changes before the chief issues a 1402  
permit for the application. 1403

(b) Except as provided in division (A)(8)(c) of this section, 1404  
for an application for a permit to drill a new well within an 1405  
urbanized area, the results of sampling of water wells within 1406  
three hundred feet of the proposed well prior to commencement of 1407  
drilling. In addition, the owner shall include a list that 1408  
identifies the location of each water well where the owner of the 1409  
property on which the water well is located denied the owner 1410  
access to sample the water well. The sampling shall be conducted 1411  
in accordance with the guidelines established in "Best Management 1412  
Practices For Pre-drilling Water Sampling" in effect at the time 1413  
that the application is submitted. The division shall furnish 1414  
those guidelines upon request and shall make them available on the 1415  
division's web site. If the chief determines that conditions at 1416  
the proposed well site warrant a revision, the chief may revise 1417  
the distance established in this division for purposes of 1418  
pre-drilling water sampling. 1419

(c) For an application for a permit to drill a new horizontal 1420  
well, the results of sampling of water wells within one thousand 1421  
five hundred feet of the proposed horizontal well prior to 1422  
commencement of drilling. In addition, the owner shall include a 1423  
list that identifies the location of each water well where the 1424  
owner of the property on which the water well is located denied 1425  
the owner access to sample the water well. The sampling shall be 1426  
conducted in accordance with the guidelines established in "Best 1427  
Management Practices For Pre-drilling Water Sampling" in effect at 1428  
the time that the application is submitted. The division shall 1429  
furnish those guidelines upon request and shall make them 1430  
available on the division's web site. If the chief determines that 1431  
conditions at the proposed well site warrant a revision, the chief 1432  
may revise the distance established in this division for purposes 1433

of pre-drilling water sampling. 1434

(9) For an application for a permit to drill a new well 1435  
within an urbanized area, a sworn statement that the applicant has 1436  
provided notice by regular mail of the application to the owner of 1437  
each parcel of real property that is located within five hundred 1438  
feet of the surface location of the well and to the executive 1439  
authority of the municipal corporation or the board of township 1440  
trustees of the township, as applicable, in which the well is to 1441  
be located. In addition, the notice shall contain a statement that 1442  
informs an owner of real property who is required to receive the 1443  
notice under division (A)(9) of this section that within five days 1444  
of receipt of the notice, the owner is required to provide notice 1445  
under section 1509.60 of the Revised Code to each residence in an 1446  
occupied dwelling that is located on the owner's parcel of real 1447  
property. The notice shall contain a statement that an application 1448  
has been filed with the division of oil and gas resources 1449  
management, identify the name of the applicant and the proposed 1450  
well location, include the name and address of the division, and 1451  
contain a statement that comments regarding the application may be 1452  
sent to the division. The notice may be provided by hand delivery 1453  
or regular mail. The identity of the owners of parcels of real 1454  
property shall be determined using the tax records of the 1455  
municipal corporation or county in which a parcel of real property 1456  
is located as of the date of the notice. 1457

(10) A plan for restoration of the land surface disturbed by 1458  
drilling operations. The plan shall provide for compliance with 1459  
the restoration requirements of division (A) of section 1509.072 1460  
of the Revised Code and any rules adopted by the chief pertaining 1461  
to that restoration. 1462

(11)(a) A description by name or number of the county, 1463  
township, and municipal corporation roads, streets, and highways 1464  
that the applicant anticipates will be used for access to and 1465



egress from the well site; 1466

(b) For an application for a permit for a horizontal well, a 1467  
copy of an agreement concerning maintenance and safe use of the 1468  
roads, streets, and highways described in division (A)(11)(a) of 1469  
this section entered into on reasonable terms with the public 1470  
official that has the legal authority to enter into such 1471  
maintenance and use agreements for each county, township, and 1472  
municipal corporation, as applicable, in which any such road, 1473  
street, or highway is located or an affidavit on a form prescribed 1474  
by the chief attesting that the owner attempted in good faith to 1475  
enter into an agreement under division (A)(11)(b) of this section 1476  
with the applicable public official of each such county, township, 1477  
or municipal corporation, but that no agreement was executed. 1478

(12) Such other relevant information as the chief prescribes 1479  
by rule. 1480

Each application shall be accompanied by a map, on a scale 1481  
not smaller than four hundred feet to the inch, prepared by an 1482  
Ohio registered surveyor, showing the location of the well and 1483  
containing such other data as may be prescribed by the chief. If 1484  
the well is or is to be located within the excavations and 1485  
workings of a mine, the map also shall include the location of the 1486  
mine, the name of the mine, and the name of the person operating 1487  
the mine. 1488

(B) The chief shall cause a copy of the weekly circular 1489  
prepared by the division to be provided to the county engineer of 1490  
each county that contains active or proposed drilling activity. 1491  
The weekly circular shall contain, in the manner prescribed by the 1492  
chief, the names of all applicants for permits, the location of 1493  
each well or proposed well, the information required by division 1494  
(A)(11) of this section, and any additional information the chief 1495  
prescribes. In addition, the chief promptly shall transfer an 1496  
electronic copy or facsimile, or if those methods are not 1497

available to a municipal corporation or township, a copy via 1498  
regular mail, of a drilling permit application to the clerk of the 1499  
legislative authority of the municipal corporation or to the clerk 1500  
of the township in which the well or proposed well is or is to be 1501  
located if the legislative authority of the municipal corporation 1502  
or the board of township trustees has asked to receive copies of 1503  
such applications and the appropriate clerk has provided the chief 1504  
an accurate, current electronic mailing address or facsimile 1505  
number, as applicable. 1506

(C)(1) Except as provided in division (C)(2) of this section, 1507  
the chief shall not issue a permit for at least ten days after the 1508  
date of filing of the application for the permit unless, upon 1509  
reasonable cause shown, the chief waives that period or a request 1510  
for expedited review is filed under this section. However, the 1511  
chief shall issue a permit within twenty-one days of the filing of 1512  
the application unless the chief denies the application by order. 1513

(2) If the location of a well or proposed well will be or is 1514  
within an urbanized area, the chief shall not issue a permit for 1515  
at least eighteen days after the date of filing of the application 1516  
for the permit unless, upon reasonable cause shown, the chief 1517  
waives that period or the chief at the chief's discretion grants a 1518  
request for an expedited review. However, the chief shall issue a 1519  
permit for a well or proposed well within an urbanized area within 1520  
thirty days of the filing of the application unless the chief 1521  
denies the application by order. 1522

(D) An applicant may file a request with the chief for 1523  
expedited review of a permit application if the well is not or is 1524  
not to be located in a gas storage reservoir or reservoir 1525  
protective area, as "reservoir protective area" is defined in 1526  
section 1571.01 of the Revised Code. If the well is or is to be 1527  
located in a coal bearing township, the application shall be 1528  
accompanied by the affidavit of the landowner prescribed in 1529

section 1509.08 of the Revised Code. 1530

In addition to a complete application for a permit that meets 1531  
the requirements of this section and the permit fee prescribed by 1532  
this section, a request for expedited review shall be accompanied 1533  
by a separate nonrefundable filing fee of two hundred fifty 1534  
dollars. Upon the filing of a request for expedited review, the 1535  
chief shall cause the county engineer of the county in which the 1536  
well is or is to be located to be notified of the filing of the 1537  
permit application and the request for expedited review by 1538  
telephone or other means that in the judgment of the chief will 1539  
provide timely notice of the application and request. The chief 1540  
shall issue a permit within seven days of the filing of the 1541  
request unless the chief denies the application by order. 1542  
Notwithstanding the provisions of this section governing expedited 1543  
review of permit applications, the chief may refuse to accept 1544  
requests for expedited review if, in the chief's judgment, the 1545  
acceptance of the requests would prevent the issuance, within 1546  
twenty-one days of their filing, of permits for which applications 1547  
are pending. 1548

(E) A well shall be drilled and operated in accordance with 1549  
the plans, sworn statements, and other information submitted in 1550  
the approved application. 1551

(F) The chief shall issue an order denying a permit if the 1552  
chief finds that there is a substantial risk that the operation 1553  
will result in violations of this chapter or rules adopted under 1554  
it that will present an imminent danger to public health or safety 1555  
or damage to the environment, provided that where the chief finds 1556  
that terms or conditions to the permit can reasonably be expected 1557  
to prevent such violations, the chief shall issue the permit 1558  
subject to those terms or conditions, including, if applicable, 1559  
terms and conditions regarding subjects identified in rules 1560  
adopted under section 1509.03 of the Revised Code. The issuance of 1561

a permit shall not be considered an order of the chief. 1562

(G) Each application for a permit required by section 1509.05 1563  
of the Revised Code, except an application to plug back an 1564  
existing well that is required by that section and an application 1565  
for a well drilled or reopened for purposes of section 1509.22 of 1566  
the Revised Code, also shall be accompanied by a nonrefundable fee 1567  
as follows: 1568

(1) Five hundred dollars for a permit to conduct activities 1569  
in a township with a population of fewer than ten thousand; 1570

(2) Seven hundred fifty dollars for a permit to conduct 1571  
activities in a township with a population of ten thousand or 1572  
more, but fewer than fifteen thousand; 1573

(3) One thousand dollars for a permit to conduct activities 1574  
in either of the following: 1575

(a) A township with a population of fifteen thousand or more; 1576

(b) A municipal corporation regardless of population. 1577

(4) If the application is for a permit that requires 1578  
mandatory pooling, an additional five thousand dollars. 1579

For purposes of calculating fee amounts, populations shall be 1580  
determined using the most recent federal decennial census. 1581

Each application for the revision or reissuance of a permit 1582  
shall be accompanied by a nonrefundable fee of two hundred fifty 1583  
dollars. 1584

(H)(1) Prior to the commencement of well pad construction and 1585  
prior to the issuance of a permit to drill a proposed horizontal 1586  
well or a proposed well that is to be located in an urbanized 1587  
area, the division shall conduct a site review to identify and 1588  
evaluate any site-specific terms and conditions that may be 1589  
attached to the permit. At the site review, a representative of 1590  
the division shall consider fencing, screening, and landscaping 1591

requirements, if any, for similar structures in the community in 1592  
which the well is proposed to be located. The terms and conditions 1593  
that are attached to the permit shall include the establishment of 1594  
fencing, screening, and landscaping requirements for the surface 1595  
facilities of the proposed well, including a tank battery of the 1596  
well. 1597

(2) Prior to the issuance of a permit to drill a proposed 1598  
well, the division shall conduct a review to identify and evaluate 1599  
any site-specific terms and conditions that may be attached to the 1600  
permit if the proposed well will be located in a one-hundred-year 1601  
floodplain or within the five-year time of travel associated with 1602  
a public drinking water supply. 1603

(I) A permit shall be issued by the chief in accordance with 1604  
this chapter. A permit issued under this section for a well that 1605  
is or is to be located in an urbanized area shall be valid for 1606  
twelve months, and all other permits issued under this section 1607  
shall be valid for twenty-four months. 1608

(J) An applicant or a permittee, as applicable, shall submit 1609  
to the chief an update of the information that is required under 1610  
division (A)(8)(a) of this section if any of that information 1611  
changes prior to commencement of production operations. 1612

(K) A permittee or a permittee's authorized representative 1613  
shall notify an inspector from the division at least twenty-four 1614  
hours, or another time period agreed to by the chief's authorized 1615  
representative, prior to the commencement of well pad construction 1616  
and of drilling, reopening, converting, well stimulation, or 1617  
plugback operations. 1618

**Sec. 1509.07.** An (A)(1) Except as provided in division (A)(2) 1619  
of this section, an owner of any well, except an exempt 1620  
Mississippian well or an exempt domestic well, shall obtain 1621  
liability insurance coverage from a company authorized to do 1622

business in this state in an amount of not less than one million 1623  
dollars bodily injury coverage and property damage coverage to pay 1624  
damages for injury to persons or damage to property caused by the 1625  
drilling, operation, or plugging of all the owner's wells in this 1626  
state. However, if any well is located within an urbanized area, 1627  
the owner shall obtain liability insurance coverage in an amount 1628  
of not less than three million dollars for bodily injury coverage 1629  
and property damage coverage to pay damages for injury to persons 1630  
or damage to property caused by the drilling, operation, or 1631  
plugging of all of the owner's wells in this state. ~~The~~ 1632

(2) An owner of a horizontal well shall obtain liability 1633  
insurance coverage from an insurer authorized to write such 1634  
insurance in this state or from an insurer approved to write such 1635  
insurance in this state under section 3905.33 of the Revised Code 1636  
in an amount of not less than five million dollars bodily injury 1637  
coverage and property damage coverage to pay damages for injury to 1638  
persons or damage to property caused by the production operations 1639  
of all the owner's wells in this state. The insurance policy shall 1640  
include a reasonable level of coverage available for an 1641  
environmental endorsement. 1642

(3) An owner shall maintain the coverage required under 1643  
division (A)(1) or (2) of this section until all the owner's wells 1644  
are plugged and abandoned or are transferred to an owner who has 1645  
obtained insurance as required under this section and who is not 1646  
under a notice of material and substantial violation or under a 1647  
suspension order. The owner shall provide proof of liability 1648  
insurance coverage to the chief of the division of oil and gas 1649  
resources management upon request. Upon failure of the owner to 1650  
provide that proof when requested, the chief may order the 1651  
suspension of any outstanding permits and operations of the owner 1652  
until the owner provides proof of the required insurance coverage. 1653

(B)(1) Except as otherwise provided in this section, an owner 1654

of any well, before being issued a permit under section 1509.06 of 1655  
the Revised Code or before operating or producing from a well, 1656  
shall execute and file with the division of oil and gas resources 1657  
management a surety bond conditioned on compliance with the 1658  
restoration requirements of section 1509.072, the plugging 1659  
requirements of section 1509.12, the permit provisions of section 1660  
1509.13 of the Revised Code, and all rules and orders of the chief 1661  
relating thereto, in an amount set by rule of the chief. 1662

(2) The owner may deposit with the chief, instead of a surety 1663  
bond, cash in an amount equal to the surety bond as prescribed 1664  
pursuant to this section or negotiable certificates of deposit or 1665  
irrevocable letters of credit, issued by any bank organized or 1666  
transacting business in this state or by any savings and loan 1667  
association as defined in section 1151.01 of the Revised Code, 1668  
having a cash value equal to or greater than the amount of the 1669  
surety bond as prescribed pursuant to this section. Cash or 1670  
certificates of deposit shall be deposited upon the same terms as 1671  
those upon which surety bonds may be deposited. If certificates of 1672  
deposit are deposited with the chief instead of a surety bond, the 1673  
chief shall require the bank or savings and loan association that 1674  
issued any such certificate to pledge securities of a cash value 1675  
equal to the amount of the certificate that is in excess of the 1676  
amount insured by any of the agencies and instrumentalities 1677  
created under the "Federal Deposit Insurance Act," 64 Stat. 873 1678  
(1950), 12 U.S.C. 1811, as amended, and regulations adopted under 1679  
it, including at least the federal deposit insurance corporation, 1680  
bank insurance fund, and savings association insurance fund. The 1681  
securities shall be security for the repayment of the certificate 1682  
of deposit. 1683

Immediately upon a deposit of cash, certificates of deposit, 1684  
or letters of credit with the chief, the chief shall deliver them 1685  
to the treasurer of state who shall hold them in trust for the 1686

purposes for which they have been deposited. 1687

(3) Instead of a surety bond, the chief may accept proof of 1688  
financial responsibility consisting of a sworn financial statement 1689  
showing a net financial worth within this state equal to twice the 1690  
amount of the bond for which it substitutes and, as may be 1691  
required by the chief, a list of producing properties of the owner 1692  
within this state or other evidence showing ability and intent to 1693  
comply with the law and rules concerning restoration and plugging 1694  
that may be required by rule of the chief. The owner of an exempt 1695  
Mississippian well is not required to file scheduled updates of 1696  
the financial documents, but shall file updates of those documents 1697  
if requested to do so by the chief. The owner of a nonexempt 1698  
Mississippian well shall file updates of the financial documents 1699  
in accordance with a schedule established by rule of the chief. 1700  
The chief, upon determining that an owner for whom the chief has 1701  
accepted proof of financial responsibility instead of bond cannot 1702  
demonstrate financial responsibility, shall order that the owner 1703  
execute and file a bond or deposit cash, certificates of deposit, 1704  
or irrevocable letters of credit as required by this section for 1705  
the wells specified in the order within ten days of receipt of the 1706  
order. If the order is not complied with, all wells of the owner 1707  
that are specified in the order and for which no bond is filed or 1708  
cash, certificates of deposit, or letters of credit are deposited 1709  
shall be plugged. No owner shall fail or refuse to plug such a 1710  
well. Each day on which such a well remains unplugged thereafter 1711  
constitutes a separate offense. 1712

(4) The surety bond provided for in this section shall be 1713  
executed by a surety company authorized to do business in this 1714  
state. 1715

The chief shall not approve any bond until it is personally 1716  
signed and acknowledged by both principal and surety, or as to 1717  
either by the principal's or surety's attorney in fact, with a 1718



certified copy of the power of attorney attached thereto. The 1719  
chief shall not approve a bond unless there is attached a 1720  
certificate of the superintendent of insurance that the company is 1721  
authorized to transact a fidelity and surety business in this 1722  
state. 1723

All bonds shall be given in a form to be prescribed by the 1724  
chief and shall run to the state as obligee. 1725

(5) An owner of an exempt Mississippian well or an exempt 1726  
domestic well, in lieu of filing a surety bond, cash in an amount 1727  
equal to the surety bond, certificates of deposit, irrevocable 1728  
letters of credit, or a sworn financial statement, may file a 1729  
one-time fee of fifty dollars, which shall be deposited in the oil 1730  
and gas well plugging fund created in section 1509.071 of the 1731  
Revised Code. 1732

(C) An owner, operator, producer, or other person shall not 1733  
operate a well or produce from a well at any time if the owner, 1734  
operator, producer, or other person has not satisfied the 1735  
requirements established in this section. 1736

**Sec. 1509.10.** (A) Any person drilling within the state shall, 1737  
within sixty days after the completion of drilling operations to 1738  
the proposed total depth or after a determination that a well is a 1739  
dry or lost hole, file with the division of oil and gas resources 1740  
management all wireline electric logs and an accurate well 1741  
completion record on a form that is ~~approved~~ prescribed by the 1742  
chief of the division of oil and gas resources management that 1743  
designates: 1744

(1) The purpose for which the well was drilled; 1745

(2) The character, depth, and thickness of geological units 1746  
encountered, including coal seams, mineral beds, associated fluids 1747  
such as fresh water, brine, and crude oil, natural gas, and sour 1748

gas, if such seams, beds, fluids, or gases are known;	1749
(3) The dates on which drilling operations were commenced and completed;	1750 1751
(4) The types of drilling tools used and the name of the person that drilled the well;	1752 1753
(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;	1754 1755 1756 1757 1758 1759 1760
(6) The number of perforations in the casing and the intervals of the perforations;	1761 1762
(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;	1763 1764 1765 1766 1767
(8) If applicable, the type, volume, and concentration of acid, and the date on which acid was used in acidizing the well;	1768 1769
(9)(a) <u>If applicable, the trade name and the total amount of all products, fluids, and substances, and the supplier of each product, fluid, or substance, not including cement and its constituents and lost circulation materials, intentionally added to facilitate the drilling of any portion of the well until the surface casing is set and properly sealed. The owner shall identify each additive used and provide a brief description of the purpose for which the additive is used. In addition, the owner shall include a list of all chemicals intentionally added to all products, fluids, or substances and include each chemical's</u>	1770 1771 1772 1773 1774 1775 1776 1777 1778 1779

corresponding chemical abstracts service number and the maximum 1780  
concentration of each chemical. The owner shall obtain the 1781  
chemical information from the company that drilled the well, 1782  
provided service at the well, or supplied the chemicals. If the 1783  
company that drilled the well, provided service at the well, or 1784  
supplied the chemicals provides incomplete or inaccurate chemical 1785  
information, the owner shall make reasonable efforts to obtain the 1786  
required information from the company or supplier. 1787

(b) For purposes of division (A)(9)(a) of this section, if 1788  
recycled fluid was used, the total volume of recycled fluid and 1789  
the well that is the source of the recycled fluid or the 1790  
centralized facility that is the source of the recycled fluid. 1791

(10)(a) If applicable, the type and volume of fluid, not 1792  
including cement and its constituents, used to stimulate the 1793  
reservoir of the well, the reservoir breakdown pressure, the 1794  
method used for the containment of fluids recovered from the 1795  
fracturing of the well, the methods used for the containment of 1796  
fluids when pulled from the wellbore from swabbing the well, the 1797  
average pumping rate of the well, and the name of the person that 1798  
performed the well stimulation. In addition, the owner shall 1799  
include a copy of the log from the stimulation of the well, a copy 1800  
of the invoice for each of the procedures and methods described in 1801  
division (A)~~(9)~~(10) of this section that were used on a well, and 1802  
a copy of the pumping pressure and rate graphs. However, the owner 1803  
may redact from the copy of each invoice that is required to be 1804  
included under division (A)~~(9)~~(10) of this section the costs of 1805  
and charges for the procedures and methods described in division 1806  
(A)~~(9)~~(10) of this section that were used on a well. 1807

~~(10)~~(b) If applicable, the trade name and the total volume of 1808  
all products, fluids, and substances, and the supplier of each 1809  
product, fluid, or substance used to stimulate the well. The owner 1810  
shall identify each additive used, provide a brief description of 1811

the purpose for which the additive is used, and include the 1812  
maximum concentration of the additive used. In addition, the owner 1813  
shall include a list of all chemicals intentionally added to all 1814  
products, fluids, or substances and include each chemical's 1815  
corresponding chemical abstracts service number and the maximum 1816  
concentration of each chemical. The owner shall obtain the 1817  
chemical information from the company that stimulated the well or 1818  
supplied the chemicals. If the company that stimulated the well or 1819  
supplied the chemicals provides incomplete or inaccurate chemical 1820  
information, the owner shall make reasonable efforts to obtain the 1821  
required information from the company or supplier. 1822

(c) For purposes of division (A)(10)(b) of this section, if 1823  
recycled fluid was used, the total volume of recycled fluid and 1824  
the well that is the source of the recycled fluid or the 1825  
centralized facility that is the source of the recycled fluid. 1826

(11) The name of the company that performed the logging of 1827  
the well and the types of wireline electric logs performed on the 1828  
well. 1829

The well completion record shall be submitted in duplicate. 1830  
The first copy shall be retained as a permanent record in the 1831  
files of the division, and the second copy shall be transmitted by 1832  
the chief to the division of geological survey. 1833

(B)(1) Not later than sixty days after the completion of the 1834  
drilling operations to the proposed total depth, the owner shall 1835  
file all wireline electric logs with the division of oil and gas 1836  
resources management and the chief shall transmit such logs 1837  
electronically, if available, to the division of geological 1838  
survey. Such logs may be retained by the owner for a period of not 1839  
more than six months, or such additional time as may be granted by 1840  
the chief in writing, after the completion of the well 1841  
substantially to the depth shown in the application required by 1842  
section 1509.06 of the Revised Code. 1843

(2) If a well is not completed within sixty days after the completion of drilling operations, the owner shall file with the division of oil and gas resources management a supplemental well completion record that includes all of the information required under this section within sixty days after the completion of the well.

(3) After a well is initially completed and stimulated and until the well is plugged, the owner shall report, on a form prescribed by the chief, all materials placed into the formation to rework, refracture, restimulate, or newly complete the well. The owner shall submit the information within sixty days after completing the reworking, refracturing, restimulation, or new completion. In addition, the owner shall report the information required in divisions (A)(10)(a) to (c) of this section, as applicable, in a manner consistent with the requirements established in this section.

(C) Upon request in writing by the chief of the division of geological survey prior to the beginning of drilling of the well, the person drilling the well shall make available a complete set of cuttings accurately identified as to depth.

(D) The form of the well completion record required by this section shall be one that has been ~~approved~~ prescribed by the chief of the division of oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If ~~there is~~ a material listed ~~on the invoice that is required by division (A)(9) of this section~~ or designated under division (A)(9) or (10) or (B)(3) of this section is a material for which the division of oil and gas resources management does not have a material safety data sheet, the ~~chief~~ owner shall

~~obtain~~ provide a copy of the material safety data sheet for the 1876  
material and ~~post a copy of the material safety data sheet on the~~ 1877  
~~division's web site~~ to the chief. 1878

(F) An owner shall submit to the chief the information that 1879  
is required in divisions (A)(10)(b) and (c) and (B)(3) of this 1880  
section consistent with the requirements established in this 1881  
section using one of the following methods: 1882

(1) On a form prescribed by the chief; 1883

(2) Through the chemical disclosure registry that is 1884  
maintained by the ground water protection council and the 1885  
interstate oil and gas compact commission; 1886

(3) Any other means approved by the chief. 1887

(G) The chief shall post on the division's web site each 1888  
material safety data sheet obtained under division (E) of this 1889  
section. In addition, the chief shall make available through the 1890  
division's web site the chemical information that is required by 1891  
divisions (A)(9) and (10) and (B)(3) of this section. 1892

(H)(1) If a medical professional, in order to assist in the 1893  
diagnosis or treatment of an individual who was affected by an 1894  
incident associated with the production operations of a well, 1895  
requests the exact chemical composition of each product, fluid, or 1896  
substance and of each chemical component in a product, fluid, or 1897  
substance that is designated as a trade secret pursuant to 1898  
division (I) of this section, the person claiming the trade secret 1899  
protection pursuant to that division shall provide to the medical 1900  
professional the exact chemical composition of the product, fluid, 1901  
or substance and of the chemical component in a product, fluid, or 1902  
substance that is requested. 1903

(2) A medical professional who receives information pursuant 1904  
to division (H)(1) of this section shall keep the information 1905  
confidential and shall not disclose the information for any 1906

purpose that is not related to the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well. 1907  
1908  
1909

(I) The owner of a well who is required to submit a well completion record under division (A) of this section or a report under division (B)(3) of this section or a person that provides information to the owner as described in and for purposes of division (A)(9) or (10) or (B)(3) of this section may designate and withhold from disclosure, on a form prescribed by the chief, a product, fluid, or substance or a chemical component in a product, fluid, or substance as a trade secret. The owner or person may pursue enforcement of any rights or remedies established in sections 1333.61 to 1333.69 of the Revised Code for misappropriation, as defined in section 1333.61 of the Revised Code, with respect to a product, fluid, or substance or a chemical component in a product, fluid, or substance designated as a trade secret pursuant to this division. The division shall not disclose information regarding any product, fluid, or substance or chemical component in a product, fluid, or substance designated as a trade secret pursuant to this division. 1910  
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(J) The owner of a well shall maintain records of all chemicals placed in a well for a period of not less than two years after the date on which each such chemical was placed in the well. The chief may inspect the records at any time concerning any such chemical, including records concerning any chemical that is designated as a trade secret. However, the chief shall not disclose the identity of any chemical that is designated as a trade secret. 1927  
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(K)(1) For purposes of correcting inaccuracies and incompleteness in chemical information required by divisions (A)(9) and (10) and (B)(3) of this section, an owner shall be considered in substantial compliance if the owner has made 1935  
1936  
1937  
1938

reasonable efforts to obtain the required information from the 1939  
supplier. 1940

(2) For purposes of reporting under this section, an owner is 1941  
not required to report chemicals that occur incidentally or in 1942  
trace amounts. 1943

**Sec. 1509.11.** (A) The owner of any well, including a 1944  
horizontal well, producing or capable of producing oil or gas 1945  
shall file with the chief of the division of oil and gas resources 1946  
management, on or before the thirty-first day of March, a 1947  
statement of production of oil, gas, and brine for the last 1948  
preceding calendar year in such form as the chief may prescribe. 1949  
An owner that has more than one hundred such wells in this state 1950  
shall submit electronically the statement of production in a 1951  
format that is approved by the chief. The chief shall include on 1952  
the form, at the minimum, a request for the submittal of the 1953  
information that a person who is regulated under this chapter is 1954  
required to submit under the "Emergency Planning and Community 1955  
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and 1956  
regulations adopted under it, and that the division does not 1957  
obtain through other reporting mechanisms. 1958

(B) The chief shall not disclose information received from 1959  
the department of taxation under division (C)(12) of section 1960  
5703.21 of the Revised Code until the related statement of 1961  
production required by division (A) of this section is filed with 1962  
the chief. 1963

**Sec. 1509.22.** (A) Except when acting in accordance with 1964  
section 1509.226 of the Revised Code, no person shall place or 1965  
cause to be placed brine, crude oil, natural gas, or other fluids 1966  
associated with the exploration or development of oil and gas 1967  
resources in surface or ground water or in or on the land in such 1968



quantities or in such manner as actually causes or could	1969
reasonably be anticipated to cause either of the following:	1970
(1) Water used for consumption by humans or domestic animals	1971
to exceed the standards of the Safe Drinking Water Act;	1972
(2) Damage or injury to public health or safety or the	1973
environment.	1974
(B) No person shall store or dispose of brine in violation of	1975
a plan approved under division (A) of section 1509.222 or section	1976
1509.226 of the Revised Code, in violation of a resolution	1977
submitted under section 1509.226 of the Revised Code, or in	1978
violation of rules or orders applicable to those plans or	1979
resolutions.	1980
(C) The chief of the division of oil and gas resources	1981
management shall adopt rules and issue orders regarding storage	1982
and disposal of brine and other waste substances; however, the	1983
storage and disposal of brine and other waste substances and the	1984
chief's rules relating to storage and disposal are subject to all	1985
of the following standards:	1986
(1) Brine from any well except an exempt Mississippian well	1987
shall be disposed of only by injection into an underground	1988
formation, including annular disposal if approved by rule of the	1989
chief, which injection shall be subject to division (D) of this	1990
section; by surface application in accordance with section	1991
1509.226 of the Revised Code; in association with a method of	1992
enhanced recovery as provided in section 1509.21 of the Revised	1993
Code; or by other methods approved by the chief for testing or	1994
implementing a new technology or method of disposal. Brine from	1995
exempt Mississippian wells shall not be discharged directly into	1996
the waters of the state.	1997
(2) Muds, cuttings, and other waste substances shall not be	1998
disposed of in violation of any rule.	1999

(3) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.

(4) A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of brine and crude oil, and the reservoir within such a dike or pit shall be kept reasonably free of brine, crude oil, and other waste substances.

(5) Earthen impoundments constructed pursuant to the division's specifications may be used for the temporary storage of fluids used in the stimulation of a well.

(6) No pit, earthen impoundment, or dike shall be used for the temporary storage of brine or other substances except in accordance with divisions (C)(3) to (5) of this section.

(7) No pit or dike shall be used for the ultimate disposal of brine or other liquid waste substances.

(D)(1) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one thousand dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or

produced in connection with oil or gas drilling, exploration, or 2031  
production. ~~The rules may authorize tests to evaluate whether~~ 2032  
~~fluids or carbon dioxide may be injected in a reservoir and to~~ 2033  
~~determine the maximum allowable injection pressure, which shall be~~ 2034  
~~conducted in accordance with methods prescribed in the rules or in~~ 2035  
~~accordance with conditions of the permit. In addition, the rules~~ 2036  
shall include provisions regarding applications all of the 2037  
following: 2038

(a) Applications for and issuance of the permits required by 2039  
this division; ~~entry~~ 2040

(b) Entry to conduct inspections and to examine and copy 2041  
records to ascertain compliance with this division and rules, 2042  
orders, and terms and conditions of permits adopted or issued 2043  
under it; ~~the~~ 2044

(c) The provision and maintenance of information through 2045  
monitoring, recordkeeping, and reporting; and. In addition, the 2046  
rules shall require the owner of an injection well who has been 2047  
issued a permit under division (D) of this section to submit 2048  
electronically to the chief information concerning each shipment 2049  
of brine or other waste substances received by the owner for 2050  
injection into the well. 2051

(d) The provision and electronic reporting of information 2052  
concerning brine and other waste substances from a transporter 2053  
that is registered under section 1509.222 of the Revised Code 2054  
prior to the injection of the transported brine or other waste 2055  
substances; 2056

(e) Any other provisions in furtherance of the goals of this 2057  
section and the Safe Drinking Water Act. ~~Fe~~ 2058

(2) The chief may adopt rules in accordance with Chapter 119. 2059  
of the Revised Code authorizing tests to evaluate whether fluids 2060  
or carbon dioxide may be injected in a reservoir and to determine 2061

the maximum allowable injection pressure, which shall be conducted 2062  
in accordance with methods prescribed in the rules or in 2063  
accordance with conditions of the permit. In addition, the chief 2064  
may adopt rules that do both of the following: 2065

(a) Establish the total depth of a well for which a permit 2066  
has been applied for or issued under this division; 2067

(b) Establish requirements and procedures to protect public 2068  
health and safety. 2069

(3) To implement the goals of the Safe Drinking Water Act, 2070  
the chief shall not issue a permit for the injection of brine or 2071  
other waste substances resulting from, obtained from, or produced 2072  
in connection with oil or gas drilling, exploration, or production 2073  
unless the chief concludes that the applicant has demonstrated 2074  
that the injection will not result in the presence of any 2075  
contaminant in ground water that supplies or can reasonably be 2076  
expected to supply any public water system, such that the presence 2077  
of the contaminant may result in the system's not complying with 2078  
any national primary drinking water regulation or may otherwise 2079  
adversely affect the health of persons. ~~This~~ 2080

(4) The chief may issue an order to the owner of a well in 2081  
existence on the effective date of this amendment to make changes 2082  
in the operation of the well in order to correct problems or to 2083  
address safety concerns. 2084

(5) This division and rules, orders, and terms and conditions 2085  
of permits adopted or issued under it shall be construed to be no 2086  
more stringent than required for compliance with the Safe Drinking 2087  
Water Act unless essential to ensure that underground sources of 2088  
drinking water will not be endangered. 2089

(E) The owner holding a permit, or an assignee or transferee 2090  
who has assumed the obligations and liabilities imposed by this 2091  
chapter and any rules adopted or orders issued under it pursuant 2092

to section 1509.31 of the Revised Code, and the operator of a well 2093  
shall be liable for a violation of this section or any rules 2094  
adopted or orders or terms or conditions of a permit issued under 2095  
it. 2096

(F) An owner shall replace the water supply of the holder of 2097  
an interest in real property who obtains all or part of the 2098  
holder's supply of water for domestic, agricultural, industrial, 2099  
or other legitimate use from an underground or surface source 2100  
where the supply has been substantially disrupted by 2101  
contamination, diminution, or interruption proximately resulting 2102  
from the owner's oil or gas operation, or the owner may elect to 2103  
compensate the holder of the interest in real property for the 2104  
difference between the fair market value of the interest before 2105  
the damage occurred to the water supply and the fair market value 2106  
after the damage occurred if the cost of replacing the water 2107  
supply exceeds this difference in fair market values. However, 2108  
during the pendency of any order issued under this division, the 2109  
owner shall obtain for the holder or shall reimburse the holder 2110  
for the reasonable cost of obtaining a water supply from the time 2111  
of the contamination, diminution, or interruption by the operation 2112  
until the owner has complied with an order of the chief for 2113  
compliance with this division or such an order has been revoked or 2114  
otherwise becomes not effective. If the owner elects to pay the 2115  
difference in fair market values, but the owner and the holder 2116  
have not agreed on the difference within thirty days after the 2117  
chief issues an order for compliance with this division, within 2118  
ten days after the expiration of that thirty-day period, the owner 2119  
and the chief each shall appoint an appraiser to determine the 2120  
difference in fair market values, except that the holder of the 2121  
interest in real property may elect to appoint and compensate the 2122  
holder's own appraiser, in which case the chief shall not appoint 2123  
an appraiser. The two appraisers appointed shall appoint a third 2124  
appraiser, and within thirty days after the appointment of the 2125

third appraiser, the three appraisers shall hold a hearing to 2126  
determine the difference in fair market values. Within ten days 2127  
after the hearing, the appraisers shall make their determination 2128  
by majority vote and issue their final determination of the 2129  
difference in fair market values. The chief shall accept a 2130  
determination of the difference in fair market values made by 2131  
agreement of the owner and holder or by appraisers under this 2132  
division and shall make and dissolve orders accordingly. This 2133  
division does not affect in any way the right of any person to 2134  
enforce or protect, under applicable law, the person's interest in 2135  
water resources affected by an oil or gas operation. 2136

(G) In any action brought by the state for a violation of 2137  
division (A) of this section involving any well at which annular 2138  
disposal is used, there shall be a rebuttable presumption 2139  
available to the state that the annular disposal caused the 2140  
violation if the well is located within a one-quarter-mile radius 2141  
of the site of the violation. 2142

(H)(1) There is levied on the owner of an injection well who 2143  
has been issued a permit under division (D) of this section the 2144  
following fees: 2145

(a) Five cents per barrel of each substance that is delivered 2146  
to a well to be injected in the well when the substance is 2147  
produced within the division of oil and gas resources management 2148  
regulatory district in which the well is located or within an 2149  
adjoining oil and gas resources management regulatory district; 2150

(b) Twenty cents per barrel of each substance that is 2151  
delivered to a well to be injected in the well when the substance 2152  
is not produced within the division of oil and gas resources 2153  
management regulatory district in which the well is located or 2154  
within an adjoining oil and gas resources management regulatory 2155  
district. 2156

(2) The maximum number of barrels of substance per injection well in a calendar year on which a fee may be levied under division (H) of this section is five hundred thousand. If in a calendar year the owner of an injection well receives more than five hundred thousand barrels of substance to be injected in the owner's well and if the owner receives at least one substance that is produced within the division's regulatory district in which the well is located or within an adjoining regulatory district and at least one substance that is not produced within the division's regulatory district in which the well is located or within an adjoining regulatory district, the fee shall be calculated first on all of the barrels of substance that are not produced within the division's regulatory district in which the well is located or within an adjoining district at the rate established in division (H)(2) of this section. The fee then shall be calculated on the barrels of substance that are produced within the division's regulatory district in which the well is located or within an adjoining district at the rate established in division (H)(1) of this section until the maximum number of barrels established in division (H)(2) of this section has been attained.

(3) The owner of an injection well who is issued a permit under division (D) of this section shall collect the fee levied by division (H) of this section on behalf of the division of oil and gas resources management and forward the fee to the division. The chief shall transmit all money received under division (H) of this section to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code. The owner of an injection well who collects the fee levied by this division may retain up to three per cent of the amount that is collected.

(4) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures

for collection of the fee levied by division (H) of this section. 2189

**Sec. 1509.221.** (A) No person, without first having obtained a 2190  
permit from the chief of the division of oil and gas resources 2191  
management, shall drill a well or inject a substance into a well 2192  
for the exploration for or extraction of minerals or energy, other 2193  
than oil or natural gas, including, but not limited to, the mining 2194  
of sulfur by the Frasch process, the solution mining of minerals, 2195  
the in situ combustion of fossil fuel, or the recovery of 2196  
geothermal energy to produce electric power, unless a rule of the 2197  
chief expressly authorizes the activity without a permit. The 2198  
permit shall be in addition to any permit required by section 2199  
1509.05 of the Revised Code. The chief shall adopt rules in 2200  
accordance with Chapter 119. of the Revised Code governing the 2201  
issuance of permits under this section. The rules shall include 2202  
provisions regarding the matters the applicant for a permit shall 2203  
demonstrate to establish eligibility for a permit; the form and 2204  
content of applications for permits; the terms and conditions of 2205  
permits; entry to conduct inspections and to examine and copy 2206  
records to ascertain compliance with this section and rules, 2207  
orders, and terms and conditions of permits adopted or issued 2208  
thereunder; provision and maintenance of information through 2209  
monitoring, recordkeeping, and reporting; and other provisions in 2210  
furtherance of the goals of this section and the Safe Drinking 2211  
Water Act. To implement the goals of the Safe Drinking Water Act, 2212  
the chief shall not issue a permit under this section, unless the 2213  
chief concludes that the applicant has demonstrated that the 2214  
drilling, injection of a substance, and extraction of minerals or 2215  
energy will not result in the presence of any contaminant in 2216  
underground water that supplies or can reasonably be expected to 2217  
supply any public water system, such that the presence of the 2218  
contaminant may result in the system's not complying with any 2219  
national primary drinking water regulation or may otherwise 2220



adversely affect the health of persons. The chief may issue, 2221  
without a prior adjudication hearing, orders requiring compliance 2222  
with this section and rules, orders, and terms and conditions of 2223  
permits adopted or issued thereunder. This section and rules, 2224  
orders, and terms and conditions of permits adopted or issued 2225  
thereunder shall be construed to be no more stringent than 2226  
required for compliance with the Safe Drinking Water Act, unless 2227  
essential to ensure that underground sources of drinking water 2228  
will not be endangered. 2229

~~(B)(1) There is levied on the owner of an injection well who 2230  
has been issued a permit under division (D) of section 1509.22 of 2231  
the Revised Code the following fees: 2232~~

~~(a) Five cents per barrel of each substance that is delivered 2233  
to a well to be injected in the well when the substance is 2234  
produced within the division of oil and gas resources management 2235  
regulatory district in which the well is located or within an 2236  
adjoining oil and gas resources management regulatory district; 2237~~

~~(b) Twenty cents per barrel of each substance that is 2238  
delivered to a well to be injected in the well when the substance 2239  
is not produced within the division of oil and gas resources 2240  
management regulatory district in which the well is located or 2241  
within an adjoining oil and gas resources management regulatory 2242  
district. 2243~~

~~(2) The maximum number of barrels of substance per injection 2244  
well in a calendar year on which a fee may be levied under 2245  
division (B) of this section is five hundred thousand. If in a 2246  
calendar year the owner of an injection well receives more than 2247  
five hundred thousand barrels of substance to be injected in the 2248  
owner's well and if the owner receives at least one substance that 2249  
is produced within the division's regulatory district in which the 2250  
well is located or within an adjoining regulatory district and at 2251  
least one substance that is not produced within the division's 2252~~

~~regulatory district in which the well is located or within an 2253  
adjoining regulatory district, the fee shall be calculated first 2254  
on all of the barrels of substance that are not produced within 2255  
the division's regulatory district in which the well is located or 2256  
within an adjoining district at the rate established in division 2257  
(B)(2) of this section. The fee then shall be calculated on the 2258  
barrels of substance that are produced within the division's 2259  
regulatory district in which the well is located or within an 2260  
adjoining district at the rate established in division (B)(1) of 2261  
this section until the maximum number of barrels established in 2262  
division (B)(2) of this section has been attained. 2263~~

~~(3) The owner of an injection well who is issued a permit 2264  
under division (D) of section 1509.22 of the Revised Code shall 2265  
collect the fee levied by division (B) of this section on behalf 2266  
of the division of oil and gas resources management and forward 2267  
the fee to the division. The chief shall transmit all money 2268  
received under division (B) of this section to the treasurer of 2269  
state who shall deposit the money in the state treasury to the 2270  
credit of the oil and gas well fund created in section 1509.02 of 2271  
the Revised Code. The owner of an injection well who collects the 2272  
fee levied by this division may retain up to three per cent of the 2273  
amount that is collected. 2274~~

~~(4) The chief shall adopt rules in accordance with Chapter 2275  
119. of the Revised Code establishing requirements and procedures 2276  
for collection of the fee levied by division (B) of this section. 2277~~

~~(C) In an action under section 1509.04 or 1509.33 of the 2278  
Revised Code to enforce this section, the court shall grant 2279  
preliminary and permanent injunctive relief and impose a civil 2280  
penalty upon the showing that the person against whom the action 2281  
is brought has violated, is violating, or will violate this 2282  
section or rules, orders, or terms or conditions of permits 2283  
adopted or issued thereunder. The court shall not require, prior 2284~~

to granting such preliminary and permanent injunctive relief or 2285  
imposing a civil penalty, proof that the violation was, is, or 2286  
will be the result of intentional conduct or negligence. In any 2287  
such action, any person may intervene as a plaintiff upon the 2288  
demonstration that the person has an interest that is or may be 2289  
adversely affected by the activity for which injunctive relief or 2290  
a civil penalty is sought. 2291

**Sec. 1509.222.** (A)(1) Except as provided in section 1509.226 2292  
of the Revised Code, no person shall transport brine by vehicle in 2293  
this state unless the business entity that employs the person 2294  
first registers with and obtains a registration certificate and 2295  
identification number from the chief of the division of oil and 2296  
gas resources management. 2297

(2) No more than one registration certificate shall be 2298  
required of any business entity. Registration certificates issued 2299  
under this section are not transferable. An applicant shall file 2300  
an application with the chief, containing such information in such 2301  
form as the chief prescribes, ~~but including a.~~ The application 2302  
shall include at least all of the following: 2303

(a) A list that identifies each vehicle, vessel, railcar, and 2304  
container that will be used in the transportation of brine; 2305

(b) A plan for disposal that provides for compliance with the 2306  
requirements of this chapter and rules of the chief pertaining to 2307  
the transportation of brine by vehicle and the disposal of brine 2308  
so transported and that lists all disposal sites that the 2309  
applicant intends to use, ~~the;~~ 2310

(c) The bond required by section 1509.225 of the Revised 2311  
Code, ~~and a;~~ 2312

(d) A certificate issued by an insurance company authorized 2313  
to do business in this state certifying that the applicant has in 2314

force a liability insurance policy in an amount not less than 2315  
three hundred thousand dollars bodily injury coverage and three 2316  
hundred thousand dollars property damage coverage to pay damages 2317  
for injury to persons or property caused by the collecting, 2318  
handling, transportation, or disposal of brine. ~~The~~ 2319

The insurance policy required by division (A)(2)(d) of this 2320  
section shall be maintained in effect during the term of the 2321  
registration certificate. The policy or policies providing the 2322  
coverage shall require the insurance company to give notice to the 2323  
chief if the policy or policies lapse for any reason. Upon such 2324  
termination of the policy, the chief may suspend the registration 2325  
certificate until proper insurance coverage is obtained. ~~Each~~ 2326

(3) Each application for a registration certificate shall be 2327  
accompanied by a nonrefundable fee of five hundred dollars. 2328

~~(3)~~(4) If a business entity that has been issued a 2329  
registration certificate under this section changes its name due 2330  
to a business reorganization or merger, the business entity shall 2331  
revise the bond or certificates of deposit required by section 2332  
1509.225 of the Revised Code and obtain a new certificate from an 2333  
insurance company in accordance with division (A)(2)(e) of this 2334  
section to reflect the change in the name of the business entity. 2335

(B) The chief shall issue an order denying an application for 2336  
a registration certificate if the chief finds that either of the 2337  
following applies: 2338

(1) The applicant, at the time of applying for the 2339  
registration certificate, has been found liable by a final 2340  
nonappealable order of a court of competent jurisdiction for 2341  
damage to streets, roads, highways, bridges, culverts, or 2342  
drainways pursuant to section 4513.34 or 5577.12 of the Revised 2343  
Code until the applicant provides the chief with evidence of 2344  
compliance with the order. 2345

(2) The applicant's plan for disposal does not provide for 2346  
compliance with the requirements of this chapter and rules of the 2347  
chief pertaining to the transportation of brine by vehicle and the 2348  
disposal of brine so transported. 2349

(C) No applicant shall attempt to circumvent division (B) of 2350  
this section by applying for a registration certificate under a 2351  
different name or business organization name, by transferring 2352  
responsibility to another person or entity, or by any similar act. 2353

(D) A registered transporter shall apply to revise a disposal 2354  
plan under procedures that the chief shall prescribe by rule. 2355  
However, at a minimum, an application for a revision shall list 2356  
all sources and disposal sites of brine currently transported. The 2357  
chief shall deny any application for a revision of a plan under 2358  
this division if the chief finds that the proposed revised plan 2359  
does not provide for compliance with the requirements of this 2360  
chapter and rules of the chief pertaining to the transportation of 2361  
brine by vehicle and the disposal of brine so transported. 2362  
Approvals and denials of revisions shall be by order of the chief. 2363

(E) The chief may adopt rules, issue orders, and attach terms 2364  
and conditions to registration certificates as may be necessary to 2365  
administer, implement, and enforce sections 1509.222 to 1509.226 2366  
of the Revised Code for protection of public health or safety or 2367  
conservation of natural resources. 2368

**Sec. 1509.223.** (A) No permit holder or owner of a well shall 2369  
enter into an agreement with or permit any person to transport 2370  
brine produced from the well who is not registered pursuant to 2371  
section 1509.222 of the Revised Code or exempt from registration 2372  
under section 1509.226 of the Revised Code. 2373

(B) Each registered transporter shall file with the chief of 2374  
the division of oil and gas resources management, on or before the 2375  
fifteenth day of April, a statement concerning brine transported, 2376

including quantities transported and source and delivery points, 2377  
during the last preceding calendar year, and such other 2378  
information in such form as the chief may prescribe. 2379

(C) Each registered transporter shall keep on each vehicle 2380  
used to transport brine a daily log and have it available upon the 2381  
request of the chief or an authorized representative of the chief 2382  
or a peace officer. The log shall, at a minimum, include all of 2383  
the following information: 2384

(1) The name of the owner or owners of the well or wells 2385  
producing the brine to be transported; 2386

(2) The date and time the brine is loaded; 2387

(3) The name of the driver; 2388

(4) The amount of brine loaded at each collection point; 2389

(5) The disposal location; 2390

(6) The date and time the brine is disposed of and the amount 2391  
of brine disposed of at each location. 2392

The chief, by rule, may establish procedures for the 2393  
electronic submission to the chief of the information that is 2394  
required to be included in the daily log. No registered 2395  
transporter shall falsify or fail to keep or submit the log 2396  
required by this division. 2397

(D) Each registered transporter shall legibly identify with 2398  
reflective paints all vehicles employed in transporting or 2399  
disposing of brine. Letters shall be no less than four inches in 2400  
height and shall indicate the identification number issued by the 2401  
chief, the word "brine," and the name and telephone number of the 2402  
transporter. 2403

(E) The chief shall maintain and keep a current list of 2404  
persons registered to transport brine under section 1509.222 of 2405  
the Revised Code. The list shall be open to public inspection. It 2406

is an affirmative defense to a charge under division (A) of this 2407  
section that at the time the permit holder or owner of a well 2408  
entered into an agreement with or permitted a person to transport 2409  
brine, the person was shown on the list as currently registered to 2410  
transport brine. 2411

**Sec. 1509.23.** (A) Rules of the chief of the division of oil 2412  
and gas resources management may specify practices to be followed 2413  
in the drilling and treatment of wells, production of oil and gas, 2414  
and plugging of wells for protection of public health or safety or 2415  
to prevent damage to natural resources, including specification of 2416  
the following: 2417

(1) Appropriate devices; 2418

(2) Minimum distances that wells and other excavations, 2419  
structures, and equipment shall be located from water wells, 2420  
streets, roads, highways, rivers, lakes, streams, ponds, other 2421  
bodies of water, railroad tracks, public or private recreational 2422  
areas, zoning districts, and buildings or other structures. Rules 2423  
adopted under division (A)(2) of this section shall not conflict 2424  
with section 1509.021 of the Revised Code. 2425

(3) Other methods of operation; 2426

(4) Procedures, methods, and equipment and other requirements 2427  
for equipment to prevent and contain discharges of oil and brine 2428  
from oil production facilities and oil drilling and workover 2429  
facilities consistent with and equivalent in scope, content, and 2430  
coverage to section 311(j)(1)(c) of the "Federal Water Pollution 2431  
Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, 2432  
as amended, and regulations adopted under it. In addition, the 2433  
rules may specify procedures, methods, and equipment and other 2434  
requirements for equipment to prevent and contain surface and 2435  
subsurface discharges of fluids, condensates, and gases. 2436

(5) Notifications; 2437

(6) Requirements governing the location and construction of 2438  
fresh water impoundments that are part of a production operation. 2439

(B) The chief, in consultation with the emergency response 2440  
commission created in section 3750.02 of the Revised Code, shall 2441  
adopt rules in accordance with Chapter 119. of the Revised Code 2442  
that specify the information that shall be included in an 2443  
electronic database that the chief shall create and host. The 2444  
information shall be that which the chief considers to be 2445  
appropriate for the purpose of responding to emergency situations 2446  
that pose a threat to public health or safety or the environment. 2447  
At the minimum, the information shall include that which a person 2448  
who is regulated under this chapter is required to submit under 2449  
the "Emergency Planning and Community Right-To-Know Act of 1986," 2450  
100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under 2451  
it. 2452

In addition, the rules shall specify whether and to what 2453  
extent the database and the information that it contains will be 2454  
made accessible to the public. The rules shall ensure that the 2455  
database will be made available via the internet or a system of 2456  
computer disks to the emergency response commission and to every 2457  
local emergency planning committee and fire department in this 2458  
state. 2459

**Sec. 1509.28.** (A) The chief of the division of oil and gas 2460  
resources management, upon the chief's own motion or upon 2461  
application by the owners of sixty-five per cent of the land area 2462  
overlying the pool, shall hold a hearing to consider the need for 2463  
the operation as a unit of an entire pool or part thereof. An 2464  
application by owners shall be accompanied by a nonrefundable fee 2465  
of ten thousand dollars and by such information as the chief may 2466  
request. 2467



The chief shall make an order providing for the unit 2468  
operation of a pool or part thereof if the chief finds that such 2469  
operation is reasonably necessary to increase substantially the 2470  
ultimate recovery of oil and gas, and the value of the estimated 2471  
additional recovery of oil or gas exceeds the estimated additional 2472  
cost incident to conducting the operation. The order shall be upon 2473  
terms and conditions that are just and reasonable and shall 2474  
prescribe a plan for unit operations that shall include: 2475

(1) A description of the unitized area, termed the unit area; 2476

(2) A statement of the nature of the operations contemplated; 2477

(3) An allocation to the separately owned tracts in the unit 2478  
area of all the oil and gas that is produced from the unit area 2479  
and is saved, being the production that is not used in the conduct 2480  
of operations on the unit area or not unavoidably lost. The 2481  
allocation shall be in accord with the agreement, if any, of the 2482  
interested parties. If there is no such agreement, the chief shall 2483  
determine the value, from the evidence introduced at the hearing, 2484  
of each separately owned tract in the unit area, exclusive of 2485  
physical equipment, for development of oil and gas by unit 2486  
operations, and the production allocated to each tract shall be 2487  
the proportion that the value of each tract so determined bears to 2488  
the value of all tracts in the unit area. 2489

(4) A provision for the credits and charges to be made in the 2490  
adjustment among the owners in the unit area for their respective 2491  
investments in wells, tanks, pumps, machinery, materials, and 2492  
equipment contributed to the unit operations; 2493

(5) A provision providing how the expenses of unit 2494  
operations, including capital investment, shall be determined and 2495  
charged to the separately owned tracts and how the expenses shall 2496  
be paid; 2497

(6) A provision, if necessary, for carrying or otherwise 2498

financing any person who is unable to meet the person's financial 2499  
obligations in connection with the unit, allowing a reasonable 2500  
interest charge for such service; 2501

(7) A provision for the supervision and conduct of the unit 2502  
operations, in respect to which each person shall have a vote with 2503  
a value corresponding to the percentage of the expenses of unit 2504  
operations chargeable against the interest of that person; 2505

(8) The time when the unit operations shall commence, and the 2506  
manner in which, and the circumstances under which, the unit 2507  
operations shall terminate; 2508

(9) Such additional provisions as are found to be appropriate 2509  
for carrying on the unit operations, and for the protection or 2510  
adjustment of correlative rights. 2511

(B) No order of the chief providing for unit operations shall 2512  
become effective unless and until the plan for unit operations 2513  
prescribed by the chief has been approved in writing by those 2514  
owners who, under the chief's order, will be required to pay at 2515  
least sixty-five per cent of the costs of the unit operation, and 2516  
also by the royalty or, with respect to unleased acreage, fee 2517  
owners of sixty-five per cent of the acreage to be included in the 2518  
unit. If the plan for unit operations has not been so approved by 2519  
owners and royalty owners at the time the order providing for unit 2520  
operations is made, the chief shall upon application and notice 2521  
hold such supplemental hearings as may be required to determine if 2522  
and when the plan for unit operations has been so approved. If the 2523  
owners and royalty owners, or either, owning the required 2524  
percentage of interest in the unit area do not approve the plan 2525  
for unit operations within a period of six months from the date on 2526  
which the order providing for unit operations is made, the order 2527  
shall cease to be of force and shall be revoked by the chief. 2528

An order providing for unit operations may be amended by an 2529

order made by the chief, in the same manner and subject to the 2530  
same conditions as an original order providing for unit 2531  
operations, provided that: 2532

(1) If such an amendment affects only the rights and 2533  
interests of the owners, the approval of the amendment by the 2534  
royalty owners shall not be required. 2535

(2) No such order of amendment shall change the percentage 2536  
for allocation of oil and gas as established for any separately 2537  
owned tract by the original order, except with the consent of all 2538  
persons owning interest in the tract. 2539

The chief, by an order, may provide for the unit operation of 2540  
a pool or a part thereof that embraces a unit area established by 2541  
a previous order of the chief. Such an order, in providing for the 2542  
allocation of unit production, shall first treat the unit area 2543  
previously established as a single tract, and the portion of the 2544  
unit production so allocated thereto shall then be allocated among 2545  
the separately owned tracts included in the previously established 2546  
unit area in the same proportions as those specified in the 2547  
previous order. 2548

Oil and gas allocated to a separately owned tract shall be 2549  
deemed, for all purposes, to have been actually produced from the 2550  
tract, and all operations, including, but not limited to, the 2551  
commencement, drilling, operation of, or production from a well 2552  
upon any portion of the unit area shall be deemed for all purposes 2553  
the conduct of such operations and production from any lease or 2554  
contract for lands any portion of which is included in the unit 2555  
area. The operations conducted pursuant to the order of the chief 2556  
shall constitute a fulfillment of all the express or implied 2557  
obligations of each lease or contract covering lands in the unit 2558  
area to the extent that compliance with such obligations cannot be 2559  
had because of the order of the chief. 2560

Oil and gas allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

No order of the chief or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to the tract until terminated in accordance with the provisions thereof.

Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired for the account of the owners within the unit area shall be the property of such owners in the proportion that the expenses of unit operations are charged.

**Sec. 1509.33.** (A) Whoever violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections for which no specific penalty is provided in this section, shall pay a civil penalty of not more than four thousand dollars for each offense.

(B) Whoever violates section 1509.221 of the Revised Code or any rules adopted or orders or terms or conditions of a permit issued thereunder shall pay a civil penalty of not more than two thousand five hundred dollars for each violation.

(C) Whoever violates division (D) of section 1509.22 or division (A)(1) of section 1509.222 of the Revised Code shall pay a civil penalty of not less than two thousand five hundred dollars nor more than twenty thousand dollars for each violation.

(D) Whoever violates division (A) of section 1509.22 of the Revised Code shall pay a civil penalty of not less than two thousand five hundred dollars nor more than ten thousand dollars for each violation.

(E) Whoever violates division (A) of section 1509.223 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each violation.

(F) Whoever violates section 1509.072 of the Revised Code or any rules adopted or orders issued to administer, implement, or enforce that section shall pay a civil penalty of not more than five thousand dollars for each violation.

(G) In addition to any other penalties provided in this chapter, whoever violates division (B) of section 1509.22 or division (A)(1) of section 1509.222 or knowingly violates division (A) of section 1509.223 of the Revised Code is liable for any damage or injury caused by the violation and for the cost of rectifying the violation and conditions caused by the violation. If two or more persons knowingly violate one or more of those divisions in connection with the same event, activity, or transaction, they are jointly and severally liable under this division.

(H) The attorney general, upon the request of the chief of the division of oil and gas resources management, shall commence an action under this section against any person who violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections. Any action under this section is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. The remedy provided in this division is cumulative and concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not

prevent the exercise of any other, except that no person shall be 2624  
subject to both a civil penalty under division (A), (B), (C), or 2625  
(D) of this section and a criminal penalty under section 1509.99 2626  
of the Revised Code for the same offense. 2627

(I) For purposes of this section, each day of violation 2628  
constitutes a separate offense. 2629

**Sec. 1509.99.** (A) Whoever violates sections 1509.01 to 2630  
1509.31 of the Revised Code or any rules adopted or orders or 2631  
terms or conditions of a permit issued pursuant to these sections 2632  
for which no specific penalty is provided in this section shall be 2633  
fined not less than one hundred nor more than one thousand dollars 2634  
for a first offense; for each subsequent offense ~~such~~ the person 2635  
shall be fined not less than two hundred nor more than two 2636  
thousand dollars. 2637

(B) Whoever violates section 1509.221 of the Revised Code or 2638  
any rules adopted or orders or terms or conditions of a permit 2639  
issued thereunder shall be fined not more than five thousand 2640  
dollars for each ~~day of~~ violation. 2641

(C) Whoever knowingly violates section 1509.072, division 2642  
(A), (B), or (D) of section 1509.22, division (A)(1) or (C) of 2643  
section 1509.222, or division (A) or (D) of section 1509.223 of 2644  
the Revised Code or any rules adopted or orders issued under 2645  
division (C) of section 1509.22 or rules adopted or orders or 2646  
terms or conditions of a registration certificate issued under 2647  
division (E) of section 1509.222 of the Revised Code shall be 2648  
fined ten thousand dollars or imprisoned for six months, or both 2649  
for a first offense; for each subsequent offense ~~such~~ the person 2650  
shall be fined twenty thousand dollars or imprisoned for two 2651  
years, or both. Whoever negligently violates ~~such~~ those divisions, 2652  
sections, rules, orders, or terms or conditions of a registration 2653  
certificate shall be fined not more than five thousand dollars. 2654

(D) Whoever violates division (C) of section 1509.223 of the Revised Code shall be fined not more than five hundred dollars for a first offense ~~not~~ and not more than one thousand dollars for a subsequent offense.

(E) The prosecuting attorney of the county in which the offense was committed or the attorney general may prosecute an action under this section.

(F) For purposes of this section, each day of violation constitutes a separate offense.

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

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

firm possesses a valid building permit; the removal of minerals to 2686  
a depth of not more than five feet, measured from the highest 2687  
original surface elevation of the area to be excavated, where not 2688  
more than one acre of land is excavated during twelve successive 2689  
calendar months; routine dredging of a watercourse for purely 2690  
navigational or flood control purposes during which materials are 2691  
removed for noncommercial purposes, including activities conducted 2692  
by or on behalf of a conservancy district, organized under Chapter 2693  
6101. of the Revised Code, for flood control purposes that are 2694  
exempt from permitting requirements under section 10 of the 2695  
"Rivers and Harbors Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as 2696  
amended; or the extraction or movement of soil or minerals within 2697  
a solid waste facility, as defined in section 3734.01 of the 2698  
Revised Code, that is a sanitary landfill when the soil or 2699  
minerals are used exclusively for the construction, operation, 2700  
closure, and post-closure care of the facility or for maintenance 2701  
activities at the facility. 2702

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 2703  
halite, limestone, dolomite, sandstone, other stone, metalliferous 2704  
or nonmetalliferous ore, or other material or substance of 2705  
commercial value excavated in a solid state from natural deposits 2706  
on or in the earth, but does not include coal or peat. 2707

(C) "Overburden" means all of the earth and other materials 2708  
that cover a natural deposit of minerals and also means such earth 2709  
and other materials after removal from their natural state in the 2710  
process of surface mining. 2711

(D) "Spoil bank" means a pile of removed overburden. 2712

(E) "Area of land affected" means the area of land that has 2713  
been excavated, or upon which a spoil bank exists, or both. 2714

(F)(1) "Operation" or "surface mining operation" means all of 2715  
the premises, facilities, and equipment used in the process of 2716



removing minerals, or minerals and incidental coal, by surface 2717  
mining from a mining area in the creation of which mining area 2718  
overburden or minerals, or minerals and incidental coal, are 2719  
disturbed or removed, such surface mining area being located upon 2720  
a single tract of land or upon two or more contiguous tracts of 2721  
land. Separation by a stream or roadway shall not preclude the 2722  
tracts from being considered contiguous. 2723

(2) When the context indicates, "operation" or "in-stream 2724  
mining operation" means all of the premises, facilities, and 2725  
equipment used in the process of removing minerals by in-stream 2726  
mining from a mining area. 2727

(G) "Operator" means any person engaged in surface mining who 2728  
removes minerals, or minerals and incidental coal, from the earth 2729  
by surface mining or who removes overburden for the purpose of 2730  
determining the location, quality, or quantity of a mineral 2731  
deposit. "Operator" also means any person engaged in in-stream 2732  
mining who removes minerals from the bottom of the channel of a 2733  
watercourse by in-stream mining. 2734

(H) "Performance bond" means the surety bond required to be 2735  
filed under section 1514.04 of the Revised Code and includes cash, 2736  
an irrevocable letter of credit, and negotiable certificates of 2737  
deposit authorized to be deposited in lieu of the surety bond 2738  
under that section. 2739

(I) "Dewatering" means the withdrawal of ground water from an 2740  
aquifer or saturated zone that may result in the lowering of the 2741  
water level within the aquifer or saturated zone or a decline of 2742  
the potentiometric surface within that aquifer or saturated zone. 2743

(J) "Ground water" means all water occurring in an aquifer. 2744

(K) "Cone of depression" means a depression or low point in 2745  
the water table or potentiometric surface of a body of ground 2746  
water that develops around a location from which ground water is 2747

being withdrawn. 2748

(L) "High water mark" means the line on the shore that is 2749  
established by the fluctuations of water and indicated by physical 2750  
characteristics such as a natural line impressed on the bank; 2751  
shelving; changes in the character of soil; destruction of 2752  
terrestrial vegetation; the presence of litter and debris; or 2753  
other appropriate means that consider the characteristics of the 2754  
surrounding area. 2755

(M) "In-stream mining" means all or any part of a process 2756  
followed in the production of minerals from the bottom of the 2757  
channel of a watercourse that drains a surface area of more than 2758  
one hundred square miles. "In-stream mining" may be accomplished 2759  
by using any technique or by using surface excavation methods, 2760  
such as open pit mining, dredging, placering, or quarrying, and 2761  
includes the removal of overburden for the purpose of determining 2762  
the location, quantity, or quality of mineral deposits. "In-stream 2763  
mining" does not include either of the following: 2764

(1) Routine dredging for purely navigational or flood control 2765  
purposes during which materials are removed for noncommercial 2766  
purposes; 2767

(2) The extraction of minerals, other than coal, by a 2768  
landowner for the landowner's own noncommercial use when the 2769  
material is extracted and used in an unprocessed form on the same 2770  
tract of land. 2771

For purposes of division (M) of this section, the number of 2772  
square miles of surface area that a watercourse drains shall be 2773  
determined by consulting the "gazetteer of Ohio streams," which is 2774  
a portion of the Ohio water plan inventory published in 1960 by 2775  
the division of water in the department of natural resources, or 2776  
its successor, if any. 2777

(N) In provisions concerning in-stream mining, when the 2778

context is appropriate, "land" is deemed to include an area of a 2779  
watercourse. 2780

(O) "Watercourse" means any naturally occurring perennial or 2781  
intermittent stream, river, or creek flowing within a defined 2782  
stream bed and banks. 2783

(P) "Certified mine foreperson" means the person whom the 2784  
operator of a surface mining operation places in charge of the 2785  
conditions and practices at the mine, who is responsible for 2786  
conducting workplace examinations under 30 C.F.R. part 56, as 2787  
amended, and who has passed an examination for the position 2788  
administered by the division of mineral resources management. 2789

**Sec. 1514.02.** (A) After the dates the chief of the division 2790  
of mineral resources management prescribes by rule pursuant to 2791  
section 1514.08 of the Revised Code, but not later than July 1, 2792  
1977, nor earlier than July 1, 1975, no operator shall engage in 2793  
surface mining or conduct a surface mining operation without a 2794  
surface mining permit issued by the chief. 2795

No person shall engage in in-stream mining or conduct an 2796  
in-stream mining operation without an in-stream mining permit 2797  
issued by the chief. However, a person who, on ~~the effective date~~ 2798  
~~of this amendment~~ March 15, 2002, holds a valid permit to conduct 2799  
in-stream mining that is issued under section 10 of the "Rivers 2800  
and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 2801  
403, as amended, shall not be required to obtain an in-stream 2802  
mining permit from the chief under this section until the existing 2803  
permit expires. 2804

An application for a surface or in-stream mining permit shall 2805  
be upon the form that the chief prescribes and provides and shall 2806  
contain all of the following: 2807

(1) The name and address of the applicant, of all partners if 2808

the applicant is a partnership, or of all officers and directors 2809  
if the applicant is a corporation, and any other person who has a 2810  
right to control or in fact controls the management of the 2811  
applicant or the selection of officers, directors, or managers of 2812  
the applicant; 2813

(2) A list of the minerals and coal, if any coal, sought to 2814  
be extracted, an estimate of the annual production rates for each 2815  
mineral and coal, and a description of the land upon which the 2816  
applicant proposes to engage in a surface or in-stream mining 2817  
operation, which description shall set forth the names of the 2818  
counties, townships, and municipal corporations, if any, in which 2819  
the land is located; the location of its boundaries; and a 2820  
description of the land of sufficient certainty that it may be 2821  
located and distinguished from other lands; 2822

(3) The name of each county, township, or municipal 2823  
corporation, if any, that has in effect a zoning resolution or 2824  
ordinance that would affect the proposed surface or in-stream 2825  
mining operation or, if no such zoning resolution or ordinance is 2826  
in effect, a statement attesting to that fact. The application 2827  
also shall contain an explanation of how the applicant intends to 2828  
comply with any applicable provisions of a zoning resolution or 2829  
ordinance. 2830

(4) An estimate of the number of acres of land that will 2831  
comprise the total area of land to be affected and an estimate of 2832  
the number of acres of land to be affected during the first year 2833  
of operation under the permit; 2834

(5) The name and address of the owner of surface rights in 2835  
the land upon which the applicant proposes to engage in surface or 2836  
in-stream mining; 2837

(6) A copy of the deed, lease, or other instrument that 2838  
authorizes entry upon the land by the applicant or the applicant's 2839

agents if surface rights in the land are not owned by the 2840  
applicant; 2841

(7) A statement of whether any surface or in-stream mining 2842  
permits or coal mining and reclamation permits are now held by the 2843  
applicant in this state and, if so, the numbers of the permits; 2844

(8) A statement of whether the applicant, any partner if the 2845  
applicant is a partnership, any officer or director if the 2846  
applicant is a corporation, or any other person who has a right to 2847  
control or in fact controls the management of the applicant or the 2848  
selection of officers, directors, or managers of the applicant has 2849  
ever had a surface or in-stream mining permit or coal mining and 2850  
reclamation permit issued by this or any other state suspended or 2851  
revoked or has ever forfeited a surface or in-stream mining or 2852  
coal mining and reclamation bond or cash, an irrevocable letter of 2853  
credit, or a security deposited in lieu of a bond; 2854

(9) A report of the results of test borings that the operator 2855  
has conducted on the area or otherwise has readily available, 2856  
including, to the extent that the information is readily available 2857  
to the operator, the nature and depth of overburden and material 2858  
underlying each mineral or coal deposit, and the thickness and 2859  
extent of each mineral or coal deposit. In the case of an 2860  
application for an in-stream mining permit, the report 2861  
additionally shall include sufficient information to show the 2862  
approximate depth to bedrock. All information relating to test 2863  
boring results submitted to the chief pursuant to this section 2864  
shall be kept confidential and not made a matter of public record, 2865  
except that the information may be disclosed by the chief in any 2866  
legal action in which the truthfulness of the information is 2867  
material. 2868

(10) A complete plan for surface or in-stream mining and 2869  
reclamation of the area to be affected, which shall include a 2870  
statement of the intended future uses of the area and show the 2871

approximate sequence in which mining and reclamation measures are 2872  
to occur, the approximate intervals following mining during which 2873  
the reclamation of all various parts of the area affected will be 2874  
completed, and the measures the operator will perform to prevent 2875  
damage to adjoining property and to achieve all of the following 2876  
general performance standards for mining and reclamation: 2877

(a) Prepare the site adequately for its intended future uses 2878  
upon completion of mining; 2879

(b) Where a plan of zoning or other comprehensive plan has 2880  
been adopted that governs land uses or the construction of public 2881  
improvements and utilities for an area that includes the area 2882  
sought to be mined, ensure that future land uses within the site 2883  
will not conflict with the plan. On and after ~~the effective date~~ 2884  
~~of this amendment~~ March 15, 2002, division (A)(10)(b) of this 2885  
section does not apply to any surface or in-stream mining permit 2886  
or applications for a surface or in-stream mining permit, any 2887  
renewal of an existing surface or in-stream mining permit or 2888  
application for a renewal of an existing surface or in-stream 2889  
mining permit, any amendment or application for an amendment to an 2890  
existing surface or in-stream mining permit, or any modification 2891  
or application for a modification of a mining and reclamation plan 2892  
of an existing surface or in-stream mining permit unless the 2893  
application for such a permit, renewal, amendment, or modification 2894  
is a resubmission, revision, or reconsideration of an application 2895  
that was pending before the chief or was first approved prior to 2896  
~~the effective date of this amendment~~ March 15, 2002. 2897

(c) Grade, contour, or terrace final slopes, wherever needed, 2898  
sufficient to achieve soil stability and control landslides, 2899  
erosion, and sedimentation. Highwalls will be permitted if they 2900  
are compatible with the future uses specified in the plan and 2901  
measures will be taken to ensure public safety. Where ponds, 2902  
impoundments, or other resulting bodies of water are intended for 2903

recreational use, establish banks and slopes that will ensure safe access to those bodies of water. Where such bodies of water are not intended for recreation, include measures to ensure public safety, but access need not be provided.

(d) Resoil the area of land affected, wherever needed, with topsoil or suitable subsoil, fertilizer, lime, or soil amendments, as appropriate, in sufficient quantity and depth to raise and maintain a diverse growth of vegetation adequate to bind the soil and control soil erosion and sedimentation;

(e) Establish a diverse vegetative cover of grass and legumes or trees, grasses, and legumes capable of self-regeneration and plant succession wherever required by the plan;

(f) Remove or bury any metal, lumber, equipment, or other refuse resulting from mining, and remove or bury any unwanted or useless structures;

(g) Reestablish boundary, section corner, government, and other survey monuments that were removed by the operator;

(h) During mining and reclamation, ensure that contamination, resulting from mining, of underground water supplies is prevented. Upon completion of reclamation, ensure that any watercourse, lake, or pond located within the site boundaries is free of substances resulting from mining in amounts or concentrations that are harmful to persons, fish, waterfowl, or other beneficial species of aquatic life.

(i) During mining and reclamation, control drainage so as to prevent the causing of flooding, landslides, and flood hazards to adjoining lands resulting from the mining operation. Leave any ponds in such condition as to avoid their constituting a hazard to adjoining lands.

(j) During mining and reclamation, ensure that the effect of any reduction of the quantity of ground water is minimized;

(k) Ensure that mining and reclamation are carried out in the sequence and manner set forth in the plan and that reclamation measures are performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the mining of the area unless the operator makes a showing satisfactory to the chief that the future use of the area requires a longer period for completing reclamation.

(l) During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing, and resoiling that are specified in the plan. Stabilize the slopes of and plant each spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur.

(m) During mining, promptly remove, store, or cover any coal, pyritic shale, or other acid producing materials in a manner that will minimize acid drainage and the accumulation of acid water;

(n) During mining, detonate explosives in a manner that will prevent damage to adjoining property;

(o) In the case of in-stream mining, do all of the following:

(i) Limit access to the channel of a watercourse to a single point of entry on one bank of the watercourse;

(ii) Maintain riparian vegetation to the fullest extent possible;

(iii) Upon cessation of in-stream mining, stabilize and reclaim to the pre-mined condition the banks of a watercourse affected by in-stream mining.

(11) For any applicant, except an applicant for an in-stream mining permit, who intends to extract less than ten thousand tons of minerals per year and no incidental coal, a current tax map, in triplicate and notarized, and the appropriate United States



geological survey seven and one-half minute topographic map. Each 2965  
copy shall bear the applicant's name and shall identify the area 2966  
of land to be affected corresponding to the application. 2967

(12) For any applicant for a surface mining permit who 2968  
intends to extract ten thousand tons of minerals or more per year 2969  
or who intends to extract any incidental coal irrespective of the 2970  
tonnage of minerals intended to be mined, a map, in triplicate, on 2971  
a scale of not more than four hundred feet to the inch, or three 2972  
copies of an enlarged United States geological survey topographic 2973  
map on a scale of not more than four hundred feet to the inch. 2974  
Each application for an in-stream mining permit shall include such 2975  
a map regardless of the tons of minerals that the applicant 2976  
intends to extract. 2977

The map shall comply with all of the following: 2978

(a) Be prepared and certified by a professional engineer or 2979  
surveyor registered under Chapter 4733. of the Revised Code; 2980

(b) Identify the area of land to be affected corresponding to 2981  
the application; 2982

(c) Show the probable limits of subjacent and adjacent deep, 2983  
strip, surface, or in-stream mining operations, whether active, 2984  
inactive, or mined out; 2985

(d) Show the boundaries of the area of land to be affected 2986  
during the period of the permit and the area of land estimated to 2987  
be affected during the first year of operation, and name the 2988  
surface and mineral owners of record of the area and the owners of 2989  
record of adjoining surface properties; 2990

(e) Show the names and locations of all streams, creeks, or 2991  
other bodies of water, roads, railroads, utility lines, buildings, 2992  
cemeteries, and oil and gas wells on the area of land to be 2993  
affected and within five hundred feet of the perimeter of the 2994  
area; 2995

(f) Show the counties, municipal corporations, townships, and sections in which the area of land to be affected is located; 2996  
2997

(g) Show the drainage plan on, above, below, and away from the area of land to be affected, indicating the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving or to receive this discharge; 2998  
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(h) Show the location of available test boring holes that the operator has conducted on the area of land to be affected or otherwise has readily available; 3003  
3004  
3005

(i) Show the date on which the map was prepared, the north direction and the quadrangle sketch, and the exact location of the operation; 3006  
3007  
3008

(j) Show the type, kind, location, and references of all existing boundary, section corner, government, and other survey monuments within the area to be affected and within five hundred feet of the perimeter of the area. 3009  
3010  
3011  
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The certification of the maps shall read: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all of the information required by the surface or in-stream mining laws, as applicable, of the state." The certification shall be signed and attested before a notary public. The chief may reject any map as incomplete if its accuracy is not so certified and attested. 3013  
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(13) A certificate of public liability insurance issued by an insurance company authorized to do business in this state or obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code covering all surface or in-stream mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts not less than the following: 3020  
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(a) One hundred thousand dollars for all damages because of 3026

bodily injury sustained by one person as the result of any one 3027  
occurrence, and three hundred thousand dollars for all damages 3028  
because of bodily injury sustained by two or more persons as the 3029  
result of any one occurrence; 3030

(b) One hundred thousand dollars for all claims arising out 3031  
of damage to property as the result of any one occurrence, with an 3032  
aggregate limit of three hundred thousand dollars for all property 3033  
damage to which the policy applies. 3034

(14) A sworn statement by the applicant that, during the term 3035  
of any permit issued under this chapter or of any renewal of such 3036  
a permit, the applicant will comply with all applicable zoning 3037  
resolutions or ordinances that are in effect at the time the 3038  
application is filed unless the resolutions or ordinances 3039  
subsequently become invalid during the term of the permit or 3040  
renewal; 3041

(15) A copy of the advertisement that the applicant is 3042  
required to have published in accordance with section 1514.022 of 3043  
the Revised Code, if applicable; 3044

(16) For any applicant whose operation may result in 3045  
dewatering, a compilation of data in a form that is prescribed by 3046  
the chief and that is suitable to conduct ground water modeling in 3047  
order to establish a projected cone of depression for purposes of 3048  
section 1514.13 of the Revised Code. The chief shall adopt rules 3049  
as provided in section 1514.08 of the Revised Code establishing 3050  
the minimum requirements and standards governing the data required 3051  
under this division. 3052

(17) A statement by the applicant certifying that the 3053  
applicant has communicated with the county engineer of the county 3054  
in which the proposed surface or in-stream mining operation will 3055  
be located regarding any streets and roads under the county 3056  
engineer's jurisdiction that will be used by vehicles entering and 3057

leaving the proposed surface or in-stream mining operation; 3058

(18) In the case of an application for an in-stream mining 3059  
permit, and if required by the division of mineral resources 3060  
management after review of an applicant's proposed in-stream 3061  
mining plans, a hydraulic evaluation of the watercourse prepared 3062  
by a professional engineer registered under Chapter 4733. of the 3063  
Revised Code. ~~The~~ If the hydraulic evaluation is required, it 3064  
shall include, without limitation, all of the following: 3065

(a) Soundings that depict the cross-sectional views of the 3066  
channel bottom of the watercourse and water elevations for the 3067  
watercourse; 3068

(b) A profile of the channel bottom; 3069

(c) An analysis of design flows and water surface profiles 3070  
for the watercourse prior to in-stream mining and the proposed 3071  
final mining condition; 3072

(d) An analysis of the expected changes in the roughness 3073  
coefficient, resistance to water flow velocity, and hydraulic 3074  
gradient in the channel bottom due to the proposed mining; 3075

(e) Any additional information that the chief requires in 3076  
order to evaluate the potential impact of in-stream mining on the 3077  
watercourse and to determine if any additional performance 3078  
standards are required to protect the environment and property 3079  
outside the limits of the operation as established in the permit. 3080

The chief may allow an applicant to deviate from the 3081  
requirements of divisions (A)(18)(a) to (d) of this section if the 3082  
chief determines that such a deviation is appropriate. 3083

(B) No permit application or amendment shall be approved by 3084  
the chief if the chief finds that the reclamation described in the 3085  
application will not be performed in full compliance with this 3086  
chapter or that there is not reasonable cause to believe that 3087

reclamation as required by this chapter will be accomplished. 3088

The chief shall issue an order denying an application for an 3089  
operating permit or an amendment if the chief determines that the 3090  
measures set forth in the plan are likely to be inadequate to 3091  
prevent damage to adjoining property or to achieve one or more of 3092  
the performance standards required in division (A)(10) of this 3093  
section. 3094

No permit application or amendment shall be approved if the 3095  
approval would result in a violation of division (E), (F), or (G) 3096  
of section 1514.10 of the Revised Code. 3097

No permit application or amendment shall be approved to 3098  
surface mine land adjacent to a public road in violation of 3099  
section 1563.11 of the Revised Code. 3100

To ensure adequate lateral support, no permit application or 3101  
amendment shall be approved to engage in surface or in-stream 3102  
mining on land that is closer than fifty feet of horizontal 3103  
distance to any adjacent land or waters in which the operator 3104  
making application does not own the surface or mineral rights 3105  
unless the owners of the surface and mineral rights in and under 3106  
the adjacent land or waters consent in writing to surface or 3107  
in-stream mining closer than fifty feet of horizontal distance. 3108  
The consent, or a certified copy thereof, shall be attached to the 3109  
application as a part of the permanent record of the application 3110  
for a surface or in-stream mining permit. 3111

The chief shall issue an order granting a permit upon the 3112  
chief's approval of an application, as required by this section, 3113  
filing of the performance bond required by section 1514.04 of the 3114  
Revised Code, payment of an acreage fee in the amount of 3115  
seventy-five dollars multiplied by the number of acres estimated 3116  
in the application that will comprise the area of land to be 3117  
affected within the first year of operation under the permit, and 3118

payment of a permit fee. The amount of the permit fee for a 3119  
surface mining permit shall be five hundred dollars, and the 3120  
amount of the permit fee for an in-stream mining permit shall be 3121  
two hundred fifty dollars. 3122

The chief may issue an order denying a permit if the chief 3123  
finds that the applicant, any partner if the applicant is a 3124  
partnership, any officer or director if the applicant is a 3125  
corporation, or any other person who has a right to control or in 3126  
fact controls the management of the applicant or the selection of 3127  
officers, directors, or managers of the applicant has 3128  
substantially or materially failed to comply or continues to fail 3129  
to comply with this chapter, which failure may consist of one or 3130  
more violations thereof, a rule adopted thereunder, or an order of 3131  
the chief or failure to perform reclamation as required by this 3132  
chapter. The chief may deny or revoke the permit of any person who 3133  
so violates or fails to comply or who purposely misrepresents or 3134  
omits any material fact in the application for the permit or an 3135  
amendment to a permit. 3136

If the chief denies the permit, the chief shall state the 3137  
reasons for denial in the order denying the permit. 3138

Each permit shall be issued upon condition that the operator 3139  
will comply with this chapter and perform the measures set forth 3140  
in the operator's plan of mining and reclamation in a timely 3141  
manner. The chief, mineral resources inspectors, or other 3142  
authorized representatives of the chief may enter upon the 3143  
premises of the operator at reasonable times for the purposes of 3144  
determining whether or not there is compliance with this chapter. 3145

(C) If the chief approves an application for a surface mining 3146  
permit, the order granting the permit shall authorize the person 3147  
to whom the permit is issued to engage as the operator of a 3148  
surface mining operation upon the land described in the permit 3149  
during a period that shall expire fifteen years after the date of 3150

issuance of the permit, or upon the date when the chief, after 3151  
inspection, orders the release of any remaining performance bond 3152  
deposited to assure satisfactory performance of the reclamation 3153  
measures required pursuant to this chapter, whichever occurs 3154  
earlier. 3155

If the chief approves an application for an in-stream mining 3156  
permit, the order granting the permit shall authorize the person 3157  
to whom the permit is issued to engage as the operator of an 3158  
in-stream mining operation on the land described in the permit 3159  
during a period that shall expire ~~two~~ five years after the date of 3160  
issuance of the permit, or on the date when the chief, after 3161  
inspection, orders the release of any remaining bond, cash, 3162  
irrevocable letters of credit, or certificates of deposit that 3163  
were deposited to ensure satisfactory performance of the 3164  
reclamation measures required under this chapter, whichever occurs 3165  
earlier. 3166

(D) Before an operator engages in a surface or in-stream 3167  
mining operation on land not described in the operator's permit, 3168  
but that is contiguous to the land described in the operator's 3169  
permit, the operator shall file with the chief an application for 3170  
an amendment to the operator's permit. Before approving an 3171  
amendment, the chief shall require the information, maps, fees, 3172  
and amount, except as otherwise provided by rule, of the 3173  
performance bond as required for an original application under 3174  
this section and shall apply the same prohibitions and 3175  
restrictions applicable to land described in an original 3176  
application for a permit. An applicant for a significant amendment 3177  
to a permit, as "significant" is defined by rule, shall include a 3178  
copy of the advertisement that the applicant is required to have 3179  
published in accordance with section 1514.022 of the Revised Code. 3180  
If the chief disapproves the amendment, the chief shall state the 3181  
reasons for disapproval in the order disapproving the amendment. 3182

Upon the approval of an amendment by the chief, the operator shall 3183  
be authorized to engage in surface mining on the land or in-stream 3184  
mining in the watercourse described in the operator's original 3185  
permit plus the land or area of the watercourse described in the 3186  
amendment until the date when the permit expires, or when the 3187  
chief, after inspection, orders the release of any remaining 3188  
performance bond deposited to assure satisfactory performance of 3189  
the reclamation measures required pursuant to this chapter, 3190  
whichever occurs earlier. 3191

(E) An operator, at any time and upon application therefor 3192  
and approval by the chief, may amend the plan of mining and 3193  
reclamation filed with the application for a permit in order to 3194  
change the reclamation measures to be performed, modify the 3195  
interval after mining within which reclamation measures will be 3196  
performed, change the sequence in which mining or reclamation will 3197  
occur at specific locations within the area affected, mine acreage 3198  
previously mined or reclaimed, or for any other purpose, provided 3199  
that the plan, as amended, includes measures that the chief 3200  
determines will be adequate to prevent damage to adjoining 3201  
property and to achieve the performance standards set forth in 3202  
division (A)(10) of this section. An application for a significant 3203  
amendment to a plan, as "significant" is defined by rule, shall 3204  
include a copy of the advertisement that the applicant is required 3205  
to have published in accordance with section 1514.022 of the 3206  
Revised Code. 3207

The chief may propose one or more amendments to the plan in 3208  
writing within ninety days after the fifth anniversary of the date 3209  
of issuance of a surface mining permit or within ninety days after 3210  
the first anniversary of the date of issuance of an in-stream 3211  
mining permit. The chief's proposal may be made upon a finding of 3212  
any of the following conditions after a complete review of the 3213  
plan and inspection of the area of land affected, and the plan 3214



shall be so amended upon written concurrence in the findings and 3215  
approval of the amendments by the operator: 3216

(1) An alternate measure, in lieu of one previously approved 3217  
in the plan, will more economically or effectively achieve one or 3218  
more of the performance standards. 3219

(2) Developments in reclamation technology make an alternate 3220  
measure to achieve one or more of the performance standards more 3221  
economical, feasible, practical, or effective. 3222

(3) Changes in the use or development of adjoining lands 3223  
require changes in the intended future uses of the area of land 3224  
affected in order to prevent damage to adjoining property. 3225

(F) The holder of a surface or in-stream mining permit who 3226  
desires to transfer the rights granted under the permit to another 3227  
person at any time during the term of the permit or its renewal 3228  
shall file with the chief an application for the transfer of the 3229  
permit. The chief shall issue an order approving or disapproving 3230  
the transfer of the permit in accordance with criteria and 3231  
procedures established by rule. 3232

**Sec. 1514.021.** (A) A permit holder who wishes to continue 3233  
surface or in-stream mining operations after the expiration date 3234  
of the existing permit or renewal permit shall file with the chief 3235  
of the division of mineral resources management ~~an application a~~ 3236  
notice of intent to renew for purposes of the renewal of a surface 3237  
or in-stream mining permit or renewal permit at least ninety days 3238  
before the expiration date of the existing permit or renewal 3239  
permit. The ~~application~~ notice of intent to renew shall be ~~upon~~ 3240  
~~the~~ on a form that the chief prescribes and provides and shall be 3241  
accompanied by a permit renewal fee. The amount of the fee for 3242  
renewal of a surface mining permit or renewal permit shall be one 3243  
thousand dollars, and the amount of the fee for renewal of an 3244  
in-stream mining permit or renewal permit shall be five hundred 3245

dollars. 3246

(B) Upon receipt of ~~an application for renewal~~ a notice of 3247  
intent to renew form and the permit renewal fee under division (A) 3248  
of this section, the chief shall notify the ~~applicant~~ permit 3249  
holder to submit a renewal application package. The permit holder 3250  
shall submit a complete renewal package to the chief at least 3251  
thirty days prior to the expiration of the existing surface or 3252  
in-stream mining permit or renewal permit. The renewal application 3253  
package shall include all of the following: 3254

(1) A map that is a composite of the information required to 3255  
be contained in the most recent annual report map under section 3256  
1514.03 of the Revised Code and of all surface or in-stream mining 3257  
and reclamation activities conducted under the existing permit or 3258  
renewal permit; ~~the~~ 3259

(2) The annual report required under section 1514.03 of the 3260  
Revised Code; ~~in~~ 3261

(3) In the case of an applicant proposing a significant 3262  
change to the plan of mining and reclamation, as "significant" is 3263  
defined by rule, a copy of the advertisement that ~~the applicant~~ is 3264  
required to ~~have~~ be published in accordance with section 1514.022 3265  
of the Revised Code; ~~and additional~~ 3266

(4) Additional maps, plans, and revised or updated 3267  
information that the chief determines to be necessary for permit 3268  
renewal. ~~Within sixty days after receipt of this notification, the~~ 3269  
~~applicant shall submit all the required information to the chief.~~ 3270

For a renewal permit requiring minor or minimal updates to 3271  
the existing permit, renewal permit, or accompanying information, 3272  
the chief may authorize a permit holder to file updated 3273  
information through a surface mining permit modification process 3274  
using a surface mining permit modification form. However, the 3275

chief may require such a permit holder to submit a complete 3276  
renewal application package. 3277

(C)(1) Upon receipt of the ~~information~~ complete renewal 3278  
application package required under division (B) of this section 3279  
and except as otherwise provided in division (C)(2) of this 3280  
section, the chief shall approve the application for renewal and 3281  
issue an order granting a renewal permit unless the chief finds 3282  
that any of the following applies: 3283

(a) The permit holder's operation is not in substantial or 3284  
material compliance with this chapter, rules adopted and orders 3285  
issued under it, and the plan of mining and reclamation under the 3286  
existing permit or renewal permit. 3287

(b) The permit holder has not provided evidence that a 3288  
performance bond filed under section 1514.04 of the Revised Code 3289  
applicable to lands affected under the existing permit or renewal 3290  
permit will remain effective until released under section 1514.05 3291  
of the Revised Code. 3292

(c) The permit holder, any partner if the ~~applicant~~ permit 3293  
holder is a partnership, any officer or director if the ~~applicant~~ 3294  
permit holder is a corporation, or any other person who has a 3295  
right to control or in fact controls the management of the 3296  
~~applicant~~ permit holder or the selection of officers, directors, 3297  
or managers of the ~~applicant~~ permit holder has failed 3298  
substantially or materially to comply or continues to fail to 3299  
comply with this chapter as provided in section 1514.02 of the 3300  
Revised Code. 3301

(2) If the application for renewal proposes significant 3302  
changes to the plan of mining and reclamation, as "significant" is 3303  
defined by rule, the chief may, but is not required to, approve 3304  
the application for renewal. 3305

(D) ~~Within sixty days after receiving the information and~~ 3306

~~permit renewal fees required under divisions (A) and (B) of this section, the chief shall approve the application for renewal and issue an order granting a renewal permit, issue an order denying the application, or notify the applicant that the time limit for issuing such an order has been extended. This extension of time shall not exceed sixty days (1) After receiving a complete renewal application package and permit renewal fees required under divisions (A) and (B) of this section, the chief shall do one of the following:~~

(a) Approve the application for renewal and issue an order granting a renewal permit;

(b) Issue an order denying a renewal permit;

(c) Notify the applicant in accordance with division (D)(2) of this section that there are deficiencies in the renewal application package and that an extension of the time limit for issuing an order approving or disapproving the renewal permit has been granted.

In making a decision regarding a renewal application package, the chief shall review the package for compliance with this chapter and rules adopted under it.

(2) The chief shall notify a permit holder and, if applicable, the permit holder's consultant, surveyor, or engineer of deficiencies or errors in a renewal application package and shall include in the notification a discussion of the deficiencies or errors.

A permit holder shall have up to one hundred eighty days after the expiration of the permit holder's permit or renewal permit to submit a revised renewal application package. A permit holder may request, in writing, an extension of the one hundred-eighty-day period for revisions to the renewal application package. The chief may approve a sixty-day extension. The chief

shall notify the permit holder of the chief's decision to either 3338  
grant or deny the extension. 3339

Upon the submission of a revised renewal application package 3340  
that is determined to be complete by the chief, the chief shall 3341  
proceed to approve or deny the application in accordance with 3342  
division (D)(1)(a) or (b) of this section. If the revised renewal 3343  
application package is not submitted within one hundred eighty 3344  
days after the permit expiration date or, if an extension has been 3345  
granted, within two hundred forty days after the permit expiration 3346  
date, the chief shall issue an order denying the renewal permit in 3347  
accordance with division (D)(1)(b) of this section. 3348

(E) If an applicant for a renewal permit has complied with 3349  
division (A) of this section, the applicant may continue surface 3350  
or in-stream mining operations under the existing permit or 3351  
renewal permit after its expiration date until the ~~sixty day time~~ 3352  
period for filing ~~the information required by the chief under~~ 3353  
~~division (B) of this section~~ a complete renewal application 3354  
package has expired under division (D) of this section or until 3355  
the chief issues an order ~~under division (D) of this section~~ 3356  
denying the renewal permit. 3357

(F) A permit holder who fails to submit ~~an application a~~ 3358  
notice of intent to renew form and required permit renewal fees 3359  
within the time prescribed by division (A) of this section and a 3360  
renewal application package under division (B) of this section 3361  
shall cease surface or in-stream mining operations on the 3362  
expiration date of the existing permit or renewal permit. If such 3363  
a permit holder then submits a notice of intent to renew form, an 3364  
application for renewal, and the permit renewal fees ~~otherwise~~ 3365  
~~required by division (A) of this section~~ on or before the 3366  
thirtieth day after the expiration date of the expired permit or 3367  
renewal permit and provides the information required by the chief 3368  
under division (B) of this section within sixty days after ~~being~~ 3369

~~notified of the information required under that division the~~ 3370  
~~permit expiration date,~~ the permit holder need not submit the 3371  
final map and report required by section 1514.03 of the Revised 3372  
Code until the later of thirty days after the chief issues an 3373  
order denying the application for renewal or thirty days after the 3374  
chief's order is affirmed upon appeal under section 1513.13 or 3375  
1513.14 of the Revised Code. An applicant under this division who 3376  
fails to provide the information required by the chief under 3377  
division (B) of this section within the prescribed time period 3378  
shall submit the final map and report required by section 1514.03 3379  
of the Revised Code within thirty days after the expiration of 3380  
that prescribed period. 3381

(G) If the chief issues an order denying an application for 3382  
renewal of a permit or renewal permit after the expiration date of 3383  
the permit, the permit holder shall cease surface or in-stream 3384  
mining operations immediately and, within thirty days after the 3385  
issuance of the order, shall submit the final report and map 3386  
required under section 1514.03 of the Revised Code. The chief 3387  
shall state the reasons for denial in the order denying renewal of 3388  
the ~~application permit.~~ ~~An applicant~~ A permit holder may appeal 3389  
the chief's order denying the renewal under section 1513.13 of the 3390  
Revised Code and may continue surface or in-stream mining and 3391  
reclamation operations under the expired permit until the 3392  
reclamation commission affirms the chief's order under that 3393  
section and, if the applicant elects to appeal the order of the 3394  
commission under section 1513.14 of the Revised Code, until the 3395  
court of appeals affirms the order. 3396

(H) The approval of an application for renewal under this 3397  
section authorizes the continuation of an existing surface mining 3398  
permit or renewal permit for a term of fifteen years from the 3399  
expiration date of the existing permit. 3400

The approval of an application for renewal under this section 3401

authorizes the continuation of an existing in-stream mining permit 3402  
or renewal permit for a term of ~~two~~ five years from the expiration 3403  
date of the existing permit. 3404

(I) Any renewal permit is subject to all the requirements of 3405  
this chapter and rules adopted under it. 3406

**Sec. 1514.03.** Within thirty days after each anniversary date 3407  
of issuance of a surface or in-stream mining permit, the operator 3408  
shall file with the chief of the division of mineral resources 3409  
management an annual report, on a form prescribed and furnished by 3410  
the chief, that, for the period covered by the report, shall state 3411  
the amount of and identify the types of minerals and coal, if any 3412  
coal, produced and shall state the number of acres affected and 3413  
the number of acres estimated to be affected during the next year 3414  
of operation. An annual report is not required to be filed if a 3415  
final report is filed in lieu thereof. 3416

Each annual report for a surface mining operation shall 3417  
include a progress map indicating the location of areas of land 3418  
affected during the period of the report and the location of the 3419  
area of land estimated to be affected during the next year. The 3420  
map shall be prepared in accordance with division (A)(11) or (12) 3421  
of section 1514.02 of the Revised Code, as appropriate, except 3422  
that a map prepared in accordance with division (A)(12) of that 3423  
section may be certified by the operator or authorized agent of 3424  
the operator in lieu of certification by a professional engineer 3425  
or surveyor registered under Chapter 4733. of the Revised Code. 3426  
However, the chief may require that an annual progress map or a 3427  
final map be prepared by a registered professional engineer or 3428  
registered surveyor if the chief has reason to believe that the 3429  
operator exceeded the boundaries of the permit area or, if the 3430  
operator filed the map required under division (A)(11) of section 3431  
1514.02 of the Revised Code, that the operator extracted ten 3432

thousand tons or more of minerals during the period covered by the 3433  
report. 3434

Each annual report for an in-stream mining operation shall 3435  
include a statement of the total tonnage removed by in-stream 3436  
mining for each month and of the surface acreage and depth of 3437  
material removed by in-stream mining and shall include a map that 3438  
identifies the area affected by the in-stream mining if the 3439  
in-stream mining for the year addressed by the report occurred 3440  
beyond the area identified in the most recent approved map, 3441  
soundings that depict the cross-sectional views of the channel 3442  
bottom of the watercourse if the soundings depict a 3443  
cross-sectional view of the channel bottom that is different from 3444  
the most recent approved map, and water elevations for the 3445  
watercourse if water elevations are different from those indicated 3446  
on the most recent approved map. 3447

Each annual report shall be accompanied by a filing fee in 3448  
the amount of five hundred dollars, except in the case of an 3449  
annual report filed by a small operator or an in-stream mining 3450  
operator. A small operator, which is a surface mine operator who 3451  
intends to extract fewer than ten thousand tons of minerals and no 3452  
coal during the next year of operation under the permit, or an 3453  
in-stream mining operator shall include a filing fee in the amount 3454  
of two hundred fifty dollars with each annual report. The annual 3455  
report of any operator also shall be accompanied by an acreage fee 3456  
in the amount of seventy-five dollars multiplied by the number of 3457  
acres estimated in the report to be affected during the next year 3458  
of operation under the permit. The acreage fee shall be adjusted 3459  
by subtracting a credit of seventy-five dollars per excess acre 3460  
paid for the preceding year if the acreage paid for the preceding 3461  
year exceeds the acreage actually affected or by adding an 3462  
additional amount of seventy-five dollars per excess acre affected 3463  
if the acreage actually affected exceeds the acreage paid for the 3464



preceding year. 3465

With each annual report the operator shall file a performance 3466  
bond in the amount, unless otherwise provided by rule, of five 3467  
hundred dollars multiplied by the number of acres estimated to be 3468  
affected during the next year of operation under the permit for 3469  
which no performance bond previously was filed. Unless otherwise 3470  
provided by rule, the bond shall be adjusted by subtracting a 3471  
credit of five hundred dollars per excess acre for which bond was 3472  
filed for the preceding year if the acreage for which the bond was 3473  
filed for the preceding year exceeds the acreage actually 3474  
affected, or by adding an amount of five hundred dollars per 3475  
excess acre affected if the acreage actually affected exceeds the 3476  
acreage for which bond was filed for the preceding year. 3477

Within thirty days after the expiration of the surface or 3478  
in-stream mining permit, or completion or abandonment of the 3479  
operation, whichever occurs earlier, the operator shall submit a 3480  
final report containing the same information required in an annual 3481  
report, but covering the time from the last annual report to the 3482  
expiration of the permit, or completion or abandonment of the 3483  
operation, whichever occurs earlier. 3484

Each final report shall include a map indicating the location 3485  
of the area of land affected during the period of the report and 3486  
the location of the total area of land affected under the permit. 3487  
The map shall be prepared in accordance with division (A)(11) or 3488  
(12) of section 1514.02 of the Revised Code, as appropriate. 3489

In the case of a final report for an in-stream mining 3490  
operation, the map also shall include the information required 3491  
under division (A)(18) of section 1514.02 of the Revised Code, as 3492  
applicable. 3493

If the final report and certified map, as verified by the 3494  
chief, show that the number of acres affected under the permit is 3495

larger than the number of acres for which the operator has paid an acreage fee or filed a performance bond, upon notification by the chief, the operator shall pay an additional acreage fee in the amount of seventy-five dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee and shall file an additional performance bond in the amount, unless otherwise provided by rule, of five hundred dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

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

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

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

amounts. 3528

**Sec. 1514.05.** (A) At any time within the period allowed an 3529  
operator by section 1514.02 of the Revised Code to reclaim an area 3530  
of land affected by surface or in-stream mining, the operator may 3531  
file a request, on a form provided by the chief of the division of 3532  
mineral resources management, for inspection of the area of land 3533  
upon which the reclamation, other than any required planting, is 3534  
completed. The request shall include all of the following: 3535

(1) The location of the area and number of acres; 3536

(2) The permit number; 3537

(3) A map showing the location of the acres reclaimed, 3538  
prepared and certified in accordance with division (A)(11) or (12) 3539  
of section 1514.02 of the Revised Code, as appropriate. In the 3540  
case of an in-stream mining operation, the map also shall include, 3541  
as applicable, the information required under division (A)(18) of 3542  
section 1514.02 of the Revised Code. 3543

The chief shall make an inspection and evaluation of the 3544  
reclamation of the area of land for which the request was 3545  
submitted within ninety days after receipt of the request or, if 3546  
the operator fails to complete the reclamation or file the request 3547  
as required, as soon as the chief learns of the default. 3548  
Thereupon, if the chief approves the reclamation, other than any 3549  
required planting, as meeting the requirements of this chapter, 3550  
rules adopted thereunder, any orders issued during the mining or 3551  
reclamation, and the specifications of the plan for mining and 3552  
reclaiming, the chief shall issue an order to the operator and the 3553  
operator's surety releasing them from liability for one-half of 3554  
the total amount of their surety bond on deposit to ensure 3555  
reclamation for the area upon which reclamation is completed. If 3556  
the operator has deposited cash, an irrevocable letter of credit, 3557  
or certificates of deposit in lieu of a surety bond to ensure 3558

reclamation, the chief shall issue an order to the operator 3559  
releasing one-half of the amount so held and promptly shall 3560  
transmit a certified copy of the order to the treasurer of state. 3561  
Upon presentation of the order to the treasurer of state by the 3562  
operator to whom it was issued, or by the operator's authorized 3563  
agent, the treasurer of state shall deliver to the operator or the 3564  
operator's authorized agent the cash, irrevocable letter of 3565  
credit, or certificates of deposit designated in the order. 3566

If the chief does not approve the reclamation, other than any 3567  
required planting, the chief shall notify the operator by 3568  
certified mail. The notice shall be an order stating the reasons 3569  
for unacceptability, ordering further actions to be taken, and 3570  
setting a time limit for compliance. If the operator does not 3571  
comply with the order within the time limit specified, the chief 3572  
may order an extension of time for compliance after determining 3573  
that the operator's noncompliance is for good cause, resulting 3574  
from developments partially or wholly beyond the operator's 3575  
control. If the operator complies within the time limit or the 3576  
extension of time granted for compliance, the chief shall order 3577  
release of the performance bond in the same manner as in the case 3578  
of approval of reclamation, other than any required planting, by 3579  
the chief, and the treasurer of state shall proceed as in that 3580  
case. If the operator does not comply within the time limit and 3581  
the chief does not order an extension, or if the chief orders an 3582  
extension of time and the operator does not comply within the 3583  
extension of time granted for compliance, the chief shall issue 3584  
another order declaring that the operator has failed to reclaim 3585  
and, if the operator's permit has not already expired or been 3586  
revoked, revoking the operator's permit. The chief shall thereupon 3587  
proceed under division (C) of this section. 3588

(B) At any time within the period allowed an operator by 3589  
section 1514.02 of the Revised Code to reclaim an area affected by 3590

surface mining, the operator may file a request, on a form 3591  
provided by the chief, for inspection of the area of land on which 3592  
all reclamation, including the successful establishment of any 3593  
required planting, is completed. The request shall include all of 3594  
the following: 3595

(1) The location of the area and number of acres; 3596

(2) The permit number; 3597

(3) The type and date of any required planting of vegetative 3598  
cover and the degree of success of growth; 3599

(4) A map showing the location of the acres reclaimed, 3600  
prepared and certified in accordance with division (A)(11) or (12) 3601  
of section 1514.02 of the Revised Code, as appropriate. In the 3602  
case of an in-stream mining operation, the map also shall include 3603  
the information required under division (A)(18) of section 1514.02 3604  
of the Revised Code. 3605

The chief shall make an inspection and evaluation of the 3606  
reclamation of the area of land for which the request was 3607  
submitted within ninety days after receipt of the request or, if 3608  
the operator fails to complete the reclamation or file the request 3609  
as required, as soon as the chief learns of the default. 3610  
Thereupon, if the chief finds that the reclamation meets the 3611  
requirements of this chapter, rules adopted under it, any orders 3612  
issued during the mining and reclamation, and the specifications 3613  
of the plan for mining and reclaiming and decides to release any 3614  
remaining performance bond on deposit to ensure reclamation of the 3615  
area on which reclamation is completed, within ten days of 3616  
completing the inspection and evaluation, the chief shall order 3617  
release of the remaining performance bond in the same manner as in 3618  
the case of approval of reclamation other than required planting, 3619  
and the treasurer of state shall proceed as in that case. 3620

If the chief does not approve the reclamation performed by 3621

the operator, the chief shall notify the operator by certified 3622  
mail within ninety days of the filing of the application for 3623  
inspection or of the date when the chief learns of the default. 3624  
The notice shall be an order stating the reasons for 3625  
unacceptability, ordering further actions to be taken, and setting 3626  
a time limit for compliance. If the operator does not comply with 3627  
the order within the time limit specified, the chief may order an 3628  
extension of time for compliance after determining that the 3629  
operator's noncompliance is for good cause, resulting from 3630  
developments partially or wholly beyond the operator's control. If 3631  
the operator complies within the time limit or the extension of 3632  
time granted for compliance, the chief shall order release of the 3633  
remaining performance bond in the same manner as in the case of 3634  
approval of reclamation by the chief, and the treasurer of state 3635  
shall proceed as in that case. If the operator does not comply 3636  
within the time limit and the chief does not order an extension, 3637  
or if the chief orders an extension of time and the operator does 3638  
not comply within the extension of time granted for compliance, 3639  
the chief shall issue another order declaring that the operator 3640  
has failed to reclaim and, if the operator's permit has not 3641  
already expired or been revoked, revoking the operator's permit. 3642  
The chief then shall proceed under division (C) of this section. 3643

(C) Upon issuing an order under division (A) or (B) of this 3644  
section declaring that the operator has failed to reclaim, the 3645  
chief shall make a finding as to the number and location of the 3646  
acres of land that the operator has failed to reclaim in the 3647  
manner required by this chapter. The chief shall order the release 3648  
of the performance bond in the amount of five hundred dollars per 3649  
acre for those acres that the chief finds to have been reclaimed 3650  
in the manner required by this chapter. The release shall be 3651  
ordered in the same manner as in the case of other approval of 3652  
reclamation by the chief, and the treasurer of state shall proceed 3653  
as in that case. If the operator has on deposit cash, an 3654

irrevocable letter of credit, or certificates of deposit to ensure 3655  
reclamation of the area of the land affected, the chief at the 3656  
same time shall issue an order declaring that the remaining cash, 3657  
irrevocable letter of credit, or certificates of deposit are the 3658  
property of the state and are available for use by the chief in 3659  
performing reclamation of the area and shall proceed in accordance 3660  
with section 1514.06 of the Revised Code. 3661

If the operator has on deposit a surety bond to ensure 3662  
reclamation of the area of land affected, the chief shall notify 3663  
the surety in writing of the operator's default and shall request 3664  
the surety to perform the surety's obligation and that of the 3665  
operator. The surety, within ten days after receipt of the notice, 3666  
shall notify the chief as to whether it intends to perform those 3667  
obligations. 3668

If the surety chooses to perform, it shall arrange for work 3669  
to begin within thirty days of the day on which it notifies the 3670  
chief of its decision. If the surety completes the work as 3671  
required by this chapter, the chief shall issue an order to the 3672  
surety releasing the surety from liability under the bond in the 3673  
same manner as if the surety were an operator proceeding under 3674  
this section. If, after the surety begins the work, the chief 3675  
determines that the surety is not carrying the work forward with 3676  
reasonable progress, or that it is improperly performing the work, 3677  
or that it has abandoned the work or otherwise failed to perform 3678  
its obligation and that of the operator, the chief shall issue an 3679  
order terminating the right of the surety to perform the work and 3680  
demanding payment of the amount due as required by this chapter. 3681

If the surety chooses not to perform and so notifies the 3682  
chief, does not respond to the chief's notice within ten days of 3683  
receipt thereof, or fails to begin work within thirty days of the 3684  
day it timely notifies the chief of its decision to perform its 3685  
obligation and that of the operator, the chief shall issue an 3686

order terminating the right of the surety to perform the work and 3687  
demanding payment of the amount due, as required by this chapter. 3688

Upon receipt of an order of the chief demanding payment of 3689  
the amount due, the surety immediately shall deposit with the 3690  
chief cash in the full amount due under the order for deposit with 3691  
the treasurer of state. If the surety fails to make an immediate 3692  
deposit, the chief shall certify it to the attorney general for 3693  
collection. When the chief has issued an order terminating the 3694  
right of the surety and has the cash on deposit, the cash is the 3695  
property of the state and is available for use by the chief, who 3696  
shall proceed in accordance with section 1514.06 of the Revised 3697  
Code. 3698

**Sec. 3706.27.** (A) There is hereby created in the state 3699  
treasury the advanced energy research and development fund to 3700  
provide grants for advanced energy projects. There is hereby 3701  
created in the state treasury the advanced energy research and 3702  
development taxable fund to provide loans for advanced energy 3703  
projects. 3704

(B)(1) The advanced energy research and development fund and 3705  
the advanced energy research and development taxable fund shall 3706  
consist of the proceeds of obligations issued under section 166.08 3707  
of the Revised Code. Money shall be credited to the respective 3708  
funds in the proportion that the executive director of the Ohio 3709  
air quality development authority, with the affirmative vote of a 3710  
majority of the members of the authority, determines appropriate. 3711

(2) Any investment earnings from the money in the advanced 3712  
energy research and development fund and in the advanced energy 3713  
research and development taxable fund shall be credited to those 3714  
funds, respectively. Any repayment of loans made from money in the 3715  
advanced energy research and development taxable fund shall be 3716  
credited to the ~~facilities establishment~~ alternative fuel 3717



transportation fund created in section ~~166.03~~ 122.075 of the 3718  
Revised Code. 3719

(C) The director of budget and management shall establish and 3720  
maintain records or accounts for or within these funds in such a 3721  
manner as to show the amount credited to the funds pursuant to 3722  
section 166.08 of the Revised Code and that the amounts so 3723  
credited have been expended for the purposes set forth in Section 3724  
2p or 13 of Article VIII, Ohio Constitution, and sections 166.08, 3725  
166.30, and 3706.26 of the Revised Code. 3726

**Sec. 4905.03.** As used in this chapter: 3727

(A) Any person, firm, copartnership, voluntary association, 3728  
joint-stock association, company, or corporation, wherever 3729  
organized or incorporated, is: 3730

(1) A telephone company, when engaged in the business of 3731  
transmitting telephonic messages to, from, through, or in this 3732  
state; 3733

(2) A motor transportation company, when engaged in the 3734  
business of carrying and transporting persons or property or the 3735  
business of providing or furnishing such transportation service, 3736  
for hire, in or by motor-propelled vehicles of any kind, including 3737  
trailers, for the public in general, over any public street, road, 3738  
or highway in this state, except as provided in section 4921.02 of 3739  
the Revised Code; 3740

(3) An electric light company, when engaged in the business 3741  
of supplying electricity for light, heat, or power purposes to 3742  
consumers within this state, including supplying electric 3743  
transmission service for electricity delivered to consumers in 3744  
this state, but excluding a regional transmission organization 3745  
approved by the federal energy regulatory commission; 3746

(4) A gas company, when engaged in the business of supplying 3747

artificial gas for lighting, power, or heating purposes to 3748  
consumers within this state or when engaged in the business of 3749  
supplying artificial gas to gas companies or to natural gas 3750  
companies within this state, but a producer engaged in supplying 3751  
to one or more gas or natural gas companies, only such artificial 3752  
gas as is manufactured by that producer as a by-product of some 3753  
other process in which the producer is primarily engaged within 3754  
this state is not thereby a gas company. All rates, rentals, 3755  
tolls, schedules, charges of any kind, or agreements between any 3756  
gas company and any other gas company or any natural gas company 3757  
providing for the supplying of artificial gas and for compensation 3758  
for the same are subject to the jurisdiction of the public 3759  
utilities commission. 3760

(5) A natural gas company, when engaged in the business of 3761  
supplying natural gas for lighting, power, or heating purposes to 3762  
consumers within this state. Notwithstanding the above, neither 3763  
the delivery nor sale of Ohio-produced natural gas or 3764  
Ohio-produced raw natural gas liquids by a producer or gatherer 3765  
under a public utilities commission-ordered exemption, adopted 3766  
before, as to producers, or after, as to producers or gatherers, 3767  
January 1, 1996, or the delivery or sale of Ohio-produced natural 3768  
gas or Ohio-produced raw natural gas liquids by a producer or 3769  
gatherer of Ohio-produced natural gas or Ohio-produced raw natural 3770  
gas liquids, either to a lessor under an oil and gas lease of the 3771  
land on which the producer's drilling unit is located, or the 3772  
grantor incident to a right-of-way or easement to the producer or 3773  
gatherer, shall cause the producer or gatherer to be a natural gas 3774  
company for the purposes of this section. 3775

All rates, rentals, tolls, schedules, charges of any kind, or 3776  
agreements between a natural gas company and other natural gas 3777  
companies or gas companies providing for the supply of natural gas 3778  
and for compensation for the same are subject to the jurisdiction 3779

of the public utilities commission. The commission, upon 3780  
application made to it, may relieve any producer or gatherer of 3781  
natural gas, defined in this section as a gas company or a natural 3782  
gas company, of compliance with the obligations imposed by this 3783  
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 3784  
of the Revised Code, so long as the producer or gatherer is not 3785  
affiliated with or under the control of a gas company or a natural 3786  
gas company engaged in the transportation or distribution of 3787  
natural gas, or so long as the producer or gatherer does not 3788  
engage in the distribution of natural gas to consumers. 3789

Nothing in division (A)(5) of this section limits the 3790  
authority of the commission to enforce sections 4905.90 to 4905.96 3791  
of the Revised Code. 3792

(6) A pipe-line company, when engaged in the business of 3793  
transporting natural gas, oil, or coal or its derivatives through 3794  
pipes or tubing, either wholly or partly within this state, but 3795  
not when engaged in the business of the transport associated with 3796  
gathering lines, raw natural gas liquids, or finished product 3797  
natural gas liquids; 3798

(7) A water-works company, when engaged in the business of 3799  
supplying water through pipes or tubing, or in a similar manner, 3800  
to consumers within this state; 3801

(8) A heating or cooling company, when engaged in the 3802  
business of supplying water, steam, or air through pipes or tubing 3803  
to consumers within this state for heating or cooling purposes; 3804

(9) A messenger company, when engaged in the business of 3805  
supplying messengers for any purpose; 3806

(10) A street railway company, when engaged in the business 3807  
of operating as a common carrier, a railway, wholly or partly 3808  
within this state, with one or more tracks upon, along, above, or 3809  
below any public road, street, alleyway, or ground, within any 3810

municipal corporation, operated by any motive power other than 3811  
steam and not a part of an interurban railroad, whether the 3812  
railway is termed street, inclined-plane, elevated, or underground 3813  
railway; 3814

(11) A suburban railroad company, when engaged in the 3815  
business of operating as a common carrier, whether wholly or 3816  
partially within this state, a part of a street railway 3817  
constructed or extended beyond the limits of a municipal 3818  
corporation, and not a part of an interurban railroad; 3819

(12) An interurban railroad company, when engaged in the 3820  
business of operating a railroad, wholly or partially within this 3821  
state, with one or more tracks from one municipal corporation or 3822  
point in this state to another municipal corporation or point in 3823  
this state, whether constructed upon the public highways or upon 3824  
private rights-of-way, outside of municipal corporations, using 3825  
electricity or other motive power than steam power for the 3826  
transportation of passengers, packages, express matter, United 3827  
States mail, baggage, and freight. Such an interurban railroad 3828  
company is included in the term "railroad" as used in section 3829  
4907.02 of the Revised Code. 3830

(13) A sewage disposal system company, when engaged in the 3831  
business of sewage disposal services through pipes or tubing, and 3832  
treatment works, or in a similar manner, within this state. 3833

(B) "Motor-propelled vehicle" means any automobile, 3834  
automobile truck, motor bus, or any other self-propelled vehicle 3835  
not operated or driven upon fixed rails or tracks. 3836

(C) As used in this section: 3837

(1) "Gathering lines" has the same meaning as in section 3838  
4905.90 of the Revised Code. 3839

(2) "Raw natural gas liquids" and "finished product natural 3840  
gas liquids" have the same meanings as in section 4906.01 of the 3841

Revised Code. 3842

**Sec. 4905.90.** As used in sections 4905.90 to 4905.96 of the 3843  
Revised Code: 3844

(A) "Contiguous property" includes, but is not limited to, a 3845  
manufactured home park as defined in section 3733.01 of the 3846  
Revised Code; a public or publicly subsidized housing project; an 3847  
apartment complex; a condominium complex; a college or university; 3848  
an office complex; a shopping center; a hotel; an industrial park; 3849  
and a race track. 3850

(B) "Gas" means natural gas, flammable gas, or gas which is 3851  
toxic or corrosive. 3852

(C) "Gathering ~~lines~~ line" and the "gathering of gas" have 3853  
the same meaning as in the Natural Gas Pipeline Safety Act and the 3854  
rules adopted by the United States department of transportation 3855  
pursuant to the Natural Gas Pipeline Safety Act, including 49 3856  
C.F.R. part 192, as amended. 3857

(D) "Gas gathering pipeline" means a gathering line that is 3858  
not regulated under the Natural Gas Pipeline Safety Act and the 3859  
rules adopted by the United States department of transportation 3860  
pursuant to the Natural Gas Pipeline Safety Act, including 49 3861  
C.F.R. part 192, as amended. "Gas gathering pipeline" includes a 3862  
pipeline used to collect and transport wet natural gas or 3863  
transmission quality gas to the inlet of a gas processing plant, 3864  
the inlet of a distribution system, or to a transmission line. 3865

(E) "Gas processing plant" means a plant that processes wet 3866  
natural gas into merchantable products, including transmission 3867  
quality gas or natural gas liquids and also may include a plant 3868  
that treats raw natural gas to remove impurities such as carbon 3869  
dioxide, helium, nitrogen or water. 3870

(F) "Intrastate pipe-line transportation" has the same 3871

meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 3872  
amended, but excludes the gathering of gas exempted by the Natural 3873  
Gas Pipeline Safety Act. 3874

~~(E)~~(G) "MAOP" means the maximum pressure at which a gas 3875  
gathering pipeline, a processing plant gas stub pipeline, or any 3876  
segment of such a pipeline may be operated under sections 4905.90 3877  
to 4905.96 of the Revised Code. 3878

(H) "Master-meter system" means a pipe-line system that 3879  
distributes gas within a contiguous property for which the system 3880  
operator purchases gas for resale to consumers, including tenants. 3881  
Such pipe-line system supplies consumers who purchase the gas 3882  
directly through a meter, or by paying rent, or by other means. 3883  
The term includes a master-meter system as defined in 49 C.F.R. 3884  
191.3, as amended. The term excludes a pipeline within a 3885  
manufactured home, mobile home, or a building. 3886

~~(F)~~(I) "Natural Gas Pipeline Safety Act" means the "Natural 3887  
Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 3888  
1671 et seq., as amended. 3889

~~(G)~~(J) "Operator" means any of the following: 3890

(1) A gas company or natural gas company as defined in 3891  
section 4905.03 of the Revised Code, except that division (A)(5) 3892  
of that section does not authorize the public utilities commission 3893  
to relieve any producer of gas, as a gas company or natural gas 3894  
company, of compliance with sections 4905.90 to 4905.96 of the 3895  
Revised Code or the pipe-line safety code created under section 3896  
4905.91 of the Revised Code; 3897

(2) A pipe-line company, as defined in section 4905.03 of the 3898  
Revised Code, when engaged in the business of transporting gas by 3899  
pipeline; 3900

(3) A public utility that is excepted from the definition of 3901  
"public utility" under division (B) or (C) of section 4905.02 of 3902

the Revised Code, when engaged in supplying or transporting gas by pipeline within this state;

(4) Any person that owns, operates, manages, controls, or leases any of the following:

(a) Intrastate pipe-line transportation facilities within this state;

(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act;

(c) A master-meter system within this state.

"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer.

~~(H)~~(K) "Operator of a master-meter system" means a person described under division ~~(F)~~(J)(4)(c) of this section. An operator of a master-meter system is not a public utility under section 4905.02 or a gas or natural gas company under section 4905.03 of the Revised Code.

~~(I)~~(L) "Person" means:

(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation;

(2) Any trustee, receiver, assignee, or personal representative of persons defined in division ~~(H)~~(L)(1) of this section.

~~(J)~~(M) "Processing plant gas stub pipeline" means a gas pipeline that transports transmission quality gas from the tailgate of a gas processing plant to the inlet of an interstate or intrastate transmission line and that is considered an extension of the gas processing plant, is not for public use, and is not regulated under the Natural Gas Pipeline Safety Act and the

rules adopted by the United States department of transportation 3933  
pursuant to the Natural Gas Pipeline Safety Act, including 49 3934  
C.F.R. part 92, as amended. 3935

(N) "Safety audit" means the public utilities commission's 3936  
audit of the premises, pipe-line facilities, and the records, 3937  
maps, and other relevant documents of a master-meter system to 3938  
determine the operator's compliance with sections 4905.90 to 3939  
4905.96 of the Revised Code and the pipe-line safety code. 3940

~~(K)~~(O) "Safety inspection" means any inspection, survey, or 3941  
testing of a master-meter system which is authorized or required 3942  
by sections 4905.90 to 4905.96 of the Revised Code and the 3943  
pipe-line safety code. The term includes, but is not limited to, 3944  
leak surveys, inspection of regulators and critical valves, and 3945  
monitoring of cathodic protection systems, where applicable. 3946

~~(L)~~(P) "Safety-related condition" means any safety-related 3947  
condition defined in 49 C.F.R. 191.23, as amended. 3948

~~(M)~~(Q) "Total Mcfs of gas it supplied or delivered" means the 3949  
sum of the following volumes of gas that an operator supplied or 3950  
delivered, measured in units per one thousand cubic feet: 3951

(1) Residential sales; 3952

(2) Commercial and industrial sales; 3953

(3) Other sales to public authorities; 3954

(4) Interdepartmental sales; 3955

(5) Sales for resale; 3956

(6) Transportation of gas. 3957

(R) "Transmission quality gas" means gas consisting 3958  
predominantly of methane that meets all downstream specifications 3959  
for transportation in an intrastate or interstate transmission 3960  
pipeline and that is suitable for use by public consumers. 3961



(S) "Wet natural gas" means natural gas with a mixture of natural gas liquids that normally include ethane, propane, butane, and other condensates that are liquid if the temperature is reduced below the hydrocarbon dew point temperature of the natural gas and which may be processed to remove any or all of the natural gas liquids.

**Sec. 4905.91.** For the purpose of protecting the public safety with respect to intrastate ~~pipe-line transportation~~ pipe-lines used by any operator:

(A) The public utilities commission shall:

(1) Adopt, and may amend or rescind, rules to carry out sections 4905.90 to 4905.96 of the Revised Code, including rules concerning pipe-line safety, drug testing, and enforcement procedures. The commission shall adopt these rules only after notice and opportunity for public comment. The rules adopted under this division and any orders issued under sections 4905.90 to 4905.96 of the Revised Code constitute the pipe-line safety code. The commission shall administer and enforce that code.

(2) Make certifications and reports to the United States department of transportation as required under the Natural Gas Pipeline Safety Act;

(3) Perform all regulatory and enforcement duties required under sections 4905.90 to 4905.96 of the Revised Code.

(B) The commission may:

(1) Investigate any service, act, practice, policy, or omission by any operator to determine its compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code;

(2) Investigate any intrastate pipe-line transportation facility to determine if it is hazardous to life or property, as

provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 3992  
(3); 3993

(3) Investigate the existence or report of any safety-related 3994  
condition that involves any intrastate pipe-line transportation 3995  
facility; 3996

(4) Enter into and perform contracts or agreements with the 3997  
United States department of transportation to inspect interstate 3998  
transmission facilities pursuant to the Natural Gas Pipeline 3999  
Safety Act; 4000

(5) Accept grants-in-aid, cash, and reimbursements provided 4001  
for or made available to this state by the federal government to 4002  
carry out the Natural Gas Pipeline Safety Act or to enforce 4003  
sections 4905.90 to 4905.96 of the Revised Code and the pipe-line 4004  
safety code. All such grants-in-aid, cash, and reimbursements 4005  
shall be deposited to the credit of the gas pipe-line safety fund, 4006  
which is hereby created in the state treasury, to be used by the 4007  
commission for the purpose of carrying out this section. 4008

(6) Enter into a cooperative agreement or a memorandum of 4009  
understanding with another state agency for consultation services 4010  
and the exchange of advice and technical expertise to assist the 4011  
commission in exercising its regulatory authority under section 4012  
4905.04 of the Revised Code, provided that no such agreement or 4013  
memorandum of understanding shall: 4014

(a) Confer on the state agency any regulatory authority over 4015  
the activities subject to sections 4905.90 to 4905.96 of the 4016  
Revised Code; 4017

(b) Diminish the sole and exclusive authority of the 4018  
commission under section 4905.04 of the Revised Code. 4019

(C) The With the exception of gas gathering pipelines and 4020  
processing plant gas stub pipelines, the commission's regulation 4021  
of gathering lines shall conform to the regulation of gathering 4022

lines in 49 C.F.R. 192 and 199, as amended, and the commission's 4023  
annual certification agreements with the United States department 4024  
of transportation, except that rule 4901:1-16-03, paragraph (D) of 4025  
rule 4901:1-16-05, and rule 4901:1-16-06 of the Ohio 4026  
Administrative Code shall also apply to gathering lines. The 4027  
procedural rules under chapter 4901:1-16 of the Ohio 4028  
Administrative Code shall also apply to operators of gathering 4029  
lines that are not gathering pipelines or processing plant gas 4030  
stub pipelines. 4031

Sec. 4905.911. (A)(1) The public utilities commission shall 4032  
require an operator of either of the following types of pipelines 4033  
that was completely constructed on or after the effective date of 4034  
this section and that transports gas produced by a horizontal well 4035  
to comply with the applicable pipe design requirements of 49 4036  
C.F.R. 192 subpart C: 4037

(a) A gas gathering pipeline; 4038

(b) A processing plant gas stub pipeline. 4039

(2) The commission shall also require the operator to do all 4040  
of the following regarding that pipeline: 4041

(a) Design, install, construct, initially inspect, and 4042  
initially test the pipeline in accordance with the requirements of 4043  
49 C.F.R. 192 if the pipeline is new, replaced, relocated, or 4044  
otherwise changed; 4045

(b) Control corrosion according to requirements of 49 C.F.R. 4046  
192 subpart I if the pipeline is metallic; 4047

(c) Establish and carry out a damage prevention program under 4048  
49 C.F.R. 192.614; 4049

(d) Establish and carry out a public education program under 4050  
49 C.F.R. 192.616; 4051

(e) Establish the MAOP of the pipeline under 49 C.F.R. 4052

<u>192.619;</u>	4053
<u>(f) Install and maintain pipeline markers according to the requirements for transmission lines under 49 C.F.R. 192.707;</u>	4054 4055
<u>(g) Perform leakage surveys according to requirements in 49 C.F.R. 192.706;</u>	4056 4057
<u>(h) Retain a record of each required leakage survey conducted under division (A)(2)(g) of this section and 49 C.F.R. 192.706 for five years or until the next leakage survey is completed, whichever time period is longer.</u>	4058 4059 4060 4061
<u>(B)(1) Any person who plans to construct a pipeline subject to division (A) of this section after the effective date of this section shall file with the public utilities commission division of pipeline safety a form approved by the division that includes all of the following information:</u>	4062 4063 4064 4065 4066
<u>(a) The route of the proposed pipeline;</u>	4067
<u>(b) The MAOP of the pipeline;</u>	4068
<u>(c) The outside diameter of the pipeline;</u>	4069
<u>(d) The wall thickness of the pipeline;</u>	4070
<u>(e) The material that the pipeline will be made of;</u>	4071
<u>(f) The yield strength of the pipeline.</u>	4072
<u>The form shall be filed with the division not later than twenty-one days prior to the commencement of construction of the pipeline.</u>	4073 4074 4075
<u>(2) Not later than sixty days after the completion of construction of a pipeline subject to division (B)(1) of this section, the operator of the pipeline shall file with the public utilities commission division of pipeline safety an explanation of the constructed pipeline's route and operating information.</u>	4076 4077 4078 4079 4080
<u>(C) For purposes of this section:</u>	4081

(1) "Horizontal well" has the same meaning as in section 4082  
1509.01 of the Revised Code. 4083

(2) "Operator" means any person that owns, operates, manages, 4084  
controls, or leases a gas gathering pipeline or a processing plant 4085  
gas stub pipeline. 4086

**Sec. 4905.912.** (A) As used in this section, "pipeline 4087  
company" means a company engaged in the business of transporting 4088  
gas by pipeline. 4089

(B) On the first day of July and the first day of November of 4090  
each year, each operator and pipeline company shall file with the 4091  
commission a disclosure in quintuplicate that specifies the 4092  
country in which each tubular steel product used by the operator 4093  
or company in the exploration, gathering, or transportation of gas 4094  
or hazardous liquids was manufactured. The public utilities 4095  
commission may prescribe a disclosure form, and require its use, 4096  
for the purpose of this section. 4097

**Sec. 4905.95.** (A) Except as otherwise provided in division 4098  
(C) of this section: 4099

(1) The public utilities commission, regarding any proceeding 4100  
under this section, shall provide reasonable notice and the 4101  
opportunity for a hearing in accordance with rules adopted under 4102  
section 4901.13 of the Revised Code. 4103

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 4104  
4903.20 to 4903.23 of the Revised Code apply to all proceedings 4105  
and orders of the commission under this section and to all 4106  
operators subject to those proceedings and orders. 4107

(B) If, pursuant to a proceeding it specially initiates or to 4108  
any other proceeding and after the hearing provided for under 4109  
division (A) of this section, the commission finds that: 4110

(1) An operator has violated or failed to comply with, or is violating or failing to comply with, sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code, the commission by order:

(a) Shall require the operator to comply and to undertake corrective action necessary to protect the public safety;

(b) May assess upon the operator forfeitures of not more than one hundred thousand dollars for each day of each violation or noncompliance, except that the aggregate of such forfeitures shall not exceed ~~five hundred thousand~~ one million dollars for any related series of violations or noncompliances. In determining the amount of any such forfeiture, the commission shall consider all of the following:

(i) The gravity of the violation or noncompliance;

(ii) The operator's history of prior violations or noncompliances;

(iii) The operator's good faith efforts to comply and undertake corrective action;

(iv) The operator's ability to pay the forfeiture;

(v) The effect of the forfeiture on the operator's ability to continue as an operator;

(vi) Such other matters as justice may require.

All forfeitures collected under this division or section 4905.96 of the Revised Code shall be deposited in the state treasury to the credit of the general revenue fund.

(c) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.

(2) An intrastate pipe-line transportation facility is hazardous to life or property, the commission by order:

(a) Shall require the operator of the facility to take 4140  
corrective action to remove the hazard. Such corrective action may 4141  
include suspended or restricted use of the facility, physical 4142  
inspection, testing, repair, replacement, or other action. 4143

(b) May direct the attorney general to seek the remedies 4144  
provided in section 4905.96 of the Revised Code. 4145

(C) If, pursuant to a proceeding it specially initiates or to 4146  
any other proceeding, the commission finds that an emergency 4147  
exists due to a condition on an intrastate pipe-line 4148  
transportation facility posing a clear and immediate danger to 4149  
life or health or threatening a significant loss of property and 4150  
requiring immediate corrective action to protect the public 4151  
safety, the commission may issue, without notice or prior hearing, 4152  
an order reciting its finding and may direct the attorney general 4153  
to seek the remedies provided in section 4905.96 of the Revised 4154  
Code. The order shall remain in effect for not more than forty 4155  
days after the date of its issuance. The order shall provide for a 4156  
hearing as soon as possible, but not later than thirty days after 4157  
the date of its issuance. After the hearing the commission shall 4158  
continue, revoke, or modify the order and may make findings under 4159  
and seek appropriate remedies as provided in division (B) of this 4160  
section. 4161

**Sec. 4906.01.** As used in Chapter 4906. of the Revised Code: 4162

(A) "Person" means an individual, corporation, business 4163  
trust, association, estate, trust, or partnership or any officer, 4164  
board, commission, department, division, or bureau of the state or 4165  
a political subdivision of the state, or any other entity. 4166

(B)(1) "Major utility facility" means: 4167

(a) Electric generating plant and associated facilities 4168  
designed for, or capable of, operation at a capacity of fifty 4169

megawatts or more; 4170

(b) An electric transmission line and associated facilities 4171  
of a design capacity of one hundred twenty-five kilovolts or more; 4172

(c) ~~A gas or natural gas transmission line and pipeline that~~ 4173  
~~is greater than five hundred feet in length, and its~~ 4174  
~~associated facilities, is more than nine inches in outside diameter and is~~ 4175  
~~designed for, or capable of, transporting gas or natural gas at~~ 4176  
~~pressures a maximum allowable operating pressure in excess of one~~ 4177  
hundred twenty-five pounds per square inch. 4178

(2) "Major utility facility" does not include ~~gas or natural~~ 4179  
~~gas~~ any of the following: 4180

(a) Gas transmission lines over which an agency of the United 4181  
States has exclusive jurisdiction, ~~any;~~ 4182

(b) Any solid waste facilities as defined in section 6123.01 4183  
of the Revised Code, ~~or either of the following as defined by the~~ 4184  
~~power siting board;~~ 4185

~~(a)(c)~~ Electric, gas, natural gas distributing lines and ~~gas~~ 4186  
~~or natural gas gathering lines and~~ associated facilities as 4187  
defined by the power siting board; 4188

~~(b)(d)~~ Any manufacturing facility that creates byproducts 4189  
that may be used in the generation of electricity as defined by 4190  
the power siting board; 4191

(e) Gathering lines, gas gathering pipelines, and processing 4192  
plant gas stub pipelines as those terms are defined in section 4193  
4905.90 of the Revised Code; 4194

(f) Any gas processing plant as defined in section 4905.90 of 4195  
the Revised Code; 4196

(g) Natural gas liquids finished product pipelines; 4197

(h) Pipelines from a gas processing plant as defined in 4198  
section 4905.90 of the Revised Code to a natural gas liquids 4199



<u>fractionation plant, including a raw natural gas liquids pipeline,</u>	4200
<u>or to an interstate or intrastate gas pipeline;</u>	4201
<u>(i) Any natural gas liquids fractionation plant;</u>	4202
<u>(j) A production operation as defined in section 1509.01 of</u>	4203
<u>the Revised Code, including all pipelines upstream of any</u>	4204
<u>gathering lines;</u>	4205
<u>(k) Any compressor stations used by the following:</u>	4206
<u>(i) A gas gathering pipeline, a processing plant gas stub</u>	4207
<u>pipeline, or a gas processing plant as those terms are defined in</u>	4208
<u>section 4905.90 of the Revised Code;</u>	4209
<u>(ii) A natural gas liquids finished product pipeline, a</u>	4210
<u>natural gas liquids fractionation plant, or any pipeline upstream</u>	4211
<u>of a natural gas liquids fractionation plant; or</u>	4212
<u>(iii) A production operation as defined in section 1509.01 of</u>	4213
<u>the Revised Code.</u>	4214
(C) "Commence to construct" means any clearing of land,	4215
excavation, or other action that would adversely affect the	4216
natural environment of the site or route of a major utility	4217
facility, but does not include surveying changes needed for	4218
temporary use of sites or routes for nonutility purposes, or uses	4219
in securing geological data, including necessary borings to	4220
ascertain foundation conditions.	4221
(D) "Certificate" means a certificate of environmental	4222
compatibility and public need issued by the power siting board	4223
under section 4906.10 of the Revised Code or a construction	4224
certificate issued by the board under rules adopted under division	4225
(E) <u>or (F) of section 4906.03 of the Revised Code.</u>	4226
<u>(E) "Gas" means natural gas, flammable gas, or gas that is</u>	4227
<u>toxic or corrosive.</u>	4228
<u>(F) "Natural gas liquids finished product pipeline" means a</u>	4229

pipeline that carries finished product natural gas liquids to the 4230  
inlet of an interstate or intrastate finished product natural gas 4231  
liquid transmission pipeline, rail loading facility, or other 4232  
petrochemical or refinery facility. 4233

(G) "Natural gas liquids fractionation plant" means a 4234  
facility that takes a feed of raw natural gas liquids and produces 4235  
finished product natural gas liquids. 4236

(H) "Raw natural gas" means hydrocarbons that are produced in 4237  
a gaseous state from gas wells and that generally include methane, 4238  
ethane, propane, butanes, pentanes, hexanes, heptanes, octanes, 4239  
nonanes, and decanes, plus other naturally occurring impurities 4240  
like water, carbon dioxide, hydrogen sulfide, nitrogen, oxygen, 4241  
and helium. 4242

(I) "Raw natural gas liquids" means naturally occurring 4243  
hydrocarbons contained in raw natural gas that are extracted in a 4244  
gas processing plant and liquefied and generally include mixtures 4245  
of ethane, propane, butanes, and natural gasoline. 4246

(J) "Finished product natural gas liquids" means an 4247  
individual finished product produced by a natural gas liquids 4248  
fractionation plant as a liquid that meets the specifications for 4249  
commercial products as defined by the gas processors association. 4250  
Those products include ethane, propane, iso-butane, normal butane, 4251  
and natural gasoline. 4252

**Sec. 4906.03.** The power siting board shall: 4253

(A) Require such information from persons subject to its 4254  
jurisdiction as it considers necessary to assist in the conduct of 4255  
hearings and any investigations or studies it may undertake; 4256

(B) Conduct any studies or investigations that it considers 4257  
necessary or appropriate to carry out its responsibilities under 4258  
this chapter; 4259

(C) Adopt rules establishing criteria for evaluating the 4260  
effects on environmental values of proposed and alternative sites, 4261  
and projected needs for electric power, and such other rules as 4262  
are necessary and convenient to implement this chapter, including 4263  
rules governing application fees, supplemental application fees, 4264  
and other reasonable fees to be paid by persons subject to the 4265  
board's jurisdiction. The board shall make an annual accounting of 4266  
its collection and use of these fees and shall issue an annual 4267  
report of its accounting, in the form and manner prescribed by its 4268  
rules, not later than the last day of June of the year following 4269  
the calendar year to which the report applies. 4270

(D) Approve ~~or~~, disapprove, or modify and approve 4271  
applications for certificates; 4272

(E) Notwithstanding sections 4906.06 to 4906.14 of the 4273  
Revised Code, the board may adopt rules to provide for an 4274  
~~abbreviated~~ accelerated review of an application for a 4275  
construction certificate for construction of a major utility 4276  
facility related to a coal research and development project as 4277  
defined in section 1555.01 of the Revised Code, or to a coal 4278  
development project as defined in section 1551.30 of the Revised 4279  
Code, submitted to the Ohio coal development office for review 4280  
under division (B)(7) of section 1551.33 of the Revised Code. 4281  
Applications for construction certificates for construction of 4282  
major utility facilities for Ohio coal research and development 4283  
shall be filed with the board on the same day as the proposed 4284  
facility or project is submitted to the Ohio coal development 4285  
office for review. 4286

The board shall render a decision on an application for a 4287  
construction certificate within ninety days after receipt of the 4288  
application and all of the data and information it may require 4289  
from the applicant. In rendering a decision on an application for 4290  
a construction certificate, the board shall only consider the 4291

criteria and make the findings and determinations set forth in 4292  
divisions (A)(2), (3), (5), and (7) and division (B) of section 4293  
4906.10 of the Revised Code. 4294

(F) Notwithstanding sections 4906.06 to 4906.14 of the 4295  
Revised Code, the board shall adopt rules to provide for an 4296  
accelerated review of an application for a construction 4297  
certificate for any of the following: 4298

(1) An electric transmission line that is: 4299

(a) Not more than two miles in length; 4300

(b) Primarily needed to meet the requirements of a specific 4301  
customer; or 4302

(c) Necessary to maintain reliable electric service as a 4303  
result of the retirement or shutdown of an electric generating 4304  
facility located within the state, which retirement or shutdown is 4305  
due to environmental laws, rules, or requirements. 4306

(2) An electric generating facility that uses waste heat or 4307  
natural gas and is primarily within the current boundary of an 4308  
existing industrial or electric generating facility; 4309

(3) A gas pipeline that is not more than five miles in length 4310  
or is primarily needed to meet the requirements of a specific 4311  
customer. 4312

The board shall adopt rules that provide for the automatic 4313  
certification to any entity described in this division when an 4314  
application by any such entity is not suspended by the board, an 4315  
administrative law judge, or the chairperson or executive director 4316  
of the board for good cause shown, within ninety days of 4317  
submission of the application. If an application is suspended, the 4318  
board shall approve, disapprove, or modify and approve the 4319  
application not later than ninety days after the date of the 4320  
suspension. 4321

**Sec. 4906.05.** No certificate is required for a major utility facility on which construction had already commenced on October 23, 1972, or within two years thereafter. This section does not exempt such a facility from any other requirements of state and local laws and regulations.

No certificate is required for any major utility facility already in operation on October 23, 1972, and the facility shall not be exempt from any applicable state or local laws or regulations. A certificate is required for any substantial addition to a facility already in operation. "Substantial addition" shall be defined by the power siting board.

Any electric generating plant and associated facilities, electric transmission line and associated facilities, or gas ~~or~~ natural gas transmission line pipeline and associated facilities which is not a major utility facility is not exempt from state or local laws or regulations.

**Sec. 4906.06.** (A) An applicant for a certificate shall file with the office of the chairperson of the power siting board an application, in such form as the board prescribes, containing the following information:

(1) A description of the location and of the major utility facility;

(2) A summary of any studies that have been made by or for the applicant of the environmental impact of the facility;

(3) A statement explaining the need for the facility;

(4) A statement of the reasons why the proposed location is best suited for the facility;

(5) A statement of how the facility fits into the applicant's forecast contained in the report submitted under section 4935.04

of the Revised Code; 4351

(6) Such other information as the applicant may consider 4352  
relevant or as the board by rule or order may require. Copies of 4353  
the studies referred to in division (A)(2) of this section shall 4354  
be filed with the office of the chairperson, if ordered, and shall 4355  
be available for public inspection. 4356

The application shall be filed not ~~less than one year nor~~ 4357  
more than five years prior to the planned date of commencement of 4358  
construction. ~~Either~~ The five-year period may be waived by the 4359  
board for good cause shown. 4360

(B) Each application shall be accompanied by proof of service 4361  
of a copy of such application on the chief executive officer of 4362  
each municipal corporation and county, and the head of each public 4363  
agency charged with the duty of protecting the environment or of 4364  
planning land use, in the area in which any portion of such 4365  
facility is to be located. 4366

(C) Each applicant within fifteen days after the date of the 4367  
filing of the application shall give public notice to persons 4368  
residing in the municipal corporations and counties entitled to 4369  
receive notice under division (B) of this section, by the 4370  
publication of a summary of the application in newspapers of 4371  
general circulation in such area. Proof of such publication shall 4372  
be filed with the office of the chairperson. 4373

(D) Inadvertent failure of service on, or notice to, any of 4374  
the persons identified in divisions (B) and (C) of this section 4375  
may be cured pursuant to orders of the board designed to afford 4376  
them adequate notice to enable them to participate effectively in 4377  
the proceeding. In addition, the board, after filing, may require 4378  
the applicant to serve notice of the application or copies thereof 4379  
or both upon such other persons, and file proof thereof, as the 4380  
board considers appropriate. 4381

(E) An application for an amendment of a certificate shall be 4382  
in such form and contain such information as the board prescribes. 4383  
Notice of such an application shall be given as required in 4384  
divisions (B) and (C) of this section. 4385

(F) Each application for certificate or an amendment shall be 4386  
accompanied by the application fee prescribed by board rule. All 4387  
application fees, supplemental application fees, and other fees 4388  
collected by the board shall be deposited in the state treasury to 4389  
the credit of the power siting board fund, which is hereby 4390  
created. The chairperson shall administer and authorize 4391  
expenditures from the fund for any of the purposes of this 4392  
chapter. If the chairperson determines that moneys credited to the 4393  
fund from an applicant's fee are not sufficient to pay the board's 4394  
expenses associated with its review of the application, the 4395  
chairperson shall request the approval of the controlling board to 4396  
assess a supplemental application fee upon an applicant to pay 4397  
anticipated additional expenses associated with the board's review 4398  
of the application or an amendment to an application. If the 4399  
chairperson finds that an application fee exceeds the amount 4400  
needed to pay the board's expenses for review of the application, 4401  
the chairperson shall cause a refund of the excess amount to be 4402  
issued to the applicant from the fund. 4403

**Sec. 4906.07.** (A) Upon the receipt of an application 4404  
complying with section 4906.06 of the Revised Code, the power 4405  
siting board shall promptly fix a date for a public hearing 4406  
thereon, not less than sixty nor more than ninety days after such 4407  
receipt, and shall conclude the proceeding as expeditiously as 4408  
practicable. 4409

(B) On an application for an amendment of a certificate, the 4410  
board shall hold a hearing in the same manner as a hearing is held 4411  
on an application for a certificate if the proposed change in the 4412

facility would result in any material increase in any 4413  
environmental impact of the facility or a substantial change in 4414  
the location of all or a portion of such facility other than as 4415  
provided in the alternates set forth in the application. 4416

(C) The ~~chairman~~ chairperson of the power siting board shall 4417  
cause each application filed with the board to be investigated and 4418  
shall, not less than fifteen days prior to the date any 4419  
application is set for hearing submit a written report to the 4420  
board and to the applicant. A copy of such report shall be made 4421  
available to any person upon request. Such report shall set forth 4422  
the nature of the investigation, and shall contain recommended 4423  
findings with regard to division (A) of section 4906.10 of the 4424  
Revised Code and shall become part of the record and served upon 4425  
all parties to the proceeding. 4426

**Sec. 4906.10.** (A) The power siting board shall render a 4427  
decision upon the record either granting or denying the 4428  
application as filed, or granting it upon such terms, conditions, 4429  
or modifications of the construction, operation, or maintenance of 4430  
the major utility facility as the board considers appropriate. The 4431  
certificate shall be conditioned upon the facility being in 4432  
compliance with standards and rules adopted under sections 4433  
1501.33, 1501.34, and 4561.32 and Chapters 3704., 3734., and 6111. 4434  
of the Revised Code. An applicant may withdraw an application if 4435  
the board grants a certificate on terms, conditions, or 4436  
modifications other than those proposed by the applicant in the 4437  
application. The period of initial operation under a certificate 4438  
shall expire two years after the date on which electric power is 4439  
first generated by the facility. During the period of initial 4440  
operation, the facility shall be subject to the enforcement and 4441  
monitoring powers of the director of environmental protection 4442  
under Chapters 3704., 3734., and 6111. of the Revised Code and to 4443  
the emergency provisions under those chapters. If a major utility 4444



facility constructed in accordance with the terms and conditions 4445  
of its certificate is unable to operate in compliance with all 4446  
applicable requirements of state laws, rules, and standards 4447  
pertaining to air pollution, the facility may apply to the 4448  
director of environmental protection for a conditional operating 4449  
permit under division (G) of section 3704.03 of the Revised Code 4450  
and the rules adopted thereunder. The operation of a major utility 4451  
facility in compliance with a conditional operating permit is not 4452  
in violation of its certificate. After the expiration of the 4453  
period of initial operation of a major utility facility, the 4454  
facility shall be under the jurisdiction of the environmental 4455  
protection agency and shall comply with all laws, rules, and 4456  
standards pertaining to air pollution, water pollution, and solid 4457  
and hazardous waste disposal. 4458

The board shall not grant a certificate for the construction, 4459  
operation, and maintenance of a major utility facility, either as 4460  
proposed or as modified by the board, unless it finds and 4461  
determines all of the following: 4462

(1) The basis of the need for the facility if the facility is 4463  
an electric transmission line or gas ~~or natural gas transmission~~ 4464  
line pipeline; 4465

(2) The nature of the probable environmental impact; 4466

(3) That the facility represents the minimum adverse 4467  
environmental impact, considering the state of available 4468  
technology and the nature and economics of the various 4469  
alternatives, and other pertinent considerations; 4470

(4) In the case of an electric transmission line or 4471  
generating facility, that the facility is consistent with regional 4472  
plans for expansion of the electric power grid of the electric 4473  
systems serving this state and interconnected utility systems and 4474  
that the facility will serve the interests of electric system 4475

economy and reliability; 4476

(5) That the facility will comply with Chapters 3704., 3734., 4477  
and 6111. of the Revised Code and all rules and standards adopted 4478  
under those chapters and under sections 1501.33, 1501.34, and 4479  
4561.32 of the Revised Code. In determining whether the facility 4480  
will comply with all rules and standards adopted under section 4481  
4561.32 of the Revised Code, the board shall consult with the 4482  
office of aviation of the division of multi-modal planning and 4483  
programs of the department of transportation under section 4484  
4561.341 of the Revised Code. 4485

(6) That the facility will serve the public interest, 4486  
convenience, and necessity; 4487

(7) In addition to the provisions contained in divisions 4488  
(A)(1) to (6) of this section and rules adopted under those 4489  
divisions, what its impact will be on the viability as 4490  
agricultural land of any land in an existing agricultural district 4491  
established under Chapter 929. of the Revised Code that is located 4492  
within the site and alternative site of the proposed major utility 4493  
facility. Rules adopted to evaluate impact under division (A)(7) 4494  
of this section shall not require the compilation, creation, 4495  
submission, or production of any information, document, or other 4496  
data pertaining to land not located within the site and 4497  
alternative site. 4498

(8) That the facility incorporates maximum feasible water 4499  
conservation practices as determined by the board, considering 4500  
available technology and the nature and economics of the various 4501  
alternatives. 4502

(B) If the board determines that the location of all or a 4503  
part of the proposed facility should be modified, it may condition 4504  
its certificate upon that modification, provided that the 4505  
municipal corporations and counties, and persons residing therein, 4506

affected by the modification shall have been given reasonable 4507  
notice thereof. 4508

(C) A copy of the decision and any opinion issued therewith 4509  
shall be served upon each party. 4510

**Sec. 4906.20.** (A) No person shall commence to construct an 4511  
economically significant wind farm in this state without first 4512  
having obtained a certificate from the power siting board. An 4513  
economically significant wind farm with respect to which such a 4514  
certificate is required shall be constructed, operated, and 4515  
maintained in conformity with that certificate and any terms, 4516  
conditions, and modifications it contains. A certificate shall be 4517  
issued only pursuant to this section. The certificate may be 4518  
transferred, subject to the approval of the board, to a person 4519  
that agrees to comply with those terms, conditions, and 4520  
modifications. 4521

(B) The board shall adopt rules governing the certificating 4522  
of economically significant wind farms under this section. Initial 4523  
rules shall be adopted within one hundred twenty days after ~~this~~ 4524  
~~section's effective date~~ June 24, 2008. 4525

(1) The rules shall provide for an application process for 4526  
certificating economically significant wind farms that is 4527  
identical to the extent practicable to the process applicable to 4528  
certificating major utility facilities under sections 4906.06, 4529  
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 4530  
Revised Code and shall prescribe a reasonable schedule of 4531  
application filing fees structured in the manner of the schedule 4532  
of filing fees required for major utility facilities. 4533

(2) Additionally, the rules shall prescribe reasonable 4534  
regulations regarding any wind turbines and associated facilities 4535  
of an economically significant wind farm, including, but not 4536  
limited to, their location, erection, construction, 4537

reconstruction, change, alteration, maintenance, removal, use, or 4538  
enlargement and including erosion control, aesthetics, 4539  
recreational land use, wildlife protection, interconnection with 4540  
power lines and with regional transmission organizations, 4541  
independent transmission system operators, or similar 4542  
organizations, ice throw, sound and noise levels, blade shear, 4543  
shadow flicker, decommissioning, and necessary cooperation for 4544  
site visits and enforcement investigations. The rules also shall 4545  
prescribe a minimum setback for a wind turbine of an economically 4546  
significant wind farm. That minimum shall be equal to a horizontal 4547  
distance, from the turbine's base to the property line of the wind 4548  
farm property, equal to one and one-tenth times the total height 4549  
of the turbine structure as measured from its base to the tip of 4550  
its highest blade and be at least seven hundred fifty feet in 4551  
horizontal distance from the tip of the turbine's nearest blade at 4552  
ninety degrees to the exterior of the nearest, habitable, 4553  
residential structure, if any, located on adjacent property at the 4554  
time of the certification application. The setback shall apply in 4555  
all cases except those in which all owners of property adjacent to 4556  
the wind farm property waive application of the setback to that 4557  
property pursuant to a procedure the board shall establish by rule 4558  
and except in which, in a particular case, the board determines 4559  
that a setback greater than the minimum is necessary. 4560

~~(C) The board shall approve, or may modify and approve, an 4561  
application for economically significant wind farm certification 4562  
if it finds that the construction, operation, and maintenance of 4563  
the economically significant wind farm will comply with the rules 4564  
adopted under division (B) of this section. The certificate shall 4565  
be conditioned upon the economically significant wind farm 4566  
complying with rules adopted under section 4561.32 of the Revised 4567  
Code. 4568~~

**Sec. 4928.01.** (A) As used in this chapter: 4569

(1) "Ancillary service" means any function necessary to the provision of electric transmission or distribution service to a retail customer and includes, but is not limited to, scheduling, system control, and dispatch services; reactive supply from generation resources and voltage control service; reactive supply from transmission resources service; regulation service; frequency response service; energy imbalance service; operating reserve-spinning reserve service; operating reserve-supplemental reserve service; load following; back-up supply service; real-power loss replacement service; dynamic scheduling; system black start capability; and network stability service.

(2) "Billing and collection agent" means a fully independent agent, not affiliated with or otherwise controlled by an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent that the agent is under contract with such utility, company, cooperative, or aggregator solely to provide billing and collection for retail electric service on behalf of the utility company, cooperative, or aggregator.

(3) "Certified territory" means the certified territory established for an electric supplier under sections 4933.81 to 4933.90 of the Revised Code.

(4) "Competitive retail electric service" means a component of retail electric service that is competitive as provided under division (B) of this section.

(5) "Electric cooperative" means a not-for-profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not-for-profit successor of such company.

(6) "Electric distribution utility" means an electric utility 4602  
that supplies at least retail electric distribution service. 4603

(7) "Electric light company" has the same meaning as in 4604  
section 4905.03 of the Revised Code and includes an electric 4605  
services company, but excludes any self-generator to the extent 4606  
that it consumes electricity it so produces, sells that 4607  
electricity for resale, or obtains electricity from a generating 4608  
facility it hosts on its premises. 4609

(8) "Electric load center" has the same meaning as in section 4610  
4933.81 of the Revised Code. 4611

(9) "Electric services company" means an electric light 4612  
company that is engaged on a for-profit or not-for-profit basis in 4613  
the business of supplying or arranging for the supply of only a 4614  
competitive retail electric service in this state. "Electric 4615  
services company" includes a power marketer, power broker, 4616  
aggregator, or independent power producer but excludes an electric 4617  
cooperative, municipal electric utility, governmental aggregator, 4618  
or billing and collection agent. 4619

(10) "Electric supplier" has the same meaning as in section 4620  
4933.81 of the Revised Code. 4621

(11) "Electric utility" means an electric light company that 4622  
has a certified territory and is engaged on a for-profit basis 4623  
either in the business of supplying a noncompetitive retail 4624  
electric service in this state or in the businesses of supplying 4625  
both a noncompetitive and a competitive retail electric service in 4626  
this state. "Electric utility" excludes a municipal electric 4627  
utility or a billing and collection agent. 4628

(12) "Firm electric service" means electric service other 4629  
than nonfirm electric service. 4630

(13) "Governmental aggregator" means a legislative authority 4631  
of a municipal corporation, a board of township trustees, or a 4632

board of county commissioners acting as an aggregator for the 4633  
provision of a competitive retail electric service under authority 4634  
conferred under section 4928.20 of the Revised Code. 4635

(14) A person acts "knowingly," regardless of the person's 4636  
purpose, when the person is aware that the person's conduct will 4637  
probably cause a certain result or will probably be of a certain 4638  
nature. A person has knowledge of circumstances when the person is 4639  
aware that such circumstances probably exist. 4640

(15) "Level of funding for low-income customer energy 4641  
efficiency programs provided through electric utility rates" means 4642  
the level of funds specifically included in an electric utility's 4643  
rates on October 5, 1999, pursuant to an order of the public 4644  
utilities commission issued under Chapter 4905. or 4909. of the 4645  
Revised Code and in effect on October 4, 1999, for the purpose of 4646  
improving the energy efficiency of housing for the utility's 4647  
low-income customers. The term excludes the level of any such 4648  
funds committed to a specific nonprofit organization or 4649  
organizations pursuant to a stipulation or contract. 4650

(16) "Low-income customer assistance programs" means the 4651  
percentage of income payment plan program, the home energy 4652  
assistance program, the home weatherization assistance program, 4653  
and the targeted energy efficiency and weatherization program. 4654

(17) "Market development period" for an electric utility 4655  
means the period of time beginning on the starting date of 4656  
competitive retail electric service and ending on the applicable 4657  
date for that utility as specified in section 4928.40 of the 4658  
Revised Code, irrespective of whether the utility applies to 4659  
receive transition revenues under this chapter. 4660

(18) "Market power" means the ability to impose on customers 4661  
a sustained price for a product or service above the price that 4662  
would prevail in a competitive market. 4663

(19) "Mercantile customer" means a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.

(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.

(21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section.

(22) "Nonfirm electric service" means electric service provided pursuant to a schedule filed under section 4905.30 of the Revised Code or pursuant to an arrangement under section 4905.31 of the Revised Code, which schedule or arrangement includes conditions that may require the customer to curtail or interrupt electric usage during nonemergency circumstances upon notification by an electric utility.

(23) "Percentage of income payment plan arrears" means funds eligible for collection through the percentage of income payment plan rider, but uncollected as of July 1, 2000.

(24) "Person" has the same meaning as in section 1.59 of the Revised Code.

(25) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users, including, but not limited to, advanced energy resources and renewable energy



resources. "Advanced energy project" also includes any project 4695  
described in division (A), (B), or (C) of section 4928.621 of the 4696  
Revised Code. 4697

(26) "Regulatory assets" means the unamortized net regulatory 4698  
assets that are capitalized or deferred on the regulatory books of 4699  
the electric utility, pursuant to an order or practice of the 4700  
public utilities commission or pursuant to generally accepted 4701  
accounting principles as a result of a prior commission 4702  
rate-making decision, and that would otherwise have been charged 4703  
to expense as incurred or would not have been capitalized or 4704  
otherwise deferred for future regulatory consideration absent 4705  
commission action. "Regulatory assets" includes, but is not 4706  
limited to, all deferred demand-side management costs; all 4707  
deferred percentage of income payment plan arrears; 4708  
post-in-service capitalized charges and assets recognized in 4709  
connection with statement of financial accounting standards no. 4710  
109 (receivables from customers for income taxes); future nuclear 4711  
decommissioning costs and fuel disposal costs as those costs have 4712  
been determined by the commission in the electric utility's most 4713  
recent rate or accounting application proceeding addressing such 4714  
costs; the undepreciated costs of safety and radiation control 4715  
equipment on nuclear generating plants owned or leased by an 4716  
electric utility; and fuel costs currently deferred pursuant to 4717  
the terms of one or more settlement agreements approved by the 4718  
commission. 4719

(27) "Retail electric service" means any service involved in 4720  
supplying or arranging for the supply of electricity to ultimate 4721  
consumers in this state, from the point of generation to the point 4722  
of consumption. For the purposes of this chapter, retail electric 4723  
service includes one or more of the following "service 4724  
components": generation service, aggregation service, power 4725  
marketing service, power brokerage service, transmission service, 4726

distribution service, ancillary service, metering service, and 4727  
billing and collection service. 4728

(28) "Starting date of competitive retail electric service" 4729  
means January 1, 2001. 4730

(29) "Customer-generator" means a user of a net metering 4731  
system. 4732

(30) "Net metering" means measuring the difference in an 4733  
applicable billing period between the electricity supplied by an 4734  
electric service provider and the electricity generated by a 4735  
customer-generator that is fed back to the electric service 4736  
provider. 4737

(31) "Net metering system" means a facility for the 4738  
production of electrical energy that does all of the following: 4739

(a) Uses as its fuel either solar, wind, biomass, landfill 4740  
gas, or hydropower, or uses a microturbine or a fuel cell; 4741

(b) Is located on a customer-generator's premises; 4742

(c) Operates in parallel with the electric utility's 4743  
transmission and distribution facilities; 4744

(d) Is intended primarily to offset part or all of the 4745  
customer-generator's requirements for electricity. 4746

(32) "Self-generator" means an entity in this state that owns 4747  
or hosts on its premises an electric generation facility that 4748  
produces electricity primarily for the owner's consumption and 4749  
that may provide any such excess electricity to another entity, 4750  
whether the facility is installed or operated by the owner or by 4751  
an agent under a contract. 4752

(33) "Rate plan" means the standard service offer in effect 4753  
on the effective date of the amendment of this section by S.B. 221 4754  
of the 127th general assembly, July 31, 2008. 4755

(34) "Advanced energy resource" means any of the following: 4756

(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(b) Any distributed generation system consisting of customer cogeneration of electricity and thermal output simultaneously;

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

(d) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;

(e) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(f) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to,

advanced stoker technology, and advanced fluidized bed 4788  
gasification technology, that results in measurable greenhouse gas 4789  
emissions reductions as calculated pursuant to the United States 4790  
environmental protection agency's waste reduction model (WARM)-i 4791

(g) Demand-side management and any energy efficiency 4792  
improvement; 4793

(h) Any new or repowered generating facility located in Ohio, 4794  
including a simple or combined-cycle natural gas facility or a 4795  
facility that uses biomass, coal, nuclear energy, or any other 4796  
fuel as its input. 4797

"Advanced energy resource" does not include a waste energy 4798  
recovery system that is, or has been, included in an energy 4799  
efficiency program of an electric distribution utility pursuant to 4800  
requirements under section 4928.66 of the Revised Code. 4801

(35) "Renewable energy resource" means solar photovoltaic or 4802  
solar thermal energy, wind energy, power produced by a 4803  
hydroelectric facility, geothermal energy, fuel derived from solid 4804  
wastes, as defined in section 3734.01 of the Revised Code, through 4805  
fractionation, biological decomposition, or other process that 4806  
does not principally involve combustion, biomass energy, 4807  
biologically derived methane gas, or energy derived from 4808  
nontreated by-products of the pulping process or wood 4809  
manufacturing process, including bark, wood chips, sawdust, and 4810  
lignin in spent pulping liquors. "Renewable energy resource" 4811  
includes, but is not limited to, any fuel cell used in the 4812  
generation of electricity, including, but not limited to, a proton 4813  
exchange membrane fuel cell, phosphoric acid fuel cell, molten 4814  
carbonate fuel cell, or solid oxide fuel cell; wind turbine 4815  
located in the state's territorial waters of Lake Erie; methane 4816  
gas emitted from an abandoned coal mine; waste energy recovery 4817  
system placed into service or retrofitted on or after the 4818  
effective date of the amendment of this section by S.B. 315 of the 4819

129th general assembly, except that a waste energy recovery system 4820  
described in division (A)(36)(b) of this section may have been 4821  
placed into service or retrofitted before that date; storage 4822  
facility that will promote the better utilization of a renewable 4823  
energy resource that primarily generates off peak; or distributed 4824  
generation system used by a customer to generate electricity from 4825  
any such energy. "Renewable energy resource" does not include a 4826  
waste energy recovery system that is, or was, on or after January 4827  
1, 2012, included in an energy efficiency program of an electric 4828  
distribution utility pursuant to requirements under section 4829  
4928.66 of the Revised Code. As used in division (A)(35) of this 4830  
section, "hydroelectric facility" means a hydroelectric generating 4831  
facility that is located at a dam on a river, or on any water 4832  
discharged to a river, that is within or bordering this state or 4833  
within or bordering an adjoining state and meets all of the 4834  
following standards: 4835

(a) The facility provides for river flows that are not 4836  
detrimental for fish, wildlife, and water quality, including 4837  
seasonal flow fluctuations as defined by the applicable licensing 4838  
agency for the facility. 4839

(b) The facility demonstrates that it complies with the water 4840  
quality standards of this state, which compliance may consist of 4841  
certification under Section 401 of the "Clean Water Act of 1977," 4842  
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 4843  
not contributed to a finding by this state that the river has 4844  
impaired water quality under Section 303(d) of the "Clean Water 4845  
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 4846

(c) The facility complies with mandatory prescriptions 4847  
regarding fish passage as required by the federal energy 4848  
regulatory commission license issued for the project, regarding 4849  
fish protection for riverine, anadromous, and catadromous fish. 4850

(d) The facility complies with the recommendations of the 4851

Ohio environmental protection agency and with the terms of its 4852  
federal energy regulatory commission license regarding watershed 4853  
protection, mitigation, or enhancement, to the extent of each 4854  
agency's respective jurisdiction over the facility. 4855

(e) The facility complies with provisions of the "Endangered 4856  
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 4857  
amended. 4858

(f) The facility does not harm cultural resources of the 4859  
area. This can be shown through compliance with the terms of its 4860  
federal energy regulatory commission license or, if the facility 4861  
is not regulated by that commission, through development of a plan 4862  
approved by the Ohio historic preservation office, to the extent 4863  
it has jurisdiction over the facility. 4864

(g) The facility complies with the terms of its federal 4865  
energy regulatory commission license or exemption that are related 4866  
to recreational access, accommodation, and facilities or, if the 4867  
facility is not regulated by that commission, the facility 4868  
complies with similar requirements as are recommended by resource 4869  
agencies, to the extent they have jurisdiction over the facility; 4870  
and the facility provides access to water to the public without 4871  
fee or charge. 4872

(h) The facility is not recommended for removal by any 4873  
federal agency or agency of any state, to the extent the 4874  
particular agency has jurisdiction over the facility. 4875

(36) "Waste energy recovery system" means either of the 4876  
following: 4877

(a) A facility that generates electricity through the 4878  
conversion of energy from either of the following: 4879

(i) Exhaust heat from engines or manufacturing, industrial, 4880  
commercial, or institutional sites, except for exhaust heat from a 4881  
facility whose primary purpose is the generation of electricity; 4882

(ii) Reduction of pressure in gas pipelines before gas is distributed through the pipeline, provided that the conversion of energy to electricity is achieved without using additional fossil fuels. 4883  
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(b) A facility at a state institution of higher education as defined in section 3345.011 of the Revised Code that recovers waste heat from electricity-producing engines or combustion turbines and that simultaneously uses the recovered heat to produce steam. 4887  
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(37) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that improve reliability, efficiency, resiliency, or reduce energy demand or use, including, but not limited to, advanced metering and automation of system functions. 4892  
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(38) "Combined heat and power system" means the coproduction of electricity and useful thermal energy from the same fuel source designed to achieve thermal-efficiency levels of at least sixty per cent, with at least twenty per cent of the system's total useful energy in the form of thermal energy. 4897  
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(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service. 4902  
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**Sec. 4928.02.** It is the policy of this state to do the following throughout this state: 4910  
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(A) Ensure the availability to consumers of adequate, 4912

reliable, safe, efficient, nondiscriminatory, and reasonably  
priced retail electric service; 4913  
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(B) Ensure the availability of unbundled and comparable 4915  
retail electric service that provides consumers with the supplier, 4916  
price, terms, conditions, and quality options they elect to meet 4917  
their respective needs; 4918

(C) Ensure diversity of electricity supplies and suppliers, 4919  
by giving consumers effective choices over the selection of those 4920  
supplies and suppliers and by encouraging the development of 4921  
distributed and small generation facilities; 4922

(D) Encourage innovation and market access for cost-effective 4923  
supply- and demand-side retail electric service including, but not 4924  
limited to, demand-side management, time-differentiated pricing, 4925  
waste energy recovery systems, smart grid programs, and 4926  
implementation of advanced metering infrastructure; 4927

(E) Encourage cost-effective and efficient access to 4928  
information regarding the operation of the transmission and 4929  
distribution systems of electric utilities in order to promote 4930  
both effective customer choice of retail electric service and the 4931  
development of performance standards and targets for service 4932  
quality for all consumers, including annual achievement reports 4933  
written in plain language; 4934

(F) Ensure that an electric utility's transmission and 4935  
distribution systems are available to a customer-generator or 4936  
owner of distributed generation, so that the customer-generator or 4937  
owner can market and deliver the electricity it produces; 4938

(G) Recognize the continuing emergence of competitive 4939  
electricity markets through the development and implementation of 4940  
flexible regulatory treatment; 4941

(H) Ensure effective competition in the provision of retail 4942  
electric service by avoiding anticompetitive subsidies flowing 4943



from a noncompetitive retail electric service to a competitive 4944  
retail electric service or to a product or service other than 4945  
retail electric service, and vice versa, including by prohibiting 4946  
the recovery of any generation-related costs through distribution 4947  
or transmission rates; 4948

(I) Ensure retail electric service consumers protection 4949  
against unreasonable sales practices, market deficiencies, and 4950  
market power; 4951

(J) Provide coherent, transparent means of giving appropriate 4952  
incentives to technologies that can adapt successfully to 4953  
potential environmental mandates; 4954

(K) Encourage implementation of distributed generation across 4955  
customer classes through regular review and updating of 4956  
administrative rules governing critical issues such as, but not 4957  
limited to, interconnection standards, standby charges, and net 4958  
metering; 4959

(L) Protect at-risk populations, including, but not limited 4960  
to, when considering the implementation of any new advanced energy 4961  
or renewable energy resource; 4962

(M) Encourage the education of small business owners in this 4963  
state regarding the use of, and encourage the use of, energy 4964  
efficiency programs and alternative energy resources in their 4965  
businesses; 4966

(N) Facilitate the state's effectiveness in the global 4967  
economy. 4968

In carrying out this policy, the commission shall consider 4969  
rules as they apply to the costs of electric distribution 4970  
infrastructure, including, but not limited to, line extensions, 4971  
for the purpose of development in this state. 4972

**Sec. 4928.111.** The public utilities commission shall consult 4973

with electric distribution utilities to review the distribution 4974  
infrastructure in this state and shall consult with regional 4975  
transmission organizations and entities that own or control 4976  
transmission facilities to review the transmission infrastructure 4977  
in this state. 4978

**Sec. 4928.61.** (A) There is hereby established in the state 4979  
treasury the advanced energy fund, into which shall be deposited 4980  
all advanced energy revenues remitted to the director of 4981  
development under division (B) of this section, for the exclusive 4982  
purposes of funding the advanced energy program created under 4983  
section 4928.62 of the Revised Code and paying the program's 4984  
administrative costs. Interest on the fund shall be credited to 4985  
the fund. 4986

(B) Advanced energy revenues shall include all of the 4987  
following: 4988

(1) Revenues remitted to the director after collection by 4989  
each electric distribution utility in this state of a temporary 4990  
rider on retail electric distribution service rates as such rates 4991  
are determined by the public utilities commission pursuant to this 4992  
chapter. The rider shall be a uniform amount statewide, determined 4993  
by the director of development, after consultation with the public 4994  
benefits advisory board created by section 4928.58 of the Revised 4995  
Code. The amount shall be determined by dividing an aggregate 4996  
revenue target for a given year as determined by the director, 4997  
after consultation with the advisory board, by the number of 4998  
customers of electric distribution utilities in this state in the 4999  
prior year. Such aggregate revenue target shall not exceed more 5000  
than fifteen million dollars in any year through 2005 and shall 5001  
not exceed more than five million dollars in any year after 2005. 5002  
The rider shall be imposed beginning on the effective date of the 5003  
amendment of this section by Sub. H.B. 251 of the 126th general 5004

assembly, January 4, 2007, and shall terminate at the end of ten 5005  
years following the starting date of competitive retail electric 5006  
service or until the advanced energy fund, including interest, 5007  
reaches one hundred million dollars, whichever is first. 5008

(2) Revenues from payments, repayments, and collections under 5009  
the advanced energy program and from program income; 5010

(3) Revenues remitted to the director after collection by a 5011  
municipal electric utility or electric cooperative in this state 5012  
upon the utility's or cooperative's decision to participate in the 5013  
advanced energy fund; 5014

(4) Revenues from renewable energy compliance payments as 5015  
provided under division (C)(2) of section 4928.64 of the Revised 5016  
Code; 5017

(5) Revenue from forfeitures under division (C) of section 5018  
4928.66 of the Revised Code; 5019

(6) Funds transferred pursuant to division (B) of Section 5020  
512.10 of S.B. 315 of the 129th general assembly; 5021

(7) Interest earnings on the advanced energy fund. 5022

(C)(1) Each electric distribution utility in this state shall 5023  
remit to the director on a quarterly basis the revenues described 5024  
in divisions (B)(1) and (2) of this section. Such remittances 5025  
shall occur within thirty days after the end of each calendar 5026  
quarter. 5027

(2) Each participating electric cooperative and participating 5028  
municipal electric utility shall remit to the director on a 5029  
quarterly basis the revenues described in division (B)(3) of this 5030  
section. Such remittances shall occur within thirty days after the 5031  
end of each calendar quarter. For the purpose of division (B)(3) 5032  
of this section, the participation of an electric cooperative or 5033  
municipal electric utility in the energy efficiency revolving loan 5034

program as it existed immediately prior to the effective date of 5035  
the amendment of this section by Sub. H.B. 251 of the 126th 5036  
general assembly, January 4, 2007, does not constitute a decision 5037  
to participate in the advanced energy fund under this section as 5038  
so amended. 5039

(3) All remittances under divisions (C)(1) and (2) of this 5040  
section shall continue only until the end of ten years following 5041  
the starting date of competitive retail electric service or until 5042  
the advanced energy fund, including interest, reaches one hundred 5043  
million dollars, whichever is first. 5044

(D) Any moneys collected in rates for non-low-income customer 5045  
energy efficiency programs, as of October 5, 1999, and not 5046  
contributed to the energy efficiency revolving loan fund 5047  
authorized under this section prior to the effective date of its 5048  
amendment by Sub. H.B. 251 of the 126th general assembly, January 5049  
4, 2007, shall be used to continue to fund cost-effective, 5050  
residential energy efficiency programs, be contributed into the 5051  
universal service fund as a supplement to that required under 5052  
section 4928.53 of the Revised Code, or be returned to ratepayers 5053  
in the form of a rate reduction at the option of the affected 5054  
electric distribution utility. 5055

**Sec. 4928.62.** (A) There is hereby created the advanced energy 5056  
program, which shall be administered by the director of 5057  
development. Under the program, the director may authorize the use 5058  
of moneys in the advanced energy fund for financial, technical, 5059  
and related assistance for advanced energy projects in this state 5060  
or for economic development assistance, in furtherance of the 5061  
purposes set forth in section 4928.63 of the Revised Code. ~~Te~~ 5062

(1) To the extent feasible given approved applications for 5063  
assistance, the assistance shall be distributed among the 5064  
certified territories of electric distribution utilities and 5065

participating electric cooperatives, and among the service areas 5066  
of participating municipal electric utilities, in amounts 5067  
proportionate to the remittances of each utility and cooperative 5068  
under divisions (B)(1) and (3) of section 4928.61 of the Revised 5069  
Code. 5070

(2) The funds described in division (B)(6) of section 4928.61 5071  
of the Revised Code shall not be subject to the territorial 5072  
requirements of division (A)(1) of this section. 5073

(3) The director shall not authorize financial assistance for 5074  
an advanced energy project under the program unless the director 5075  
first determines that the project will create new jobs or preserve 5076  
existing jobs in this state or use innovative technologies or 5077  
materials. 5078

(B) In carrying out sections 4928.61 to 4928.63 of the 5079  
Revised Code, the director may do all of the following to further 5080  
the public interest in advanced energy projects and economic 5081  
development: 5082

(1) Award grants, contracts, loans, loan participation 5083  
agreements, linked deposits, and energy production incentives; 5084

(2) Acquire in the name of the director any property of any 5085  
kind or character in accordance with this section, by purchase, 5086  
purchase at foreclosure, or exchange, on such terms and in such 5087  
manner as the director considers proper; 5088

(3) Make and enter into all contracts and agreements 5089  
necessary or incidental to the performance of the director's 5090  
duties and the exercise of the director's powers under sections 5091  
4928.61 to 4928.63 of the Revised Code; 5092

(4) Employ or enter into contracts with financial 5093  
consultants, marketing consultants, consulting engineers, 5094  
architects, managers, construction experts, attorneys, technical 5095  
monitors, energy evaluators, or other employees or agents as the 5096

director considers necessary, and fix their compensation; 5097

(5) Adopt rules prescribing the application procedures for 5098  
financial assistance under the advanced energy program; the fees, 5099  
charges, interest rates, payment schedules, local match 5100  
requirements, and other terms and conditions of any grants, 5101  
contracts, loans, loan participation agreements, linked deposits, 5102  
and energy production incentives; criteria pertaining to the 5103  
eligibility of participating lending institutions; and any other 5104  
matters necessary for the implementation of the program; 5105

(6) Do all things necessary and appropriate for the operation 5106  
of the program. 5107

(C) The department of development may hold ownership to any 5108  
unclaimed energy efficiency and renewable energy emission 5109  
allowances provided for in Chapter 3745-14 of the Administrative 5110  
Code or otherwise, that result from advanced energy projects that 5111  
receive funding from the advanced energy fund, and it may use the 5112  
allowances to further the public interest in advanced energy 5113  
projects or for economic development. 5114

(D) Financial statements, financial data, and trade secrets 5115  
submitted to or received by the director from an applicant or 5116  
recipient of financial assistance under sections 4928.61 to 5117  
4928.63 of the Revised Code, or any information taken from those 5118  
statements, data, or trade secrets for any purpose, are not public 5119  
records for the purpose of section 149.43 of the Revised Code. 5120

(E) Nothing in the amendments of sections 4928.61, 4928.62, 5121  
and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th 5122  
general assembly shall affect any pending or effected assistance, 5123  
pending or effected purchases or exchanges of property made, or 5124  
pending or effected contracts or agreements entered into pursuant 5125  
to division (A) or (B) of this section as the section existed 5126  
prior to the effective date of those amendments, January 4, 2007, 5127

or shall affect the exemption provided under division (C) of this 5128  
section as the section existed prior to that effective date. 5129

(F) Any assistance a school district receives for an advanced 5130  
energy project, including a geothermal heating, ventilating, and 5131  
air conditioning system, shall be in addition to any assistance 5132  
provided under Chapter 3318. of the Revised Code and shall not be 5133  
included as part of the district or state portion of the basic 5134  
project cost under that chapter. 5135

**Sec. 4928.64.** (A)(1) As used in sections 4928.64 and 4928.65 5136  
of the Revised Code, "alternative energy resource" means an 5137  
advanced energy resource or renewable energy resource, as defined 5138  
in section 4928.01 of the Revised Code that has a 5139  
placed-in-service date of January 1, 1998, or after; a renewable 5140  
energy resource created on or after January 1, 1998, by the 5141  
modification or retrofit of any facility placed in service prior 5142  
to January 1, 1998; or a mercantile customer-sited advanced energy 5143  
resource or renewable energy resource, whether new or existing, 5144  
that the mercantile customer commits for integration into the 5145  
electric distribution utility's demand-response, energy 5146  
efficiency, or peak demand reduction programs as provided under 5147  
division (A)(2)(c) of section 4928.66 of the Revised Code, 5148  
including, but not limited to, any of the following: 5149

(a) A resource that has the effect of improving the 5150  
relationship between real and reactive power; 5151

(b) A resource that makes efficient use of waste heat or 5152  
other thermal capabilities owned or controlled by a mercantile 5153  
customer; 5154

(c) Storage technology that allows a mercantile customer more 5155  
flexibility to modify its demand or load and usage 5156  
characteristics; 5157

(d) Electric generation equipment owned or controlled by a mercantile customer that uses an advanced energy resource or renewable energy resource;

(e) Any advanced energy resource or renewable energy resource of the mercantile customer that can be utilized effectively as part of any advanced energy resource plan of an electric distribution utility and would otherwise qualify as an alternative energy resource if it were utilized directly by an electric distribution utility.

(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such an advanced energy resource or a renewable energy resource.

(B) By 2025 and thereafter, an electric distribution utility shall provide from alternative energy resources, including, at its discretion, alternative energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall provide a portion of its electricity supply for retail consumers in this state from alternative energy resources, including, at its discretion, alternative energy resources obtained pursuant to an electricity supply contract. That portion shall equal twenty-five per cent of the total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state. However, nothing in this section precludes a utility or company from providing a greater percentage. The baseline for a utility's or company's compliance with the alternative energy resource requirements of



this section shall be the average of such total kilowatt hours it 5190  
sold in the preceding three calendar years, except that the 5191  
commission may reduce a utility's or company's baseline to adjust 5192  
for new economic growth in the utility's certified territory or, 5193  
in the case of an electric services company, in the company's 5194  
service area in this state. 5195

Of the alternative energy resources implemented by the 5196  
subject utility or company by 2025 and thereafter: 5197

(1) Half may be generated from advanced energy resources; 5198

(2) At least half shall be generated from renewable energy 5199  
resources, including one-half per cent from solar energy 5200  
resources, in accordance with the following benchmarks: 5201

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	5203
2010	0.50%	0.010%	5204
2011	1%	0.030%	5205
2012	1.5%	0.060%	5206
2013	2%	0.090%	5207
2014	2.5%	0.12%	5208
2015	3.5%	0.15%	5209
2016	4.5%	0.18%	5210
2017	5.5%	0.22%	5211
2018	6.5%	0.26%	5212
2019	7.5%	0.3%	5213
2020	8.5%	0.34%	5214
2021	9.5%	0.38%	5215
2022	10.5%	0.42%	5216
2023	11.5%	0.46%	5217
2024 and each calendar year thereafter	12.5%	0.5%	5218

(3) At least one-half of the renewable energy resources 5219

implemented by the utility or company shall be met through 5220  
facilities located in this state; the remainder shall be met with 5221  
resources that can be shown to be deliverable into this state. 5222

(C)(1) The commission annually shall review an electric 5223  
distribution utility's or electric services company's compliance 5224  
with the most recent applicable benchmark under division (B)(2) of 5225  
this section and, in the course of that review, shall identify any 5226  
undercompliance or noncompliance of the utility or company that it 5227  
determines is weather-related, related to equipment or resource 5228  
shortages for advanced energy or renewable energy resources as 5229  
applicable, or is otherwise outside the utility's or company's 5230  
control. 5231

(2) Subject to the cost cap provisions of division (C)(3) of 5232  
this section, if the commission determines, after notice and 5233  
opportunity for hearing, and based upon its findings in that 5234  
review regarding avoidable undercompliance or noncompliance, but 5235  
subject to division (C)(4) of this section, that the utility or 5236  
company has failed to comply with any such benchmark, the 5237  
commission shall impose a renewable energy compliance payment on 5238  
the utility or company. 5239

(a) The compliance payment pertaining to the solar energy 5240  
resource benchmarks under division (B)(2) of this section shall be 5241  
an amount per megawatt hour of undercompliance or noncompliance in 5242  
the period under review, starting at four hundred fifty dollars 5243  
for 2009, four hundred dollars for 2010 and 2011, and similarly 5244  
reduced every two years thereafter through 2024 by fifty dollars, 5245  
to a minimum of fifty dollars. 5246

(b) The compliance payment pertaining to the renewable energy 5247  
resource benchmarks under division (B)(2) of this section shall 5248  
equal the number of additional renewable energy credits that the 5249  
electric distribution utility or electric services company would 5250  
have needed to comply with the applicable benchmark in the period 5251

under review times an amount that shall begin at forty-five 5252  
dollars and shall be adjusted annually by the commission to 5253  
reflect any change in the consumer price index as defined in 5254  
section 101.27 of the Revised Code, but shall not be less than 5255  
forty-five dollars. 5256

(c) The compliance payment shall not be passed through by the 5257  
electric distribution utility or electric services company to 5258  
consumers. The compliance payment shall be remitted to the 5259  
commission, for deposit to the credit of the advanced energy fund 5260  
created under section 4928.61 of the Revised Code. Payment of the 5261  
compliance payment shall be subject to such collection and 5262  
enforcement procedures as apply to the collection of a forfeiture 5263  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 5264

(3) An electric distribution utility or an electric services 5265  
company need not comply with a benchmark under division (B)(1) or 5266  
(2) of this section to the extent that its reasonably expected 5267  
cost of that compliance exceeds its reasonably expected cost of 5268  
otherwise producing or acquiring the requisite electricity by 5269  
three per cent or more. The cost of compliance shall be calculated 5270  
as though any exemption from taxes and assessments had not been 5271  
granted under section 5727.75 of the Revised Code. 5272

(4)(a) An electric distribution utility or electric services 5273  
company may request the commission to make a force majeure 5274  
determination pursuant to this division regarding all or part of 5275  
the utility's or company's compliance with any minimum benchmark 5276  
under division (B)(2) of this section during the period of review 5277  
occurring pursuant to division (C)(2) of this section. The 5278  
commission may require the electric distribution utility or 5279  
electric services company to make solicitations for renewable 5280  
energy resource credits as part of its default service before the 5281  
utility's or company's request of force majeure under this 5282  
division can be made. 5283

(b) Within ninety days after the filing of a request by an electric distribution utility or electric services company under division (C)(4)(a) of this section, the commission shall determine if renewable energy resources are reasonably available in the marketplace in sufficient quantities for the utility or company to comply with the subject minimum benchmark during the review period. In making this determination, the commission shall consider whether the electric distribution utility or electric services company has made a good faith effort to acquire sufficient renewable energy or, as applicable, solar energy resources to so comply, including, but not limited to, by banking or seeking renewable energy resource credits or by seeking the resources through long-term contracts. Additionally, the commission shall consider the availability of renewable energy or solar energy resources in this state and other jurisdictions in the PJM interconnection regional transmission organization or its successor and the midwest system operator or its successor.

(c) If, pursuant to division (C)(4)(b) of this section, the commission determines that renewable energy or solar energy resources are not reasonably available to permit the electric distribution utility or electric services company to comply, during the period of review, with the subject minimum benchmark prescribed under division (B)(2) of this section, the commission shall modify that compliance obligation of the utility or company as it determines appropriate to accommodate the finding. Commission modification shall not automatically reduce the obligation for the electric distribution utility's or electric services company's compliance in subsequent years. If it modifies the electric distribution utility or electric services company obligation under division (C)(4)(c) of this section, the commission may require the utility or company, if sufficient renewable energy resource credits exist in the marketplace, to acquire additional renewable energy resource credits in subsequent

years equivalent to the utility's or company's modified obligation 5317  
under division (C)(4)(c) of this section. 5318

(5) The commission shall establish a process to provide for 5319  
at least an annual review of the alternative energy resource 5320  
market in this state and in the service territories of the 5321  
regional transmission organizations that manage transmission 5322  
systems located in this state. The commission shall use the 5323  
results of this study to identify any needed changes to the amount 5324  
of the renewable energy compliance payment specified under 5325  
divisions (C)(2)(a) and (b) of this section. Specifically, the 5326  
commission may increase the amount to ensure that payment of 5327  
compliance payments is not used to achieve compliance with this 5328  
section in lieu of actually acquiring or realizing energy derived 5329  
from renewable energy resources. However, if the commission finds 5330  
that the amount of the compliance payment should be otherwise 5331  
changed, the commission shall present this finding to the general 5332  
assembly for legislative enactment. 5333

(D)(1) The commission annually shall submit to the general 5334  
assembly in accordance with section 101.68 of the Revised Code a 5335  
report describing ~~the~~ all of the following: 5336

(a) The compliance of electric distribution utilities and 5337  
electric services companies with division (B) of this section ~~and~~ 5338  
any 5339

(b) The average annual cost of renewable energy credits 5340  
purchased by utilities and companies for the year covered in the 5341  
report; 5342

(c) Any strategy for utility and company compliance or for 5343  
encouraging the use of alternative energy resources in supplying 5344  
this state's electricity needs in a manner that considers 5345  
available technology, costs, job creation, and economic impacts. 5346  
The 5347

The commission shall begin providing the information 5348  
described in division (D)(1)(b) of this section in each report 5349  
submitted after the effective date of the amendment of this 5350  
section by S.B. 315 of the 129th general assembly. The commission 5351  
shall allow and consider public comments on the report prior to 5352  
its submission to the general assembly. Nothing in the report 5353  
shall be binding on any person, including any utility or company 5354  
for the purpose of its compliance with any benchmark under 5355  
division (B) of this section, or the enforcement of that provision 5356  
under division (C) of this section. 5357

(2) The governor, in consultation with the commission 5358  
chairperson, shall appoint an alternative energy advisory 5359  
committee. The committee shall examine available technology for 5360  
and related timetables, goals, and costs of the alternative energy 5361  
resource requirements under division (B) of this section and shall 5362  
submit to the commission a semiannual report of its 5363  
recommendations. 5364

(E) All costs incurred by an electric distribution utility in 5365  
complying with the requirements of this section shall be 5366  
bypassable by any consumer that has exercised choice of supplier 5367  
under section 4928.03 of the Revised Code. 5368

**Sec. 4928.65.** (A) An electric distribution utility or 5369  
electric services company may use renewable energy credits any 5370  
time in the five calendar years following the date of their 5371  
purchase or acquisition from any entity, including, but not 5372  
limited to, a mercantile customer or an owner or operator of a 5373  
hydroelectric generating facility that is located at a dam on a 5374  
river, or on any water discharged to a river, that is within or 5375  
bordering this state or within or bordering an adjoining state, 5376  
for the purpose of complying with the renewable energy and solar 5377  
energy resource requirements of division (B)(2) of section 4928.64 5378

of the Revised Code. The public utilities commission shall adopt 5379  
rules specifying that one unit of credit shall equal one megawatt 5380  
hour of electricity derived from renewable energy resources, 5381  
~~except that, for a generating facility of seventy five megawatts 5382~~  
~~or greater that is situated within this state and has committed by 5383~~  
~~December 31, 2009, to modify or retrofit its generating unit or 5384~~  
~~units to enable the facility to generate principally from biomass 5385~~  
~~energy by June 30, 2013, each megawatt hour of electricity 5386~~  
~~generated principally from that biomass energy shall equal, in 5387~~  
~~units of credit, the product obtained by multiplying the actual 5388~~  
~~percentage of biomass feedstock heat input used to generate such 5389~~  
~~megawatt hour by the quotient obtained by dividing the then 5390~~  
~~existing unit dollar amount used to determine a renewable energy 5391~~  
~~compliance payment as provided under division (C)(2)(b) of section 5392~~  
~~4928.64 of the Revised Code by the then existing market value of 5393~~  
~~one renewable energy credit, but such megawatt hour shall not 5394~~  
~~equal less than one unit of credit. The 5395~~

(B) Biologically derived methane gas and methane gas emitted 5396  
from an abandoned coal mine shall not be required to be converted 5397  
directly to electricity for purposes of creating or qualifying for 5398  
renewable energy credits provided that the gas meets all of the 5399  
following requirements: 5400

(1) The gas is gathered or produced in Ohio. 5401

(2) The facility that gathers or produces the gas: 5402

(a) Was placed in service on or after January 1, 1998; and 5403

(b) Is certified pursuant to commission rule as an eligible 5404  
renewable energy resource generating facility. 5405

(C) The rules required by this section shall specify that the 5406  
quantity of energy derived from the gas described in division (B) 5407  
of this section that is equal to 3,412,142 British thermal units 5408  
shall equal one unit of credit. The rules also shall provide for 5409

this state a system of registering renewable energy credits by 5410  
specifying which of any generally available registries shall be 5411  
used for that purpose and not by creating a registry. That 5412  
selected system of registering renewable energy credits shall 5413  
allow a hydroelectric generating facility to be eligible for 5414  
obtaining renewable energy credits and shall allow customer-sited 5415  
projects or actions the broadest opportunities to be eligible for 5416  
obtaining renewable energy credits. 5417

**Sec. 4928.66.** (A)(1)(a) Beginning in 2009, an electric 5418  
distribution utility shall implement energy efficiency programs 5419  
that achieve energy savings equivalent to at least three-tenths of 5420  
one per cent of the total, annual average, and normalized 5421  
kilowatt-hour sales of the electric distribution utility during 5422  
the preceding three calendar years to customers in this state. An 5423  
energy efficiency program may include a combined heat and power 5424  
system placed into service or retrofitted on or after the 5425  
effective date of the amendment of this section by S.B. 315 of the 5426  
129th general assembly, or a waste energy recovery system placed 5427  
into service or retrofitted on or after the same date, except that 5428  
a waste energy recovery system described in division (A)(36)(b) of 5429  
this section may have been placed into service or retrofitted 5430  
before that date. For a waste energy recovery or combined heat and 5431  
power system, the savings shall be as estimated by the public 5432  
utilities commission. The savings requirement, using such a 5433  
three-year average, shall increase to an additional five-tenths of 5434  
one per cent in 2010, seven-tenths of one per cent in 2011, 5435  
eight-tenths of one per cent in 2012, nine-tenths of one per cent 5436  
in 2013, one per cent from 2014 to 2018, and two per cent each 5437  
year thereafter, achieving a cumulative, annual energy savings in 5438  
excess of twenty-two per cent by the end of 2025. For purposes of 5439  
a waste energy recovery or combined heat and power system, an 5440  
electric distribution utility shall not apply more than the total 5441



annual percentage of the electric distribution utility's 5442  
industrial-customer load, relative to the electric distribution 5443  
utility's total load, to the annual energy savings requirement. 5444

(b) Beginning in 2009, an electric distribution utility shall 5445  
implement peak demand reduction programs designed to achieve a one 5446  
per cent reduction in peak demand in 2009 and an additional 5447  
seventy-five hundredths of one per cent reduction each year 5448  
through 2018. In 2018, the standing committees in the house of 5449  
representatives and the senate primarily dealing with energy 5450  
issues shall make recommendations to the general assembly 5451  
regarding future peak demand reduction targets. 5452

(2) For the purposes of divisions (A)(1)(a) and (b) of this 5453  
section: 5454

(a) The baseline for energy savings under division (A)(1)(a) 5455  
of this section shall be the average of the total kilowatt hours 5456  
the electric distribution utility sold in the preceding three 5457  
calendar years, and the baseline for a peak demand reduction under 5458  
division (A)(1)(b) of this section shall be the average peak 5459  
demand on the utility in the preceding three calendar years, 5460  
except that the commission may reduce either baseline to adjust 5461  
for new economic growth in the utility's certified territory. 5462

(b) The commission may amend the benchmarks set forth in 5463  
division (A)(1)(a) or (b) of this section if, after application by 5464  
the electric distribution utility, the commission determines that 5465  
the amendment is necessary because the utility cannot reasonably 5466  
achieve the benchmarks due to regulatory, economic, or 5467  
technological reasons beyond its reasonable control. 5468

(c) Compliance with divisions (A)(1)(a) and (b) of this 5469  
section shall be measured by including the effects of all 5470  
demand-response programs for mercantile customers of the subject 5471  
electric distribution utility, all waste energy recovery systems 5472

and all combined heat and power systems, and all such mercantile 5473  
customer-sited energy efficiency, including waste energy recovery 5474  
and combined heat and power, and peak demand reduction programs, 5475  
adjusted upward by the appropriate loss factors. Any mechanism 5476  
designed to recover the cost of energy efficiency, including waste 5477  
energy recovery and combined heat and power, and peak demand 5478  
reduction programs under divisions (A)(1)(a) and (b) of this 5479  
section may exempt mercantile customers that commit their 5480  
demand-response or other customer-sited capabilities, whether 5481  
existing or new, for integration into the electric distribution 5482  
utility's demand-response, energy efficiency, including waste 5483  
energy recovery and combined heat and power, or peak demand 5484  
reduction programs, if the commission determines that that 5485  
exemption reasonably encourages such customers to commit those 5486  
capabilities to those programs. If a mercantile customer makes 5487  
such existing or new demand-response, energy efficiency, including 5488  
waste energy recovery and combined heat and power, or peak demand 5489  
reduction capability available to an electric distribution utility 5490  
pursuant to division (A)(2)(c) of this section, the electric 5491  
utility's baseline under division (A)(2)(a) of this section shall 5492  
be adjusted to exclude the effects of all such demand-response, 5493  
energy efficiency, including waste energy recovery and combined 5494  
heat and power, or peak demand reduction programs that may have 5495  
existed during the period used to establish the baseline. The 5496  
baseline also shall be normalized for changes in numbers of 5497  
customers, sales, weather, peak demand, and other appropriate 5498  
factors so that the compliance measurement is not unduly 5499  
influenced by factors outside the control of the electric 5500  
distribution utility. 5501

(d) Programs implemented by a utility may include 5502  
demand-response programs, smart grid investment programs, provided 5503  
that such programs are demonstrated to be cost-beneficial, 5504  
customer-sited programs, including waste energy recovery and 5505

combined heat and power systems, and transmission and distribution 5506  
infrastructure improvements that reduce line losses. Division 5507  
(A)(2)(c) of this section shall be applied to include facilitating 5508  
efforts by a mercantile customer or group of those customers to 5509  
offer customer-sited demand-response, energy efficiency, including 5510  
waste energy recovery and combined heat and power, or peak demand 5511  
reduction capabilities to the electric distribution utility as 5512  
part of a reasonable arrangement submitted to the commission 5513  
pursuant to section 4905.31 of the Revised Code. 5514

(e) No programs or improvements described in division 5515  
(A)(2)(d) of this section shall conflict with any statewide 5516  
building code adopted by the board of building standards. 5517

(B) In accordance with rules it shall adopt, the public 5518  
utilities commission shall produce and docket at the commission an 5519  
annual report containing the results of its verification of the 5520  
annual levels of energy efficiency and of peak demand reductions 5521  
achieved by each electric distribution utility pursuant to 5522  
division (A) of this section. A copy of the report shall be 5523  
provided to the consumers' counsel. 5524

(C) If the commission determines, after notice and 5525  
opportunity for hearing and based upon its report under division 5526  
(B) of this section, that an electric distribution utility has 5527  
failed to comply with an energy efficiency or peak demand 5528  
reduction requirement of division (A) of this section, the 5529  
commission shall assess a forfeiture on the utility as provided 5530  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, 5531  
either in the amount, per day per undercompliance or 5532  
noncompliance, relative to the period of the report, equal to that 5533  
prescribed for noncompliances under section 4905.54 of the Revised 5534  
Code, or in an amount equal to the then existing market value of 5535  
one renewable energy credit per megawatt hour of undercompliance 5536  
or noncompliance. Revenue from any forfeiture assessed under this 5537

division shall be deposited to the credit of the advanced energy 5538  
fund created under section 4928.61 of the Revised Code. 5539

(D) The commission may establish rules regarding the content 5540  
of an application by an electric distribution utility for 5541  
commission approval of a revenue decoupling mechanism under this 5542  
division. Such an application shall not be considered an 5543  
application to increase rates and may be included as part of a 5544  
proposal to establish, continue, or expand energy efficiency or 5545  
conservation programs. The commission by order may approve an 5546  
application under this division if it determines both that the 5547  
revenue decoupling mechanism provides for the recovery of revenue 5548  
that otherwise may be ~~foregone~~ forgone by the utility as a result 5549  
of or in connection with the implementation by the electric 5550  
distribution utility of any energy efficiency or energy 5551  
conservation programs and reasonably aligns the interests of the 5552  
utility and of its customers in favor of those programs. 5553

(E) The commission additionally shall adopt rules that 5554  
require an electric distribution utility to provide a customer 5555  
upon request with two years' consumption data in an accessible 5556  
form. 5557

Sec. 4928.70. (A) The public utilities commission may 5558  
periodically review any green pricing program offered in this 5559  
state as part of competitive retail electric service. At the 5560  
conclusion of a review, the commission may make recommendations to 5561  
improve or expand the program subject of the review. 5562

(B) The commission shall adopt rules necessary to carry out 5563  
purposes of this section. 5564

Sec. 4928.71. The public utilities commission shall study 5565  
whether increased energy efficiency, demand response, generation, 5566  
and transmission provide increased opportunities for customer 5567

choice. The commission shall include in the study an evaluation of 5568  
emerging technologies. The commission shall commence the study not 5569  
later than eighteen months after the effective date of this 5570  
section. At the conclusion of the study, the commission shall 5571  
prepare a report of its findings and make the report available on 5572  
its web site. 5573

Sec. 4928.72. The public utilities commission may, in 5574  
cooperation with the department of transportation, work with other 5575  
states to develop a multi-state study on the development of 5576  
compressed natural gas infrastructures for transportation. 5577

**Sec. 4935.04.** (A) As used in this chapter: 5578

(1) "Major utility facility" means: 5579

(a) An electric transmission line and associated facilities 5580  
of a design capacity of one hundred twenty-five kilovolts or more; 5581

(b) A gas or natural gas transmission line and associated 5582  
facilities designed for, or capable of, transporting gas or 5583  
natural gas at pressures in excess of one hundred twenty-five 5584  
pounds per square inch. 5585

"Major utility facility" does not include electric, gas, or 5586  
natural gas distributing lines and gas or natural gas gathering 5587  
lines and associated facilities as defined by the public utilities 5588  
commission; facilities owned or operated by industrial firms, 5589  
persons, or institutions that produce or transmit gas or natural 5590  
gas, or electricity primarily for their own use or as a byproduct 5591  
of their operations; gas or natural gas transmission lines and 5592  
associated facilities over which an agency of the United States 5593  
has certificate jurisdiction; facilities owned or operated by a 5594  
person furnishing gas or natural gas directly to fifteen thousand 5595  
or fewer customers within this state. 5596

(2) "Person" has the meaning set forth in section 4906.01 of the Revised Code. 5597  
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(B) Each person owning or operating a gas or natural gas transmission line and associated facilities within this state over which an agency of the United States has certificate jurisdiction shall furnish to the commission a copy of the energy information filed by the person with that agency of the United States. 5599  
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(C) Each person owning or operating a major utility facility within this state, or furnishing gas, natural gas, or electricity directly to more than fifteen thousand customers within this state shall furnish a report to the commission for its review. The report shall be furnished annually, except that for a gas or natural gas company the report shall be furnished every three years. The report shall be termed the long-term forecast report and shall contain: 5604  
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(1) A year-by-year, ten-year forecast of annual energy demand, peak load, reserves, and a general description of the resource ~~plan~~ planning projections to meet demand; 5612  
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(2) A range of projected loads during the period; 5615

(3) A description of major utility facilities planned to be added or taken out of service in the next ten years, including, to the extent the information is available, prospective sites for transmission line locations; 5616  
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5618  
5619

(4) For gas and natural gas, a projection of anticipated supply, supply prices, and sources of supply over the forecast period; 5620  
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(5) A description of proposed changes in the transmission system planned for the next five years; 5623  
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(6) A month-by-month forecast of both energy demand and peak load for electric utilities, and gas sendout for gas and natural 5625  
5626

gas utilities, for the next two years. The report shall describe 5627  
the major utility facilities that, in the judgment of such person, 5628  
will be required to supply system demands during the forecast 5629  
period. The report from a gas or natural gas utility shall cover 5630  
the ten- and five-year periods next succeeding the date of the 5631  
report, and the report from an electric utility shall cover the 5632  
twenty-, ten-, and five-year periods next succeeding the date of 5633  
the report. Each report shall be made available to the public and 5634  
furnished upon request to municipal corporations and governmental 5635  
agencies charged with the duty of protecting the environment or of 5636  
planning land use. The report shall be in such form and shall 5637  
contain such information as may be prescribed by the commission. 5638

Each person not owning or operating a major utility facility 5639  
within this state and serving fifteen thousand or fewer gas or 5640  
natural gas, or electric customers within this state shall furnish 5641  
such information as the commission requires. 5642

(D) The commission shall: 5643

(1) Review and comment on the reports filed under division 5644  
(C) of this section, and make the information contained in the 5645  
reports readily available to the public and other interested 5646  
government agencies; 5647

(2) Compile and publish each year the general locations of 5648  
proposed and existing transmission line routes within its 5649  
jurisdiction as identified in the reports filed under division (C) 5650  
of this section, identifying the general location of such sites 5651  
and routes and the approximate year when construction is expected 5652  
to commence, and to make such information readily available to the 5653  
public, to each newspaper of daily or weekly circulation within 5654  
the area affected by the proposed site and route, and to 5655  
interested federal, state, and local agencies; 5656

(3) Hold a public hearing upon the showing of good cause to 5657

the commission by an interested party. 5658

If a hearing is held, the commission shall fix a time for the 5659  
hearing, which shall be not later than ninety days after the 5660  
report is filed, and publish notice of the date, time of day, and 5661  
location of the hearing in a newspaper of general circulation in 5662  
each county in which the person furnishing the report has or 5663  
intends to locate a major utility facility and will provide 5664  
service during the period covered by the report. The notice shall 5665  
be published not less than fifteen nor more than thirty days 5666  
before the hearing and shall state the matters to be considered. 5667

(4) Require such information from persons subject to its 5668  
jurisdiction as necessary to assist in the conduct of hearings and 5669  
any investigation or studies it may undertake; 5670

(5) Conduct any studies or investigations that are necessary 5671  
or appropriate to carry out its responsibilities under this 5672  
section. 5673

(E)(1) The scope of the hearing held under division (D)(3) of 5674  
this section shall be limited to issues relating to forecasting. 5675  
The power siting board, the office of consumers' counsel, and all 5676  
other persons having an interest in the proceedings shall be 5677  
afforded the opportunity to be heard and to be represented by 5678  
counsel. The commission may adjourn the hearing from time to time. 5679

(2) The hearing shall include, but not be limited to, a 5680  
review of: 5681

(a) The projected loads and energy requirements for each year 5682  
of the period; 5683

(b) The estimated installed capacity and supplies to meet the 5684  
projected load requirements. 5685

(F) Based upon the report furnished pursuant to division (C) 5686  
of this section and the hearing record, the commission, within 5687



ninety days from the close of the record in the hearing, shall 5688  
determine if: 5689

(1) All information relating to current activities, 5690  
facilities agreements, and published energy policies of the state 5691  
has been completely and accurately represented; 5692

(2) The load requirements are based on substantially accurate 5693  
historical information and adequate methodology; 5694

(3) The forecasting methods consider the relationships 5695  
between price and energy consumption; 5696

(4) The report identifies and projects reductions in energy 5697  
demands due to energy conservation measures in the industrial, 5698  
commercial, residential, transportation, and energy production 5699  
sectors in the service area; 5700

(5) Utility company forecasts of loads and resources are 5701  
reasonable in relation to population growth estimates made by 5702  
state and federal agencies, transportation, and economic 5703  
development plans and forecasts, and make recommendations where 5704  
possible for necessary and reasonable alternatives to meet 5705  
forecasted electric power demand; 5706

(6) The report considers plans for expansion of the regional 5707  
power grid and the planned facilities of other utilities in the 5708  
state; 5709

(7) All assumptions made in the forecast are reasonable and 5710  
adequately documented. 5711

(G) The commission shall adopt rules under section 111.15 of 5712  
the Revised Code to establish criteria for evaluating the 5713  
long-term forecasts of needs for gas and electric transmission 5714  
service, to conduct hearings held under this section, to establish 5715  
reasonable fees to defray the direct cost of the hearings and the 5716  
review process, and such other rules as are necessary and 5717

convenient to implement this section. 5718

(H) The hearing record produced under this section and the 5719  
determinations of the commission shall be introduced into evidence 5720  
and shall be considered in determining the basis of need for power 5721  
siting board deliberations under division (A)(1) of section 5722  
4906.10 of the Revised Code. The hearing record produced under 5723  
this section shall be introduced into evidence and shall be 5724  
considered by the ~~public utilities~~ commission in its initiation of 5725  
programs, examinations, and findings under section 4905.70 of the 5726  
Revised Code, and shall be considered in the commission's 5727  
determinations with respect to the establishment of just and 5728  
reasonable rates under section 4909.15 of the Revised Code and 5729  
financing utility facilities and authorizing issuance of all 5730  
securities under sections 4905.40, 4905.401, 4905.41, and 4905.42 5731  
of the Revised Code. The forecast findings also shall serve as the 5732  
basis for all other energy planning and development activities of 5733  
the state government where electric and gas data are required. 5734

(I)(1) No court other than the supreme court shall have power 5735  
to review, suspend, or delay any determination made by the 5736  
commission under this section, or enjoin, restrain, or interfere 5737  
with the commission in the performance of official duties. A writ 5738  
of mandamus shall not be issued against the commission by any 5739  
court other than the supreme court. 5740

(2) A final determination made by the commission shall be 5741  
reversed, vacated, or modified by the supreme court on appeal, if, 5742  
upon consideration of the record, such court is of the opinion 5743  
that such determination was unreasonable or unlawful. 5744

The proceeding to obtain such reversal, vacation, or 5745  
modification shall be by notice of appeal, filed with the 5746  
commission by any party to the proceeding before it, against the 5747  
commission, setting forth the determination appealed from and 5748  
errors complained of. The notice of appeal shall be served, unless 5749

waived, upon the commission by leaving a copy at the office of the 5750  
chairperson of the commission at Columbus. The court may permit an 5751  
interested party to intervene by cross-appeal. 5752

(3) No proceeding to reverse, vacate, or modify a 5753  
determination of the commission is commenced unless the notice of 5754  
appeal is filed within sixty days after the date of the 5755  
determination. 5756

**Sec. 5703.21.** (A) Except as provided in divisions (B) and (C) 5757  
of this section, no agent of the department of taxation, except in 5758  
the agent's report to the department or when called on to testify 5759  
in any court or proceeding, shall divulge any information acquired 5760  
by the agent as to the transactions, property, or business of any 5761  
person while acting or claiming to act under orders of the 5762  
department. Whoever violates this provision shall thereafter be 5763  
disqualified from acting as an officer or employee or in any other 5764  
capacity under appointment or employment of the department. 5765

(B)(1) For purposes of an audit pursuant to section 117.15 of 5767  
the Revised Code, or an audit of the department pursuant to 5768  
Chapter 117. of the Revised Code, or an audit, pursuant to that 5769  
chapter, the objective of which is to express an opinion on a 5770  
financial report or statement prepared or issued pursuant to 5771  
division (A)(7) or (9) of section 126.21 of the Revised Code, the 5772  
officers and employees of the auditor of state charged with 5773  
conducting the audit shall have access to and the right to examine 5774  
any state tax returns and state tax return information in the 5775  
possession of the department to the extent that the access and 5776  
examination are necessary for purposes of the audit. Any 5777  
information acquired as the result of that access and examination 5778  
shall not be divulged for any purpose other than as required for 5779  
the audit or unless the officers and employees are required to 5780

testify in a court or proceeding under compulsion of legal 5781  
process. Whoever violates this provision shall thereafter be 5782  
disqualified from acting as an officer or employee or in any other 5783  
capacity under appointment or employment of the auditor of state. 5784

(2) For purposes of an internal audit pursuant to section 5785  
126.45 of the Revised Code, the officers and employees of the 5786  
office of internal auditing in the office of budget and management 5787  
charged with conducting the internal audit shall have access to 5788  
and the right to examine any state tax returns and state tax 5789  
return information in the possession of the department to the 5790  
extent that the access and examination are necessary for purposes 5791  
of the internal audit. Any information acquired as the result of 5792  
that access and examination shall not be divulged for any purpose 5793  
other than as required for the internal audit or unless the 5794  
officers and employees are required to testify in a court or 5795  
proceeding under compulsion of legal process. Whoever violates 5796  
this provision shall thereafter be disqualified from acting as an 5797  
officer or employee or in any other capacity under appointment or 5798  
employment of the office of internal auditing. 5799

(3) As provided by section 6103(d)(2) of the Internal Revenue 5800  
Code, any federal tax returns or federal tax information that the 5801  
department has acquired from the internal revenue service, through 5802  
federal and state statutory authority, may be disclosed to the 5803  
auditor of state or the office of internal auditing solely for 5804  
purposes of an audit of the department. 5805

(4) For purposes of Chapter 3739. of the Revised Code, an 5806  
agent of the department of taxation may share information with the 5807  
division of state fire marshal that the agent finds during the 5808  
course of an investigation. 5809

(C) Division (A) of this section does not prohibit any of the 5810  
following: 5811

(1) Divulging information contained in applications,	5812
complaints, and related documents filed with the department under	5813
section 5715.27 of the Revised Code or in applications filed with	5814
the department under section 5715.39 of the Revised Code;	5815
(2) Providing information to the office of child support	5816
within the department of job and family services pursuant to	5817
section 3125.43 of the Revised Code;	5818
(3) Disclosing to the board of motor vehicle collision repair	5819
registration any information in the possession of the department	5820
that is necessary for the board to verify the existence of an	5821
applicant's valid vendor's license and current state tax	5822
identification number under section 4775.07 of the Revised Code;	5823
(4) Providing information to the administrator of workers'	5824
compensation pursuant to sections 4123.271 and 4123.591 of the	5825
Revised Code;	5826
(5) Providing to the attorney general information the	5827
department obtains under division (J) of section 1346.01 of the	5828
Revised Code;	5829
(6) Permitting properly authorized officers, employees, or	5830
agents of a municipal corporation from inspecting reports or	5831
information pursuant to rules adopted under section 5745.16 of the	5832
Revised Code;	5833
(7) Providing information regarding the name, account number,	5834
or business address of a holder of a vendor's license issued	5835
pursuant to section 5739.17 of the Revised Code, a holder of a	5836
direct payment permit issued pursuant to section 5739.031 of the	5837
Revised Code, or a seller having a use tax account maintained	5838
pursuant to section 5741.17 of the Revised Code, or information	5839
regarding the active or inactive status of a vendor's license,	5840
direct payment permit, or seller's use tax account;	5841
(8) Releasing invoices or invoice information furnished under	5842

section 4301.433 of the Revised Code pursuant to that section; 5843

(9) Providing to a county auditor notices or documents 5844  
concerning or affecting the taxable value of property in the 5845  
county auditor's county. Unless authorized by law to disclose 5846  
documents so provided, the county auditor shall not disclose such 5847  
documents; 5848

(10) Providing to a county auditor sales or use tax return or 5849  
audit information under section 333.06 of the Revised Code; 5850

(11) Subject to section 4301.441 of the Revised Code, 5851  
disclosing to the appropriate state agency information in the 5852  
possession of the department of taxation that is necessary to 5853  
verify a permit holder's gallonage or noncompliance with taxes 5854  
levied under Chapter 4301. or 4305. of the Revised Code; 5855

(12) Disclosing to the department of natural resources 5856  
information in the possession of the department that is necessary 5857  
to verify the taxpayer's compliance with division (A)(1), (5), 5858  
(6), (8), or (9) of section 5749.02 of the Revised Code and 5859  
information received pursuant to section 1509.50 of the Revised 5860  
Code concerning the amount due under that section; 5861

(13) Disclosing to the department of job and family services, 5862  
industrial commission, and bureau of workers' compensation 5863  
information in the possession of the department of taxation solely 5864  
for the purpose of identifying employers that misclassify 5865  
employees as independent contractors or that fail to properly 5866  
report and pay employer tax liabilities. The department of 5867  
taxation shall disclose only such information that is necessary to 5868  
verify employer compliance with law administered by those 5869  
agencies. 5870

(14) Disclosing to the Ohio casino control commission 5871  
information in the possession of the department of taxation that 5872  
is necessary to verify a taxpayer's compliance with section 5873

5753.02 of the Revised Code and sections related thereto. 5874

Sec. 5727.821. (A) As used in this section, "energy education organization" means a nonprofit corporation formed under the laws of this state that meets all of the following requirements: 5875  
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(1) As certified by the secretary of state, the nonprofit corporation is authorized to do business in the state and is in good standing in the state; 5879  
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(2) The membership of the nonprofit corporation includes commercial and industrial consumers of electricity that have facilities located in the state; 5882  
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(3) The articles of incorporation of the nonprofit corporation, as accepted by the secretary of state, establish a system of governance that allows the votes of members to control the budgeting and scope of organization activities related to the price and availability of energy; 5885  
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(4) The nonprofit corporation has displayed a continuous commitment to energy education activities. 5890  
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(B) A nonrefundable credit is hereby allowed against the tax levied under section 5727.81 of the Revised Code for the dues, assessments, or other contributions paid by or on behalf of a self-assessing purchaser to an energy education organization on or after January 1, 2013, and before January 1, 2026. 5892  
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(C) A self-assessing purchaser that wishes to claim the credit allowed under this section for a registration year shall submit, with the self-assessing purchaser's annual application for registration required under section (C)(6) of section 5727.81 of the Revised Code, a request to claim the credit during the registration year covered by the application. The request shall state the energy education organizations to which the 5897  
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self-assessing purchaser, or an entity acting on behalf of the 5904  
self-assessing purchaser, intends to pay dues, assessments, or 5905  
other contributions during the registration year. The tax 5906  
commissioner shall review each request and shall certify a 5907  
self-assessing purchaser as eligible to claim the credit during a 5908  
registration year with regard to each organization specified in 5909  
the request that qualifies as an energy education organization 5910  
under division (A) of this section. 5911

(D)(1) A self-assessing purchaser may claim the credit 5912  
allowed under this section on returns filed under section 5727.82 5913  
the Revised Code during each registration year for which the 5914  
self-assessing purchaser receives certification under division (C) 5915  
of this section. Except as provided in divisions (D)(2) and (3) of 5916  
this section, the amount of the credit shall equal the amount of 5917  
dues, assessments, or other contributions paid by or on behalf of 5918  
the self-assessing purchaser to energy education organizations in 5919  
the preceding month. The self-assessing purchaser may carry 5920  
forward any credit amount in excess of the amount of tax due under 5921  
section 5727.81 of the Revised Code for a return period and shall 5922  
deduct the amount of the excess credit allowed in such return 5923  
period from the balance carried forward to the next return period. 5924

(2) Not more than three million dollars of credits shall be 5925  
allowed under this section in a registration year. In any month, 5926  
if the amount of credits claimed on returns filed under section 5927  
5727.82 of the Revised Code would cause the total amount of 5928  
credits allowed for a registration year to exceed three million 5929  
dollars, the tax commissioner shall reduce the amount allowed to 5930  
be claimed on such returns in proportion to the ratio of the 5931  
amount claimed by each taxpayer in that month to the total amount 5932  
claimed by all taxpayers in that month. A taxpayer shall pay any 5933  
increased tax liability resulting from the partial allowance of a 5934  
credit under this division with the taxpayer's next succeeding tax 5935



return. 5936

(3) A self-assessing purchaser shall not claim a credit under 5937  
this section for dues, assessments, or other contributions paid 5938  
before January 1, 2013, or after December 31, 2025. 5939

**Sec. 6301.12.** (A) The office of workforce development within 5940  
the department of job and family services shall comprehensively 5941  
review the direct and indirect economic impact of businesses 5942  
engaged in the production of horizontal wells in this state and, 5943  
based on its findings, prepare an annual Ohio workforce report. 5944  
The report shall include at least all of the following with 5945  
respect to the industry: 5946

(1) The total number of jobs created or retained during the 5947  
previous year, along with a separate breakdown of jobs created or 5948  
retained for minorities based on race, ethnicity, and gender; 5949

(2) The total number of Ohio-based contractors that employ 5950  
skilled construction trades; 5951

(3) The number of employees who are residents of this state; 5952

(4) The total economic impact; 5953

(5) A review of the department of development's 5954  
recommendations for the establishment of an overall workforce 5955  
investment public education agenda with goals and benchmarks 5956  
toward maximizing job creation opportunities in the state. 5957

(B) The office shall submit its annual Ohio workforce report 5958  
to the members of the general assembly and post it on the office's 5959  
internet web site. 5960

**Section 101.02.** That existing sections 122.075, 123.011, 5961  
125.836, 131.50, 133.06, 156.01, 156.02, 156.03, 156.04, 303.213, 5962  
1509.01, 1509.02, 1509.03, 1509.04, 1509.06, 1509.07, 1509.10, 5963  
1509.11, 1509.22, 1509.221, 1509.222, 1509.223, 1509.23, 1509.28, 5964

1509.33, 1509.99, 1514.01, 1514.02, 1514.021, 1514.03, 1514.05, 5965  
3706.27, 4905.03, 4905.90, 4905.91, 4905.95, 4906.01, 4906.03, 5966  
4906.05, 4906.06, 4906.07, 4906.10, 4906.20, 4928.01, 4928.02, 5967  
4928.61, 4928.62, 4928.64, 4928.65, 4928.66, 4935.04, and 5703.21 5968  
of the Revised Code are hereby repealed. 5969

**Section 512.10.** As soon as possible after the effective date 5970  
of this section, the Director of Budget and Management shall do 5971  
both of the following: 5972

(A) Transfer any unexpended and unencumbered amounts received 5973  
from the repayment of loans made from money in the Advanced Energy 5974  
Research and Development Taxable Fund (Fund 7004), except for such 5975  
amounts in the Facilities Establishment Fund (Fund 7037), to the 5976  
Alternative Fuel Transportation Fund (Fund 5CG0); and 5977

(B) Transfer any unexpended and unencumbered amounts in the 5978  
Advanced Energy Research and Development Taxable Fund (Fund 7004) 5979  
and the Advanced Energy Research and Development Fund (Fund 7005) 5980  
to the Advanced Energy Fund (Fund 5M50). 5981

**Section 601.10.** That Section 245.10 of Am. Sub. H.B. 153 of 5982  
the 129th General Assembly be amended to read as follows: 5983

**Sec. 245.10.** OCC OFFICE OF CONSUMERS' COUNSEL 5984

General Services Fund Group 5985

5F50 053601	Operating Expenses	\$	5,641,093	\$	<del>4,142,070</del>	5986
					<u>5,641,093</u>	

TOTAL GSF General Services Fund		\$	5,641,093	\$	<del>4,142,070</del>	5987
Group					<u>5,641,093</u>	

TOTAL ALL BUDGET FUND GROUPS		\$	5,641,093	\$	<del>4,142,070</del>	5988
					<u>5,641,093</u>	

**Section 610.11.** That existing Section 245.10 of Am. Sub. H.B. 5990

153 of the 129th General Assembly is hereby repealed. 5991

**Section 701.10.** The Department of Administrative Services and 5992  
the Department of Transportation cooperatively shall analyze their 5993  
respective motor vehicle fleets to determine whether it is 5994  
beneficial to establish standards for vehicle replacement in order 5995  
to increase the overall efficiency of the state motor vehicle 5996  
fleet. Not later than September 1, 2012, the Department of 5997  
Administrative Services and the Department of Transportation shall 5998  
produce a joint report with their findings and shall deliver the 5999  
report to the Speaker of the House of Representatives, the 6000  
Minority Leader of the House of Representatives, the President of 6001  
the Senate, the Minority Leader of the Senate, and the Governor. 6002

**Section 715.10.** The injection well disposal fees levied by 6003  
section 1509.22 of the Revised Code, as amended by this act, are a 6004  
continuation of the injection well disposal fees levied by section 6005  
1509.221 of the Revised Code as that section existed prior to its 6006  
amendment by this act. 6007

**Section 715.20.** (A) Not later than eighteen months after the 6008  
effective date of this section, the Directors of Natural Resources 6009  
and Transportation jointly shall prepare a report analyzing the 6010  
effectiveness of agreements executed pursuant to division 6011  
(A)(11)(b) of section 1509.06 of the Revised Code, as amended by 6012  
this act. 6013

(B) The Directors shall prepare the report with input from 6014  
all of the following: 6015

(1) A statewide organization representing county 6016  
commissioners; 6017

(2) A statewide organization representing county engineers; 6018

(3) A statewide organization representing municipal corporations; 6019  
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(4) A statewide organization representing township trustees; 6021

(5) A statewide organization representing the oil and gas industry. 6022  
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(C) The Directors shall provide the report to each member of the General Assembly and to the Governor. 6024  
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**Section 737.10.** (A) The Director of Environmental Protection, in coordination with the Department of Natural Resources, the United States Environmental Protection Agency, and other entities as determined appropriate by the Director, shall coordinate the evaluation of emerging wastewater treatment and recycling technologies that may reduce reliance on underground injection wells and may assist in the advancement of industry in this state, including the exploration and production of oil and gas. As part of the evaluation, the Director may initiate, participate in, oversee, or consult on pilot projects regarding wastewater treatment and recycling technologies. 6026  
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(B) The Director of Environmental Protection, in coordination with the Public Utilities Commission of Ohio, the United States Environmental Protection Agency, and other entities as determined appropriate by the Director, shall conduct a study that identifies current and future environmental regulatory requirements and how those requirements may impact current and future power generation and transmission in this state. 6037  
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**Section 755.10.** The Department of Transportation and the Public Utilities Commission cooperatively shall analyze the cost effectiveness of purchasing vehicles that operate on compressed natural gas and the conversion of certain state motor vehicles to operate on compressed natural gas. Not later than January 30, 6044  
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2013, the Department and the Commission shall produce a joint 6049  
report with their findings and shall deliver the report to the 6050  
Speaker of the House of Representatives, the Minority Leader of 6051  
the House of Representatives, the President of the Senate, the 6052  
Minority Leader of the Senate, and the Governor. 6053

**Section 812.20. Section exempt from referendum: general** 6054  
**effective date.** The amendment by this act of section 133.06 of the 6055  
Revised Code and Sections 601.10, 601.11, and 701.10 of this act 6056  
are exempt from the referendum under Ohio Constitution, Article 6057  
II, Section 1d and section 1.471 of the Revised Code and therefore 6058  
take effect immediately when this act becomes law. 6059

**Section 815.10.** The General Assembly, applying the principle 6060  
stated in division (B) of section 1.52 of the Revised Code that 6061  
amendments are to be harmonized if reasonably capable of 6062  
simultaneous operation, finds that the following section, 6063  
presented in this act as a composite of the section as amended by 6064  
the acts indicated, is the resulting version of the section in 6065  
effect prior to the effective date of the section as presented in 6066  
this act: 6067

Section 4928.01 of the Revised Code as amended by Am. Sub. 6068  
S.B. 181 and Am. Sub. S.B. 232 of the 128th General Assembly. 6069