

As Introduced

**122nd General Assembly
Regular Session
1997-1998**

S. B. No. 187

Senator White

A BILL

To amend sections 123.01, 145.01, 145.33, 1501.01, 1
1501.02, 1501.10, 1502.01, 1502.04, 1502.05, 2
1502.99, 1503.01, 1503.05, 1503.29, 1503.43, 3
1504.02, 1505.10, 1505.99, 1506.02, 1506.11, 4
1507.05, 1509.01, 1509.06, 1509.07, 1509.071, 5
1509.072, 1509.13, 1509.14, 1509.22, 1509.222, 6
1509.31, 1511.02, 1511.022, 1513.02, 1513.18, 7
1513.181, 1513.20, 1513.30, 1513.37, 1515.03, 8
1515.08, 1515.24, 1517.10, 1517.14, 1518.20 to 9
1518.27, 1518.99, 1520.01 to 1520.03, 1521.03, 10
1521.05, 1531.01, 1531.06, 1531.13, 1531.20, 11
1531.99, 1533.01, 1533.06, 1533.08, 1533.10, 12
1533.12, 1533.171, 1533.24, 1533.67, 1533.68, 13
1533.70, 1533.71, 1533.82, 1533.99, 1541.03, 14
1541.10, 1547.01, 1547.03, 1547.04, 1547.08, 15
1547.09, 1547.111, 1547.12, 1547.13, 1547.131, 16
1547.14, 1547.15, 1547.22, 1547.25, 1547.251, 17
1547.26, 1547.30, 1547.302, 1547.31, 1547.33, 18
1547.39, 1547.40, 1547.52, 1547.521, 1547.57, 19
1547.69, 1548.01, 1548.05, 1548.06, 2935.01, 20
2935.03, 3937.42, 4905.03, 5749.02, and 6111.42; 21
to amend, for the purpose of adopting new section 22
numbers as indicated in parentheses, sections 23
1518.20 (1533.86), 1518.21 (1533.87), 1518.22 24
(1533.88), 1518.23 (1533.881), 1518.24 (1533.882), 25

1518.25 (1533.89), 1518.26 (1533.891), and 1518.27 26
(1533.90); to enact sections 1531.202 and 1531.34; 27
and to repeal sections 1515.06 and 1515.071 of the 28
Revised Code to revise the statutes governing the 29
Department of Natural Resources; to maintain the 30
provisions of this act on and after March 4, 1998, 31
by amending the version of section 1506.11 of the 32
Revised Code that takes effect on that date; and 33
to maintain the provisions of this act on and 34
after January 1, 2000, by amending the version of 35
section 1547.31 of the Revised Code that takes 36
effect on that date. 37

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

Section 1. That sections 123.01, 145.01, 145.33, 1501.01, 38
1501.02, 1501.10, 1502.01, 1502.04, 1502.05, 1502.99, 1503.01, 39
1503.05, 1503.29, 1503.43, 1504.02, 1505.10, 1505.99, 1506.02, 40
1506.11, 1507.05, 1509.01, 1509.06, 1509.07, 1509.071, 1509.072, 41
1509.13, 1509.14, 1509.22, 1509.222, 1509.31, 1511.02, 1511.022, 42
1513.02, 1513.18, 1513.181, 1513.20, 1513.30, 1513.37, 1515.03, 43
1515.08, 1515.24, 1517.10, 1517.14, 1518.20, 1518.21, 1518.22, 44
1518.23, 1518.24, 1518.25, 1518.26, 1518.27, 1518.99, 1520.01, 45
1520.02, 1520.03, 1521.03, 1521.05, 1531.01, 1531.06, 1531.13, 46
1531.20, 1531.99, 1533.01, 1533.06, 1533.08, 1533.10, 1533.12, 47
1533.171, 1533.24, 1533.67, 1533.68, 1533.70, 1533.71, 1533.82, 48
1533.99, 1541.03, 1541.10, 1547.01, 1547.03, 1547.04, 1547.08, 49
1547.09, 1547.111, 1547.12, 1547.13, 1547.131, 1547.14, 1547.15, 50
1547.22, 1547.25, 1547.251, 1547.26, 1547.30, 1547.302, 1547.31, 51
1547.33, 1547.39, 1547.40, 1547.52, 1547.521, 1547.57, 1547.69, 52
1548.01, 1548.05, 1548.06, 2935.01, 2935.03, 3937.42, 4905.03, 53
5749.02, and 6111.42 be amended, sections 1518.20 (1533.86), 54

1518.21 (1533.87), 1518.22 (1533.88), 1518.23 (1533.881), 1518.24 55
(1533.882), 1518.25 (1533.89), 1518.26 (1533.891), and 1518.27 56
(1533.90) be amended for the purpose of adopting new section 57
numbers as indicated in parentheses, and sections 1531.202 and 58
1531.34 of the Revised Code be enacted to read as follows: 59

Sec. 123.01. (A) The department of administrative services, 60
in addition to those powers enumerated in Chapters 124. and 125. 61
of the Revised Code, and as provided elsewhere by law, shall 62
exercise the following powers: 63

(1) To prepare, or contract to be prepared, by licensed 64
engineers or architects, surveys, general and detailed plans, 65
specifications, bills of materials, and estimates of cost for any 66
projects, improvements, or public buildings to be constructed by 67
state agencies that may be authorized by legislative 68
appropriations or any other funds made available therefor, 69
provided that the construction of the projects, improvements, or 70
public buildings is a statutory duty of the department. This 71
section does not require the independent employment of an 72
architect or engineer as provided by section 153.01 of the Revised 73
Code in the cases to which that section applies nor affect or 74
alter the existing powers of the director of transportation. 75

(2) To have general supervision over the construction of any 76
projects, improvements, or public buildings constructed for a 77
state agency and over the inspection of materials previous to 78
their incorporation into those projects, improvements, or 79
buildings; 80

(3) To make contracts for and supervise the construction of 81
any projects and improvements or the construction and repair of 82
buildings under the control of a state agency, except contracts 83
for the repair of buildings under the management and control of 84

the departments of public safety, human services, mental health, 85
mental retardation and developmental disabilities, rehabilitation 86
and correction, and youth services, the bureau of workers' 87
compensation, the bureau of employment services, the 88
rehabilitation services commission, and boards of trustees of 89
educational and benevolent institutions. These contracts shall be 90
made and entered into by the directors of public safety, human 91
services, mental health, mental retardation and developmental 92
disabilities, rehabilitation and correction, and youth services, 93
the administrator of workers' compensation, the administrator of 94
the bureau of employment services, the rehabilitation services 95
commission, and the boards of trustees of such institutions, 96
respectively. All such contracts may be in whole or in part on 97
unit price basis of maximum estimated cost, with payment computed 98
and made upon actual quantities or units. 99

(4) To prepare and suggest comprehensive plans for the 100
development of grounds and buildings under the control of a state 101
agency; 102

(5) To acquire, by purchase, gift, devise, lease, or grant, 103
all real estate required by a state agency, in the exercise of 104
which power the department may exercise the power of eminent 105
domain, in the manner provided by sections 163.01 to 163.22 of the 106
Revised Code; 107

(6) To make and provide all plans, specifications, and models 108
for the construction and perfection of all systems of sewerage, 109
drainage, and plumbing for the state in connection with buildings 110
and grounds under the control of a state agency; 111

(7) To erect, supervise, and maintain all public monuments 112
and memorials erected by the state, except where the supervision 113
and maintenance is otherwise provided by law; 114

(8) To procure, by lease, storage accommodations for a state 115

agency;	116
(9) To lease or grant easements or licenses for unproductive	117
and unused lands or other property under the control of a state	118
agency. Such <u>The</u> leases, easements, or licenses shall be granted	119
for a period not to exceed fifteen years and shall be executed for	120
the state by the director of administrative services and the	121
governor and shall be approved as to form by the attorney general,	122
provided that leases, easements, or licenses may be granted to any	123
county, township, municipal corporation, port authority, water or	124
sewer district, school district, library district, health	125
district, park district, soil and water conservation district,	126
conservancy district, or other political subdivision or taxing	127
district, or any agency of the United States government, for the	128
exclusive use of that agency, political subdivision, or taxing	129
district, without any right of sublease or assignment, for a	130
period not to exceed fifteen years, and provided that the director	131
shall grant leases, easements, or licenses of university land for	132
periods not to exceed twenty-five years for purposes approved by	133
the respective university's board of trustees wherein the uses are	134
compatible with the uses and needs of the university and may grant	135
leases of university land for periods not to exceed forty years	136
for purposes approved by the respective university's board of	137
trustees pursuant to section 123.77 of the Revised Code.	138
(10) To lease office space in buildings for the use of a	139
state agency;	140
(11) To have general supervision and care of the storerooms,	141
offices, and buildings leased for the use of a state agency;	142
(12) To exercise general custodial care of all real property	143
of the state;	144
(13) To assign and group together state offices in any city	145
in the state and to establish, in cooperation with the state	146

agencies involved, rules governing space requirements for office 147
or storage use; 148

(14) To lease for a period not to exceed forty years, 149
pursuant to a contract providing for the construction thereof 150
under a lease-purchase plan, buildings, structures, and other 151
improvements for any public purpose, and, in conjunction 152
therewith, to grant leases, easements, or licenses for lands under 153
the control of a state agency for a period not to exceed forty 154
years. The lease-purchase plan shall provide that at the end of 155
the lease period, the buildings, structures, and related 156
improvements, together with the land on which they are situated, 157
shall become the property of the state without cost. 158

(a) Whenever any building, structure, or other improvement is 159
to be so leased by a state agency, the department shall retain 160
either basic plans, specifications, bills of materials, and 161
estimates of cost with sufficient detail to afford bidders all 162
needed information or, alternatively, all of the following plans, 163
details, bills of materials, and specifications: 164

(i) Full and accurate plans suitable for the use of mechanics 165
and other builders in the improvement; 166

(ii) Details to scale and full sized, so drawn and 167
represented as to be easily understood; 168

(iii) Accurate bills showing the exact quantity of different 169
kinds of material necessary to the construction; 170

(iv) Definite and complete specifications of the work to be 171
performed, together with ~~such~~ directions ~~as~~ that will enable a 172
competent mechanic or other builder to carry them out and afford 173
bidders all needed information; 174

(v) A full and accurate estimate of each item of expense and 175
of the aggregate cost thereof. 176

(b) The department shall give public notice, in ~~such the~~ the newspaper, in ~~such the~~ the form, and with ~~such the~~ the phraseology ~~as that~~ the director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall ~~publicly~~ proceed publicly and immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified

thereon. Within thirty days after the day on which the bids are 209
received, the department shall investigate the bids received and 210
shall determine that the bureau and the secretary of state have 211
made the certifications required by division (A)(14)(c) of this 212
section of the builder who has submitted the lowest and best bid. 213
Within ten days of the completion of the investigation of the 214
bids, the department shall award the lease agreement to the 215
builder who has submitted the lowest and best bid and who has been 216
certified by the bureau and secretary of state as required by 217
division (A)(14)(c) of this section. If bidding for the lease 218
agreement has been conducted upon the basis of basic plans, 219
specifications, bills of materials, and estimates of costs, upon 220
the award to the builder the department, or the builder with the 221
approval of the department, shall appoint an architect or engineer 222
licensed in this state to prepare ~~such~~ further detailed plans, 223
specifications, and bills of materials ~~as that~~ are required to 224
construct the building, structure, or improvement. The department 225
shall adopt ~~such~~ rules ~~as that~~ are necessary to give effect to 226
division (A)(14) of this section. The department may reject any 227
bid. Where there is reason to believe there is collusion or 228
combination among bidders, the bids of those concerned therein 229
shall be rejected. 230

(15) To acquire by purchase, gift, devise, or grant and to 231
transfer, lease, or otherwise dispose of all real property 232
required to assist in the development of a conversion facility as 233
defined in section 5709.30 of the Revised Code; 234

(16) To lease for a period not to exceed forty years, 235
notwithstanding any other division of this section, the 236
state-owned property located at 408-450 East Town Street, 237
Columbus, Ohio, formerly the state school for the deaf, to a 238
developer in accordance with division (A)(16) of this section. 239
"Developer," as used in division (A)(16) of this section, has the 240

same meaning as in section 123.77 of the Revised Code. 241

Such a lease shall be for the purpose of development of the 242
land for use by senior citizens by constructing, altering, 243
renovating, repairing, expanding, and improving the site as it 244
existed on June 25, 1982. A developer desiring to lease the land 245
shall prepare for submission to the department a plan for 246
development. Plans shall include provisions for roads, sewers, 247
water lines, waste disposal, water supply, and similar matters to 248
meet the requirements of state and local laws. The plans also 249
shall ~~also~~ include provision for protection of the property by 250
insurance or otherwise, and plans for financing the development, 251
and shall set forth details of the developer's financial 252
responsibility. 253

The department may employ, as employees or consultants, 254
persons needed to assist in reviewing the development plans. Those 255
persons may include attorneys, financial experts, engineers, and 256
other necessary experts. The department shall review the 257
development plans and may enter into a lease if it finds all of 258
the following: 259

(a) The best interests of the state will be promoted by 260
entering into a lease with the developer; 261

(b) The development plans are satisfactory; 262

(c) The developer has established the developer's financial 263
responsibility and satisfactory plans for financing the 264
development. 265

The lease shall contain a provision that construction or 266
renovation of the buildings, roads, structures, and other 267
necessary facilities shall begin within one year after the date of 268
the lease and shall proceed according to a schedule agreed to 269
between the department and the developer or the lease will be 270
terminated. The lease shall contain ~~such~~ conditions and 271

stipulations ~~as~~ that the director considers necessary to preserve 272
the best interest of the state. Moneys received by the state 273
pursuant to this lease shall be paid into the general revenue 274
fund. The lease shall provide that at the end of the lease period, 275
the buildings, structures, and related improvements shall become 276
the property of the state without cost. 277

(17) To lease to any person any tract of land owned by the 278
state and under the control of the department, or any part of such 279
a tract, for the purpose of drilling for or the pooling of oil or 280
gas. Such a lease shall be granted for a period not exceeding 281
forty years, with the full power to contract for, determine the 282
conditions governing, and specify the amount the state shall 283
receive for the purposes specified in the lease, and shall be 284
prepared as in other cases. 285

(B) This section and section 125.02 of the Revised Code shall 286
not interfere with any of the following: 287

(1) The power of the adjutant general to purchase military 288
supplies, or with the custody of the adjutant general of property 289
leased, purchased, or constructed by the state and used for 290
military purposes, or with the functions of the adjutant general 291
as director of state armories; 292

(2) The power of the director of transportation in acquiring 293
rights-of-way for the state highway system, or the leasing of 294
lands for division or resident district offices, or the leasing of 295
lands or buildings required in the maintenance operations of the 296
department of transportation, or the purchase of real property for 297
garage sites or division or resident district offices, or in 298
preparing plans and specifications for and constructing ~~such~~ 299
buildings ~~as~~ that the director may require in the administration 300
of the department; 301

(3) The power of the director of public safety and the 302

registrar of motor vehicles to purchase or lease real property and 303
buildings to be used solely as locations to which a deputy 304
registrar is assigned pursuant to division (B) of section 4507.011 305
of the Revised Code and from which the deputy registrar is to 306
conduct the deputy registrar's business, the power of the director 307
of public safety to purchase or lease real property and buildings 308
to be used as locations for division or district offices as 309
required in the maintenance of operations of the department of 310
public safety, and the power of the superintendent of the state 311
highway patrol in the purchase or leasing of real property and 312
buildings needed by the patrol, to negotiate the sale of real 313
property owned by the patrol, to rent or lease real property owned 314
or leased by the patrol, and to make or cause to be made repairs 315
to all property owned or under the control of the patrol; 316

(4) The power of the division of liquor control in the 317
leasing or purchasing of retail outlets and warehouse facilities 318
for the use of the division; 319

(5) The power of the director of development to enter into 320
leases of real property, buildings, and office space to be used 321
solely as locations for the state's foreign offices to carry out 322
the purposes of section 122.05 of the Revised Code; 323

(6) The power of the director of natural resources to 324
purchase, lease, or otherwise acquire real property rights or 325
privileges necessary for the purposes of the department of natural 326
resources or any division in it, including the lease of office 327
space and storage accommodations. 328

(C) Purchases for, and the custody and repair of, buildings 329
under the management and control of the capitol square review and 330
advisory board, the rehabilitation services commission, the bureau 331
of employment services, the bureau of workers' compensation, or 332
the departments of public safety, human services, mental health, 333

mental retardation and developmental disabilities, and 334
rehabilitation and correction, and buildings of educational and 335
benevolent institutions under the management and control of boards 336
of trustees, are not subject to the control and jurisdiction of 337
the department of administrative services. 338

Sec. 145.01. As used in this chapter: 339

(A) "Public employee" means: 340

(1) Any person holding an office, not elective, under the 341
state or any county, township, municipal corporation, park 342
district, conservancy district, sanitary district, health 343
district, metropolitan housing authority, state retirement board, 344
Ohio historical society, public library, county law library, union 345
cemetery, joint hospital, institutional commissary, state 346
university, or board, bureau, commission, council, committee, 347
authority, or administrative body as the same are, or have been, 348
created by action of the general assembly or by the legislative 349
authority of any of the units of local government named in ~~this~~ 350
division (A)(1) of this section, or employed and paid in whole or 351
in part by the state or any of the authorities named in ~~this~~ 352
division (A)(1) of this section in any capacity not covered by 353
section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 354

(2) A person who is a member of the public employees 355
retirement system and who continues to perform the same or similar 356
duties under the direction of a contractor who has contracted to 357
take over what before the date of the contract was a publicly 358
operated function. The governmental unit with which the contract 359
has been made shall be deemed the employer for the purposes of 360
administering this chapter. 361

(3) Any person who is an employee of a public employer, 362
notwithstanding that the person's compensation for that employment 363

is derived from funds of a person or entity other than the 364
employer. Credit for such service shall be included as total 365
service credit, provided that the employee makes the payments 366
required by this chapter, and the employer makes the payments 367
required by sections 145.48 and 145.51 of the Revised Code. 368

In all cases of doubt, the public employees retirement board 369
shall determine whether any person is a public employee, and its 370
decision is final. 371

(B) "Member" means any public employee, other than a public 372
employee excluded or exempted from membership in the retirement 373
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 374
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 375
retirant who becomes a member under division (C)(2) of section 376
145.38 of the Revised Code. "Member" also includes a disability 377
benefit recipient. 378

(C) "Head of the department" means the elective or appointive 379
head of the several executive, judicial, and administrative 380
departments, institutions, boards, and commissions of the state 381
and local government as the same are created and defined by the 382
laws of this state or, in case of a charter government, by that 383
charter. 384

(D) "Employer" or "public employer" means the state or any 385
county, township, municipal corporation, park district, 386
conservancy district, sanitary district, health district, 387
metropolitan housing authority, state retirement board, Ohio 388
historical society, public library, county law library, union 389
cemetery, joint hospital, institutional commissary, state medical 390
college, state university, or board, bureau, commission, council, 391
committee, authority, or administrative body as the same are, or 392
have been, created by action of the general assembly or by the 393
legislative authority of any of the units of local government 394

named in this division not covered by section 3307.01 or 3309.01 395
of the Revised Code. In addition, "employer" means the employer of 396
any public employee. 397

(E) "Prior service" means all service as a public employee 398
rendered before January 1, 1935, and all service as an employee of 399
any employer who comes within the state teachers retirement system 400
or of the school employees retirement system or of any other 401
retirement system established under the laws of this state 402
rendered prior to January 1, 1935, provided that if the employee 403
claiming the service was employed in any capacity covered by that 404
other system after that other system was established, credit for 405
the service may be allowed by the public employees retirement 406
system only when the employee has made payment, to be computed on 407
the salary earned from the date of appointment to the date 408
membership was established in the public employees retirement 409
system, at the rate in effect at the time of payment, and the 410
employer has made payment of the corresponding full liability as 411
provided by section 145.44 of the Revised Code. "Prior service" 412
also means all service credited for active duty with the armed 413
forces of the United States as provided in section 145.30 of the 414
Revised Code. 415

If an employee who has been granted prior service credit by 416
the public employees retirement system for service rendered prior 417
to January 1, 1935, as an employee of a board of education 418
establishes, before retirement, one year or more of contributing 419
service in the state teachers retirement system or school 420
employees retirement system, then the prior service ceases to be 421
the liability of this system. 422

If the board determines that a position of any member in any 423
calendar year prior to January 1, 1935, was a part-time position, 424
the board shall determine what fractional part of a year's credit 425
shall be allowed by the following formula: 426

(1) When the member has been either elected or appointed to 427
an office the term of which was two or more years and for which an 428
annual salary is established, the fractional part of the year's 429
credit shall be computed as follows: 430

First, when the member's annual salary is one thousand 431
dollars or less, the service credit for each such calendar year 432
shall be forty per cent of a year. 433

Second, for each full one hundred dollars of annual salary 434
above one thousand dollars, the member's service credit for each 435
such calendar year shall be increased by two and one-half per 436
cent. 437

(2) When the member is paid on a per diem basis, the service 438
credit for any single year of the service shall be determined by 439
using the number of days of service for which the compensation was 440
received in any such year as a numerator and using two hundred 441
fifty days as a denominator. 442

(3) When the member is paid on an hourly basis, the service 443
credit for any single year of the service shall be determined by 444
using the number of hours of service for which the compensation 445
was received in any such year as a numerator and using two 446
thousand hours as a denominator. 447

(F) "Contributor" means any person who has an account in the 448
employees' savings fund created by section 145.23 of the Revised 449
Code. 450

(G) "Beneficiary" or "beneficiaries" means the estate or a 451
person or persons who, as the result of the death of a member, 452
contributor, or retirant, qualify for or are receiving some right 453
or benefit under this chapter. 454

(H)(1) "Total service credit," except as provided in section 455
145.37 of the Revised Code, means all service credited to a member 456

of the retirement system since last becoming a member, including 457
restored service credit as provided by section 145.31 of the 458
Revised Code; credit purchased under sections 145.293 and 145.299 459
of the Revised Code; all the member's prior service credit; all 460
the member's military service credit computed as provided in this 461
chapter; all service credit established pursuant to section 462
145.297 of the Revised Code; and any other service credited under 463
this chapter. In addition, "total service credit" includes any 464
period, not in excess of three years, during which a member was 465
out of service and receiving benefits under Chapters 4121. and 466
4123. of the Revised Code. For the exclusive purpose of satisfying 467
the service credit requirement and of determining eligibility for 468
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 469
and 145.361 of the Revised Code, "five or more years of total 470
service credit" means sixty or more calendar months of 471
contributing service in this system. 472

(2) "One and one-half years of contributing service credit," 473
as used in division (B) of section 145.45 of the Revised Code, 474
also means eighteen or more calendar months of employment by a 475
municipal corporation that formerly operated its own retirement 476
plan for its employees or a part of its employees, provided that 477
all employees of that municipal retirement plan who have eighteen 478
or more months of such employment, upon establishing membership in 479
the public employees retirement system, shall make a payment of 480
the contributions they would have paid had they been members of 481
this system for the eighteen months of employment preceding the 482
date membership was established. When that payment has been made 483
by all such employee-members, a corresponding payment shall be 484
paid into the employers' accumulation fund by that municipal 485
corporation as the employer of the employees. 486

(3) Where a member also is a member of the state teachers 487
retirement system or the school employees retirement system, or 488

both, except in cases of retirement on a combined basis pursuant 489
to section 145.37 of the Revised Code, service credit for any 490
period shall be credited on the basis of the ratio that 491
contributions to the public employees retirement system ~~bears~~ bear 492
to total contributions in all state retirement systems. 493

(4) Not more than one year of credit may be given for any 494
period of twelve months. 495

(5) "Ohio service credit" means credit for service that was 496
rendered to the state or any of its political subdivisions or any 497
employer ~~as defined in division (D) of this section.~~ 498

(I) "Regular or current interest" means interest at any rates 499
for the respective funds and accounts as the public employees 500
retirement board may determine from time to time, except as 501
follows: 502

(1) Subsequent to December 31, 1958, the retirement board 503
shall discontinue the annual crediting of current interest to the 504
individual accounts of contributors. The noncrediting of current 505
interest shall not affect the rate of interest at retirement 506
guaranteed under ~~this~~ division (I) of this section. 507

(2) The rate of interest credited on a contributor's 508
contributions at retirement shall be four per cent per annum, 509
compounded annually, to and including December 31, 1955; three per 510
cent per annum, compounded annually, from January 1, 1956, to and 511
including December 31, 1963; three and one-quarter per cent per 512
annum, compounded annually, from January 1, 1964, to and including 513
December 31, 1969; and thereafter four per cent per annum, 514
compounded annually. 515

In determining the reserve value for the purpose of computing 516
the amount of the contributor's annuity, the rate of interest used 517
in the annuity values shall be four per cent per annum, compounded 518
annually, for contributors retiring before October 1, 1956, and 519

after December 31, 1969; three per cent per annum, compounded 520
annually, for contributors retiring between October 1, 1956, and 521
December 31, 1963; and three and one-quarter per cent per annum, 522
compounded annually, for contributors retiring from January 1, 523
1964, to December 31, 1969. Interest on contributions from 524
contributors within any one calendar year shall begin on the first 525
day of the calendar year next following and shall be computed at 526
the end of each calendar year, except in the case of a contributor 527
who retires before the end of the year. 528

(J) "Accumulated contributions" means the sum of all amounts 529
credited to a contributor's individual account in the employees' 530
savings fund together with any current interest thereon, but does 531
not include the interest adjustment at retirement. 532

(K)(1) "Final average salary" means the quotient obtained by 533
dividing by three the sum of the three full calendar years of 534
contributing service in which the member's earnable salary was 535
highest, except that if the member has a partial year of 536
contributing service in the year the member's employment 537
terminates and the member's earnable salary for the partial year 538
is higher than for any comparable period in the three years, the 539
member's earnable salary for the partial year shall be substituted 540
for the member's earnable salary for the comparable period during 541
the three years in which the member's earnable salary was lowest. 542

(2) If a member has less than three years of contributing 543
service, the member's final average salary shall be the member's 544
total earnable salary divided by the total number of years, 545
including any fraction of a year, of the member's contributing 546
service. 547

(3) For the purpose of calculating benefits payable to a 548
member qualifying for service credit under division (Z) of this 549
section, "final average salary" means the total earnable salary on 550

which contributions were made divided by the total number of years 551
during which contributions were made, including any fraction of a 552
year. If contributions were made for less than twelve months, 553
"final average salary" means the member's total earnable salary. 554

(L) "Annuity" means payments for life derived from 555
contributions made by a contributor and paid from the annuity and 556
pension reserve fund as provided in this chapter. All annuities 557
shall be paid in twelve equal monthly installments. 558

(M) "Annuity reserve" means the present value, computed upon 559
the basis of the mortality and other tables adopted by the board, 560
of all payments to be made on account of any annuity, or benefit 561
in lieu of any annuity, granted to a retirant as provided in this 562
chapter. 563

(N)(1) "Disability retirement" means retirement as provided 564
in section 145.36 of the Revised Code. 565

(2) "Disability allowance" means an allowance paid on account 566
of disability under section 145.361 of the Revised Code. 567

(3) "Disability benefit" means a benefit paid as disability 568
retirement under section 145.36 of the Revised Code, as a 569
disability allowance under section 145.361 of the Revised Code, or 570
as a disability benefit under section 145.37 of the Revised Code. 571

(4) "Disability benefit recipient" means a member who is 572
receiving a disability benefit. 573

(O) "Age and service retirement" means retirement as provided 574
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 575
the Revised Code. 576

(P) "Pensions" means annual payments for life derived from 577
contributions made by the employer that at the time of retirement 578
are credited into the annuity and pension reserve fund from the 579
employers' accumulation fund and paid from the annuity and pension 580

reserve fund as provided in this chapter. All pensions shall be
paid in twelve equal monthly installments.

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(Q) "Retirement allowance" means the pension plus that
portion of the benefit derived from contributions made by the
member.

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(R)(1) Except as otherwise provided in ~~this~~ division (R) of
this section, "earnable salary" means all salary, wages, and other
earnings paid to a contributor by reason of employment in a
position covered by the retirement system. The salary, wages, and
other earnings shall be determined prior to determination of the
amount required to be contributed to the employees' savings fund
under section 145.47 of the Revised Code and without regard to
whether any of the salary, wages, or other earnings are treated as
deferred income for federal income tax purposes. "Earnable salary"
includes the following:

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(a) Payments made by the employer in lieu of salary, wages,
or other earnings for sick leave, personal leave, or vacation used
by the contributor;

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(b) Payments made by the employer for the conversion of sick
leave, personal leave, and vacation leave accrued, but not used if
the payment is made during the year in which the leave is accrued,
except that payments made pursuant to section 124.383 or 124.386
of the Revised Code are not earnable salary;

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(c) Allowances paid by the employer for full maintenance,
consisting of housing, laundry, and meals, as certified to the
retirement board by the employer or the head of the department
that employs the contributor;

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(d) Fees and commissions paid under section 507.09 of the
Revised Code;

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(e) Payments that are made under a disability leave program

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sponsored by the employer and for which the employer is required 611
by section 145.296 of the Revised Code to make periodic employer 612
and employee contributions; 613

(f) Amounts included pursuant to divisions (K)(3) and (Y) of 614
this section. 615

(2) "Earnable salary" does not include any of the following: 616

(a) Fees and commissions, other than those paid under section 617
507.09 of the Revised Code, paid as sole compensation for personal 618
services and fees and commissions for special services over and 619
above services for which the contributor receives a salary; 620
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(b) Amounts paid by the employer to provide life insurance, 622
sickness, accident, endowment, health, medical, hospital, dental, 623
or surgical coverage, or other insurance for the contributor or 624
the contributor's family, or amounts paid by the employer to the 625
contributor in lieu of providing the insurance; 626

(c) Incidental benefits, including lodging, food, laundry, 627
parking, or services furnished by the employer, or use of the 628
employer's property or equipment, or amounts paid by the employer 629
to the contributor in lieu of providing the incidental benefits; 630

(d) Reimbursement for job-related expenses authorized by the 631
employer, including moving and travel expenses and expenses 632
related to professional development; 633

(e) Payments for accrued, but unused sick leave, personal 634
leave, or vacation that are made at any time other than in the 635
year in which the sick leave, personal leave, or vacation was 636
accrued; 637

(f) Payments made to or on behalf of a contributor that are 638
in excess of the annual compensation that may be taken into 639
account by the retirement system under division (a)(17) of section 640

401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 641
U.S.C.A. 401(a)(17), as amended; 642

(g) Payments made under division (B) or (D) of section 643
5923.05 of the Revised Code or Section 4 of Substitute Senate Bill 644
No. 3 of the 119th general assembly; 645

(h) Anything of value received by the contributor that is 646
based on or attributable to retirement or an agreement to retire, 647
except that payments made on or before January 1, 1989, that are 648
based on or attributable to an agreement to retire shall be 649
included in earnable salary if both of the following apply: 650

(i) The payments are made in accordance with contract 651
provisions that were in effect prior to January 1, 1986; 652

(ii) The employer pays the retirement system an amount 653
specified by the retirement board equal to the additional 654
liability resulting from the payments. 655

(3) The retirement board shall determine by rule whether any 656
compensation not enumerated in ~~this~~ division (R) of this section 657
is earnable salary, and its decision shall be final. 658

(S) "Pension reserve" means the present value, computed upon 659
the basis of the mortality and other tables adopted by the board, 660
of all payments to be made on account of any retirement allowance 661
or benefit in lieu of any retirement allowance, granted to a 662
member or beneficiary under this chapter. 663

(T)(1) "Contributing service" means all service credited to a 664
member of the system since January 1, 1935, for which 665
contributions are made as required by sections 145.47, 145.48, and 666
145.483 of the Revised Code. In any year subsequent to 1934, 667
credit for any service shall be allowed by the following formula: 668

(a) For each month for which the member's earnable salary is 669
two hundred fifty dollars or more, allow one month's credit. 670

(b) For each month for which the member's earnable salary is 671
less than two hundred fifty dollars, allow a fraction of a month's 672
credit. The numerator of this fraction shall be the earnable 673
salary during the month, and the denominator shall be two hundred 674
fifty dollars, except that if the member's annual earnable salary 675
is less than six hundred dollars, the member's credit shall not be 676
reduced below twenty per cent of a year for a calendar year of 677
employment during which the member worked each month. ~~This~~ 678
~~division~~ Division (T)(1)(b) of this section shall not reduce any 679
credit earned before January 1, 1985. 680

(2) Notwithstanding division (T)(1) of this section, an 681
elected official who prior to January 1, 1980, was granted a full 682
year of credit for each year of service as an elected official 683
shall be considered to have earned a full year of credit for each 684
year of service regardless of whether the service was full-time or 685
part-time. The public employees retirement board has no authority 686
to reduce the credit. 687

(U) "State retirement board" means the public employees 688
retirement board, the school employees retirement board, or the 689
state teachers retirement board. 690

(V) "Retirant" means any former member who retires and is 691
receiving a monthly allowance as provided in sections 145.32, 692
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 693

(W) "Employer contribution" means the amount paid by an 694
employer as determined by the employer rate including the normal 695
and deficiency contribution rates. 696

(X) "Public service terminates" means the last day for which 697
a public employee is compensated for services performed for an 698
employer or the date of the employee's death, whichever occurs 699
first. 700

(Y) When a member has been elected or appointed to an office, 701

the term of which is two or more years, for which an annual salary 702
is established, and in the event that the salary of the office is 703
increased and the member is denied the additional salary by reason 704
of any constitutional provision prohibiting an increase in salary 705
during a term of office, the member may elect to have the amount 706
of the member's contributions calculated upon the basis of the 707
increased salary for the office. At the member's request, the 708
board shall compute the total additional amount the member would 709
have contributed, or the amount by which each of the member's 710
contributions would have increased, had the member received the 711
increased salary for the office the member holds. If the member 712
elects to have the amount by which the member's contribution would 713
have increased withheld from the member's salary, the member shall 714
notify the employer, and the employer shall make the withholding 715
and transmit it to the retirement system. A member who has not 716
elected to have that amount withheld may elect at any time to make 717
a payment to the retirement system equal to the additional amount 718
the member's contribution would have increased, plus interest on 719
that contribution, compounded annually at a rate established by 720
the board and computed from the date on which the last 721
contribution would have been withheld from the member's salary to 722
the date of payment. A member may make a payment for part of the 723
period for which the increased contribution was not withheld, in 724
which case the interest shall be computed from the date the last 725
contribution would have been withheld for the period for which the 726
payment is made. Upon the payment of the increased contributions 727
as provided in this division, the increased annual salary as 728
provided by law for the office for the period for which the member 729
paid increased contributions thereon shall be used in determining 730
the member's earnable salary for the purpose of computing the 731
member's "final average salary." 732

(Z) "Five years of service credit," for the exclusive purpose 733
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of satisfying the service credit requirements and of determining 735
eligibility for benefits under section 145.33 of the Revised Code, 736
means employment covered under this chapter or under a former 737
retirement plan operated, recognized, or endorsed by the employer 738
prior to coverage under this chapter, or under a combination of 739
the coverage. 740

(AA) "Deputy sheriff" means any person who is commissioned 741
and employed as a full-time peace officer by the sheriff of any 742
county, and has been so employed since on or before December 31, 743
1965, and whose primary duties are to preserve the peace, to 744
protect life and property, and to enforce the laws of this state; 745
any person who is or has been commissioned and employed as a peace 746
officer by the sheriff of any county since January 1, 1966, and 747
who has received a certificate attesting to the person's 748
satisfactory completion of the peace officer training school as 749
required by section 109.77 of the Revised Code and whose primary 750
duties are to preserve the peace, protect life and property, and 751
enforce the laws of this state; or any person deputized by the 752
sheriff of any county and employed pursuant to section 2301.12 of 753
the Revised Code as a criminal bailiff or court constable who has 754
received a certificate attesting to the person's satisfactory 755
completion of the peace officer training school as required by 756
section 109.77 of the Revised Code and whose primary duties are to 757
preserve the peace, protect life and property, and enforce the 758
laws of this state. 759

(BB) "Township constable or police officer in a township 760
police department or district" means any person who is 761
commissioned and employed as a full-time peace officer pursuant to 762
Chapter 505. or 509. of the Revised Code, who has received a 763
certificate attesting to the person's satisfactory completion of 764
the peace officer training school as required by section 109.77 of 765
the Revised Code, and whose primary duties are to preserve the 766

peace, protect life and property, and enforce the laws of this 767
state. 768

(CC) "Drug agent" means any person who is either of the 769
following: 770

(1) Employed full-time as a narcotics agent by a county 771
narcotics agency created pursuant to section 307.15 of the Revised 772
Code and has received a certificate attesting to the satisfactory 773
completion of the peace officer training school as required by 774
section 109.77 of the Revised Code; 775

(2) Employed full-time as an undercover drug agent as defined 776
in section 109.79 of the Revised Code and is in compliance with 777
section 109.77 of the Revised Code. 778

(DD) "Liquor control investigator" means a full-time employee 779
of the department of public safety who is engaged in the 780
enforcement of Chapters 4301. and 4303. of the Revised Code and is 781
in compliance with section 109.77 of the Revised Code. 782

(EE) "Park officer" means a full-time employee of the 783
department of natural resources who is designated a park officer 784
under section 1541.10 of the Revised Code and is in compliance 785
with section 109.77 of the Revised Code. 786

(FF) "Forest officer" means a full-time employee of the 787
department of natural resources who is designated a forest officer 788
under section 1503.29 of the Revised Code and is in compliance 789
with section 109.77 of the Revised Code. 790

(GG) "Preserve officer" means a full-time employee of the 791
department of natural resources who is designated a preserve 792
officer under section 1517.10 of the Revised Code and is in 793
compliance with section 109.77 of the Revised Code. 794

(HH) "Wildlife officer" means a full-time employee of the 795
department of natural resources who is designated a wildlife 796

officer under section 1531.13 of the Revised Code and is in 797
compliance with section 109.77 of the Revised Code. 798

~~(HH)~~(II) "State watercraft officer" means a full-time 799
employee of the department of natural resources who is designated 800
a state watercraft officer under section 1547.521 of the Revised 801
Code and is in compliance with section 109.77 of the Revised Code. 802

~~(II)~~(JJ) "Park district police officer" means a full-time 803
employee of a park district who is designated pursuant to section 804
511.232 or 1545.13 of the Revised Code and is in compliance with 805
section 109.77 of the Revised Code. 806

~~(JJ)~~(KK) "Conservancy district officer" means a full-time 807
employee of a conservancy district who is designated pursuant to 808
section 6101.75 of the Revised Code and is in compliance with 809
section 109.77 of the Revised Code. 810

~~(KK)~~(LL) "Municipal police officer" means a member of the 811
organized police department of a municipal corporation who is 812
employed full-time, is in compliance with section 109.77 of the 813
Revised Code, and is not a member of the police and firemen's 814
disability and pension fund. 815

~~(LL)~~(MM) "Ohio veterans' home police officer" means any 816
person who is employed at the Ohio veterans' home as a police 817
officer pursuant to section 5907.02 of the Revised Code and is in 818
compliance with section 109.77 of the Revised Code. 819

~~(MM)~~(NN) "Special police officer for a mental health 820
institution" means any person who is designated as such pursuant 821
to section 5119.14 of the Revised Code and is in compliance with 822
section 109.77 of the Revised Code. 823

~~(NN)~~(OO) "Special police officer for an institution for the 824
mentally retarded and developmentally disabled" means any person 825
who is designated as such pursuant to section 5123.13 of the 826
Revised Code and is in compliance with section 109.77 of the 827

Revised Code. 828

~~(OO)~~(PP) "State university law enforcement officer" means any 829
person who is employed full-time as a state university law 830
enforcement officer pursuant to section 3345.04 of the Revised 831
Code and who is in compliance with section 109.77 of the Revised 832
Code. 833

~~(PP)~~(OO) "Hamilton county municipal court bailiff" means a 834
person appointed by the clerk of courts of the Hamilton county 835
municipal court under division (A)(3) of section 1901.32 of the 836
Revised Code who is employed full-time as a bailiff or deputy 837
bailiff, who has received a certificate attesting to the person's 838
satisfactory completion of the peace officer training school as 839
required by division (C) of section 109.77 of the Revised Code, 840
and whose primary duties are to preserve the peace, to protect 841
life and property, and to enforce the laws of this state. 842

~~(OO)~~(RR) Notwithstanding section 2901.01 of the Revised Code, 843
"law enforcement officer" means a sheriff, deputy sheriff, 844
township constable or police officer in a township police 845
department or district, drug agent, liquor control investigator, 846
park officer, forest officer, preserve officer, wildlife officer, 847
state watercraft officer, park district police officer, 848
conservancy district officer, Ohio veterans' home police officer, 849
special police officer for a mental health institution, special 850
police officer for an institution for the mentally retarded and 851
developmentally disabled, state university law enforcement 852
officer, Hamilton county municipal court bailiff, or municipal 853
police officer. 854

~~(RR)~~(SS) "Fiduciary" means a person who does any of the 855
following: 856

(1) Exercises any discretionary authority or control with 857
respect to the management of the system or with respect to the 858

management or disposition of its assets; 859

(2) Renders investment advice for a fee, direct or indirect, 860
with respect to money or property of the system; 861

(3) Has any discretionary authority or responsibility in the 862
administration of the system. 863

~~(SS)~~(TT) "Actuary" means an individual who satisfies all of 864
the following requirements: 865

(1) Is a member of the American academy of actuaries; 866

(2) Is an associate or fellow of the society of actuaries; 867

(3) Has a minimum of five years' experience in providing 868
actuarial services to public retirement plans. 869

Sec. 145.33. (A) Except as provided in division (B) of this 870
section, a member with at least five years of total service credit 871
who has ~~the member's~~ attained age sixty, or who has thirty years 872
of total Ohio service credit, may apply for age and service 873
retirement, which shall consist of: 874

(1) An annuity having a reserve equal to the amount of the 875
member's accumulated contributions at that time; 876

(2) A pension equal to the annuity provided by division 877
(A)(1) of this section; 878

(3) An additional pension, if the member can qualify for 879
prior service, equal to forty dollars multiplied by the number of 880
years, and fraction thereof, of such prior and military service 881
credit; 882

(4) A basic annual pension equal to one hundred eighty 883
dollars if the member has ten or more years of total service 884
credit as of October 1, 1956, except that the basic annual pension 885
shall not exceed the sum of the annual benefits provided by 886
divisions (A)(1), (2), and (3) of this section. The cost of the 887

basic annual pension shall be included in the deficiency 888
 contribution provided by sections 145.48 and 145.50 of the Revised 889
 Code. 890

(5) When a member retires on age and service retirement, the 891
 member's total annual single lifetime allowance, including the 892
 allowances provided in divisions (A)(1), (2), (3), and (4) of this 893
 section, shall be not less than a base amount adjusted in 894
 accordance with ~~this~~ division (A)(5) of this section and 895
 determined by multiplying the member's total service credit by the 896
 greater of the following: 897

(a) Eighty-six dollars; 898

(b) Two and one-tenth per cent of the member's final average 899
 salary for each of the first thirty years of service plus two and 900
 one-half per cent of the member's final average salary for each 901
 subsequent year of service. 902

The allowance shall be adjusted by the factors of attained 903
 age or years of service to provide the greater amount as 904
 determined by the following schedule: 905

Attained	or	Years of Total Service Credit	Percentage of Base Amount	
58		25	75	906
59		26	80	907
60		27	85	908
61		28	88	909
			90	910
62			91	911
63			94	912
		29	95	913
64			97	914
65		30 or more	100	915

Members shall vest the right to a benefit in accordance with 919
the following schedule, based on the member's attained age by 920
September 1, 1976: 921

Attained Birthday	Percentage of Base Amount
66	102
67	104
68	106
69	108
70 or more	110

(6) The total annual single lifetime allowance that a member 930
shall receive under division (A)(5) of this section shall not 931
exceed the lesser of one hundred per cent of the member's final 932
average salary or the limit established by section 415 of the 933
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 934
as amended. 935

(B)(1) A member who has at least twenty-five years of total 936
service credit, including credit for military service under 937
division (C)(2) of this section, while serving as a law 938
enforcement officer and who has ~~the member's~~ attained age 939
fifty-two may apply for an age and service retirement benefit, 940
which shall consist of an annual single lifetime allowance equal 941
to the sum of two and one-half per cent of the member's final 942
average salary multiplied by the first twenty years of the 943
member's total service plus two and one-tenth per cent of the 944
member's final average salary multiplied by the number of years of 945
~~of~~ the member's total service credit in excess of twenty years, 946
except that no allowance shall exceed the lesser of ninety per 947
cent of the member's final average salary or the limit established 948
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 949
2085, 26 U.S.C.A. 415, as amended. 950

(2) A member who has at least fifteen years of total service 951
credit, including credit for military service under division 952
(C)(2) of this section, while serving as a law enforcement officer 953
and has attained sixty-two years of age may apply for an age and 954
service retirement benefit, which shall consist of an annual 955
single lifetime allowance computed as provided in division (B)(1) 956
of this section. The benefit shall not exceed the limit 957
established by section 415 of the "Internal Revenue Code of 1986," 958
100 Stat. 2085, 26 U.S.C.A. 415, as amended. 959

(3) A member with at least fifteen years of total service 960
credit, including credit for military service under division 961
(C)(2) of this section, while serving as a law enforcement officer 962
who voluntarily resigns or is discharged ~~the member's~~ for any 963
reason except death, dishonesty, cowardice, intemperate habits, or 964
conviction of a felony, may apply for an age and service 965
retirement benefit, which shall consist of an annual single 966
lifetime allowance equal to one and one-half per cent of the 967
member's final average salary multiplied by the number of years of 968
the member's total service credit. The benefit shall not exceed 969
the limit established by section 415 of the "Internal Revenue Code 970
of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. The 971
allowance shall commence on the first day of the calendar month 972
following the month in which the application is filed with the 973
public employees retirement board on or after the attainment by 974
the applicant of age fifty-two. 975

(4) A member who has at least twenty-five years of total 976
service credit, including credit for military service under 977
division (C)(2) of this section, while serving as a law 978
enforcement officer who voluntarily resigns or is discharged ~~the~~ 979
~~member's~~ for any reason except death, dishonesty, cowardice, 980
intemperate habits, or conviction of a felony, on or after the 981
date ~~the member~~ of attaining forty-eight years of age, but before 982

the date ~~the member~~ of attaining fifty-two years of age, may elect 983
to receive a reduced benefit as determined by the following 984
schedule: 985

Attained Age	Reduced Benefit	
48	75% of the benefit payable under division (B)(1) of this section	986 987 988
49	80% of the benefit payable under division (B)(1) of this section	989 990
50	86% of the benefit payable under division (B)(1) of this section	991 992
51	93% of the benefit payable under division (B)(1) of this section	993 994

A member who has at least twenty-five years of law 995
enforcement service credit, upon attaining forty-eight, 996
forty-nine, fifty, or fifty-one years of age, may elect to retire 997
and receive a reduced benefit determined by the above schedule. 998

If a member elects to receive a reduced benefit on or after 999
the date ~~the member~~ of attaining forty-eight years of age, but 1000
before the date ~~the member~~ of attaining forty-nine years of age, 1001
the reduced benefit is payable from the date the member attained 1002
forty-eight years of age or from the date the member becomes 1003
eligible to receive the reduced benefit, whichever is later. If a 1004
member elects to receive a reduced benefit on or after the date 1005
~~the member~~ of attaining forty-nine years of age, but before the 1006
date ~~the member~~ of attaining fifty years of age, the reduced 1007
benefit is payable from the date the member attained forty-nine 1008
years of age or from the date the member becomes eligible to 1009
receive the reduced benefit, whichever is later. If a member 1010
elects to receive a reduced benefit on or after the date ~~the~~ 1011
~~member~~ of attaining fifty years of age, but before the date ~~the~~ 1012
~~member~~ of attaining fifty-one years of age, the reduced benefit is 1013
payable from the date the member attained fifty years of age or 1014

from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date ~~the member~~ of attaining fifty-one years of age, but before the date ~~the member~~ of attaining fifty-two years of age, the reduced benefit is payable from the date the member attained fifty-one years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later.

Once a member elects to receive a reduced benefit determined by the above schedule and has received a payment, the member may not reelect to change that election.

If a member who has resigned or been discharged has left on deposit the member's accumulated contributions in the employees' savings fund and has not elected to receive a reduced benefit determined by the above schedule ~~the member~~, upon attaining fifty-two years of age, the member shall be entitled to receive a benefit computed and paid under division (B)(1) of this section.

(C)(1) A member with service credit as a law enforcement officer and other service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this chapter, including credit for service as a law enforcement officer, used in calculating a retirement allowance under division (A) of this section if the member qualifies for an allowance under that division;

(b) If the member qualifies for an allowance under division (B) of this section, to have the member's service credit as a law enforcement officer used in calculating a benefit under that division and the member's credit for all service other than law enforcement service under this chapter used in calculating a benefit consisting of a single life annuity having a reserve equal

to the amount of the member's accumulated contributions and an 1046
equal amount of the employer's contributions. 1047

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 1048
Code, no more than four years of military service credit granted 1049
under section 145.30 of the Revised Code and five years of 1050
military service credit purchased under section 145.301 or 145.302 1051
of the Revised Code shall be used in calculating service as a law 1052
enforcement officer or the total service credit of that person. 1053

(3) Only credit for the member's service as a law enforcement 1054
officer or service credit purchased as a police officer or state 1055
highway patrol trooper shall be used in computing the benefits 1056
under division (B) of this section for the following: 1057

(a) Any person who originally is commissioned and employed as 1058
a deputy sheriff by the sheriff of any county, or who originally 1059
is elected sheriff, on or after January 1, 1975; 1060

(b) Any deputy sheriff who originally is employed ~~on or after~~ 1061
~~the effective date of this amendment~~ as a criminal bailiff or 1062
court constable on or after April 16, 1993; 1063

(c) Any person who originally is appointed as a township 1064
constable or police officer in a township police department or 1065
district on or after January 1, 1981; 1066

(d) Any person who originally is employed as a county 1067
narcotics agent on or after September 26, 1984; 1068

(e) Any person who originally is employed as an undercover 1069
drug agent as defined in section 109.79 of the Revised Code, 1070
liquor control investigator, park officer, forest officer, 1071
wildlife officer, state watercraft officer, park district police 1072
officer, conservancy district officer, Ohio veterans' home 1073
~~policeman~~ police officer, special ~~policeman~~ police officer for a 1074
mental health institution, special ~~policeman~~ police officer for an 1075

institution for the mentally retarded and developmentally 1076
disabled, or municipal police officer on or after December 15, 1077
1988; 1078

(f) Any person who ~~is~~ originally is employed as a state 1079
university law enforcement officer, on or after ~~the effective date~~ 1080
~~of this amendment~~ November 6, 1996; 1081

(g) Any person who ~~is~~ originally is employed as a Hamilton 1082
county municipal court bailiff on or after ~~the effective date of~~ 1083
~~this amendment~~ November 6, 1996; 1084

(h) Any person who originally is employed as a preserve 1085
officer on or after the effective date of this amendment. 1086

(D) Retirement allowances determined under this section shall 1087
be paid as provided in section 145.46 of the Revised Code. 1088

Sec. 1501.01. Except where otherwise expressly provided, the 1089
director of natural resources shall formulate and institute all 1090
the policies and programs of the department of natural resources. 1091
The chief of any division of the department shall not enter into 1092
any contract, agreement, or understanding unless it is approved by 1093
the director. 1094

The director shall correlate and coordinate the work and 1095
activities of the divisions in ~~his~~ the department to eliminate 1096
unnecessary duplications of effort and overlapping of functions. 1097
The chiefs of the various divisions of the department shall meet 1098
with the director at least once each month at a time and place 1099
designated by the director. 1100

The director may create advisory boards to any of those 1101
divisions in conformity with section 121.13 of the Revised Code. 1102

The director may accept and expend gifts, devises, and 1103
bequests of money, lands, and other properties on behalf of the 1104
department or any division thereof under the terms set forth in 1105

section 9.20 of the Revised Code. Any political subdivision of
this state may make contributions to the department for the use of
the department or any division ~~therein~~ in it according to the
terms of the contribution.

The director may publish and sell or otherwise distribute
data, reports, and information.

The director shall adopt rules in accordance with Chapter
119. of the Revised Code to permit the department to accept by
means of a credit card the payment of fees, charges, and rentals
at those facilities described in section 1501.07 of the Revised
Code that are operated by the department, for any data, reports,
or information sold by the department, and for any other goods or
services provided by the department.

Whenever authorized by the governor to do so, the director
may appropriate property for the uses and purposes authorized to
be performed by the department and on behalf of any division
within the department. This authority shall be exercised in the
manner provided in sections 163.01 to 163.22 of the Revised Code
for the appropriation of property by the director of
administrative services. This authority to appropriate property is
in addition to the authority provided by law for the appropriation
of property by divisions of the department. ~~The~~

The director of natural resources also may acquire by
purchase, lease, or otherwise ~~such~~ real and personal property
rights or privileges in the name of the state ~~as~~ that are
necessary for the purposes of the department or any division
therein. ~~The~~ As part of this authority, the director may lease
office space and storage accommodations for the department and
shall be responsible for general supervision and care of the
office space and storage accommodations.

The director, with the approval of the governor and the

attorney general, may sell, lease, or exchange portions of lands 1137
or property, real or personal, of any division of the department 1138
or grant easements or licenses for the use thereof, or enter into 1139
agreements for the sale of water from lands and waters under the 1140
administration or care of the department or any of its divisions, 1141
when the sale, lease, exchange, easement, agreement, or license 1142
for use is advantageous to the state, provided that such approval 1143
is not required for leases and contracts made under sections 1144
1501.07, 1501.09, 1507.12, or 1520.03 or Chapter 1523. of the 1145
Revised Code. Water may be sold from a reservoir only to the 1146
extent that the reservoir was designed to yield a supply of water 1147
for a purpose other than recreation or wildlife, and the water 1148
sold is in excess of that needed to maintain the reservoir for 1149
purposes of recreation or wildlife. 1150

Money received from such sales, leases, easements, exchanges, 1151
agreements, or licenses for use, except revenues required to be 1152
set aside or paid into depositories or trust funds for the payment 1153
of bonds issued under sections 1501.12 to 1501.15 of the Revised 1154
Code, and to maintain the required reserves therefor as provided 1155
in the orders authorizing the issuance of ~~such~~ the bonds or the 1156
trust agreements securing ~~such~~ the bonds, revenues required to be 1157
paid and credited pursuant to the bond proceeding applicable to 1158
obligations issued pursuant to section 154.22, and revenues 1159
generated under section 1520.05 of the Revised Code, shall be 1160
deposited in the state treasury to the credit of the fund of the 1161
division of the department having prior jurisdiction over the 1162
lands or property. If no such fund exists, the money shall be 1163
credited to the general revenue fund. All such money received from 1164
lands or properties administered by the division of wildlife shall 1165
be credited to the wildlife fund. 1166

The director shall provide for the custody, safekeeping, and 1167
deposit of all moneys, checks, and drafts received by the 1168

department or its employees prior to paying them to the treasurer 1169
of state under section 113.08 of the Revised Code. 1170

The director shall cooperate with the nature conservancy, 1171
other nonprofit organizations, and the United States fish and 1172
wildlife service in order to secure protection of islands in the 1173
Ohio river and the wildlife and wildlife habitat of those islands. 1174

Sec. 1501.02. The director of natural resources may enter 1175
into cooperative or contractual arrangements with the United 1176
States or any agency or department thereof, other states, other 1177
departments and subdivisions of this state, or any other person or 1178
body politic for the accomplishment of the purposes for which the 1179
department of natural resources was created. The director shall 1180
cooperate with, and not infringe upon the rights of, other state 1181
departments, divisions, boards, commissions, and agencies, 1182
political subdivisions, and other public officials and public and 1183
private agencies in the conduct of conservation plans and other 1184
matters in which the interests of the department of natural 1185
resources and the other departments and agencies overlap. 1186

The director, by mutual agreement, may utilize the facilities 1187
and staffs of state-supported educational institutions in order to 1188
promote the conservation and development of the natural resources 1189
of the state. 1190

All funds made available by the United States for the 1191
exclusive use of any division shall be expended only by that 1192
division and only for the purposes for which the funds were 1193
appropriated. In accepting any such funds for the acquisition of 1194
lands or interests ~~therein~~ in them to be used for open-space 1195
purposes including park, recreational, historical, or scenic 1196
purposes, or for conservation of land or other natural resources, 1197
the director may agree on behalf of the state that lands or 1198
interests ~~therein~~ in them acquired in part with those funds shall 1199

not be converted to other uses except pursuant to further 1200
agreement between the director and the United States. 1201

The director shall establish guidelines for entering into and 1202
may enter into a cooperative or contractual arrangement with any 1203
individual, agency, organization, or business entity to assist the 1204
department in funding a program or project of the department, its 1205
divisions, or its offices, through securing, without limitation, 1206
donations, sponsorships, marketing, advertising, and licensing 1207
arrangements. state moneys appropriated to the department shall 1208
continue to be used as authorized and shall not be redirected to 1209
any other purpose as a result of financial savings resulting from 1210
the department's entering into the cooperative or contractual 1211
arrangement. 1212

The director may enter into a mutual aid compact with the 1213
chief law enforcement officer of any federal agency, state agency, 1214
county, township, municipal corporation, or other political 1215
subdivision or with the superintendent of the state highway patrol 1216
to enable forest officers, park officers, and state watercraft 1217
officers and the law enforcement officers of the respective 1218
federal or state agencies or political subdivisions or the state 1219
highway patrol to assist each other in the provision of police 1220
services within each other's jurisdiction. 1221

Sec. 1501.10. Advertisement for bids for the leasing of 1222
public service facilities in state parks shall be published in any 1223
newspaper of general circulation in Franklin county and each 1224
county in which the facility to be leased is situated. The 1225
publication shall be made once each week for four consecutive 1226
weeks prior to the date fixed for the acceptance of the bids. The 1227
notice shall set forth the pertinent facts concerning the facility 1228
to be leased and the periods of required operation during the year 1229
and shall refer to the terms and conditions that the lease shall 1230

include, which shall be on file in the office of the director of 1231
natural resources and open to public inspection, except that 1232
questionnaires and financial statements submitted under this 1233
section shall be confidential and shall not be open to public 1234
inspection. 1235

~~Such~~ The public service facilities may be leased for ~~such~~ a 1236
period of years ~~as~~ that may be determined by the director, 1237
provided that the director ~~may~~, at the expiration of the original 1238
lease, without advertisement for bids, may grant the lessee a 1239
renewal of the lease for an additional period not to exceed four 1240
years. Leases executed under this section may contain any 1241
provisions ~~which~~ that the director considers necessary, provided 1242
that the following provisions shall be contained in the leases: 1243

(A) The lessee shall be responsible for keeping the 1244
facilities in good condition and repair, reasonable wear and tear 1245
and damages caused by casualty or acts beyond the control of the 1246
lessee excepted. 1247

(B) The lessee shall operate the facilities for ~~such~~ periods 1248
during the year ~~as~~ that the director determines are necessary to 1249
satisfy the needs of the people of the state, provided that the 1250
periods of required operation shall be set forth in the notice for 1251
the acceptance of bids. 1252

(C) The lessee, upon the execution of the lease, shall 1253
furnish a surety to ensure that the lessee shall perform fully all 1254
terms of the lease. The surety shall be in the form of a 1255
performance bond or, an irrevocable letter of credit to the state 1256
in an amount as, cash, or negotiable certificates of deposit of 1257
any bank or savings and loan association organized or transacting 1258
business in the United states. the cash, market value of the 1259
certificates of deposit, or face value of the irrevocable letter 1260
of credit shall be equal to or greater than the amount of the bond 1261

prescribed by the director, ~~to ensure that the lessee shall fully~~ 1262
~~perform all terms of~~ in the lease. 1263

immediately upon a deposit of cash or certificates of 1264
deposit, the director shall deliver them to the treasurer of 1265
state, who shall be responsible for their safekeeping and hold 1266
them in trust for the purposes for which they have been deposited. 1267
A lessee making a deposit of cash or certificates of deposit may 1268
withdraw and receive from the treasurer of state, on the written 1269
order of the director, all or any portion of the cash or 1270
certificates of deposit upon depositing with the treasurer of 1271
state cash or negotiable certificates of deposit issued by any 1272
bank organized or transacting business in this state equal in par 1273
value to the par value of the cash or certificates of deposit 1274
withdrawn. A lessee may demand and receive from the treasurer of 1275
state all interest or other income from any such certificates as 1276
it becomes due. 1277

The director may lease any public service facilities in state 1278
parks to the person, ~~firm, partnership, association, or~~ 1279
~~corporation~~ who submits the highest and best bid under the terms 1280
set forth in this section and in accordance with the rules of the 1281
director, taking into account the financial responsibility and the 1282
ability of the lessee to operate the facilities. Bids shall be 1283
sealed and opened at a date and time certain, published in 1284
advance. 1285

This section does not apply to a lease and contract executed 1286
under section 1501.012 of the Revised Code. 1287

Sec. 1502.01. As used in this chapter: 1288

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 1289
cans, bottles, wire, paper, cartons, boxes, automobile parts, 1290
furniture, glass, or anything else of an unsightly or unsanitary 1291
nature thrown, dropped, discarded, placed, or deposited by a 1292

person on public property, on private property not owned by him	1293
<u>the person</u> , or in or on waters of the state unless one of the	1294
following applies:	1295
(1) The person has been directed to do so by a public	1296
official as part of a litter collection drive;	1297
(2) The person has thrown, dropped, discarded, placed, or	1298
deposited the material in a receptacle in a manner that prevented	1299
its being carried away by the elements;	1300
(3) The person has been issued a permit or license covering	1301
the material pursuant to Chapter 3734. or 6111. of the Revised	1302
Code.	1303
(B) "Recycling" means the process of collecting, sorting,	1304
cleansing, treating, and reconstituting waste or other discarded	1305
materials for the purpose of recovering and reusing the materials.	1306
(C) "Agency of the state" includes, but is not limited to, an	1307
"agency" subject to Chapter 119. of the Revised Code and a "state	1308
university or college" as defined in section 3345.12 of the	1309
Revised Code.	1310
(D) "Waste reduction" means activities that decrease the	1311
initial production of waste materials at their point of origin.	1312
(E) "Enterprise" means a business with its principal place of	1313
business in this state and that proposes to engage in research and	1314
development or recycling in this state.	1315
(F) "Research and development" means inquiry,	1316
experimentation, or demonstration to advance basic scientific or	1317
technical knowledge or the application, adaptation, or use of	1318
existing or newly discovered scientific or technical knowledge	1319
regarding <u>recycling, waste reduction, or litter prevention</u> .	1320
(G) "Recyclables" means waste materials that are collected,	1321
separated, or processed and used as raw materials or products.	1322

(H) "Recycling market development" means activities that 1323
stimulate the demand for recycled products, provide for a 1324
consistent supply of recyclables to meet the needs of recycling 1325
industries, or both. 1326

(I) "Solid waste management districts" means solid waste 1327
management districts established under Chapter 343. of the Revised 1328
Code. 1329

Sec. 1502.04. There is hereby created within the division of 1330
recycling and litter prevention the recycling and litter 1331
prevention advisory council consisting of thirteen members. The 1332
speaker of the house of representatives shall appoint one member 1333
of the house of representatives to the council, and the president 1334
of the senate shall appoint one member of the senate to the 1335
council. If the president of the senate belongs to the same 1336
political party as the speaker of the house of representatives, 1337
the president shall appoint a member of the senate who belongs to 1338
a different political party as recommended by the minority leader 1339
of the senate. The speaker of the house of representatives and the 1340
president of the senate shall make their initial appointments to 1341
the council within sixty days after ~~the effective date of this~~ 1342
~~amendment~~ JULY 20, 1994. Each member appointed by the speaker of 1343
the house of representatives or the president of the senate shall 1344
serve for a term of office of three years. The appropriate 1345
appointing authority may fill any vacancy occurring during the 1346
term of any member whom ~~he~~ the appointing authority has appointed 1347
to the advisory council. 1348

The remaining eleven members shall be appointed by the 1349
governor with the advice and consent of the senate and shall be 1350
persons with knowledge of or experience in recycling or litter 1351
prevention programs. The council shall have broad based 1352
representation of interests including agriculture, labor, the 1353

environment, manufacturing, wholesale and retail industry, and the public. One of the business members shall be from the recycling industry, and another shall be from an industry required to pay taxes under section 5733.065 of the Revised Code. The director of natural resources shall not be a member of the council. The governor shall make ~~his~~ initial appointments to the council within thirty days after October 20, 1987. Of ~~his~~ the governor's initial appointments to the council, five shall be for a term of one year and six shall be for a term of two years. Thereafter, terms of office shall be for three years. Each member appointed by the governor shall hold office from the date of ~~his~~ the member's appointment until the end of the term for which ~~he~~ the member was appointed. In the event of death, removal, resignation, or incapacity of a member of the council appointed by the governor, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which ~~his~~ the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor at any time may remove any of ~~his~~ the governor's appointees from the council for misfeasance, nonfeasance, or malfeasance in office.

Members of the council may be reappointed.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the chairperson or a majority of the members. The council annually shall select from among its members a chairperson, a vice-chairperson, and a secretary to keep a record of its proceedings.

A majority vote of the members of the council is necessary to take action in any matter.

A member of the council shall serve without compensation for attending council meetings, but shall be reimbursed for all traveling, hotel, and other ordinary and necessary expenses incurred in the performance of ~~his~~ the member's work as a member of the council.

Membership on the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

The council shall do all of the following:

(A) Assist the interagency recycling market development workgroup created in section 1502.10 of the Revised Code in executing its duties under division (A) of that section;

(B) In conjunction with the chief of recycling and litter prevention and with the approval of the director of natural resources, establish criteria by which to certify, and certify, agencies of the state, municipal corporations with a population of more than fifty thousand, counties, and solid waste management districts as eligible to receive grants under section 1502.05 of the Revised Code;

(C) In conjunction with the chief and with the approval of the director, establish criteria by which to certify, and certify, political subdivisions for receipt of special grants for ~~novel or innovative~~ activities or projects that are intended to accomplish the purposes of any of the programs established under section 1502.03 of the Revised Code;

(D) Advise the chief in carrying out ~~his~~ the chief's duties under this chapter.

Sec. 1502.05. (A) The chief of recycling and litter

prevention, pursuant to division (B) of section 1502.04 of the Revised Code and with the approval of the director of natural resources, may make grants from the recycling and litter prevention fund created in section 1502.02 of the Revised Code to accomplish the purposes of the programs established under section 1502.03 of the Revised Code.

(B) Except as provided in division (C) of this section, the chief, with the approval of the director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division (B) of section 1502.04 of the Revised Code that applies for a grant for an activity or project that is intended to further the purposes of any program established under division (A)(1) or (2) of section 1502.03 of the Revised Code to provide a matching contribution of not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The chief may consider cooperating contributions in the form of state of the art new equipment or in other forms if the chief determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the 1448
purposes described in this division shall be made in such form and 1449
conditioned on such terms as the chief considers to be 1450
appropriate. 1451

(D)(1) The chief, with the approval of the director, may 1452
require any eligible applicant certified by the recycling and 1453
litter prevention advisory council under division (B) of section 1454
1502.04 of the Revised Code that applies for a grant that is 1455
intended to further the purposes of the program established under 1456
division (A)(3) of section 1502.03 of the Revised Code, except any 1457
eligible applicant that is or is located in a county that has a 1458
per capita income equal to or below ninety per cent of the median 1459
county per capita income of the state as determined by the chief 1460
using the most recently available figures from the United States 1461
census bureau, to provide a matching contribution as follows: 1462

(a) Up to ten per cent of the grant from any eligible 1463
applicant that is or is located in a county that has a per capita 1464
income above ninety per cent of the median county per capita 1465
income of the state, but equal to or below one hundred per cent of 1466
the median county per capita income of the state; 1467

(b) Up to twenty per cent of the grant from any eligible 1468
applicant that is or is located in a county that has a per capita 1469
income above the median county per capita income of the state. 1470

(2) If the eligible applicant is a joint solid waste 1471
management district ~~and at least fifty per cent of the counties~~ 1472
~~comprising the district have a per capita income equal to or below~~ 1473
~~ninety per cent of the median county per capita income of the~~ 1474
~~state, the district need not provide a matching contribution for a~~ 1475
~~grant under division (D)(1) of this section. If at least fifty per~~ 1476
~~cent of the counties comprising the district have a per capita~~ 1477
~~income above ninety per cent of the median county per capita~~ 1478

income of the state, but equal to or below one hundred per cent of 1479
the median county per capita income of the state, the district 1480
shall provide a matching contribution in accordance with division 1481
(D)(1)(a) of this section. If at least fifty per cent of the 1482
counties comprising the district have a per capita income above 1483
the median county per capita income of the state, the district 1484
shall provide a matching contribution in accordance with division 1485
(D)(1)(b) of this section or is filing a joint application on 1486
behalf of two or more counties, the matching contribution required 1487
under division (D)(1) of this section shall be the average of the 1488
matching contributions of all of the counties covered by the 1489
application as determined in accordance with that division. The 1490
matching contribution of a county that has a per capita income 1491
equal to or below ninety per cent of the median county per capita 1492
income of the state shall be included as zero in calculating the 1493
average matching contribution. 1494

(E) After receiving notice from the director of environmental 1495
protection that each county within the state is subject to the 1496
solid waste management plan of a solid waste management district, 1497
the chief shall ensure that not less than fifty per cent of the 1498
moneys distributed as grants under this section shall be expended 1499
for the purposes of recycling and recycling market development. 1500

1501

Sec. 1502.99. Whoever violates section ~~1502.06~~ 1502.07 of the 1502
Revised Code is guilty of a minor misdemeanor. Each day of 1503
violation constitutes a separate offense. 1504

Sec. 1503.01. The chief of the division of forestry shall 1505
administer this chapter. 1506

The chief may adopt, amend, and rescind rules, in accordance 1507
with Chapter 119. of the Revised Code, for the administration, 1508

implementation, and enforcement of section 1503.43 of the Revised Code and for the administration, use, visitation, and protection of the state forests, except those forests used solely for research purposes by the Ohio agricultural research and development center. Copies of the rules governing state forests shall be posted in conspicuous places in those forests. No person shall violate any rule adopted under this section.

The chief, with the approval of the director of natural resources, may enter into an agreement with the United States department of agriculture under the "Cooperative Forestry Assistance Act of 1978," 92 Stat. 365, 16 U.S.C.A. 2101, as amended, for the purpose of receiving and disbursing grants to provide forestry and fire protection assistance on public and private lands in this state.

The Chief, with the approval of the Director, may collect, from an owner, lessee, renter, or occupant of private lands or waters, fees in an amount established by rule adopted under this section for any service or product that benefits the private lands or waters and is provided through division programs. All moneys received for such services or products shall be paid into the state treasury to the credit of the State Forest Fund created in section 1503.05 of the Revised Code.

The chief ~~shall employ~~, subject to the approval of the director, shall employ field assistants and ~~such~~ other employees ~~as that~~ are necessary for the performance of the work prescribed by this chapter and for the performance of the other work of the division, shall prescribe their duties, and shall fix their compensation in accordance with ~~such~~ schedules ~~as that~~ are provided by law for the compensation of state employees.

All employees of the division, unless specifically exempted by law, shall be employed subject to the classified civil service

laws in force at the time of employment. 1540

Sec. 1503.05. (A) The chief of the division of forestry may 1541
sell timber and other forest products from the state forest and 1542
state forest nurseries whenever the chief considers such a sale 1543
desirable and, with the approval of the attorney general and the 1544
director of natural resources, may sell portions of the state 1545
forest lands when such a sale is advantageous to the state. 1546

(B) Except as otherwise provided in this section, a timber 1547
sale agreement shall not be executed unless the person or 1548
governmental entity bidding on the sale executes and files a 1549
surety bond conditioned on completion of the timber sale in 1550
accordance with the terms of the agreement in an amount equal to 1551
twenty-five per cent of the highest value cutting section. All 1552
bonds shall be given in a form prescribed by the chief and shall 1553
run to the state as obligee. 1554

The chief shall not approve any bond until it is personally 1555
signed and acknowledged by both principal and surety, or as to 1556
either by the attorney in fact thereof, with a certified copy of 1557
the power of attorney attached. The chief shall not approve the 1558
bond unless there is attached a certificate of the superintendent 1559
of insurance that the company is authorized to transact a fidelity 1560
and surety business in this state. 1561

In lieu of a bond, the bidder may deposit any of the 1562
following: 1563

(1) Cash in an amount equal to the amount of the bond; 1564

(2) United States government securities having a par value 1565
equal to or greater than the amount of the bond; 1566

(3) Negotiable certificates of deposit or irrevocable letters 1567
of credit issued by any bank organized or transacting business in 1568
this state, having a par value equal to or greater than the amount 1569

of the bond. 1570

The cash or securities shall be deposited on the same terms 1571
as bonds. If one or more certificates of deposit are deposited in 1572
lieu of a bond, the chief shall require the bank that issued any 1573
of the certificates to pledge securities of the aggregate market 1574
value equal to the amount of the certificate or certificates that 1575
is in excess of the amount insured by the federal deposit 1576
insurance corporation. The securities to be pledged shall be those 1577
designated as eligible under section 135.18 of the Revised Code. 1578
The securities shall be security for the repayment of the 1579
certificate or certificates of deposit. 1580

Immediately upon a deposit of cash, securities, certificates 1581
of deposit, or letters of credit, the chief shall deliver them to 1582
the treasurer of state, who shall hold them in trust for the 1583
purposes for which they have been deposited. The treasurer of 1584
state is responsible for the safekeeping of the deposits. A bidder 1585
making a deposit of cash, securities, certificates of deposit, or 1586
letters of credit may withdraw and receive from the treasurer of 1587
state, on the written order of the chief, all or any portion of 1588
the cash, securities, certificates of deposit, or letters of 1589
credit upon depositing with the treasurer of state cash, other 1590
United States government securities, or other negotiable 1591
certificates of deposit or irrevocable letters of credit issued by 1592
any bank organized or transacting business in this state, equal in 1593
par value to the par value of the cash, securities, certificates 1594
of deposit, or letters of credit withdrawn. 1595

1596
A bidder may demand and receive from the treasurer of state 1597
all interest or other income from any such securities or 1598
certificates as it becomes due. If securities so deposited with 1599
and in the possession of the treasurer of state mature or are 1600
called for payment by ~~the~~ their issuer ~~thereof~~, the treasurer of 1601

state, at the request of the bidder who deposited them, shall 1602
convert the proceeds of the redemption or payment of the 1603
securities into ~~such~~ other United States government securities, 1604
negotiable certificates of deposit, or cash as the bidder 1605
designates. 1606

When the chief finds that a person or governmental agency has 1607
failed to comply with the conditions of the person's or 1608
governmental agency's bond, the chief shall make a finding of that 1609
fact and declare the bond, cash, securities, certificates, or 1610
letters of credit forfeited. The chief thereupon shall certify the 1611
total forfeiture to the attorney general, who shall proceed to 1612
collect the amount of the bond, cash, securities, certificates, or 1613
letters of credit. 1614

In lieu of total forfeiture, the surety, at its option, may 1615
cause the timber sale to be completed or pay to the treasurer of 1616
state the cost thereof. 1617

All moneys collected as a result of forfeitures of bonds, 1618
cash, securities, certificates, and letters of credit under this 1619
section shall be credited to the state forest fund created in this 1620
section. 1621

(C) The chief may grant easements and leases on portions of 1622
the state forest lands and state forest nurseries under ~~such~~ terms 1623
~~as~~ that are advantageous to the state, and the chief may grant 1624
mineral rights on a royalty basis on those lands and nurseries, 1625
with the approval of the attorney general and the director. 1626

(D) All moneys received from the sale of state forest lands, 1627
or in payment for easements or leases on or as rents from those 1628
lands or from state forest nurseries, shall be paid into the state 1629
treasury to the credit of the state forest fund, which is hereby 1630
created. All moneys received from the sale of standing timber 1631
taken from the state forest lands shall be deposited into the 1632

general revenue fund. All moneys received from the sale of forest products, other than standing timber, and minerals taken from the state forest lands and state forest nurseries, together with royalties from mineral rights, shall be paid into the state forest fund.

At the time of making such a payment or deposit, the chief shall determine the amount and gross value of all such products sold or royalties received from lands and nurseries in each county, in each township within the county, and in each school district within the county. Afterward the chief shall send to each county treasurer a copy of the determination and shall provide for payment to the county treasurer, for the use of the general fund of that county from the amount so received as provided in this division, an amount equal to eighty per cent of the gross value of the products sold or royalties received from lands and nurseries located in that county. The county auditor shall do all of the following:

(1) Retain for the use of the general fund of the county one-fourth of the amount received by the county under division (D) of this section;

(2) Pay into the general fund of any township located within the county and containing such lands and nurseries one-fourth of the amount received by the county from products sold or royalties received from lands and nurseries located in the township;

(3) Request the board of education of any school district located within the county and containing such lands and nurseries to identify which fund or funds of the district should receive the moneys available to the school district under division (D)(3) of this section. After receiving notice from the board, the county auditor shall pay into the fund or funds so identified one-half of the amount received by the county from products sold or royalties received from lands and nurseries located in the school district,

distributed proportionately as identified by the board. 1665

The division of forestry shall not supply logs, lumber, or 1666
other forest products or minerals, taken from the state forest 1667
lands or state forest nurseries, to any other agency or 1668
subdivision of the state unless payment is made therefor in the 1669
amount of the actual prevailing value thereof. This section is 1670
applicable to the moneys so received. All moneys received from the 1671
sale of reforestation tree stock or other revenues derived from 1672
the operation of the state forests, facilities, or equipment shall 1673
be paid into the state forest fund. 1674

The fund shall not be expended for any purpose other than the 1675
administration, operation, maintenance, development, or 1676
utilization of the state forests, forest nurseries, and forest 1677
programs, for facilities or equipment incident ~~thereto~~ to them, or 1678
for the further purchase of lands for state forest or forest 1679
nursery purposes. 1680

Sec. 1503.29. (A) As used in this section, "felony" has the 1681
same meaning as in section 109.511 of the Revised Code. 1682

(B)(1) Subject to division (D) of this section, any person 1683
employed by the chief of the division of forestry for 1684
administrative service in a state forest may be designated by the 1685
chief and known as a forest officer. A forest officer, on any 1686
lands or waters owned, controlled, maintained, or administered by 1687
the department of natural resources and on highways, as defined in 1688
section 4511.01 Of the Revised Code, adjacent to lands and waters 1689
owned, controlled, maintained, or administered by the division of 1690
forestry, has the authority vested in ~~police~~ peace officers under 1691
section 2935.03 of the Revised Code to keep the peace, to enforce 1692
all laws and rules governing those lands and waters, and to make 1693
arrests for violation of those laws and rules, provided that ~~such~~ 1694
the authority shall be exercised on lands or waters administered 1695

by another division of the department only pursuant to an 1696
agreement with the chief of that division or to a request for 1697
assistance by an enforcement officer of that division in an 1698
emergency. 1699

(2) A forest officer, in or along any watercourse within, 1700
abutting, or upstream from the boundary of any area administered 1701
by the department, has the authority to enforce section 3767.32 of 1702
the Revised Code and other laws prohibiting the dumping of refuse 1703
into or along waters and to make arrests for violation of those 1704
laws. The jurisdiction of forest officers shall be concurrent with 1705
that of the peace officers of the county, township, or municipal 1706
corporation in which the violation occurs. 1707

(3) A forest officer may enter upon private and public lands 1708
to investigate an alleged violation of, and may enforce, this 1709
chapter and sections 2909.02, 2909.03, and 2909.06 of the Revised 1710
Code when the alleged violation or other act pertains to forest 1711
fires. 1712

(C)(1) A forest officer may render assistance to a state or 1713
local law enforcement officer at the request of that officer or 1714
may render assistance to a state or local law enforcement officer 1715
in the event of an emergency. Forest officers serving outside the 1716
division of forestry under this section or serving under the terms 1717
of a mutual aid compact authorized under section 1501.02 of the 1718
Revised Code shall be considered as performing services within 1719
their regular employment for the purposes of compensation, pension 1720
or indemnity fund rights, workers' compensation, and other rights 1721
or benefits to which they may be entitled as incidents of their 1722
regular employment. 1723

(2) Forest officers serving outside the division of forestry 1724
under this section or under a mutual aid compact retain personal 1725
immunity from civil liability as specified in section 9.86 of the 1726
Revised Code and shall not be considered an employee of a 1727

political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses forest officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any forest officer acting under this section or under a mutual aid compact.

(D)(1) The chief of the division of forestry shall not designate a person as a forest officer pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The chief of the division of forestry shall terminate the employment as a forest officer of a person designated as a forest officer under division (B)(1) of this section if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the forest officer agrees to surrender the certificate awarded to the forest officer under section 109.77 of the Revised Code.

(b) The chief shall suspend from employment as a forest officer a person designated as a forest officer under division (B)(1) of this section if that person is convicted, after trial, of a felony. If the forest officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the forest officer does not file a timely appeal, the chief shall terminate the employment of that forest officer. If the forest officer files an appeal that results

in that forest officer's acquittal of the felony or conviction of
a misdemeanor, or in the dismissal of the felony charge against
the forest officer, the chief shall reinstate that forest officer.
A forest officer who is reinstated under division (D)(2)(b) of
this section shall not receive any back pay unless that forest
officer's conviction of the felony was reversed on appeal, or the
felony charge was dismissed, because the court found insufficient
evidence to convict the forest officer of the felony.

(3) Division (D) of this section does not apply regarding an
offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the
employment, of a forest officer under division (D)(2) of this
section shall be in accordance with Chapter 119. of the Revised
Code.

Sec. 1503.43. (A) As used in this section:

(1) "Wilderness area" means ~~an~~ a contiguous area of
relatively undeveloped state-owned forest land consisting of not
less than five thousand acres that either has retained its natural
character and influence or has been substantially restored to a
near natural appearance and that meets both of the following
qualifications:

(a) The area is one in which ~~man's~~ humankind's past
influences are largely unnoticed;

(b) The area has outstanding opportunities for solitude or
for a primitive and unconfined type of recreation.

(2) "Utility facility" includes, without limitation, towers,
poles, pipes, sewers, tubing, conduits, conductors, cables,
valves, lines, wires, manholes, and appurtenances thereto owned by
a utility facility operator.

(3) "Utility facility operator" means a person or public authority that supplies any of the following materials or services by means of a utility facility:	1789
(a) Flammable, toxic, or corrosive gas;	1790
(b) Crude oil, petroleum products, or hazardous liquids;	1791
(c) Coal;	1792
(d) Electricity;	1793
(e) Electronic, telephonic, or telegraphic communications;	1794
(f) Television signals;	1795
(g) Sewage disposal or drainage;	1796
(h) Potable water;	1797
(i) Steam or hot water.	1798
(B) That portion of contiguous state lands located in Scioto and Adams counties and within the Shawnee state forest and bounded by forest road seventeen and sunshine ridge to the north, by upper Twin Creek road to the east and northeast, by United States route fifty-two to the south, and by lower Twin Creek road to the west and southwest is hereby designated the Shawnee wilderness area. Except as otherwise specifically provided by this section or by rule adopted under this chapter, the provisions of this chapter apply to the Shawnee wilderness area, and that area shall continue to be a part of the Shawnee state forest.	1800
(C) The Shawnee wilderness area shall be managed to preserve natural conditions and ensure the continuance of natural processes. The chief of the division of forestry, with the approval of the director of natural resources, shall administer the Shawnee wilderness area in accordance with a management plan, which he <u>the chief</u> shall develop and adopt within one year after September 14, 1988. Sixty days prior to adopting a plan, the chief	1801
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shall solicit public review and comment on a draft plan. At least 1818
once every ten years, the chief shall conduct a review of the 1819
plan, with public input, and revise the plan as appropriate. The 1820
chief shall make the plan available for review by any person upon 1821
request. 1822

(D) Notwithstanding any other authority granted to ~~him~~ the 1823
chief under this chapter, the chief shall include within the 1824
management plan adopted ~~by him~~ under division (C) of this section 1825
prohibitions of the following activities within the Shawnee 1826
wilderness area except for the areas exempted in division (E) of 1827
this section: 1828

(1) Picking, removal, cutting, or alteration in any manner of 1829
any vegetation unless the person ~~has~~ first has obtained written 1830
consent from the chief for that activity and the action is 1831
necessary for appropriate public access, the preservation or 1832
restoration of a plant or wildlife species, or the documentation 1833
of scientific values; 1834

(2) Granting of any easement or license, or sale or lease of 1835
any of the land, for any purpose. Division (D)(2) of this section 1836
does not apply to any private easement or license in existence on 1837
September 14, 1988. 1838

(3) Exploration for or extraction of any coal, oil, gas, or 1839
minerals; 1840

(4) Operation, construction, or installation of a utility 1841
facility above or below the surface of the land; 1842

(5) Operation of a commercial enterprise; 1843

(6) Except as provided in division (D)(7) of this section, 1844
construction of a road upon any of the land or use of the land as 1845
a road; 1846

(7) Except as is necessary to meet emergency requirements for 1847

administration of the area:	1848
(a) Landing of an aircraft;	1849
(b) Operation of a motor vehicle, motor boat, other form of mechanical transport, or motorized equipment;	1850 1851
(c) Construction of any building or other structure;	1852
(d) Use of the land as a temporary road.	1853
(E)(1) The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibitions of division (D) of this section:	1854 1855 1856 1857
(a) The Buena Vista manager's residence;	1858
(b) The Buena Vista walnut seed orchard;	1859
(c) The Twin Creek fire tower.	1860
(2) At any time that the chief makes a determination that it is no longer necessary for the administration of the Shawnee state forest or the state forest system for an area excluded in division (E)(1) of this section to be excluded, the area shall become subject to the prohibitions of division (D) of this section.	1861 1862 1863 1864 1865
(F) The chief, in developing a management plan under division (C) of this section, may not prohibit any hunting, fishing, or trapping that is done in conformity with Chapters 1531. and 1533. of the Revised Code or any rules adopted under those chapters.	1866 1867 1868 1869 1870
Sec. 1504.02. (A) The division of real estate and land management shall do all of the following:	1871 1872
(1) Except as otherwise provided in the Revised Code, coordinate and conduct all real estate functions for the department of natural resources, including at least acquisitions	1873 1874 1875

by purchase, lease, gift, devise, bequest, appropriation, or 1876
otherwise; grants through sales, leases, exchanges, easements, and 1877
licenses; inventories of land; and other related general 1878
management duties; 1879

(2) Assist the department and its divisions by providing 1880
department-wide planning, including at least master planning, 1881
comprehensive planning, capital improvements planning, and special 1882
purpose planning such as trails coordination and planning under 1883
section 1519.03 of the Revised Code; 1884

(3) On behalf of the director of natural resources, 1885
administer the coastal management program established under 1886
sections 1506.01 to 1506.03 and 1506.05 to 1506.09 of the Revised 1887
Code and consult with and provide coordination among state 1888
agencies, political subdivisions, the United States and agencies 1889
of it, and interstate, regional, and areawide agencies to assist 1890
the director in executing ~~his~~ the director's duties and 1891
responsibilities under that program and to assist the department 1892
as the lead agency for the development and implementation of the 1893
program; 1894

(4) On behalf of the director, administer sections 1506.10 1895
and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code; 1896

(5) Cooperate with the United States and agencies of it and 1897
with political subdivisions in administering federal recreation 1898
moneys under the "Land and Water Conservation Fund Act of 1965," 1899
78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and 1900
distribute the statewide comprehensive outdoor recreation plan; 1901
and administer the state recreational vehicle fund created in 1902
section 4519.11 of the Revised Code; 1903

(6)(a) Support the geographic information system needs for 1904
the department as requested by the director, which shall include, 1905
but not be limited to, all of the following: 1906

(i) Assisting in the training and education of department resource managers, administrators, and other staff in the application and use of general <u>geographic</u> information system technology;	1907 1908 1909 1910
(ii) Providing technical support to the department in the design, preparation of data, and use of appropriate geographic information system applications in order to help solve resource related problems and to improve the effectiveness and efficiency of department delivered services;	1911 1912 1913 1914 1915
(iii) Creating, maintaining, and documenting spatial digital data bases for the division and for other divisions as assigned by the director.	1916 1917 1918
(b) Provide information to and otherwise assist government officials, planners, and resource managers in understanding land use planning and resource management;	1919 1920 1921
(c) Provide continuing assistance to local government officials and others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use, value assessment, development reviews, coastal management, and other resource management activities;	1922 1923 1924 1925 1926 1927
(d) Coordinate and administer the remote sensing needs of the department including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state;	1928 1929 1930 1931
(e) Prepare and publish maps and digital data relating to the state's land use and land cover over time on a local, regional, and statewide basis;	1932 1933 1934
(f) Locate and distribute hard copy maps, digital data, aerial photography, and other resource data and information to	1935 1936

government agencies and the public.	1937
(7) Prepare special studies and execute any other duties, functions, and responsibilities requested by the director.	1938 1939
(B) The division may do any of the following:	1940
(1) Coordinate such environmental matters concerning the department and the state as are necessary to comply with the "National Environmental Policy Act of 1969," 83 Stat. 852, 42 U.S.C.A. 4321, as amended, the "Intergovernmental Cooperation Act of 1968," 82 Stat. 1098, 31 U.S.C.A. 6506, and the "Federal Water Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C.A. 1251, as amended, and regulations adopted under those acts;	1941 1942 1943 1944 1945 1946 1947
(2) On behalf of the director, administer Chapter 1520. of the Revised Code, except divisions (B) to (F) of section 1520.03 of the Revised Code, division (A) of section 1520.04 of the Revised Code as it pertains to those divisions, and section 1520.05 of the Revised Code;	1948 1949 1950 1951 1952
(3) Administer any state or federally funded grant program that is related to natural resources and recreation as considered necessary by the director.	1953 1954 1955
Sec. 1505.10. The chief of the division of geological survey shall prepare and publish for public distribution annual reports that shall include all of the following:	1956 1957 1958
(A) A list of the operators of mines, quarries, pits, or other mineral resource extraction operations in this state;	1959 1960
(B) Information on the location of and commodity extracted at each operation;	1961 1962
(C) Information on the employment at each operation;	1963
(D) Information on the tonnage of coal or other minerals extracted at each operation along with the method of extraction;	1964 1965

(E) Information on the production, use, distribution, value, 1966
and other facts relative to the mineral resources of the state 1967
that may be of public interest. 1968

Each operator engaged in the extraction of minerals shall 1969
submit an accurate and complete annual report, on or before the 1970
last day of ~~February~~ of January each year, to the chief of the 1971
division of geological survey on forms provided by the chief and 1972
containing the information specified in divisions (A) to (E) of 1973
this section for the immediately preceding calendar year. The 1974
chief of the division of mines and reclamation may use all or 1975
portions of the information collected pursuant to this section in 1976
preparing the annual report required by section 1561.04 of the 1977
Revised Code. 1978

No person shall fail to comply with this section. 1979

Sec. 1505.99. (A) Whoever violates section 1505.07 of the 1980
Revised Code shall be fined not less than one thousand nor more 1981
than two thousand dollars on a first offense; on each subsequent 1982
offense, the person shall be fined not less than two thousand nor 1983
more than five thousand dollars. 1984

(B) Whoever violates section 1505.10 of the Revised Code 1985
shall be fined not less than one hundred nor more than one 1986
thousand dollars on a first offense; on each subsequent offense, 1987
the person shall be fined not less than one thousand nor more than 1988
two thousand dollars. Notwithstanding any section of the Revised 1989
Code relating to the distribution or crediting of fines for 1990
violations of the Revised Code, all fines imposed under this 1991
division shall be paid into the geological mapping fund created in 1992
section 1505.09 of the Revised Code. 1993

Sec. 1506.02. (A) The department of natural resources is 1994
hereby designated the lead agency for the development and 1995

implementation of a coastal management program. The director of natural resources:

(1) Shall develop and adopt the coastal management program document ~~no later than December 31, 1994~~. The director shall cooperate and coordinate with other agencies of the state and its political subdivisions in the development of the document. Before adopting the document, the director shall hold four public hearings on it in the coastal area, and may hold additional public meetings, to give the public the opportunity to make comments and recommendations concerning its terms. The director shall consider the public comments and recommendations before adopting the document. The director may amend the coastal management program document, provided that, prior to making changes in it, the director notifies by mail those persons who submitted comments and recommendations concerning the original document and appropriate agencies of the state and its political subdivisions. The director may hold at least one public hearing on the proposed changes.

(2) Shall administer the coastal management program in accordance with the coastal management program document, this chapter, and rules adopted under it;

(3) Shall adopt and may amend or rescind rules under Chapter 119. of the Revised Code for the implementation, administration, and enforcement of the coastal management program and the other provisions of this chapter. Before the adoption, amendment, or rescission of rules under ~~this division (A)(3) of this section~~, the director shall do all of the following:

(a) Maintain a list of interested public and private organizations and mail notice to those organizations of any proposed rule or amendment to or rescission of a rule at least thirty days before any public hearing on the proposal;

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

(c) Consult with appropriate statewide organizations and units of local government that would be affected by the proposed rule, amendment, or rescission. ~~Although~~

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

(4) Shall provide for consultation and coordination between and among state agencies, political subdivisions of the state, and interstate, regional, areawide, and federal agencies in carrying out the purposes of the coastal management program and the other provisions of this chapter;

(5) Shall, to the extent practicable and consistent with the protection of coastal area resources, coordinate the rules and policies of the department of natural resources with the rules and policies of other state and federal agencies to simplify and consolidate the regulation of activities along the Lake Erie shoreline;

(6) May, to accomplish the purposes of the coastal management program and the other provisions of this chapter, contract with any person and may accept and expend gifts, bequests, and grants of money or property from any person.

(B) Every agency of the state, upon request of the director, shall cooperate with the department of natural resources in the implementation of the coastal management program.

(C) The director shall establish a coastal management assistance grant program. Grants may be awarded from federal funds

received for that purpose and from such other funds as may be
provided by law to any municipal corporation, county, township,
park district created under section 511.18 or 1545.04 of the
Revised Code, conservancy district established under Chapter 6101.
of the Revised Code, port authority, other political subdivision,
state agency, educational institution, or nonprofit corporation
that is located in whole or in part in the coastal area to help
implement, administer, or enforce any aspect of the coastal
management program. Grants may be used for any of the following
purposes:

(1) Feasibility studies and engineering reports for projects
that are consistent with the policies in the coastal management
program document;

(2) The protection and preservation of wetlands, beaches,
fish and wildlife habitats, minerals, natural areas, prime
agricultural land, endangered plant and animal species, or other
significant natural coastal resources;

(3) The management of shoreline development to prevent loss
of life and property in coastal flood hazard areas and coastal
erosion areas, to set priorities for water-dependent energy,
commercial, industrial, agricultural, and recreational uses, or to
identify environmentally acceptable sites for dredge spoil
disposal;

(4) Increasing public access to Lake Erie and other public
places in the coastal area;

(5) The protection and preservation of historical, cultural,
or aesthetic coastal resources;

(6) Improving the predictability and efficiency of
governmental decision making related to coastal area management;

(7) Adopting, administering, and enforcing zoning ordinances

or resolutions relating to coastal flood hazard areas or coastal
erosion areas; 2087
2088

(8) The redevelopment of deteriorating and underutilized
waterfronts and ports; 2089
2090

(9) Other purposes approved by the director. 2091

Sec. 1506.11. (A) "Territory," as used in this section, means 2092
the waters and the lands presently underlying the waters of Lake 2093
Erie and the lands formerly underlying the waters of Lake Erie and 2094
now artificially filled, between the natural shoreline and the 2095
international boundary line with Canada. 2096

(B) Whenever the state, acting through the director of 2097
natural resources, upon application of any person who wants to 2098
develop or improve part of the territory, and after notice that 2099
the director, at the director's discretion, may give as provided 2100
in this section, determines that any part of the territory can be 2101
developed and improved or the waters thereof used as specified in 2102
the application without impairment of the public right of 2103
navigation, water commerce, and fishery, a lease of all or any 2104
part of the state's interest therein may be entered into with the 2105
applicant, or a permit may be issued for that purpose, subject to 2106
the powers of the United States government and in accordance with 2107
rules adopted by the director in accordance with Chapter 119. of 2108
the Revised Code, and without prejudice to the littoral rights of 2109
any owner of land fronting on Lake Erie, provided that the 2110
legislative authority of the municipal corporation within which 2111
any such part of the territory is located, if the municipal 2112
corporation is not within the jurisdiction of a port authority, or 2113
the county commissioners of the county within which such part of 2114
the territory is located, excluding any territory within a 2115
municipal corporation or under the jurisdiction of a port 2116
authority, or the board of directors of a port authority with 2117

respect to such part of the territory included in the jurisdiction 2118
of the port authority, has enacted an ordinance or resolution 2119
finding and determining that such part of the territory, described 2120
by metes and bounds, is not necessary or required for the 2121
construction, maintenance, or operation by the municipal 2122
corporation, county, or port authority of breakwaters, piers, 2123
docks, wharves, bulkheads, connecting ways, water terminal 2124
facilities, and improvements and marginal highways in aid of 2125
navigation and water commerce and that the land uses specified in 2126
the application comply with regulation of permissible land use 2127
under a waterfront plan of the local authority. 2128

(C) Upon the filing of the application in the office of the 2129
director in Columbus, the director may hold a public hearing 2130
thereon and ~~shall~~ may cause written notice of the filing to be 2131
given to any municipal corporation, county, or port authority, as 2132
the case may be, in which such part of the territory is located 2133
and also shall cause public notice of the filing to be given by 2134
advertisement in a newspaper of general circulation within the 2135
locality where such part of the territory is located. If a hearing 2136
is to be held, public notice of the filing may be combined with 2137
public notice of the hearing and shall be given once a week for 2138
four consecutive weeks prior to the date of the initial hearing. 2139
All hearings shall be before the director and shall be open to the 2140
public, and a record shall be made of the proceeding. Parties 2141
thereto are entitled to be heard and to be represented by counsel. 2142
The findings and order of the director shall be in writing. All 2143
costs of the hearings, including publication costs, shall be paid 2144
by the applicant. The director also may hold public meetings on 2145
the filing of an application. 2146

If the director finds that a lease may properly be entered 2147
into with the applicant or a permit may properly be issued to the 2148
applicant, the director shall determine the consideration to be 2149

paid by the applicant, which consideration shall exclude the value 2150
of the littoral rights of the owner of land fronting on Lake Erie 2151
and improvements made or paid for by the owner of land fronting on 2152
Lake Erie or ~~his~~ that owner's predecessors in title. The lease or 2153
permit may be for such periods of time as the director determines. 2154
The rentals received under the terms of such a lease or permit 2155
shall be paid into the state treasury to the credit of the Lake 2156
Erie submerged lands fund, which is hereby created, and shall be 2157
distributed from that fund as follows: 2158

(1) Fifty per cent of each rental shall be paid to the 2159
department of natural resources for the administration of this 2160
section and section 1506.10 of the Revised Code and for the 2161
coastal management assistance grant program required to be 2162
established under division (C) of section 1506.02 of the Revised 2163
Code; 2164

(2) Fifty per cent of each rental shall be paid to the 2165
municipal corporation, county, or port authority making the 2166
finding provided for in this section. 2167

All leases and permits shall be executed in the manner 2168
provided by section 5501.01 of the Revised Code and shall contain, 2169
in addition to the provisions required in this section, a 2170
reservation to the state of all mineral rights and a provision 2171
that the removal of any minerals shall be conducted in such manner 2172
as not to damage any improvements placed by the littoral owner, 2173
lessee, or permit holder on the lands. No lease or permit of the 2174
lands defined in this section shall express or imply any control 2175
of fisheries or aquatic wildlife now vested in the division of 2176
wildlife of the department. 2177

(D) Upland owners who, prior to October 13, 1955, have 2178
erected, developed, or maintained structures, facilities, 2179
buildings, or improvements or made use of waters in the part of 2180

the territory in front of those uplands shall be granted a lease 2181
or permit by the state upon the presentation of a certification by 2182
the chief executive of a municipal corporation, resolution of the 2183
board of county commissioners, or resolution of the board of 2184
directors of the port authority establishing that the structures, 2185
facilities, buildings, improvements, or uses do not constitute an 2186
unlawful encroachment on navigation and water commerce. The lease 2187
or permit shall specifically enumerate the structures, facilities, 2188
buildings, improvements, or uses so included. 2189

(E) Persons having secured a lease or permit under this 2190
section are entitled to just compensation for the taking, whether 2191
for navigation, water commerce, or otherwise, by any governmental 2192
authority having the power of eminent domain, of structures, 2193
facilities, buildings, improvements, or uses erected or placed 2194
upon the territory pursuant to the lease or permit or the littoral 2195
rights of the person and for the taking of the leasehold and the 2196
littoral rights of the person pursuant to the procedure provided 2197
in Chapter 163. of the Revised Code. The compensation shall not 2198
include any compensation for the site in the territory except to 2199
the extent of any interest in the site theretofore acquired by the 2200
person under this section or by prior acts of the general assembly 2201
or grants from the United States government. The failure of any 2202
person to apply for or obtain a lease or permit under this section 2203
does not prejudice any right the person may have to compensation 2204
for a taking of littoral rights or of improvements made in 2205
accordance with a lease, a permit, or littoral rights. 2206

(F) If any taxes or assessments are levied or assessed upon 2207
property that is the subject of a lease or permit under this 2208
section, the taxes or assessments are the obligation of the lessee 2209
or permit holder. 2210

(G) If a lease or permit secured under this section requires 2211
the lessee or permit holder to obtain the approval of the 2212

department or any of its divisions for any changes in structures, 2213
facilities, or buildings, for any improvements, or for any changes 2214
or expansion in uses, no lessee or permit holder shall change any 2215
structures, facilities, or buildings, make any improvements, or 2216
expand or change any uses unless the director first determines 2217
that the proposed action will not adversely affect any current or 2218
prospective exercise of the public right of recreation in the 2219
territory and in the state's reversionary interest in any 2220
territory leased or permitted under this section. 2221

Proposed changes or improvements shall be deemed to 2222
"adversely affect" the public right of recreation if the changes 2223
or improvements cause or will cause any significant demonstrable 2224
negative impact upon any present or prospective recreational use 2225
of the territory by the public during the term of the lease or 2226
permit or any renewals and of any public recreational use of the 2227
leased or permitted premises in which the state has a reversionary 2228
interest. 2229

This is an interim section effective until March 4, 1998. 2230

Sec. 1507.05. All moneys derived from the granting of permits 2231
and leases under section 1505.07 of the Revised Code for the 2232
removal of sand, gravel, stone, gas, oil, and other minerals and 2233
substances from and under the bed of Lake Erie and from 2234
applications for construction permits submitted under section 2235
1507.04 of the Revised Code shall be paid into the state treasury 2236
to the credit of the permit and lease fund, which is hereby 2237
created. Notwithstanding any section of the Revised Code relating 2238
to the distribution or crediting of fines for violations of the 2239
Revised Code, all fines imposed under ~~sections 1505.99 and~~ section 2240
1507.99 of the Revised Code shall be paid into that fund. The fund 2241
shall be administered by the department of natural resources for 2242
the protection of Lake Erie shores and waters; investigation and 2243

prevention of erosion; the planning, development, and construction 2244
of facilities for recreational use of Lake Erie; implementation of 2245
section 1507.04 of the Revised Code; preparation of the state 2246
shore erosion plan under section 1507.10 of the Revised Code; and 2247
state administration of Lake Erie coastal erosion areas under 2248
sections 1506.06 and 1506.07 of the Revised Code. 2249

2250

Sec. 1509.01. As used in this chapter: 2251

(A) "Well" means any borehole, whether drilled or bored, 2252
within the state, for production, extraction, or injection of any 2253
gas or liquid mineral, excluding potable water to be used as such, 2254
but including natural or artificial brines and oil field waters. 2255

(B) "Oil" means crude petroleum oil and all other 2256
hydrocarbons, regardless of gravity, that are produced in liquid 2257
form by ordinary production methods, but does not include 2258
hydrocarbons that were originally in a gaseous phase in the 2259
reservoir. 2260

(C) "Gas" means all natural gas and all other fluid 2261
hydrocarbons that are not defined above as oil, including 2262
condensate. 2263

(D) "Condensate" means liquid hydrocarbons that were 2264
originally in the gaseous phase in the reservoir. 2265

(E) "Pool" means an underground reservoir containing a common 2266
accumulation of oil or gas, or both, but does not include a gas 2267
storage reservoir. Each zone of a geological structure that is 2268
completely separated from any other zone in the same structure may 2269
contain a separate pool. 2270

(F) "Field" means the general area underlaid by one or more 2271
pools. 2272

(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.	2273 2274 2275
(H) "Waste" includes <u>all of the following</u> :	2276
(1) Physical waste, as such that term is generally <u>is</u> understood in the oil and gas industry;	2277 2278
(2) Inefficient, excessive, or improper use, or the unnecessary dissipation of , <u>of</u> reservoir energy;	2279 2280
(3) Inefficient storing of oil or gas;	2281
(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled, or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;	2282 2283 2284 2285 2286 2287
(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.	2288 2289
(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under his <u>the person's</u> tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.	2290 2291 2292 2293 2294
(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.	2295 2296
(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit and , to drill into and produce from a pool, and to appropriate the oil or gas that he produces <u>produced</u> therefrom either for himself <u>the person</u> 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	2297 2298 2299 2300 2301 2302

with applicable rules adopted and orders issued under this 2303
chapter. 2304

(L) "Royalty interest" means the fee holder's ~~interest~~ share 2305
in the production from a well, ~~usually one-eighth of the gross~~ 2306
~~production.~~ 2307

(M) "Discovery well" means the first well capable of 2308
producing oil or gas in commercial quantities from a pool. 2309

(N) "Prepared clay" means a clay ~~which~~ that is plastic and is 2310
thoroughly saturated with fresh water to a weight and consistency 2311
great enough to settle through saltwater in the well in which it 2312
is to be used, except as otherwise approved by the chief of the 2313
division of oil and gas. 2314

(O) "Rock sediment" means the combined cutting and residue 2315
from drilling sedimentary rocks and formation. 2316

(P) "Excavations and workings," "mine," and "pillar" have the 2317
~~meaning set forth~~ same meanings as in section 1561.01 of the 2318
Revised Code. 2319

(Q) "Coal bearing township" means a township designated as 2320
such by the chief of the division of mines and reclamation under 2321
section 1561.06 of the Revised Code. 2322

(R) "Gas storage reservoir" means a continuous area of a 2323
subterranean porous sand or rock stratum or strata into which gas 2324
is or may be injected for the purpose of storing it therein and 2325
removing it therefrom, and includes a gas storage reservoir as 2326
defined in ~~division (A) of~~ section 1571.01 of the Revised Code. 2327

(S) "Safe Drinking Water Act" means the "Safe Drinking Water 2328
Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), ~~and any amendments~~ 2329
~~thereto as amended by the~~ "Safe Drinking Water Amendments of 2330
1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water 2331
Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and 2332

the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 2333
42 U.S.C.A. 300(f), and regulations adopted under those acts. 2334

(T) "Person" includes any political subdivision, department, 2335
agency, or instrumentality of this state; the United States and 2336
any department, agency, or instrumentality thereof; and any legal 2337
entity defined as a person under section 1.59 of the Revised Code. 2338

(U) "Brine" means all saline geological formation water 2339
resulting from, obtained from, or produced in connection with the 2340
exploration, drilling, or production of oil or gas. 2341

(V) "Waters of the state" means all streams, lakes, ponds, 2342
marshes, watercourses, waterways, springs, irrigation systems, 2343
drainage systems, and other bodies of water, surface or 2344
underground, natural or artificial, that are situated wholly or 2345
partially within this state or within its jurisdiction, except 2346
those private waters that do not combine or effect a junction with 2347
natural surface or underground waters. 2348

(W) "Exempt Mississippian well" means a well that meets all 2349
of the following criteria: 2350

(1) Was drilled and completed before January 1, 1980; 2351

(2) Is located in an unglaciated part of the state; 2352

(3) Was completed in a reservoir no deeper than the 2353
Mississippian Big Injun sandstone in areas underlain by 2354
Pennsylvanian or Permian stratigraphy, or the Mississippian berea 2355
sandstone in areas directly underlain by Permian stratigraphy; ~~and~~ 2356

(4) Is used primarily to provide oil or gas for domestic use. 2357
2358

(X) "Exempt domestic well" means a well that meets all of the 2359
following criteria: 2360

(1) Is owned by the owner of the surface estate of the tract 2361
on which the well is located; 2362

(2) Is used primarily to provide gas for the owner's domestic use;	2363 2364
(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house, other than an inhabited private dwelling house located on the tract on which the well is located;	2365 2366 2367 2368
(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.	2369 2370 2371 2372
Sec. 1509.06. An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply shall be filed with the chief of the division of oil and gas upon such form as the chief prescribes and shall contain each of the following that is applicable:	2373 2374 2375 2376 2377 2378
(A) The name and address of the owner and, if a corporation, the name and address of the statutory agent;	2379 2380
(B) The signature of the owner or his <u>the owner's</u> authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of his <u>the</u> appointment as such agent.	2381 2382 2383 2384
(C) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;	2385 2386 2387
(D) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;	2388 2389 2390
(E) Designation of the well by name and number;	2391

(F) The geological formation to be tested or used and the proposed total depth of the well;	2392 2393
(G) The type of drilling equipment to be used;	2394
(H) The name and address of the corporate surety and the identifying number of the bond;	2395 2396
(I) The plan for the storage and disposal of brine and other waste substances resulting from, obtained from, or produced in connection with exploration, drilling, or production of oil or gas. The plan shall provide for compliance with sections 1509.22 to 1509.226 of the Revised Code.	2397 2398 2399 2400 2401
(J) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;	2402 2403 2404
(K) <u>(I)</u> A sworn statement that all requirements of any municipal corporation, county, or township having jurisdiction over any activity related to the drilling or operation of an oil or gas well that have been filed with the division of oil and gas and are in effect at the time the application is filed, including, but not limited to, zoning ordinances and resolutions and the requirements of section 4513.34 of the Revised Code, will be complied with until abandonment of the well;	2405 2406 2407 2408 2409 2410 2411 2412
(L) <u>(J)</u> A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.	2413 2414 2415 2416 2417
(M) <u>(K)</u> A description by name or number of the county, township, and municipal corporation roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site;	2418 2419 2420 2421

~~(N)~~(L) Such other relevant information as the chief 2422
prescribes by rule. 2423

Each application shall be accompanied by a map, on a scale 2424
not smaller than four hundred feet to the inch, prepared by an 2425
Ohio registered surveyor, showing the location of the well and 2426
containing such other data as may be prescribed by the chief. If 2427
the well is or is to be located within the excavations and 2428
workings of a mine, the map also shall include the location of the 2429
mine, the name of the mine, and the name of the person operating 2430
the mine. 2431

The chief shall cause a copy of the weekly circular prepared 2432
by the division ~~of oil and gas~~ to be provided to the county 2433
engineer of each county that contains active or proposed drilling 2434
activity. The weekly circular shall contain, in the manner 2435
prescribed by the chief, the names of all applicants for permits, 2436
the location of each well or proposed well, the information 2437
required by division ~~(M)~~(K) of this section, and any additional 2438
information the chief prescribes. 2439

The chief shall not issue a permit for at least ten days 2440
after the date of filing of the application for the permit unless, 2441
upon reasonable cause shown, ~~he~~ the chief waives that period or a 2442
request for expedited review is filed under this section. However, 2443
the chief shall issue a permit within twenty-one days of the 2444
filing of the application unless ~~he~~ the chief denies the 2445
application by order. 2446

An applicant may file a request with the chief for expedited 2447
review of ~~his~~ a permit application if the well is not or is not to 2448
be located in a gas storage reservoir or reservoir protective 2449
area, as "reservoir protective area" is defined in section 1571.01 2450
of the Revised Code. If the well is or is to be located in a coal 2451
bearing township, the application shall be accompanied by the 2452

affidavit of the landowner prescribed in section 1509.08 of the Revised Code. ~~On the first business day of each week, the chief shall issue a policy memorandum indicating the number of requests for expedited review that he will accept for review during the week immediately following the week in which the policy memorandum is issued. The chief shall make each policy memorandum available to the public.~~

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of five hundred dollars. Upon the filing of a request for expedited review, the chief shall cause the chief of the division of mines and reclamation and the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or ~~such~~ other means ~~as that~~ in the judgment of the chief ~~would~~ will provide timely notice of the application and request. ~~When a request for expedited review is filed, the chief immediately shall begin to process the application, but shall not issue the permit for at least five days after the date of the filing of the request.~~ The chief shall issue a permit within seven days of the filing of the request unless ~~he~~ the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in ~~his~~ the chief's judgment, the acceptance of the requests would prevent the issuance, within twenty-one days of their filing, of permits for which applications are pending.

A well shall be drilled and operated in accordance with the plans, sworn statements, and other information submitted in the approved application.

The chief shall issue an order denying a permit if the chief 2485
finds that there is a substantial risk that the operation will 2486
result in violations of this chapter or rules adopted ~~thereunder~~ 2487
under it that will present an imminent danger to public health or 2488
safety or damage to the environment, provided that where the chief 2489
finds that terms or conditions to the permit can reasonably be 2490
expected to prevent such violations, the chief shall issue the 2491
permit subject to those terms or conditions. 2492

Each application for a permit required by section 1509.05 of 2493
the Revised Code, except an application for a well drilled or 2494
reopened for purposes of section 1509.22 of the Revised Code, also 2495
shall be accompanied by a nonrefundable fee of two hundred fifty 2496
dollars. 2497

The chief may order the immediate suspension of drilling, 2498
operating, or plugging activities ~~if he finds~~ after finding that 2499
any person is causing, engaging in, or maintaining a condition or 2500
activity ~~which~~ that in ~~his~~ the chief's judgment presents an 2501
imminent danger to public health or safety or results in or is 2502
likely to result in immediate substantial damage to natural 2503
resources or for nonpayment of the fee required by this section. 2504
The chief may order the immediate suspension of the drilling or 2505
reopening of a well ~~if he is~~ after being so requested by the chief 2506
of the division of mines and reclamation under section 1509.08 of 2507
the Revised Code. Before issuing any such order, the chief shall 2508
notify the owner in such manner as in the chief's judgment would 2509
provide reasonable notification that ~~he~~ the chief intends to issue 2510
a suspension order. The chief may issue such an order without 2511
prior notification if reasonable attempts to notify the owner have 2512
failed, but in such an event notification shall be given as soon 2513
thereafter as practical. Within five calendar days after the 2514
issuance of the order, the chief shall provide the owner an 2515
opportunity to be heard and to present evidence that the condition 2516

or activity is not likely to result in immediate substantial 2517
damage to natural resources or does not present an imminent danger 2518
to public health or safety. Notwithstanding any provision of this 2519
chapter, the owner may appeal the order directly to the court of 2520
common pleas of the county in which the activity is located. 2521

Sec. 1509.07. An owner of any well, except an exempt 2522
Mississippian well or an exempt domestic well, shall ~~file with the~~ 2523
~~division of oil and gas a certificate issued by an insurance~~ 2524
~~company authorized to do business in this state certifying that~~ 2525
~~the owner has in force~~ obtain liability insurance coverage from a 2526
company authorized to do business in this state in an amount of 2527
not less than three hundred thousand dollars bodily injury 2528
coverage and three hundred thousand dollars property damage 2529
coverage to pay damages for injury to persons or damage to 2530
property caused by the drilling, operation, or plugging of all the 2531
owner's wells in this state. The owner shall maintain that 2532
coverage until all ~~his~~ the owner's wells are plugged and abandoned 2533
as required by law. The ~~policy or policies providing that coverage~~ 2534
owner shall ~~require the~~ provide proof of liability insurance 2535
~~company to give notice~~ coverage to the chief of the division of 2536
oil and gas ~~if the policy or policies lapse for any reason upon~~ 2537
request. Upon ~~any such termination of coverage~~ failure of the 2538
owner to provide that proof when requested, the chief may order 2539
the suspension of any outstanding permits and operations of the 2540
owner until the owner ~~obtains~~ provides proof of the required 2541
insurance coverage. 2542

~~An~~ Except as otherwise provided in this section, an owner of 2543
any well, before being issued a permit under section 1509.06 of 2544
the Revised Code, shall execute and file with the division of oil 2545
and gas a surety bond conditioned on compliance with the 2546
restoration requirements of section 1509.072, the plugging 2547
requirements of section 1509.12, the permit provisions of section 2548

1509.13 of the Revised Code, and all rules and orders of the chief 2549
relating thereto, in an amount set by rule of the chief. 2550

The owner may deposit with the chief, instead of a surety 2551
bond, cash in an amount equal to the surety bond as prescribed ~~in~~ 2552
pursuant to this section or negotiable certificates of deposit or 2553
irrevocable letters of credit, issued by any bank organized or 2554
transacting business in this state or by any savings and loan 2555
association as defined in section 1151.01 of the Revised Code, 2556
having a cash value equal to or greater than the amount of the 2557
surety bond as prescribed ~~in~~ pursuant to this section. Cash or 2558
certificates of deposit shall be deposited upon the same terms as 2559
those upon which surety bonds may be deposited. If certificates of 2560
deposit are deposited with the chief instead of a surety bond, ~~he~~ 2561
the chief shall require the bank or savings and loan association 2562
that issued any such certificate to pledge securities of a cash 2563
value equal to the amount of the certificate that is in excess of 2564
the amount insured by any of the agencies and instrumentalities 2565
created under the "Federal Deposit Insurance Act," 64 Stat. 873 2566
(1950), 12 U.S.C. 1811, as amended, and regulations adopted under 2567
it, including at least the federal deposit insurance corporation, 2568
bank insurance fund, and savings association insurance fund. The 2569
securities shall be security for the repayment of the certificate 2570
of deposit. 2571

Immediately upon a deposit of cash, certificates of deposit, 2572
or letters of credit with the chief, ~~he~~ the chief shall deliver 2573
them to the treasurer of state who shall hold them in trust for 2574
the purposes for which they have been deposited. 2575

Instead of a surety bond, the chief may accept proof of 2576
financial responsibility consisting of a sworn financial statement 2577
showing a net financial worth within this state equal to twice the 2578
amount of the bond for which it substitutes and, as may be 2579
required by the chief, a list of producing properties of the owner 2580

within this state or ~~such~~ other evidence showing ability and 2581
intent to comply with the law and rules concerning restoration and 2582
plugging ~~as~~ that may be required by rule of the chief. The owner 2583
of an exempt domestic or exempt Mississippian well is not required 2584
to file scheduled updates of the financial documents, but shall 2585
file updates of those documents if requested to do so by the 2586
chief. The owner of a nonexempt domestic or nonexempt 2587
Mississippian well shall file updates of the financial documents 2588
in accordance with a schedule established by rule of the chief. 2589
The chief ~~may require at any time updating of the documents filed~~ 2590
~~and~~, upon determining that an owner for whom the chief has 2591
accepted proof of financial responsibility instead of bond cannot 2592
demonstrate financial responsibility, shall order that the owner 2593
execute and file a bond or deposit cash, certificates of deposit, 2594
or irrevocable letters of credit as required by this section for 2595
the wells specified in the order within ten days of receipt of the 2596
order. If the order is not complied with, all wells of the owner 2597
that are specified in the order and for which no bond is filed or 2598
cash, certificates of deposit, or letters of credit are deposited 2599
shall be plugged. No owner shall fail or refuse to plug such a 2600
well. Each day on which such a well remains unplugged thereafter 2601
constitutes a separate offense. 2602

The surety bond provided for in this section shall be 2603
executed by a surety company authorized to do business in this 2604
state. 2605

The chief shall not approve any bond until it is personally 2606
signed and acknowledged by both principal and surety, or as to 2607
either by ~~his~~ the principal's or surety's attorney in fact, with a 2608
certified copy of the power of attorney attached thereto. The 2609
chief shall not approve a bond unless there is attached a 2610
certificate of the superintendent of insurance that the company is 2611
authorized to transact a fidelity and surety business in this 2612

state. 2613

All bonds shall be given in a form to be prescribed by the 2614
chief and shall run to the state as obligee. 2615

An owner of an exempt Mississippian well or an exempt 2616
domestic well, in lieu of filing a surety bond, cash in an amount 2617
equal to the surety bond, certificates of deposit, irrevocable 2618
letters of credit, or a sworn financial statement, may file a 2619
one-time fee of fifty dollars, which shall be deposited in the oil 2620
and gas well plugging fund created in section 1509.071 of the 2621
Revised Code. 2622

Sec. 1509.071. (A) When the chief of the division of oil and 2623
gas finds that an owner has failed to comply with the restoration 2624
requirements of section 1509.072, plugging requirements of section 2625
1509.12, or permit provisions of section 1509.13 of the Revised 2626
Code, or rules and orders relating thereto, the chief shall make a 2627
finding of that fact and declare any surety bond filed to ensure 2628
compliance with those sections and rules forfeited in the amount 2629
set by rule of the chief. The chief thereupon shall certify the 2630
total forfeiture to the attorney general, who shall proceed to 2631
collect the amount ~~thereof~~ of the forfeiture. 2632

In lieu of total forfeiture, the surety, at its option, may 2634
cause the well to be properly plugged and abandoned and the area 2635
properly restored or pay to the treasurer of state the cost 2636
~~thereof~~ of plugging and abandonment. 2637

(B) All moneys collected ~~on account~~ because of forfeitures of 2638
bonds as provided in this section shall be deposited in the state 2639
treasury to the credit of the oil and gas well plugging fund, 2640
which is hereby created. The fund shall be expended by the chief 2641
for the following purposes: 2642

(1) In accordance with division (D) of this section, to plug wells or to restore the land surface properly as required in section 1509.072 of the Revised Code for which ~~such~~ the bonds have been forfeited, for abandoned wells for which no funds are available to plug ~~such~~ the wells in accordance with this chapter, or to use abandoned wells for the injection of oil or gas production wastes;

(2) In accordance with division (E) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks.

Expenditures from the fund shall be made only for lawful purposes.

(C)(1) Upon determining that the owner of a well has failed to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief

also shall mail notice that the well is to be plugged to the owner 2674
of the lease or to each person owning an interest in the lease, as 2675
appropriate. 2676

(c) Mail notice to each person having legal title to, or a 2677
lien upon, any equipment appurtenant to the well, informing the 2678
person that the well is to be plugged and offering the person the 2679
opportunity to plug the well and restore the land surface at the 2680
well site at the person's own expense in order to avoid forfeiture 2681
of the equipment to this state. 2682

(2) If none of the persons described in division (C)(1)(c) of 2683
this section plugs the well within sixty days after the mailing of 2684
the notice required by that division, all equipment appurtenant to 2685
the well is hereby declared to be forfeited to this state without 2686
compensation and without the necessity for any action by the state 2687
for use to defray the cost of plugging and abandoning the well and 2688
restoring the land surface at the well site. 2689

(D) Expenditures from the fund for the purpose of division 2690
(B)(1) of this section shall be made in accordance with either of 2691
the following: 2692

(1) The expenditures may be made pursuant to contracts 2693
entered into by the chief with persons who agree to furnish all of 2694
the materials, equipment, work, and labor as specified and 2695
provided in such a contract. Agents or employees of persons 2696
contracting with the chief for the restoration, plugging, and 2697
injection projects may enter upon any land, public or private, for 2698
which a project has been approved by the controlling board and on 2699
which the well is located, for the purpose of performing the work. 2700
Prior to such entry, the chief shall give to the following persons 2701
written notice of the existence of a contract for a project to 2702
restore, plug, or inject oil or gas production wastes into a well, 2703
the names of the persons with whom the contract is made, and the 2704

date that the project will commence: the owner of the well, the
owner of the land upon which the well is located, the owner or
agents of adjoining land, and, if the well is located in the same
township as or in a township adjacent to the excavations and
workings of a mine and the owner or lessee of that mine has
provided written notice identifying those townships to the chief
at any time during the immediately preceding three years, the
owner or lessee of the mine.

The chief periodically shall submit project proposals under
division (D)(1) of this section to the controlling board, together
with benefit and cost data and other pertinent information.
Expenditures from the fund for the purpose of division (D)(1) of
this section may be made only for restoration, plugging, or
injection projects that are approved by the controlling board, and
expenditures for a particular project may not exceed any limits
set by the board.

(2)(a) The owner of the land on which a well is located who
has received notice under division (C)(1)(b) of this section may
plug the well and be reimbursed by the division for the reasonable
cost of plugging the well. In order to plug the well, the
landowner shall submit an application to the chief on a form
prescribed by the chief and approved by the technical advisory
council on oil and gas created in section 1509.38 of the Revised
Code. The application, at a minimum, shall require the landowner
to provide the same information as is required to be included in
the application for a permit to plug and abandon under section
1509.13 of the Revised Code. The application shall be accompanied
by a copy of a proposed contract to plug the well prepared by a
contractor regularly engaged in the business of plugging oil and
gas wells. The proposed contract shall require the contractor to
furnish all of the materials, equipment, work, and labor necessary
to ~~properly~~ plug the well properly and shall specify the price for

doing the work, including a credit for the equipment appurtenant 2737
to the well that was forfeited to the state through the operation 2738
of division (C)(2) of this section. The application also shall be 2739
accompanied by the permit fee required by section 1509.13 of the 2740
Revised Code unless the chief, in the chief's discretion, waives 2741
payment of the permit fee. If the chief waives payment of the 2742
permit fee in connection with an application, the chief shall 2743
certify the amount of the fee to the director of budget and 2744
management for transfer from the oil and gas well plugging fund to 2745
the oil and gas permit fund created in section 1509.02 of the 2746
Revised Code. The application constitutes an application for a 2747
permit to plug and abandon the well for the purposes of section 2748
1509.13 of the Revised Code. 2749

(b) Within thirty days after receiving an application and 2750
accompanying proposed contract under division (D)(2)(a) of this 2751
section, the chief shall determine whether the plugging would 2752
comply with the applicable requirements of this chapter and 2753
applicable rules adopted and orders issued under it and whether 2754
the cost of the plugging under the proposed contract is 2755
reasonable. If the chief determines that the proposed plugging 2756
would comply with those requirements and that the proposed cost of 2757
the plugging is reasonable, the chief shall notify the landowner 2758
of that determination and issue to the landowner a permit to plug 2759
and abandon the well under section 1509.13 of the Revised Code. 2760
Upon approval of the application and proposed contract, the chief 2761
shall transfer ownership of the equipment appurtenant to the well 2762
to the landowner. The chief may disapprove an application 2763
submitted under division (D)(2)(a) of this section if the chief 2764
determines that the proposed plugging would not comply with the 2765
applicable requirements of this chapter and applicable rules 2766
adopted and orders issued under it, that the cost of the plugging 2767
under the proposed contract is unreasonable, or that the proposed 2768
contract is not a bona fide, arms length contract. 2769

(c) After receiving the chief's notice of the approval of the application and permit to plug and abandon a well under division (D)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well. The plugging shall be completed within one hundred eight days after the landowner receives the notice of approval and permit.

(d) Upon determining that the plugging has been completed within the time required by division (D)(2)(c) of this section and has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging, as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well plugging fund. If the chief determines that the plugging was not completed within the required time or was not completed in accordance with the applicable requirements, the chief shall not reimburse the landowner for the cost of the plugging, and the landowner or the contractor, as applicable, promptly shall transfer back to this state title to and possession of the equipment appurtenant to the well that previously was transferred to the landowner under division (D)(2)(b) of this section. If any such equipment was removed from the well during the plugging and sold, the landowner shall pay to the chief the proceeds from the sale of the equipment, and the chief promptly shall pay the moneys so received to the treasurer of state for deposit into the oil and gas well plugging fund.

The chief may establish an annual limit on the number of wells that may be plugged under division (D)(2) of this section or an annual limit on the expenditures to be made under that division.

As used in division (D)(2) of this section, "plug" and "plugging" include the plugging of the well and the restoration of

the land surface disturbed by the plugging. 2802

(E) Expenditures from the fund for the purpose of division 2803
(B)(2) of this section may be made pursuant to contracts entered 2804
into by the chief with persons who agree to furnish all of the 2805
materials, equipment, work, and labor as specified and provided in 2806
such a contract. The competitive bidding requirements of Chapter 2807
153. of the Revised Code do not apply if the chief reasonably 2808
determines that correction of the applicable health or safety risk 2809
requires immediate action. The chief, designated representatives 2810
of the chief, and agents or employees of persons contracting with 2811
the chief under this division may enter upon any land, public or 2812
private, for the purpose of performing the work. 2813

(F) Contracts entered into by the chief under this section 2814
are not subject to either of the following: 2815

(1) Chapter 4115. of the Revised Code; 2816

(2) Section 153.54 of the Revised Code, except that the 2817
contractor shall obtain and provide to the chief as a bid guaranty 2818
a surety bond or letter of credit in an amount equal to ten per 2819
cent of the amount of the contract. 2820

(G) The owner of land on which a well is located who has 2821
received notice under division (C)(1)(b) of this section, in lieu 2822
of plugging the well in accordance with division (D)(2) of this 2823
section, may cause ownership of the well to be transferred to an 2824
owner who is lawfully doing business in this state and who has met 2825
the financial responsibility requirements established under 2826
section 1509.07 of the Revised Code, subject to the approval of 2827
the chief. The transfer of ownership also shall be subject to the 2828
landowner's filing the appropriate forms required under this 2829
chapter and providing to the chief sufficient information to 2830
demonstrate the landowner's or owner's right to produce a 2831
formation or formations. That information may include a deed, a 2832

lease, or other documentation of ownership or property rights. 2833

The chief shall approve or disapprove the transfer of 2834
ownership of the well. If the chief approves the transfer, the 2835
owner is responsible for operating the well in accordance with 2836
this chapter and rules adopted under it, including, without 2837
limitation, all of the following: 2838

(1) Filing an application with the chief under section 2839
1509.06 of the Revised Code if the owner intends to drill deeper 2840
or produce a formation that is not listed in the records of the 2841
division for that well; 2842

(2) Taking title to and possession of the equipment 2843
appurtenant to the well that has been identified by the chief as 2844
having been abandoned by the former owner; 2845

(3) Complying with all applicable requirements that are 2846
necessary to drill deeper, plug the well, or plug back the well. 2847

Sec. 1509.072. No oil or gas well owner or his agent of an 2848
oil or gas well owner shall fail to restore the land surface 2849
within the area disturbed in siting, drilling, completing, and 2850
producing the well as required in this section. 2851

(A) Within five months after the date upon which the surface 2852
drilling of a well is commenced, the owner or ~~his~~ the owner's 2853
agent ~~shall~~, in accordance with ~~his~~ the restoration plan filed 2854
under division ~~(I)~~(J) of section 1509.06 of the Revised Code, 2855
~~shall~~ fill all the pits for containing brine, other waste 2856
substances resulting, obtained, or produced in connection with 2857
exploration, ~~or~~ drilling for, or production of oil or gas, or oil 2858
that are not required by other state or federal law or regulation, 2859
and remove all concrete bases, drilling supplies, and drilling 2860
equipment. Within nine months after the date upon which the 2861
surface drilling of a well is commenced, the owner or ~~his~~ the 2862

owner's agent shall grade or terrace and plant, seed, or sod the area disturbed that is not required in production of the well, where necessary to bind the soil and prevent substantial erosion and sedimentation. If the chief of the division of oil and gas finds that a pit used for containing brine, other waste substances, or oil is in violation of section 1509.22 of the Revised Code or rules adopted or orders issued ~~thereunder~~ under it, the chief may require the pit to be emptied and closed before expiration of the five-month restoration period.

(B) Within six months after a well that has produced oil or gas is plugged, or after the plugging of a dry hole, the owner or ~~his~~ the owner's agent shall remove all production and storage structures, supplies, and equipment, and any oil, salt water, and debris, and fill any remaining excavations. Within ~~such~~ that period the owner or ~~his~~ the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed, where necessary to bind the soil and prevent substantial erosion and sedimentation.

The owner shall be released from responsibility to perform any or all restoration requirements of this section on any part or all of the area disturbed, upon the filing of a request for a waiver with and obtaining the written approval of the chief, which request shall be signed by the surface owner to certify the approval of the surface owner of the release sought. The chief shall approve ~~such~~ the request unless ~~he~~ the chief finds upon inspection that the waiver would be likely to result in substantial damage to adjoining property, substantial contamination of surface or underground water, or substantial erosion or sedimentation.

The chief ~~may~~, by order, may shorten the time periods provided for under division (A) or (B) of this section if failure to shorten the periods would be likely to result in damage to public health or the waters or natural resources of the state.

The chief ~~may~~, upon written application by an owner or ~~his~~ an 2895
owner's agent showing reasonable cause, may extend the period 2896
within which restoration shall be completed under divisions (A) 2897
and (B) of this section, but not to exceed a further six-month 2898
period, except under extraordinarily adverse weather conditions or 2899
when essential equipment, fuel, or labor is unavailable to the 2900
owner or ~~his~~ the owner's agent. 2901

If the chief refuses to approve a request for waiver or 2902
extension, ~~he~~ the chief shall do so by order. 2903

Sec. 1509.13. No person shall plug and abandon a well without 2904
having a permit to do so issued by the chief of the division of 2905
oil and gas. The permit shall be issued by the chief in accordance 2906
with this chapter, and the chief may ~~by rule~~ establish by rule a 2907
period of time from date of issue during which permits will be 2908
valid. Application by the owner for a permit to plug and abandon 2909
shall be filed as many days in advance as will be necessary for an 2910
oil and gas well inspector or, if the well is located in a coal 2911
bearing township, the gas storage well inspector or a deputy mine 2912
inspector to be present at the plugging. The application shall be 2913
filed with the chief ~~of the division of oil and gas~~ upon such a 2914
form as that the chief prescribes and shall contain the following 2915
information: 2916

(A) The name and address of the owner; 2917

(B) The signature of the owner or ~~his~~ the owner's authorized 2918
agent. When an authorized agent signs an application, it shall be 2919
accompanied by a certified copy of ~~his~~ the appointment as ~~such~~ 2920
that agent. 2921

(C) The location of the well identified by section or lot 2922
number, city, village, township, and county; 2923

(D) Designation of well by name and number; 2924

- (E) The total depth of the well to be plugged; 2925
- (F) The date and amount of last production from the well; 2926
- (G) ~~Such other~~ Other data ~~as that~~ the chief may require. 2927

If oil or gas has been produced from the well, the 2928
application shall be accompanied by a fee of fifty dollars. If a 2929
new dry well has been drilled in accordance with law and the 2930
permit is still valid, the permit holder may receive approval to 2931
plug the well from an oil and gas well inspector or, if the well 2932
is located in a coal bearing township, the gas storage well 2933
inspector or a deputy mine inspector so that the well can be 2934
plugged and abandoned without undue delay. No well located outside 2935
a coal bearing township shall be plugged and abandoned without an 2936
oil and gas well inspector present unless permission has been 2937
granted by the chief of the division of oil and gas, and no well 2938
located within a coal bearing township shall be plugged and 2939
abandoned without the gas storage well inspector or a deputy mine 2940
inspector present unless permission has been granted by the chief 2941
of the division of mines and reclamation. The owner of the well 2942
shall give written notice at the same time to the owner of the 2943
land upon which the well is located, the owners or agents of 2944
adjoining land, adjoining well owners or agents, and, if the well 2945
penetrates or passes within one hundred feet of the excavations 2946
and workings of a mine, the owner or lessee of that mine, of ~~his~~ 2947
the well owner's intention to abandon the well and of the time 2948
when ~~he~~ the well owner will be prepared to commence plugging it. 2949

An applicant may file a request with the chief of the 2950
division of oil and gas for expedited review of an application for 2951
a permit to plug and abandon a well. The chief ~~shall~~ may refuse to 2952
accept a request for expedited review ~~after three such requests~~ 2953
~~have been filed in a week, and shall not accept more than one~~ 2954
~~request from the same applicant in any week~~ if, in the chief's 2955

judgment, acceptance of the request will prevent the issuance, 2956
within twenty-one days of filing, of permits for which 2957
applications filed under section 1509.06 Of the Revised Code are 2958
pending. In addition to a complete application for a permit that 2959
meets the requirements of this section and the permit fee 2960
prescribed by this section, if applicable, a request shall be 2961
accompanied by a nonrefundable filing fee of two hundred fifty 2962
dollars unless the chief has ordered the applicant to plug and 2963
abandon the well. When a request for expedited review is filed, 2964
the chief shall immediately begin to process the application and 2965
shall issue a permit within seven days of the filing of the 2966
request unless ~~he~~ the chief, by order, denies the application. 2967

Upon filing of an application for a permit to plug and 2968
abandon a well that is located in a coal bearing township, the 2969
chief shall cause the chief of the division of mines and 2970
reclamation to be notified of the filing of the permit application 2971
by telephone or ~~such~~ other means ~~as~~ that in the judgment of the 2972
chief would provide timely notice of the application. 2973

This section does not apply to a well plugged or abandoned in 2974
compliance with section 1571.05 of the Revised Code. 2975

Sec. 1509.14. Any person who abandons a well, when written 2976
permission has been granted by the chief of the division of oil 2977
and gas or the chief of the division of mines and reclamation to 2978
abandon and plug ~~such~~ the well without an inspector being present 2979
to supervise the plugging, shall make a written report of ~~such~~ the 2980
abandonment to the chief ~~who~~ of the division of oil and gas 2981
regardless of which chief granted such permission for the 2982
abandonment. The report shall be submitted to the chief of the 2983
division of oil and gas not later than thirty days after the date 2984
of abandonment and shall include all of the following: 2985

(A) The date of abandonment; 2986

(B) The name of the owner or operator of ~~such~~ the well at the 2987
time of abandonment and ~~his~~ the post-office address of the owner 2988
or operator; 2989

(C) The location of ~~such~~ the well as to township and county 2990
and the name of the owner of the surface upon which ~~such~~ the well 2991
is drilled, with the address thereof; 2992

(D) The date of the permit to drill; 2993

(E) The date when drilled; 2994

(F) ~~Whether such well has been mapped;~~ 2995

~~(G)~~ The depth of the well; 2996

~~(H)~~(G) The depth of the top of the formation to which the 2997
well was drilled; 2998

~~(I)~~(H) The depth of each seam of coal drilled through; 2999

~~(J)~~(I) A detailed report as to how ~~such~~ the well was plugged, 3000
giving in particular the manner in which the coal and various 3001
formations were plugged, and the date of the plugging of ~~such~~ the 3002
well, including ~~therein~~ the names of those who witnessed the 3003
plugging of the well. 3004

~~Such~~ The report shall be signed by the owner or operator, or 3005
the agent ~~thereof~~ of the owner or operator, who abandons and plugs 3006
~~such~~ the well and verified by the oath of the party so signing. 3007
For the purposes of this section, the oil and gas well inspectors, 3008
gas storage well inspectors, or deputy mine inspectors may take 3009
acknowledgments and administer oaths to the parties signing ~~such~~ 3010
the report. 3011

Sec. 1509.22. (A) Except when acting in accordance with 3012
section 1509.226 of the Revised Code, no person shall place or 3013
cause to be placed brine in surface or ground water or in or on 3014
the land in such quantities or in such manner as actually causes 3015

or could reasonably be anticipated to cause either of the 3016
following: 3017

(1) Water used for consumption by humans or domestic animals 3018
to exceed the standards of the "Safe Drinking Water Act"; ~~or~~ 3019

(2) Damage or injury to public health or safety or the 3020
environment. 3021

(B) No person shall store or dispose of brine in violation of 3022
a plan approved under ~~division (I) of section 1509.06 of the~~ 3023
~~Revised Code,~~ division (A) of section 1509.222 ~~of the Revised~~ 3024
~~Code,~~ or section 1509.226 of the Revised Code, in violation of a 3025
resolution submitted under section 1509.226 of the Revised Code, 3026
or in violation of rules or orders applicable to ~~such~~ those plans 3027
or resolutions. 3028

(C) The chief of the division of oil and gas shall adopt 3029
rules and issue orders regarding storage and disposal of brine and 3030
other waste substances; however, the storage and disposal of brine 3031
and the chief's rules relating ~~thereto~~ to storage and disposal are 3032
subject to all of the following standards: 3033

(1) Brine from any well except an exempt Mississippian well 3034
shall ~~only~~ be disposed of only by injection into an underground 3035
formation, including annular disposal if approved by rule of the 3036
chief, which injection shall be subject to division (D) of this 3037
section; by surface application in accordance with section 3038
1509.226 of the Revised Code; in association with a method of 3039
enhanced recovery as provided in section 1509.21 of the Revised 3040
Code; or by other methods approved by the chief for testing or 3041
implementing a new technology or method of disposal. Brine from 3042
exempt Mississippian wells shall not be discharged directly into 3043
the waters of the state. 3044

(2) Muds, cuttings, and other waste substances shall not be 3045

disposed of in violation of any rule; 3046

(3) Pits may be used for containing brine and other waste 3047
substances resulting from, obtained from, or produced in 3048
connection with drilling, fracturing, reworking, reconditioning, 3049
plugging back, or plugging operations, but ~~such~~ the pits shall be 3050
constructed and maintained to prevent the escape of brine and ~~such~~ 3051
other waste substances. A dike or pit may be used for spill 3052
prevention and control. A dike or pit so used shall be constructed 3053
and maintained to prevent the escape of brine, and the reservoir 3054
within such a dike or pit shall be kept reasonably free of brine 3055
and other waste substances. 3056

(4) Earthen impoundments constructed pursuant to the 3057
division's specifications may be used for the temporary storage of 3058
brine and other waste substances in association with a saltwater 3059
injection well, an enhanced recovery project, or a solution mining 3060
project; 3061

(5) No pit, earthen impoundment, or dike shall be used for 3062
the temporary storage of brine except in accordance with divisions 3063
(C)(3) and (4) of this section; ~~and~~ 3064

(6) No pit or dike shall be used for the ultimate disposal of 3065
brine. 3066

(D) No person ~~shall~~, without first having obtained a permit 3067
from the chief, shall inject brine or other waste substances 3068
resulting from, obtained from, or produced in connection with oil 3069
or gas drilling, exploration, or production into an underground 3070
formation, unless a rule of the chief expressly authorizes the 3071
injection without a permit. The permit shall be in addition to any 3072
permit required by section 1509.05 of the Revised Code, and the 3073
permit application shall be accompanied by a permit fee of one 3074
hundred dollars. The chief shall adopt rules in accordance with 3075
Chapter 119. of the Revised Code regarding the injection into 3076

wells of brine and other waste substances resulting from, obtained 3077
from, or produced in connection with oil or gas drilling, 3078
exploration, or production. The rules shall include provisions 3079
regarding applications for and issuance of the permits required by 3080
this division; entry to conduct inspections and to examine and 3081
copy records to ascertain compliance with this division and rules, 3082
orders, and terms and conditions of permits adopted or issued 3083
~~thereunder~~ under it; the provision and maintenance of information 3084
through monitoring, recordkeeping, and reporting; and other 3085
provisions in furtherance of the goals of this section and the 3086
"Safe Drinking Water Act." To implement the goals of the "Safe 3087
Drinking Water Act," ~~88 Stat. 1661, 42 U.S.C.A. 300(f), as~~ 3088
~~amended~~, the chief shall not issue a permit for the injection of 3089
brine or other waste substances resulting from, obtained from, or 3090
produced in connection with oil or gas drilling, exploration, or 3091
production, unless the chief concludes that the applicant has 3092
demonstrated that the injection will not result in the presence of 3093
any contaminant in ground water that supplies or can reasonably be 3094
expected to supply any public water system, such that the presence 3095
of the contaminant may result in the system's not complying with 3096
any national primary drinking water regulation or may otherwise 3097
adversely affect the health of persons. This division and rules, 3098
orders, and terms and conditions of permits adopted or issued 3099
~~thereunder~~ under it shall be construed to be no more stringent 3100
than required for compliance with the Safe Drinking Water Act, 3101
unless essential to ensure that underground sources of drinking 3102
water will not be endangered. 3103

(E) The owner holding a permit, or an assignee or transferee 3104
who has assumed the obligations and liabilities imposed by ~~Chapter~~ 3105
~~1509. of the Revised Code~~ this chapter and any rules adopted or 3106
orders issued ~~thereunder~~ under it pursuant to section 1509.31 of 3107
the Revised Code, and the operator of a well shall be liable for a 3108
violation of this section or any rules adopted or orders or terms 3109

or conditions of a permit issued under ~~this section~~ it. 3110

(F) An owner shall replace the water supply of the holder of 3111
an interest in real property who obtains all or part of ~~his~~ the 3112
holder's supply of water for domestic, agricultural, industrial, 3113
or other legitimate use from an underground or surface source 3114
where the supply has been substantially disrupted by 3115
contamination, diminution, or interruption proximately resulting 3116
from the owner's oil or gas operation, or the owner may elect to 3117
compensate the holder of the interest in real property for the 3118
difference between the fair market value of the interest before 3119
the damage occurred to the water supply and the fair market value 3120
after the damage occurred, if the cost of replacing the water 3121
supply exceeds this difference in fair market values. However, 3122
during the pendency of any order issued under this division, the 3123
owner shall obtain for the holder or shall reimburse the holder 3124
for the reasonable cost of obtaining a water supply from the time 3125
of the contamination, diminution, or interruption by the operation 3126
until the owner has complied with an order of the chief for 3127
compliance with this division or such an order has been revoked or 3128
otherwise becomes not effective. If the owner elects to pay the 3129
difference in fair market values, but the owner and the holder 3130
have not agreed on the difference within thirty days after the 3131
chief issues an order for compliance with this division, ~~then~~ 3132
within ten days after the expiration of ~~this~~ that thirty-day 3133
period, the owner and the chief ~~shall~~ each shall appoint an 3134
appraiser to determine the difference in fair market values, 3135
except that the holder of the interest in real property may elect 3136
to appoint and compensate ~~his~~ the holder's own appraiser, in which 3137
case the chief shall not appoint an appraiser. The two appraisers 3138
appointed shall appoint a third appraiser, and within thirty days 3139
after the appointment of the third appraiser, the three appraisers 3140
shall hold a hearing to determine the difference in fair market 3141
values. Within ten days after the hearing, the appraisers shall 3142

make their determination by majority vote and issue their final 3143
determination of the difference in fair market values. The chief 3144
shall accept a determination of the difference in fair market 3145
values made by agreement of the owner and holder or by appraisers 3146
under this division and shall make and dissolve orders 3147
accordingly. This division does not affect in any way the right of 3148
any person to enforce or protect, under applicable law, ~~his~~ the 3149
person's interest in water resources affected by an oil or gas 3150
operation. 3151

(G) In any action brought by the state for a violation of 3152
division (A) of this section involving any well at which annular 3153
disposal is used, there shall be a rebuttable presumption 3154
available to the state that the annular disposal caused the 3155
violation if the well is located within a one-quarter mile radius 3156
of the site of the violation. 3157

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 3158
of the Revised Code, no person shall transport brine by vehicle in 3159
this state unless the business entity that employs the person 3160
first registers with and obtains a registration certificate and 3161
identification number from the chief of the division of oil and 3162
gas. 3163

(2) No more than one registration certificate shall be 3164
required of any business entity. Registration certificates issued 3165
under this section are not ~~transferrable~~ TRANSFERABLE. An 3166
applicant shall file an application with the chief, containing 3167
such information in such form as the chief prescribes, but 3168
including a plan for disposal that provides for compliance with 3169
the requirements of this chapter and rules of the chief pertaining 3170
to the transportation of brine by vehicle and the disposal of 3171
brine so transported and that lists all disposal sites that the 3172
applicant intends to use, the bond required by section 1509.225 of 3173

the Revised Code, and a certificate issued by an insurance company 3174
authorized to do business in this state certifying that the 3175
applicant has in force a liability insurance policy in an amount 3176
not less than three hundred thousand dollars bodily injury 3177
coverage and three hundred thousand dollars property damage 3178
coverage to pay damages for injury to persons or property caused 3179
by the collecting, handling, transportation, or disposal of brine. 3180
The policy shall be maintained in effect during the term of the 3181
registration certificate. The policy or policies providing ~~such~~ 3182
the coverage shall require the insurance company to give notice to 3183
the chief if the policy or policies lapse for any reason. Upon 3184
such termination of the policy, the chief may suspend the 3185
registration certificate until proper insurance coverage is 3186
obtained. Each application for a registration certificate shall be 3187
accompanied by a nonrefundable fee of five hundred dollars. 3188

(B) The chief shall issue an order denying an application for 3189
a registration certificate if the chief finds that either of the 3190
following applies: 3191

(1) The applicant, at the time of applying for the 3192
registration certificate, has been found liable by a final 3193
nonappealable order of a court of competent jurisdiction for 3194
damage to streets, roads, highways, bridges, culverts, or 3195
drainways pursuant to section 4513.34 or 5577.12 of the Revised 3196
Code until the applicant provides the chief with evidence of 3197
compliance with the order; 3198

(2) The applicant's plan for disposal does not provide for 3199
compliance with the requirements of this chapter and rules of the 3200
chief pertaining to the transportation of brine by vehicle and the 3201
disposal of brine so transported. 3202

(C) No applicant shall attempt to circumvent division (B) of 3203
this section by applying for a registration certificate under a 3204
different name or business organization name, by transferring 3205

responsibility to another person or entity, or by any similar act. 3206

(D) A registered transporter shall apply to revise a disposal 3207
plan under procedures that the chief shall prescribe by rule. 3208
However, at a minimum, an application for a revision shall list 3209
all sources and disposal sites of brine currently transported. ~~If~~ 3210
~~the chief approves a revision of a plan under this division, the~~ 3211
~~approval also constitutes approval of a revision of affected~~ 3212
~~disposal plans required by division (I) of section 1509.06 of the~~ 3213
~~Revised Code, except as the chief otherwise specifically provides~~ 3214
~~in the order approving the revision.~~ The chief shall deny any 3215
application for a revision of a plan under this division if the 3216
chief finds that the proposed revised plan does not provide for 3217
compliance with the requirements of this chapter and rules of the 3218
chief pertaining to the transportation of brine by vehicle and the 3219
disposal of brine so transported. Approvals and denials of 3220
revisions shall be by order of the chief. 3221

(E) The chief may adopt rules, issue orders, and attach terms 3222
and conditions to registration certificates as may be necessary to 3223
administer, implement, and enforce sections 1509.222 to 1509.226 3224
of the Revised Code for protection of public health or safety or 3225
conservation of natural resources. 3226

Sec. 1509.31. Whenever the entire interest of an oil and gas 3227
lease is assigned or otherwise transferred, the assignor or 3228
transferor shall notify the holders of the royalty interests, and, 3229
if a well or wells exist on the lease, the division of oil and 3230
gas, of the name and address of the assignee or transferee by 3231
certified mail, return receipt requested, not later than thirty 3232
days after the date of the assignment or transfer. When notice of 3233
any such assignment or transfer is required to be provided to the 3234
division, it shall be provided on a form prescribed and provided 3235
by the division and verified by both the assignor or transferor 3236

and by the assignee or transferee. The notice form applicable to 3237
assignments or transfers of a well to the owner of the surface 3238
estate of the tract on which the well is located shall contain a 3239
statement informing the landowner that the well may require 3240
periodic servicing to maintain its productivity; that, upon 3241
assignment or transfer of the well to ~~him~~ the landowner, the 3242
landowner becomes responsible for compliance with the requirements 3243
of this chapter and rules adopted under it, including, without 3244
limitation, the proper disposal of brine obtained from the well, 3245
the plugging of the well when it becomes incapable of producing 3246
oil or gas, and the restoration of the well site; and that, upon 3247
assignment or transfer of the well to ~~him~~ the landowner, the 3248
landowner becomes responsible for the costs of compliance with the 3249
requirements of this chapter and rules adopted under it and the 3250
costs for operating and servicing the well. 3251

The owner holding a permit under section 1509.05 of the 3252
Revised Code is responsible for all obligations and liabilities 3253
imposed by this chapter and any rules, orders, and terms and 3254
conditions of a permit adopted or issued thereunder under it, and 3255
no assignment or transfer by the owner relieves the owner of the 3256
obligations and liabilities until and unless the assignee or 3257
transferee files with the division ~~of oil and gas~~ the information 3258
described in divisions (A), (B), (C), (D), (E), ~~(H)~~(I), (J), (K), 3259
and (L), ~~(M)~~, and ~~(N)~~ of section 1509.06 of the Revised Code; 3260
~~files or has filed the certificate of~~ obtains liability insurance 3261
coverage required by section 1509.07 of the Revised Code, except 3262
when none is required by that section; and executes and files a 3263
surety bond, negotiable certificates of deposit or irrevocable 3264
letters of credit, or cash, as described in that section ~~1509.07~~ 3265
~~of the Revised Code~~. Instead of a bond, but only upon acceptance 3266
by the chief, the assignee or transferee may file proof of 3267
financial responsibility, described in section 1509.07 of the 3268

Revised Code. Section 1509.071 of the Revised Code applies to the 3269
surety bond, cash, and negotiable certificates of deposit and 3270
irrevocable letters of credit described in this section. Unless 3271
the chief approves a modification, each assignee or transferee 3272
shall operate in accordance with the plans and information filed 3273
by the permit holder pursuant to section 1509.06 of the Revised 3274
Code. 3275

Sec. 1511.02. The chief of the division of soil and water 3276
conservation, subject to the approval of the director of natural 3277
resources, shall do all of the following: 3278

(A) Provide administrative leadership to local soil and water 3279
conservation districts in planning, budgeting, staffing, and 3280
administering district programs and the training of district 3281
supervisors and personnel in their duties, responsibilities, and 3282
authorities as prescribed in this chapter and Chapter 1515. of the 3283
Revised Code; 3284

(B) Administer this chapter and Chapter 1515. of the Revised 3285
Code pertaining to state responsibilities and provide staff 3286
assistance to the Ohio soil and water conservation commission in 3287
exercising its statutory responsibilities; 3288

(C) Assist in expediting state responsibilities for watershed 3289
development and other natural resource conservation works of 3290
improvement; 3291

(D) Coordinate the development and implementation of 3292
cooperative programs and working agreements between local soil and 3293
water conservation districts and divisions or sections of the 3294
department of natural resources, or other agencies of local, 3295
state, and federal government; 3296

(E) Subject to the approval of the Ohio soil and water 3297
conservation commission, adopt, amend, or rescind rules pursuant 3298

to Chapter 119. of the Revised Code. Rules adopted pursuant to 3299
this section: 3300

(1) Shall establish technically feasible and economically 3301
reasonable standards to achieve a level of management and 3302
conservation practices in farming or silvicultural operations that 3303
will abate wind or water erosion of the soil or abate the 3304
degradation of the waters of the state by animal waste or by soil 3305
sediment including substances attached thereto, and establish 3306
criteria for determination of the acceptability of such management 3307
and conservation practices; 3308

(2) Shall establish technically feasible and economically 3309
reasonable standards to achieve a level of management and 3310
conservation practices that will abate wind or water erosion of 3311
the soil or abate the degradation of the waters of the state by 3312
soil sediment in conjunction with land grading, excavating, 3313
filling, or other soil-disturbing activities on land used or being 3314
developed for nonfarm commercial, industrial, residential, or 3315
other nonfarm purposes, and establish criteria for determination 3316
of the acceptability of such management and conservation 3317
practices. The standards shall be designed to implement applicable 3318
areawide waste treatment management plans prepared under section 3319
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 3320
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 3321
shall not apply in any municipal corporation or county that adopts 3322
ordinances or rules pertaining to sediment control, nor to lands 3323
being used in a strip mine operation as defined in section 1513.01 3324
of the Revised Code, nor to lands being used in a surface mining 3325
operation as defined in section 1514.01 of the Revised Code. 3326

(3) May recommend criteria and procedures for the approval of 3328
urban sediment pollution abatement plans and issuance of permits 3329
prior to any grading, excavating, filling, or other whole or 3330

partial disturbance of five or more contiguous acres of land owned 3331
by one person or operated as one development unit and require 3332
implementation of such a plan. Areas of less than five contiguous 3333
acres are not exempt from compliance with other provisions of this 3334
chapter and rules adopted under them. 3335

(4) Shall establish procedures for administration of rules 3336
for agricultural pollution abatement and urban sediment pollution 3337
abatement and for enforcement of rules for agricultural pollution 3338
abatement; 3339

(5) Shall specify the pollution abatement practices eligible 3340
for state cost sharing and determine the conditions for 3341
eligibility, the construction standards and specifications, the 3342
useful life, the maintenance requirements, and the limits of cost 3343
sharing for those practices. Eligible practices shall be limited 3344
to practices that address agricultural or silvicultural operations 3345
and that require expenditures that are likely to exceed the 3346
economic returns to the owner or operator and that abate soil 3347
erosion or degradation of the waters of the state by animal waste 3348
or soil sediment including pollutants attached thereto. 3349

(6) Until June 1, 1996, shall specify the multiflora rose 3350
control practices eligible for state cost sharing, the conditions 3351
of eligibility for state cost sharing, the limits of cost sharing 3352
for those practices, specifications for carrying out those 3353
practices to ensure effective control of the multiflora rose and 3354
to safeguard the health and safety of human beings and domestic 3355
animals and the environment, and the contract provisions to be 3356
included in cost-sharing agreements with landowners; 3357

(7) Until June 1, 1996, shall establish procedures for 3358
administering grants to soil and water conservation districts for 3359
control of multiflora rose; 3360

(8) Shall establish procedures for administering grants to 3361

owners or operators of agricultural land or concentrated animal 3362
feeding operations for the implementation of operation and 3363
management plans; 3364

(9) Shall establish procedures for administering grants to 3365
soil and water conservation districts for urban sediment pollution 3366
abatement programs, specify the types of projects eligible for 3367
grants, establish limits on the availability of grants, and 3368
establish requirements governing the execution of projects to 3369
encourage the reduction of erosion and sedimentation associated 3370
with soil-disturbing activities; 3371

(10) Shall do all of the following with regard to composting 3372
conducted in conjunction with agricultural operations: 3373

(a) Provide for the distribution of educational material 3374
concerning composting to the offices of the Ohio cooperative 3375
extension service for the purposes of section 1511.022 of the 3376
Revised Code; 3377

(b) Establish methods, techniques, or practices for 3378
composting dead animals, or particular types of dead animals, that 3379
are to be used at such operations, as the chief considers to be 3380
necessary or appropriate; 3381

(c) Establish requirements and procedures governing the 3382
review and approval or disapproval of composting plans by the 3383
supervisors of soil and water conservation districts under 3384
division ~~(T)~~(U) of section 1515.08 of the Revised Code. 3385

(11) Shall be adopted, amended, or rescinded after the chief 3386
does all of the following: 3387

(a) Mails notice to each statewide organization that ~~he~~ the 3388
chief determines represents persons or local governmental agencies 3389
who would be affected by the proposed rule, amendment thereto, or 3390
rescission thereof at least thirty-five days before any public 3391

hearing thereon; 3392

(b) Mails a copy of each proposed rule, amendment thereto, or 3393
rescission thereof to any person who requests a copy, within five 3394
days after receipt of the request; 3395

(c) Consults with appropriate state and local governmental 3396
agencies or their representatives, including statewide 3397
organizations of local governmental officials, industrial 3398
representatives, and other interested persons; 3399

(d) If the rule relates to agricultural pollution abatement, 3400
develops an economic impact statement concerning the effect of the 3401
proposed rule or amendment. 3402

(12) Shall not conflict with air or water quality standards 3403
adopted pursuant to section 3704.03 or 6111.041 of the Revised 3404
Code. Compliance with rules adopted pursuant to this section ~~shall~~ 3405
does not affect liability for noncompliance with air or water 3406
quality standards adopted pursuant to section 3704.03 or 6111.041 3407
of the Revised Code. The application of a level of management and 3408
conservation practices recommended under this section to control 3409
windblown soil from farming operations ~~shall create~~ creates a 3410
presumption of compliance with section 3704.03 of the Revised Code 3411
as that section applies to windblown soil. 3412

(13) Insofar as the rules relate to urban sediment pollution, 3413
shall not be applicable in a municipal corporation or county that 3414
adopts ordinances or rules for urban sediment control, except that 3415
a municipal corporation or county that adopts such ordinances or 3416
rules may receive moneys for urban sediment control that are 3417
disbursed by the board of supervisors of the applicable soil and 3418
water conservation district under division (R) of section 1515.08 3419
of the Revised Code. The rules shall not exempt any person from 3420
compliance with municipal ordinances enacted pursuant to Section 3 3421
of Article XVIII, Ohio Constitution. 3422

(F) Cost share with landowners on practices established 3423
pursuant to division (E)(5) of this section as moneys are 3424
appropriated and available for that purpose. Any practice for 3425
which cost share is provided shall be maintained for its useful 3426
life. Failure to maintain a cost share practice for its useful 3427
life shall subject the landowner to full repayment to the 3428
division. 3429

(G) Issue orders requiring compliance with any rule adopted 3430
under division (E)(1) of this section or with section 1511.022 of 3431
the Revised Code. Before the chief issues an order, ~~he~~ the chief 3432
shall afford each person allegedly liable an adjudication hearing 3433
under Chapter 119. of the Revised Code. The chief may require in 3434
an order that a person who has caused agricultural pollution by 3435
failure to comply with the standards established under division 3436
(E)(1) of this section operate under an operation and management 3437
plan approved by the chief under this section. The chief shall 3438
require in an order that a person who has failed to comply with 3439
division (A) of section 1511.022 of the Revised Code prepare a 3440
composting plan in accordance with rules adopted under division 3441
(E)(10)(c) of this section and operate in accordance with that 3442
plan or that a person who has failed to operate in accordance with 3443
such a plan begin to operate in accordance with it. Each order 3444
shall be issued in writing and contain a finding by the chief of 3445
the facts upon which the order is based and the standard that is 3446
not being met. 3447

(H) Refrain from issuing any order requiring a pollution 3448
abatement practice that is eligible for cost sharing under 3449
division (E)(5) of this section unless public funds are available 3450
for cost sharing on those practices at not less than seventy-five 3451
per cent of the cost, but not more than fifteen thousand dollars 3452
per person per year for practices for abating agricultural 3453
pollution. The fifteen thousand dollar per person per year limit 3454

may be waived by majority vote of the Ohio soil and water
conservation commission.

(I) Employ field assistants and such other employees as are
necessary for the performance of the work prescribed by Chapter
1515. of the Revised Code, for performance of work of the
division, and as agreed to under working agreements or contractual
arrangements with local soil and water conservation districts,
prescribe their duties, and fix their compensation in accordance
with such schedules as are provided by law for the compensation of
state employees.

All employees of the division, unless specifically exempted
by law, shall be employed subject to the classified civil service
laws in force at the time of employment.

(J) In connection with new or relocated projects involving
highways, underground cables, pipelines, railroads, and other
improvements affecting soil and water resources, including surface
and subsurface drainage:

(1) Provide engineering service as is mutually agreeable to
the Ohio soil and water conservation commission and the director
to aid in the design and installation of soil and water
conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on
which the projects are executed, local soil and water conservation
districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance
with standards developed under division (E) of this section in
cooperation with the department of transportation or with any
other interested agency that is engaged in soil or water
conservation projects in the state in order to minimize adverse
impacts on soil and water resources adjacent to or otherwise
affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;	3486 3487 3488
(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.	3489 3490 3491 3492
(K) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;	3493 3494 3495
(L) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;	3496 3497 3498 3499
(M) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are mutually agreeable to the districts and the department of natural resources.	3500 3501 3502 3503 3504 3505 3506
(N) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;	3507 3508 3509
(O)	3510
(P)	3511
(Q)	3512
(R)	3513
(S)	3514

~~(P)~~(O) When necessary for the purposes of this chapter or 3515
Chapter 1515. of the Revised Code, develop or approve operation 3516
and management plans. 3517

This section does not restrict the excrement of domestic or 3518
farm animals defecated on land outside a concentrated animal 3519
feeding operation or runoff therefrom into the waters of the 3520
state. 3521

Sec. 1511.022. (A) Any person who owns or operates an 3522
agricultural operation, or owns the animals raised by the owner or 3523
operator of an agricultural operation, and who wishes to conduct 3524
composting of dead animals resulting from the agricultural 3525
operation shall do both of the following: 3526

(1) Participate in an educational course concerning 3527
composting conducted by the Ohio cooperative extension service and 3528
obtain a certificate of completion for the course; 3529

(2) Use the appropriate method, technique, or practice of 3530
composting established in rules adopted under division (E)(10) of 3531
section 1511.02 of the Revised Code. 3532

(B) Any person who fails to comply with division (A) of this 3533
section shall prepare and operate under a composting plan in 3534
accordance with an order issued by the chief of the division of 3535
soil and water conservation under division (H) of section 1511.02 3536
of the Revised Code. If the person's proposed composting plan is 3537
disapproved by the board of supervisors of the appropriate soil 3538
and water conservation district under division ~~(F)~~(U)(3) of 3539
section 1515.08 of the Revised Code, the person may appeal the 3540
plan disapproval to the chief, who shall afford the person a 3541
hearing. Following the hearing, the chief shall uphold the plan 3542
disapproval or reverse it. If the chief reverses the disapproval, 3543
the plan shall be deemed approved. 3544

Sec. 1513.02. (A) The division of mines and reclamation shall 3545
administer, enforce, and implement this chapter. The chief of the 3546
division of mines and reclamation shall do all of the following: 3547
3548

(1) Adopt, amend, and rescind rules: 3549

(a) To administer and enforce this chapter; 3550

(b) To implement the requirements of this chapter for the 3551
reclamation of lands affected by coal mining, including such rules 3552
governing mining practices and procedures, segregation and 3553
placement of soil and topsoil, backfilling, grading, terracing, 3554
resoiling, soil conditioning and reconditioning, planting, 3555
establishment of drainage patterns, construction of impoundments, 3556
and the construction, maintenance, and disposition of haul roads, 3557
ditches, and dikes, as may be necessary or desirable, under 3558
varying conditions of slope, drainage, physical and chemical 3559
characteristics of soil and overburden, erodability of materials, 3560
season, growth characteristics of plants, and other factors 3561
affecting coal mining and reclamation, to facilitate the return of 3562
the land to a condition required by this chapter; to prevent 3563
pollution or substantial diminution of waters of the state, 3564
substantial erosion, substantial deposition of sediment, 3565
landslides, accumulation and discharge of acid water, and 3566
flooding, both during mining and reclamation and thereafter; to 3567
restore the recharge capacity of the mined area to approximate 3568
premining conditions; and to ensure full compliance with all 3569
requirements of this chapter relating to reclamation, and the 3570
attainment of those objectives in the interest of the public 3571
health, safety, and welfare to which these reclamation 3572
requirements are directed; 3573

(c) To meet the requirements of the "Surface Mining Control 3574
and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201. 3575

(2) Issue orders to enforce this chapter and rules adopted under it;	3576 3577
(3) Adopt rules for the internal management of the division that do not affect private rights;	3578 3579
(4) Adopt programs, rules, and procedures designed to assist the coal operator in this state with the permitting process and complying with the environmental standards of this chapter. Upon request of the applicant for a permit, the chief shall make a determination of the probable hydrologic consequences required in division (B)(2)(k) of section 1513.07 of the Revised Code within sixty days after a permit has been submitted to the division for those applications requesting the chief to perform the study. The chief shall perform the chemical analysis of test borings or core samplings for operators who have a total annual production of coal at all locations that does not exceed one hundred thousand tons.	3580 3581 3582 3583 3584 3585 3586 3587 3588 3589 3590
(5) Adopt programs, rules, and procedures designed to ensure that reclamation is performed on operations for which the performance bond has been forfeited pursuant to section 1513.16 of the Revised Code. For this purpose, the chief may transfer up to one million dollars annually from the coal mining administration and reclamation reserve fund, created in section 1513.181 of the Revised Code, to the reclamation supplemental forfeiture fund, created in section 1513.18 of the Revised Code.;	3591 3592 3593 3594 3595 3596 3597 3598
(6) Receive, administer, and expend moneys obtained from the United States department of the interior and other federal agencies to implement the state's permanent coal regulatory program;	3599 3600 3601 3602
(7) <u>Exercise primary jurisdiction over all surface and underground coal mining operations regulated under this chapter and on all abandoned mine lands reclaimed under this chapter with respect to the beneficial use and disposal of coal combustion</u>	3603 3604 3605 3606

byproducts. 3607

(B) The chief, by rule, may designate as unsuitable for coal 3608
mining natural areas maintained on the registry of natural areas 3609
of the department of natural resources pursuant to ~~that chapter~~ 3610
Chapter 1517. Of the Revised Code, wild, scenic, or recreational 3611
river areas designated pursuant to ~~Chapter 1501. of the Revised~~ 3612
~~Code~~ that chapter, publicly owned or dedicated parks, and other 3613
areas of unique and irreplaceable natural beauty or condition, or 3614
areas within specified distances of a public road, occupied 3615
dwelling, public building, school, church, community, or 3616
institutional building, public park, or cemetery. Such a 3617
designation may include land adjacent to the perimeters of those 3618
areas that may be necessary to protect their integrity. 3619

(C)(1) The adoption, amendment, and rescission of rules under 3620
divisions (A)(1) and (B) of this section are subject to Chapter 3621
119. of the Revised Code. 3622

(2) The issuance of orders under division (A)(2) of this 3623
section and appeals therefrom are not governed by or subject to 3624
Chapter 119. of the Revised Code, but are governed by this 3625
chapter. 3626

(D)(1) When the chief or an authorized representative of the 3627
chief determines that any condition or practice exists or that any 3628
permittee is in violation of any requirement of this chapter or 3629
any permit condition required by this chapter, which condition, 3630
practice, or violation creates an imminent danger to the health or 3631
safety of the public or is causing, or can reasonably be expected 3632
to cause, significant, imminent environmental harm to land, air, 3633
or water resources, the chief or the authorized representative 3634
immediately shall order the cessation of coal mining and 3635
reclamation operations or the portion thereof relevant to the 3636
condition, practice, or violation. The cessation order shall 3637
remain in effect until the chief or the authorized representative 3638

determines that the condition, practice, or violation has been 3639
abated or until the order is modified, vacated, or terminated by 3640
the chief or the authorized representative pursuant to division 3641
(D)(4) of this section or by the reclamation commission pursuant 3642
to section 1513.13 of the Revised Code. When the chief or ~~an~~ the 3643
authorized representative ~~of the chief~~ finds that the ordered 3644
cessation of coal mining and reclamation operations or any portion 3645
thereof will not completely abate the imminent danger to the 3646
health or safety of the public or the significant, imminent 3647
environmental harm to land, air, or water resources, the chief or 3648
the authorized representative, in addition to the cessation order, 3649
shall order the operator to take whatever steps the chief or the 3650
authorized representative considers necessary to abate the 3651
imminent danger or the significant environmental harm. 3652

(2) When the chief or an authorized representative of the 3653
chief determines that any person is in violation of any 3654
requirement of this chapter or any permit condition required by 3655
this chapter, but the violation does not create an imminent danger 3656
to the health or safety of the public or cannot reasonably be 3657
expected to cause significant, imminent environmental harm to 3658
land, air, or water resources, the chief or the authorized 3659
representative shall issue a notice of violation to the person or 3660
the person's agent fixing a reasonable time for the abatement of 3661
the violation, provided that the time afforded a person to abate 3662
the violation shall not exceed the time limitations prescribed by 3663
the secretary of the interior in 30 C.F.R. Part 843 for an 3664
approvable state regulatory program under the "Surface Mining 3665
Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 3666
1201. 3667

If, upon expiration of the period of time as originally fixed 3668
or subsequently extended for good cause shown and upon the written 3669
finding of the chief or ~~an~~ the authorized representative ~~of the~~ 3670

chief, the chief or the authorized representative finds that the 3671
violation has not been abated, the chief or the authorized 3672
representative immediately shall order the cessation of coal 3673
mining and reclamation operations or the portion thereof relevant 3674
to the violation. The cessation order shall remain in effect until 3675
the chief or the authorized representative determines that the 3676
violation has been abated or until the order is modified, vacated, 3677
or terminated by the chief or the authorized representative 3678
pursuant to division (D)(4) of this section or by the reclamation 3679
commission pursuant to section 1513.13 of the Revised Code. In a 3680
cessation order issued under ~~this~~ division (D)(2) of this section, 3681
the chief or the authorized representative shall prescribe the 3682
steps necessary to abate the violation in the most expeditious 3683
manner possible. 3684

(3) When in the judgment of the chief or an authorized 3685
representative of the chief a pattern of violations of any 3686
requirements of this chapter or any permit conditions required by 3687
this chapter exists or has existed and the violations are caused 3688
by the unwarranted failure of the permittee to comply with any 3689
requirements of this chapter or any permit conditions or are 3690
willfully caused by the permittee, the chief or the authorized 3691
representative immediately shall issue an order to the permittee 3692
to show cause why the permit should not be suspended or revoked. 3693
If a hearing is requested, the chief shall inform all interested 3694
parties of the time and place of the hearing and conduct the 3695
hearing pursuant to division (D) of section 1513.13 of the Revised 3696
Code. Upon the permittee's failure to show cause why the permit 3697
should not be suspended or revoked, the chief or the authorized 3698
representative immediately shall suspend or revoke the permit. 3699

(4) Notices of violation and orders issued pursuant to this 3700
section shall set forth with reasonable specificity the nature of 3701
the violation and the remedial action required, the period of time 3702

established for abatement, and a reasonable description of the 3703
portion of the coal mining and reclamation operation to which the 3704
notice or order applies. Each notice or order issued under this 3705
section shall be given promptly to the alleged violator or the 3706
agent of the alleged violator by the chief or ~~the~~ an authorized 3707
representative of the chief who issues the notice or order. 3708
Notices and orders shall be in writing and shall be signed by the 3709
chief or the authorized ~~representatives~~ representative and may be 3710
modified, vacated, or terminated by the chief or the authorized 3711
representative. Any notice or order issued pursuant to this 3712
section that requires cessation of mining by the operator shall 3713
expire within thirty days after actual notice to the operator 3714
unless a public hearing pursuant to section 1513.13 of the Revised 3715
Code is held at the site or within such reasonable proximity to 3716
the site that any viewings of the site can be conducted during the 3717
course of the public hearing. 3718

(E) The chief may appoint, under section 121.13 of the 3719
Revised Code, an advisory committee of experts in the fields of 3720
hydrology, soil conservation, historic preservation, and related 3721
fields to provide advice on coal mining and reclamation practices, 3722
the environmental impact of coal mining, the adoption of rules, 3723
the approval of plans, and the issuance of permits under section 3724
1513.07 of the Revised Code. 3725

(F)(1) A person who violates a permit condition or any other 3726
provision of this chapter may be assessed a civil penalty by the 3727
chief, except that if the violation leads to the issuance of a 3728
cessation order under division (D) of this section, the civil 3729
penalty shall be assessed for each day until the person initiates 3730
the necessary corrective steps. The penalty shall not exceed five 3731
thousand dollars for each violation. Each day of continuing 3732
violation may be deemed a separate violation for purposes of 3733
penalty assessments. In determining the amount of the penalty, 3734

consideration shall be given to the person's history of previous 3735
violation at the particular coal mining operation; the seriousness 3736
of the violation, including any irreparable harm to the 3737
environment and any hazard to the health or safety of the public; 3738
whether the person was negligent; and the demonstrated diligence 3739
of the person charged in attempting to achieve rapid compliance 3740
after notification of the violation. 3741

(2) A civil penalty shall be assessed by the chief only after 3742
the person charged with a violation under division (F)(1) of this 3743
section has been given an opportunity for a public hearing. If a 3744
person charged with such a violation fails to avail self of the 3745
opportunity for a public hearing, a civil penalty shall be 3746
assessed by the chief after the chief has determined that a 3747
violation did occur, and the amount of the penalty ~~which~~ that is 3748
warranted, and has issued an order requiring that the penalty be 3749
paid. 3750

(3) Upon the issuance of a notice or order charging that a 3751
violation of this chapter has occurred, the chief shall inform the 3752
operator within thirty days of the proposed amount of the penalty 3753
and provide opportunity for an adjudicatory hearing pursuant to 3754
section 1513.13 of the Revised Code. The person charged with the 3755
penalty then shall have thirty days to pay the proposed penalty in 3756
full or, if the person wishes to contest either the amount of the 3757
penalty or the fact of the violation, file a petition for review 3758
of the proposed assessment with the secretary of the reclamation 3759
commission pursuant to section 1513.13 of the Revised Code. If, 3760
after the hearing, the commission affirms or modifies the proposed 3761
amount of the penalty, the person charged with the penalty then 3762
shall have thirty days after receipt of the written decision to 3763
pay the amount in full or file an appeal with the court of appeals 3764
in accordance with section 1513.14 of the Revised Code. At the 3765
time the petition for review of the proposed assessment is filed 3766

with the secretary, the person shall forward the amount of the
penalty to the secretary for placement in the reclamation penalty
fund, which is hereby created. The fund shall be in the custody of
the treasurer of state, but shall not be a part of the state
treasury. Pursuant to administrative or judicial review of the
penalty, the secretary, within thirty days, shall remit the
appropriate amount of the penalty to the person, with interest, if
it is determined that no violation occurred or that the amount of
the penalty should be reduced, and the secretary shall forward the
balance of the penalty or, if the penalty was not reduced, the
entire amount of the penalty, with interest, to the chief for
deposit in the coal mining administration and reclamation reserve
fund created in section 1513.181 of the Revised Code. Failure to
forward the money to the secretary within thirty days after the
chief informs the operator of the proposed amount of the penalty
shall result in a waiver of all legal rights to contest the
violation or the amount of the penalty. Within fifteen days after
being informed of the penalty, the person charged with the penalty
may request in writing an informal assessment conference to review
the amount of the penalty. The conference shall be presided over
by the chief or ~~someone~~ an individual appointed by the chief other
than the inspector that issued the notice of violation or order
upon which the penalty is based. The chief shall adopt rules
governing procedures to be followed in informal conferences. Time
allowed for payment of the penalty or appeal to the commission
shall be tolled while the penalty is being reviewed in an informal
conference.

(4) An operator who fails to correct a violation for which a
notice of violation or order has been issued under division (D) of
this section within the period permitted for its correction shall
be assessed a civil penalty of not less than seven hundred fifty
dollars for each day during which the failure or violation

continues. However, a civil penalty shall not be assessed under 3799
~~this~~ division (F)(4) of this section if the commission orders the 3800
suspension of the abatement requirement after determining, based 3801
upon the findings of an expedited hearing held under section 3802
1513.13 of the Revised Code at the request of the operator, that 3803
the operator will suffer irreparable loss or damage from the 3804
application of the abatement requirement or if the court orders 3805
suspension of the abatement requirement pursuant to review 3806
proceedings held under section 1513.14 of the Revised Code at the 3807
request of the operator. 3808

(G) The chief may enter into a cooperative agreement with the 3809
secretary of the interior to provide for state regulation of coal 3810
mining and reclamation operations on federal lands within the 3811
state. 3812

(H) The chief may prohibit augering if necessary to maximize 3813
the utilization, recoverability, or conservation of the solid fuel 3814
resources or to protect against adverse water quality impacts. 3815

(I) The chief shall transmit copies of all schedules 3816
submitted under section 1513.07 of the Revised Code pertaining to 3817
violations of air or water quality laws and rules adopted and 3818
orders issued ~~thereunder~~ under those laws in connection with coal 3819
mining operations to the director of environmental protection for 3820
verification. 3821

(J) For the purposes of sections 1513.18, 1513.24, 1513.37, 3822
and 1514.06 of the Revised Code, the chief triennially shall 3823
determine the average wage rate for companies performing 3824
reclamation work for the division under those sections by 3825
averaging the wage rate paid by all companies performing such 3826
reclamation work during the three years immediately preceding the 3827
determination. However, in making the initial determination under 3828
this division, the chief shall average the wage rate paid by all 3829

companies performing such reclamation work during the ten years 3830
immediately preceding October 29, 1995. 3831

Sec. 1513.18. (A) All money that becomes the property of the 3832
state under ~~divisions (A) to~~ division (G) of section 1513.16 of 3833
the Revised Code shall be deposited in the reclamation forfeiture 3834
fund, which is hereby created in the state treasury. Disbursements 3835
from the fund shall be made by the chief of the division of mines 3836
and reclamation only for the purpose of reclaiming areas of land 3837
affected by coal mining under a coal mining and reclamation permit 3838
issued on or after September 1, 1981, on which an operator has 3839
defaulted. 3840

(B) All cash that becomes the property of the state under 3841
division (H) of section 1513.16 of the Revised Code shall be 3842
deposited in the ~~defaulted areas~~ reclamation supplemental 3843
forfeiture fund, which is hereby created in the state treasury. 3844
The fund shall consist of all moneys so deposited, any moneys 3845
transferred to it under this division from the unreclaimed lands 3846
fund created in section 1513.30 of the Revised Code, any moneys 3847
transferred to it under section 1513.181 of the Revised Code from 3848
the coal mining and reclamation reserve fund created in that 3849
section, and moneys collected and credited to it pursuant to 3850
section 5749.02 of the Revised Code. Disbursements from the fund 3851
shall be made by the chief only for the purpose of reclaiming 3852
areas ~~of land affected by coal mining under a permit issued under~~ 3853
~~this chapter after April 10, 1972, but before September 1, 1981,~~ 3854
~~on which an operator has defaulted.~~ The that an operator has 3855
affected by mining and failed to reclaim under a coal mining and 3856
reclamation permit issued under this chapter or under a surface 3857
mining permit issued under Chapter 1514. of the Revised Code. The 3858
chief's priority for management of the fund, including the 3859
selection of projects and transfer of moneys, shall be to ensure 3860

that sufficient moneys are available for the reclamation of areas 3861
affected by mining under a coal mining and reclamation permit. 3862

The chief may expend moneys from the defaulted areas fund to 3863
pay necessary administrative costs, including engineering and 3864
design services, incurred by the division in reclaiming these 3865
areas. Expenditures from the fund to pay such administrative costs 3866
need not be made under contract. 3867

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

(C) Except when paying necessary administrative costs 3875
authorized by division (B) of this section, expenditures from 3876
either fund shall be made under contracts entered into by the 3877
chief, with the approval of the director of natural resources, in 3878
accordance with procedures established by the chief, by rules 3879
adopted in accordance with section 1513.02 of the Revised Code. 3880
The chief may reclaim the land in the same manner as set forth in 3881
sections 1513.21 to 1513.24 of the Revised Code. Each contract 3882
awarded by the chief shall be awarded to the lowest responsive and 3883
responsible bidder, in accordance with section 9.312 of the 3884
Revised Code, after sealed bids are received, opened, and 3885
published at the time and place fixed by the chief. The chief 3886
shall publish notice of the time and place at which bids will be 3887
received, opened, and published, at least once and at least ten 3888
days before the date of the opening of the bids, in a newspaper of 3889
general circulation in the county in which the area of land to be 3890
reclaimed under the contract is located. If, after advertising, no 3891
bids are received ~~by the chief~~ at the time and place fixed for 3892

receiving them, the chief may advertise again for bids, or, if he 3893
the chief considers the public interest will best be served, he 3894
the chief may enter into a contract for the reclamation of the 3895
area of land without further advertisement for bids. The chief may 3896
reject any or all bids received and again publish notice of the 3897
time and place at which bids for contracts will be received, 3898
opened, and published. The chief, with the approval of the 3899
director, may enter into a contract with the landowner, a coal 3900
mine operator or surface mine operator mining under a current, 3901
valid permit issued under this chapter or Chapter 1514. of the 3902
Revised Code, or a contractor hired by the surety to complete 3903
reclamation to carry out reclamation on land affected by coal 3904
mining on which an operator has defaulted without advertising for 3905
bids. 3906

~~(D) There is hereby created the reclamation supplemental 3907
forfeiture fund in the state treasury, to be used by the chief to 3908
reclaim areas that any operator has affected by mining and failed 3909
to reclaim under a coal mining and reclamation permit issued on or 3910
after September 1, 1981. The chief's priority for management of 3911
the fund, including the selection of projects and transfer of 3912
moneys, shall be to ensure that sufficient moneys are available 3913
for reclamation of such areas. 3914~~

~~The chief may expend moneys from the fund to pay necessary 3915
administrative costs, including engineering and design services, 3916
incurred by the division in reclaiming these areas. Expenditures 3917
from the fund to pay such administrative costs need not be made 3918
under contract. As moneys are spent from the fund, the director of 3919
budget and management, upon the certification of the chief, shall 3920
transfer such additional moneys from the unreclaimed lands fund 3921
created in section 1513.30 of the Revised Code as are needed to 3922
keep the balance of the reclamation supplemental forfeiture fund 3923
at two million dollars, provided that the director shall not 3924~~

~~transfer more than one million dollars to that fund during any~~ 3925
~~fiscal year.~~ 3926

~~(E)~~ If the amount of money credited to the reclamation 3927
forfeiture fund from the forfeiture of the bond applicable to the 3928
area of land is not sufficient to pay the cost of doing all of the 3929
reclamation work on land that the operator should have done, but 3930
failed to do under a coal mining and reclamation permit ~~issued on~~ 3931
~~or after September 1, 1981,~~ the chief may expend from the moneys 3932
credited to the reclamation supplemental forfeiture fund ~~created~~ 3933
~~in this~~ under section 5749.02 of the Revised Code or transferred 3934
to the fund under division (B) of this section or under section 3935
1513.181 of the Revised Code the amount of money necessary to 3936
complete the reclamation work to the standards required by this 3937
chapter. 3938

~~(F)~~ If the amount of money credited to the defaulted areas 3939
fund from the forfeiture of the bond applicable to the area of 3940
land is not sufficient to pay the cost of doing all of the 3941
reclamation work on land that the operator should have done, but 3942
failed to do under a permit issued under this chapter after April 3943
10, 1972, but before September 1, 1981, the chief may expend the 3944
additional amount of money necessary to complete the reclamation 3945
work to the standards required by this chapter from moneys 3946
credited to the fund under Chapter 5749. of the Revised Code or 3947
transferred to the fund under section 1513.181 of the Revised 3948
Code. 3949

~~(G)~~(E) The chief shall keep a detailed accounting of the 3950
expenditures from the reclamation supplemental forfeiture fund ~~and~~ 3951
~~of the additional expenditures from the defaulted areas fund~~ to 3952
complete reclamation of the land and, upon completion of the 3953
reclamation, shall certify the expenditures to the attorney 3954
general. Upon the chief's certification of the expenditures from 3955
the reclamation supplemental forfeiture fund ~~or the additional~~ 3956

~~expenditures from the defaulted areas fund~~, the attorney general 3957
shall bring an action for that amount of money. The operator is 3958
liable for ~~such~~ that expense in addition to any other liabilities 3959
imposed by law. Moneys so recovered shall be credited to the 3960
reclamation supplemental forfeiture fund ~~or the defaulted areas~~ 3961
~~fund, as appropriate~~. The chief shall not postpone the reclamation 3962
because of any action brought by the attorney general under this 3963
division. Prior to completing reclamation, the chief may collect 3964
through the attorney general any additional amount that the chief 3965
believes will be necessary for reclamation in excess of the 3966
forfeited bond amount applicable to the land that the operator 3967
should have, but failed to, reclaim. 3968

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

~~(I)~~ If any part of the moneys in the defaulted areas fund 3976
~~remains in the fund after the chief has caused the area of land to~~ 3977
~~be reclaimed and has paid all the reclamation costs and expenses,~~ 3978
~~the chief may expend those moneys to complete other reclamation~~ 3979
~~work performed under this section on forfeiture areas affected~~ 3980
~~under a coal mining and reclamation permit issued after April 10,~~ 3981
~~1972, but before September 1, 1981.~~ 3982

~~(J)~~(G) The chief shall require every contractor performing 3983
reclamation work pursuant to this section to pay workers at the 3984
greater of their regular rate of pay, as established by contract, 3985
agreement, or prior custom or practice, or the average wage rate 3986
paid in this state for the same or similar work as determined by 3987
the chief under section 1513.02 of the Revised Code. 3988

Sec. 1513.181. There is hereby created in the state treasury 3989
the coal mining administration and reclamation reserve fund. The 3990
fund shall be used for the administration and enforcement of this 3991
chapter. The chief of the division of mines and reclamation ~~shall~~ 3992
~~expend the balance of moneys paid into the fund in accordance with~~ 3993
may transfer not more than one million dollars annually from the 3994
fund to the reclamation supplemental forfeiture fund created in 3995
section 1513.18 of the Revised Code to complete reclamation of 3996
lands affected by coal mining under a permit issued under this 3997
chapter ~~after April 10, 1972, but before September 1, 1981, or by~~ 3998
surface mining under a surface mining permit issued under Chapter 3999
1514. Of the Revised Code, that the operator failed to reclaim and 4000
for which the operator's bond is insufficient to complete the 4001
reclamation. Within ten days before or after the beginning of each 4002
calendar quarter, the chief shall certify to the director of 4003
budget and management the amount of money needed to perform such 4004
reclamation during the quarter for transfer from the coal mining 4005
administration and reclamation reserve fund to the ~~defaulted areas~~ 4006
reclamation supplemental forfeiture fund created in division (B) 4007
~~of section 1513.18 of the Revised Code. The total amount of such~~ 4008
~~transfers during a fiscal year shall not exceed the amount of~~ 4009
~~moneys paid into the coal mining administration and reclamation~~ 4010
~~reserve fund not used for administration and enforcement of this~~ 4011
~~chapter.~~ 4012

Fines collected under division (F) of section 1513.02 and 4013
section 1513.99 of the Revised Code, and fines collected for a 4014
violation of section 2921.31 of the Revised Code that, prior to 4015
~~the effective date of this amendment~~ July 1, 1996, would have been 4016
a violation of division (G) of section 1513.17 of the Revised Code 4017
as it existed prior to that date, shall be paid into the coal 4018
mining administration and reclamation reserve fund. 4019

Sec. 1513.20. The chief of the division of mines and 4020
reclamation, with the approval of the director of natural 4021
resources, may purchase or acquire by gift, donation, or 4022
contribution any eroded land, including land affected by strip 4023
mining, for which no cash is held in the ~~strip mining~~ reclamation 4024
forfeiture fund created by section 1513.18 of the Revised Code. 4025
For this purpose the chief may expend moneys deposited in the 4026
unreclaimed lands fund created by section 1513.30 of the Revised 4027
Code. All lands purchased or acquired shall be deeded to the 4028
state, but no deed shall be accepted or the purchase price paid 4029
until the title has been approved by the attorney general. 4030

Sec. 1513.30. There is hereby created in the state treasury 4031
the unreclaimed lands fund, to be administered by the chief of the 4032
division of mines and reclamation and used for the purpose of 4033
reclaiming land, public or private ~~land~~, affected by mining or 4034
controlling mine drainage, for which no cash is held in the ~~strip~~ 4035
~~mining~~ reclamation forfeiture fund created in section 1513.18 of 4036
the Revised Code or the surface mining reclamation fund created in 4037
section 1514.06 of the Revised Code, and also for the purpose of 4038
paying the expenses and compensation of the council on unreclaimed 4039
strip mined lands as required by section 1513.29 of the Revised 4040
Code. 4041

In order to direct expenditures from the unreclaimed lands 4042
fund toward reclamation projects that fulfill priority needs and 4043
provide the greatest public benefits, the chief ~~shall~~ periodically 4044
shall submit to the council project proposals to be financed from 4045
the unreclaimed lands fund, together with benefit and cost data 4046
and other pertinent information. For the purpose of selecting 4047
project areas and determining the boundaries of project areas, the 4048
council shall consider the feasibility, cost, and public benefits 4049
of reclaiming the areas, their potential for being mined, the 4050

availability of federal or other financial assistance for 4051
reclamation, and the geographic distribution of project areas to 4052
ensure fair distribution among affected areas. 4053

The council shall give priority to areas where there is 4054
little or no likelihood ~~that the area will be mined~~ of mining 4055
within the foreseeable future, reclamation is feasible at 4056
reasonable cost with available funds, and either of the following 4057
applies: 4058

(A) The pollution of the waters of the state and damage to 4059
adjacent property are most severe and widespread-; 4060

(B) Reclamation will make possible public uses for soil, 4061
water, forest, or wildlife conservation or public recreation 4062
purposes, will facilitate orderly commercial or industrial site 4063
development, or will facilitate the use or improve the enjoyment 4064
of nearby public conservation or recreation lands. 4065

At least two weeks before any meeting of the council on 4066
unreclaimed strip mined lands at which the chief will submit a 4067
project proposal, a project area will be selected, or the 4068
boundaries of a project area will be determined, the chief shall 4069
mail notice by first class mail to the board of county 4070
commissioners of the county and the board of township trustees of 4071
the township in which the proposed project lies and the chief 4072
executive and the legislative authority of each municipal 4073
corporation within the proposed project area. The chief also shall 4074
give reasonable notice to the news media in the county where the 4075
proposed project lies. 4076

Expenditures from the unreclaimed lands fund for reclamation 4077
projects may be made only for projects that are within the 4078
boundaries of project areas approved by the council, and 4079
expenditures for a particular project may not exceed any 4080
applicable limits set by the council. Expenditures from the 4081

unreclaimed lands fund shall be made by the chief, with the 4082
approval of the director of natural resources. 4083

The controlling board may transfer excess funds from the oil 4084
and gas well plugging fund, after recommendation by the council on 4085
unreclaimed strip mined lands, to meet deficiencies in the 4086
unreclaimed lands fund. 4087

The chief may expend an amount not to exceed twenty per cent 4088
of the moneys credited annually by the treasurer of state to the 4089
unreclaimed lands fund for the purpose of administering the 4090
unreclaimed lands fund. 4091

The chief may engage in cooperative projects under this 4092
section with any agency of the United States, appropriate state 4093
agencies, or state universities or colleges as defined in section 4094
3345.27 Of the Revised Code and may transfer money from the fund, 4095
with the approval of the council, to other appropriate state 4096
agencies or to state universities or colleges in order to carry 4097
out the reclamation activities authorized by this section. 4098

Sec. 1513.37. (A) There is hereby created in the state 4099
treasury the abandoned mine reclamation fund, which shall be 4100
administered by the chief of the division of mines and 4101
reclamation. The fund shall consist of grants from the ~~United~~ 4102
~~States~~ secretary of the interior ~~out of~~ from the federal abandoned 4103
mine reclamation fund established by Title IV of the "Surface 4104
Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 4105
U.S.C.A. 1201, regulations adopted ~~thereunder~~ under it, and 4106
amendments ~~thereto~~ to the act and regulations. Expenditures from 4107
the abandoned mine reclamation fund shall be made by the chief for 4108
the following purposes: 4109

(1) Reclamation and restoration of land and water resources 4110
adversely affected by past coal mining, including, but not limited 4111

to, reclamation and restoration of abandoned strip mine areas,	4112
abandoned coal processing areas, and abandoned coal refuse	4113
disposal areas; sealing and filling of abandoned deep mine entries	4114
and voids; planting of land adversely affected by past coal	4115
mining; prevention of erosion and sedimentation; prevention,	4116
abatement, treatment, and control of water pollution created by	4117
coal mine drainage, including restoration of streambeds and	4118
construction and operation of water treatment plants; prevention,	4119
abatement, and control of burning coal refuse disposal areas and	4120
burning coal in situ; and prevention, abatement, and control of	4121
coal mine subsidence;	4122
(2) Acquisition and filling of voids and sealing of tunnels,	4123
shafts, and entryways of non-coal lands;	4124
(3) Acquisition of land as provided for in this section;	4125
(4) Administrative expenses incurred in accomplishing the	4126
purposes of this section;	4127
(5) All other necessary expenses to accomplish the purposes	4128
of this section.	4129
(B) Expenditures of moneys from the fund on land and water	4130
eligible pursuant to division (C) of this section shall reflect	4131
the following priorities in the order stated:	4132
(1) The protection of public health, safety, general welfare,	4133
and property from extreme danger of adverse effects of coal mining	4134
practices;	4135
(2) The protection of public health, safety, and general	4136
welfare from adverse effects of coal mining practices;	4137
(3) The restoration of land and water resources and the	4138
environment previously degraded by adverse effects of coal mining	4139
practices, including measures for the conservation and development	4140
of soil and water (excluding channelization), woodland, fish and	4141

wildlife, recreation resources, and agricultural productivity;	4142
(4) Research and demonstration projects relating to the	4143
development of coal mining reclamation and water quality control	4144
program methods and techniques;	4145
(5) The protection, repair, replacement, construction, or	4146
enhancement of public facilities such as utilities, roads,	4147
recreation facilities, and conservation facilities adversely	4148
affected by coal mining practices;	4149
(6) The development of publicly owned land adversely affected	4150
by coal mining practices, including land acquired as provided in	4151
this section for recreation and historic purposes, conservation	4152
and reclamation purposes, and open space benefits.	4153
(C)(1) Lands and water eligible for reclamation or drainage	4154
abatement expenditures under this section are those that were	4155
mined for coal or were affected by such mining, wastebanks, coal	4156
processing, or other coal mining processes and that meet one of	4157
the following criteria:	4158
(a) Are lands that were and abandoned or left in an	4159
inadequate reclamation status prior to August 3, 1977, and for	4160
which there is no continuing reclamation responsibility under	4161
state or federal laws;	4162
(b) Are lands for which the chief finds that surface coal	4163
mining operations occurred at any time between August 4, 1977, and	4164
August 16, 1982, and that any moneys for reclamation or abatement	4165
that are available pursuant to a bond or other form of financial	4166
guarantee or from any other source are not sufficient to provide	4167
for adequate reclamation or abatement at the site;	4168
(c) Are lands for which the chief finds that surface coal	4169
mining operations occurred at any time between August 4, 1977, and	4170
November 5, 1990, that the surety of the mining operator became	4171

insolvent during that time, and that, as of November 5, 1990, any
moneys immediately available from proceedings relating to that
insolvency or from any financial guarantee or other source are not
sufficient to provide for adequate reclamation or abatement at the
site.

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

(3) Surface coal mining operations on lands eligible for
remining shall not affect the eligibility of those lands for
reclamation and restoration under this section after the release
of the bond for any such operation as provided under division (F)
of section 1513.16 of the Revised Code. If the bond for a surface
coal mining operation on lands eligible for remining is forfeited,
moneys available under this section may be used if the amount of
the bond is not sufficient to provide for adequate reclamation or
abatement, except that if conditions warrant, the chief
immediately shall exercise the authority granted under division
(L) of this section.

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

(1) The reclamation plan generally shall identify the areas
to be reclaimed, the purposes for which the reclamation is
proposed, the relationship of the lands to be reclaimed and the
proposed reclamation to surrounding areas, the specific criteria
for ranking and identifying projects to be funded, and the legal
authority and programmatic capability to perform ~~such~~ the work in

accordance with this section. 4203

(2) On an annual basis, the chief may submit to the secretary 4204
an application for support of the abandoned mine reclamation fund 4205
and implementation of specific reclamation projects. The annual 4206
requests shall include such information as may be requested by the 4207
secretary. 4208

Before submitting an annual application to the secretary, the 4209
chief first shall submit it to the council on unreclaimed strip 4210
mined lands for review and approval by the council. The chief 4211
shall not submit such an application to the secretary until it has 4212
been approved by the council. The chief shall submit applications 4213
for administrative costs, imminent hazards, or emergency projects 4214
to the council for review. 4215

(3) The costs for each proposed project under this section 4216
shall include actual construction costs, actual operation and 4217
maintenance costs of permanent facilities, planning and 4218
engineering costs, construction inspection costs, and other 4219
necessary administrative expenses. 4220

(4) Before making any expenditure of funds from the fund to 4221
implement any specific reclamation project under this section, the 4222
chief first shall submit to the council a project proposal and any 4223
other pertinent information regarding the project requested by the 4224
council for review and approval of the specific project by the 4225
council. 4226

(5) The chief may submit ~~such~~ annual and other reports 4227
required by the secretary when funds are provided by the secretary 4228
under Title IV of the "Surface Mining Control and Reclamation Act 4229
of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted 4230
~~thereunder~~ under it, and amendments ~~thereto~~ to the act and
regulations. 4231
4232

(E) There is hereby created in the state treasury the acid 4233

mine drainage abatement and treatment fund, which shall be 4234
administered by the chief. The fund shall consist of grants from 4235
the ~~United States~~ secretary of the interior ~~out of~~ from the 4236
federal abandoned mine reclamation fund pursuant to section 4237
402(g)(6) of Title IV of the "Surface Mining Control and 4238
Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. All 4239
investment earnings of the fund shall be credited to the fund. 4240

The chief shall make expenditures from the fund, in 4241
consultation with the United States department of agriculture, 4242
soil conservation service, to implement acid mine drainage 4243
abatement and treatment plans approved by the ~~United States~~ 4244
secretary ~~of the interior~~. The plans shall provide for the 4245
comprehensive abatement of the causes and treatment of the effects 4246
of acid mine drainage within qualified hydrologic units affected 4247
by coal mining practices and shall include at least all of the 4248
following: 4249

(1) An identification of the qualified hydrologic unit. As 4250
used in division (E) of this section, "qualified hydrologic unit" 4251
means a hydrologic unit that meets all of the following criteria: 4252

(a) The water quality in the unit has been significantly 4253
affected by acid mine drainage from coal mining practices in a 4254
manner that has an adverse impact on biological resources; 4255

(b) The unit contains lands and waters that meet the 4256
eligibility requirements established under division (C) of this 4257
section and any of the priorities established in divisions (B)(1) 4258
to (3) of this section; 4259

(c) The unit contains lands and waters that are proposed to 4260
be the subject of expenditures from the reclamation forfeiture 4261
fund created in section 1513.18 of the Revised Code, the ~~defaulted~~ 4262
~~areas~~ reclamation supplemental forfeiture fund created in that 4263
section, or the unreclaimed lands fund created in section 1513.30 4264

of the Revised Code.	4265
(2) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;	4266 4267
(3) An identification of the sources of acid mine drainage within the hydrologic unit;	4268 4269
(4) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;	4270 4271 4272
(5) The cost of undertaking the proposed abatement and treatment measures;	4273 4274
(6) An identification of existing and proposed sources of funding for those measures;	4275 4276
(7) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.	4277 4278
(F)(1) If the chief makes a finding of fact that land or water resources have been adversely affected by past coal mining practices; the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent the adverse effects should be taken; the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known or are not readily available; or the owners will not give permission for the state, political subdivisions, or their agents, employees, or contractors to enter upon the property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices; then, upon giving notice by mail to the owners, if known, or, if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipal corporation or county in which the land lies, the chief or the chief's agents, employees, or contractors may enter upon the property adversely	4279 4280 4281 4282 4283 4284 4285 4286 4287 4288 4289 4290 4291 4292 4293 4294 4295

affected by past coal mining practices and any other property to
have access to the property to do all things necessary or
expedient to restore, reclaim, abate, control, or prevent the
adverse effects. The entry shall be construed as an exercise of
the police power for the protection of the public health, safety,
and general welfare and shall not be construed as an act of
condemnation of property nor of trespass ~~thereon~~ on it. The moneys
expended for the work and the benefits accruing to any such
premises so entered upon shall be chargeable against the land and
shall mitigate or offset any claim in or any action brought by any
owner of any interest in the premises for any alleged damages by
virtue of the entry, but this provision is not intended to create
new rights of action or eliminate existing immunities.

(2) The chief or the chief's authorized representatives may
enter upon any property for the purpose of conducting studies or
exploratory work to determine the existence of adverse effects of
past coal mining practices and to determine the feasibility of
restoration, reclamation, abatement, control, or prevention of
such adverse effects. The entry shall be construed as an exercise
of the police power for the protection of the public health,
safety, and general welfare and shall not be construed as an act
of condemnation of property nor trespass ~~thereon~~ on it.

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

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

(b) Permanent facilities such as a treatment plant or a 4328
relocated stream channel will be constructed on the land for the 4329
restoration, reclamation, abatement, control, or prevention of the 4330
adverse effects of past coal mining practices; 4331

(c) Acquisition of coal refuse disposal sites and all coal 4332
refuse thereon will serve the purposes of this section or that 4333
public ownership is desirable to meet emergency situations and 4334
prevent recurrences of the adverse effects of past coal mining 4335
practices. 4336

(4)(a) Title to all lands acquired pursuant to this section 4337
shall be in the name of the state. The price paid for land 4338
acquired under this section shall reflect the market value of the 4339
land as adversely affected by past coal mining practices. 4340

(b) The chief may receive grants on a matching basis from the 4341
secretary of the interior for the purpose of carrying out this 4342
section. 4343

(5)(a) Where land acquired pursuant to this section is 4344
considered to be suitable for industrial, commercial, residential, 4345
or recreational development, the chief may sell the land by public 4346
sale under a system of competitive bidding at not less than fair 4347
market value and under ~~such~~ other requirements imposed by rule to 4348
ensure that the lands are put to proper use consistent with local 4349
and state land use plans, if any, as determined by the chief. 4350

(b) The chief, when requested, and after appropriate public 4351
notice, shall hold a public meeting in the county, counties, or 4352
other appropriate political subdivisions of the state in which 4353
lands acquired pursuant to this section are located. The meetings 4354
shall be held at a time ~~which~~ that shall afford local citizens and 4355
governments the maximum opportunity to participate in the decision 4356
concerning the use or disposition of the lands after restoration, 4357
reclamation, abatement, control, or prevention of the adverse 4358

effects of past coal mining practices. 4359

(6) In addition to the authority to acquire land under 4360
division (F)(3) of this section, the chief may use money in the 4361
fund to acquire land by purchase, donation, or condemnation, and 4362
to reclaim and transfer acquired land to a political subdivision, 4363
or to any person, if the chief determines that it is an integral 4364
and necessary element of an economically feasible plan for the 4365
construction or rehabilitation of housing for persons disabled as 4366
the result of employment in the mines or work incidental ~~thereto~~ 4367
to that employment, persons displaced by acquisition of land 4368
pursuant to this section, persons dislocated as the result of 4369
adverse effects of coal mining practices that constitute an 4370
emergency as provided in the "Surface Mining Control and 4371
Reclamation Act of 1977," 91 Stat. 466, 30 U.S.C.A. 1240, or 4372
amendments ~~thereto~~ to it, or persons dislocated as the result of 4373
natural disasters or catastrophic failures from any cause. Such 4374
activities shall be accomplished under such terms and conditions 4375
as the chief requires, which may include transfers of land with or 4376
without monetary consideration, except that to the extent that the 4377
consideration is below the fair market value of the land 4378
transferred, no portion of the difference between the fair market 4379
value and the consideration shall accrue as a profit to those 4380
persons. No part of the funds provided under this section may be 4381
used to pay the actual construction costs of housing. The chief 4382
may carry out the purposes of ~~this~~ division (F)(6) of this section 4383
directly or by making grants and commitments for grants, and may 4384
advance money under such terms and conditions as the chief may 4385
require to any agency or instrumentality of the state or any 4386
public body or nonprofit organization designated by the chief. 4387

(G)(1) Within six months after the completion of projects to 4388
restore, reclaim, abate, control, or prevent adverse effects of 4389
past coal mining practices on privately owned land, the chief 4390

shall itemize the moneys so expended and may file a statement
thereof of the expenditures in the office of the county recorder
of the county in which the land lies, together with a notarized
appraisal by an independent appraiser of the value of the land
before the restoration, reclamation, abatement, control, or
prevention of adverse effects of past coal mining practices if the
moneys so expended result in a significant increase in property
value. The statement shall constitute a lien upon the land as of
the date of the expenditures of the moneys and shall have priority
as a lien second only to the lien of real property taxes imposed
upon the land. The lien shall not exceed the amount determined by
the appraisal to be the increase in the fair market value of the
land as a result of the restoration, reclamation, abatement,
control, or prevention of the adverse effects of past coal mining
practices. No lien shall be filed under ~~this~~ division (G) of this
section against the property of any person who owned the surface
prior to May 2, 1977, and did not consent to, participate in, or
exercise control over the mining operation that necessitated the
reclamation performed.

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

(3) The lien provided in ~~this~~ division (G) of this section
shall be recorded and indexed, under the name of the state and the
landowner, in a lien index in the office of the county recorder of
the county in which the land lies. The county recorder shall

impose no charge for the recording or indexing of the lien. If the 4423
land is registered, the county recorder shall make a notation and 4424
enter a memorial of the lien upon the page of the register in 4425
which the last certificate of title to the land is registered, 4426
stating the name of the claimant, amount claimed, volume and page 4427
of the record where recorded, and exact time the memorial was 4428
entered. 4429

(4) The lien shall continue in force so long as any portion 4430
of the amount of the lien remains unpaid. If the lien remains 4431
unpaid at the time of conveyance of the land on which the lien was 4432
placed, the conveyance may be set aside. Upon repayment in full of 4433
the moneys expended under this section, the chief promptly shall 4434
issue a certificate of release of the lien. Upon presentation of 4435
the certificate of release, the county recorder of the county in 4436
which the lien is recorded shall record the lien as having been 4437
discharged. 4438

(5) A lien imposed under this section shall be foreclosed 4439
upon the substantial failure of a landowner to pay any portion of 4440
the amount of the lien. Before foreclosing any lien under this 4441
section, the chief shall make a written demand upon the landowner 4442
for payment. If the landowner does not pay the amount due within 4443
sixty days, the chief shall refer the matter to the attorney 4444
general, who shall institute a civil action to foreclose the lien. 4445

(H)(1) The chief may fill ~~such~~ voids, seal ~~such~~ abandoned 4446
tunnels, shafts, and entryways, and reclaim surface impacts of 4447
underground or strip mines that the chief determines could 4448
endanger life and property, constitute a hazard to the public 4449
health and safety, or degrade the environment. 4450

(2) In those instances where mine waste piles are being 4451
reworked for conservation purposes, the incremental costs of 4452
disposing of the wastes from those operations by filling voids and 4453
sealing tunnels may be eligible for funding, provided that the 4454

disposal of these wastes meets the purposes of this section. 4455

(3) The chief may acquire by purchase, donation, easement, or 4456
otherwise such interest in land as the chief determines necessary 4457
to carry out ~~this~~ division (H) of this section. 4458

(I) ~~Not later than January 1, 1978, and annually thereafter,~~ 4459
~~the~~ The chief shall report annually to the secretary of the 4460
interior on operations under the fund and include recommendations 4461
as to its future uses. 4462

(J)(1) The chief may engage in any work and do all things 4463
necessary or expedient, including the adoption of rules, to 4464
implement and administer this section. 4465

(2) The chief may engage in cooperative projects under this 4466
section with any agency of the United States, any other state, or 4467
their governmental agencies or with any state university or 4468
college as defined in section 3345.27 Of the Revised Code. 4469

(3) The chief may request the attorney general to initiate in 4470
any court of competent jurisdiction an action in equity for an 4471
injunction to restrain any interference with the exercise of the 4472
right to enter or to conduct any work provided in this section, 4473
which remedy is in addition to any other remedy available under 4474
this section. 4475

(4) The chief may construct or operate a plant or plants for 4476
the control and treatment of water pollution resulting from mine 4477
drainage. The extent of this control and treatment may be 4478
dependent upon the ultimate use of the water. Division (J)(4) of 4479
this section does not repeal or supersede any portion of the 4480
"Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 4481
U.S.C.A. 1151, as amended, and no control or treatment under 4482
division (J)(4) of this section, in any way, shall be less than 4483
that required by that act. The construction of a plant or plants 4484
may include major interceptors and other facilities appurtenant to 4485

the plant. 4486

(5) The chief may transfer money from the fund to other 4487
appropriate state agencies or to state universities or colleges in 4488
order to carry out the reclamation activities authorized by this 4489
section. 4490

(K) The chief may contract for any part of work to be 4491
performed under this section, with or without advertising for 4492
bids, if the chief determines that a condition exists that could 4493
reasonably be expected to cause substantial physical harm to 4494
persons, property, or the environment and to which persons or 4495
improvements on real property are currently exposed. 4496

The chief shall require every contractor performing 4497
reclamation work under this section to pay its workers at the 4498
greater of their regular rate of pay, as established by contract, 4499
agreement, or prior custom or practice, or the average wage rate 4500
paid in this state for the same or similar work as determined by 4501
the chief under section 1513.02 of the Revised Code. 4502

(L)(1) The chief may contract for the emergency restoration, 4503
reclamation, abatement, control, or prevention of adverse effects 4504
of mining practices on eligible lands if the chief determines that 4505
an emergency exists constituting a danger to the public health, 4506
safety, or welfare and that no other person or agency will act 4507
expeditiously to restore, reclaim, abate, control, or prevent 4508
those adverse effects. The chief may enter into a contract for 4509
emergency work under ~~this~~ division (L) of this section without 4510
advertising for bids. Any such contract or any purchase of 4511
materials for emergency work under ~~this~~ division (L) of this 4512
section is not subject to division (B) of section 127.16 of the 4513
Revised Code. 4514

(2) The chief or the chief's agents, employees, or 4515
contractors may enter on any land where such an emergency exists, 4516

and on other land in order to have access to that land, in order 4517
to restore, reclaim, abate, control, or prevent the adverse 4518
effects of mining practices and to do all things necessary or 4519
expedient to protect the public health, safety, or welfare. Such 4520
an entry shall be construed as an exercise of the police power and 4521
shall not be construed as an act of condemnation of property or of 4522
trespass. The moneys expended for the work and the benefits 4523
accruing to any premises so entered upon shall be chargeable 4524
against the land and shall mitigate or offset any claim in or any 4525
action brought by any owner of any interest in the premises for 4526
any alleged damages by virtue of the entry. This provision is not 4527
intended to create new rights of action or eliminate existing 4528
immunities. 4529

Sec. 1515.03. Each county shall have a soil and water 4530
conservation district coextensive with the geographic area of the 4531
county, and each district shall constitute a political subdivision 4532
of this state. ~~On May 2, 1980, each existing district created~~ 4533
~~pursuant to former section 1515.03 of the Revised Code shall~~ 4534
~~include the entire county in which it is located.~~ 4535

~~A municipal corporation may remove itself from or reinstate~~ 4536
~~itself in the territory of a soil and water conservation district~~ 4537
~~by filing a resolution of its legislative authority with the soil~~ 4538
~~and water conservation commission at least sixty days before the~~ 4539
~~effective date of the removal or reinstatement.~~ 4540

Sec. 1515.08. The supervisors of a soil and water 4541
conservation district have the following powers in addition to 4542
their other powers: 4543

(A) To conduct surveys, investigations, and research relating 4544
to the character of soil erosion, floodwater and sediment damages, 4545
and the preventive and control measures and works of improvement 4546

for flood prevention and the conservation, development, 4547
utilization, and disposal of water needed within the district, and 4548
to publish the results of those surveys, investigations, or 4549
research, provided that no district shall initiate any research 4550
program except in cooperation or after consultation with the Ohio 4551
agricultural research and development center; 4552

4553

(B) To develop plans for the conservation of soil resources, 4554
for the control and prevention of soil erosion, and for works of 4555
improvement for flood prevention and the conservation, 4556
development, utilization, and disposal of water within the 4557
district, and to publish those plans and information; 4558

(C) To implement, construct, repair, maintain, and operate 4559
preventive and control measures and other works of improvement for 4560
natural resource conservation and development and flood 4561
prevention, and the conservation, development, utilization, and 4562
disposal of water within the district on lands owned or controlled 4563
by this state or any of its agencies and on any other lands within 4564
the district, which works may include any facilities authorized 4565
under state or federal programs, and to acquire, by purchase or 4566
gift, to hold, encumber, or dispose of, and to lease real and 4567
personal property or interests in such property for those 4568
purposes; 4569

(D) To cooperate or enter into agreements with any occupier 4570
of lands within the district in the carrying on of natural 4571
resource conservation operations and works of improvement for 4572
flood prevention and the conservation, development, utilization, 4573
and management of natural resources within the district, subject 4574
to such conditions as the supervisors consider necessary; 4575

(E) To accept donations, gifts, grants, and contributions in 4576
money, service, materials, or otherwise, and to use or expend them 4577
according to their terms; 4578

(F) To adopt, amend, and rescind rules to carry into effect 4579
the purposes and powers of the district; 4580

(G) To sue and plead in the name of the district, and be sued 4581
and impleaded in the name of the district, with respect to its 4582
contracts and, as indicated in section 1515.081 of the Revised 4583
Code, certain torts of its officers, employees, or agents acting 4584
within the scope of their employment or official responsibilities, 4585
or with respect to the enforcement of its obligations and 4586
covenants made under this chapter; 4587

(H) To make and enter into all contracts, leases, and 4588
agreements and execute all instruments necessary or incidental to 4589
the performance of the duties and the execution of the powers of 4590
the district under this chapter, provided that all of the 4591
following apply: 4592

(1) ~~When~~ Except as provided in section 307.86 Of the Revised 4593
Code regarding expenditures by boards of county commissioners, 4594
when the cost under any such contract, lease, or agreement, other 4595
than compensation for personal services or rental of office space, 4596
involves an expenditure of more than ~~ten thousand dollars~~ the 4597
amount established in that section regarding expenditures by 4598
boards of county commissioners, the supervisors shall make a 4599
written contract with the lowest and best bidder after 4600
advertisement, for not less than two nor more than four 4601
consecutive weeks preceding the day of the opening of bids, in a 4602
newspaper of general circulation within the district and in such 4603
other publications as the supervisors determine. The notice shall 4604
state the general character of the work and materials to be 4605
furnished, the place where plans and specifications may be 4606
examined, and the time and place of receiving bids. 4607

(2) Each bid for a contract shall contain the full name of 4608
every person interested in it.; 4609

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code-; 4610
4611
4612

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into-; 4613
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(5) The supervisors may reject any and all bids. 4620

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code; 4621
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4623
4624

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district; 4625
4626

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties; 4627
4628
4629

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water conservation to implement the required program; 4630
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(M) To conduct demonstrations and provide information to the 4639

public regarding practices and methods for natural resource 4640
conservation, development, and utilization; 4641

(N) Until June 1, 1996, to conduct surveys and investigations 4642
relating to the incidence of the multiflora rose within the 4643
district and of the nature and extent of the adverse effects of 4644
the multiflora rose on agriculture, forestry, recreation, and 4645
other beneficial land uses; 4646

(O) Until June 1, 1996, to develop plans for the control of 4647
the multiflora rose within the district and to publish those plans 4648
and information related to control of the multiflora rose; 4649

(P) Until June 1, 1996, to enter into contracts or agreements 4650
with the chief of the division of soil and water conservation to 4651
implement and administer a program for control of the multiflora 4652
rose and to receive and expend funds provided by the chief for 4653
that purpose; 4654

(Q) Until June 1, 1996, to enter into cost-sharing agreements 4655
with landowners for control of the multiflora rose. Before 4656
entering into any such agreement, the board of supervisors shall 4657
determine that the landowner's application meets the eligibility 4658
criteria established under division (E)(6) of section 1511.02 of 4659
the Revised Code. The cost-sharing agreements shall contain the 4660
contract provisions required by the rules adopted under that 4661
division and such other provisions as the board of supervisors 4662
considers appropriate to ensure effective control of the 4663
multiflora rose. 4664

(R) To enter into contracts or agreements with the chief to 4665
implement and administer a program for urban sediment pollution 4666
abatement and to receive and expend moneys provided by the chief 4667
for that purpose; 4668

(S) To develop operation and management plans, as defined in 4669
section 1511.01 of the Revised Code, as necessary; 4670

(T) To determine whether operation and management plans 4671
developed under division (A) of section 1511.021 of the Revised 4672
Code comply with the standards established under division (E)(1) 4673
of section 1511.02 of the Revised Code and to approve or 4674
disapprove the plans, based on such compliance. If an operation 4675
and management plan is disapproved, the board shall provide a 4676
written explanation to the person who submitted the plan. The 4677
person may appeal the plan disapproval to the chief, who shall 4678
afford the person a hearing. Following the hearing, the chief 4679
shall uphold the plan disapproval or reverse it. If the chief 4680
reverses the plan disapproval, the plan shall be deemed approved 4681
under this division. In the event that any person operating or 4682
owning agricultural land or a concentrated animal feeding 4683
operation in accordance with an approved operation and management 4684
plan who, in good faith, is following that plan, causes 4685
agricultural pollution, the plan shall be revised in a fashion 4686
necessary to mitigate the agricultural pollution, as determined 4687
and approved by the board of supervisors of the soil and water 4688
conservation district. 4689

~~(T)~~(U) With regard to composting conducted in conjunction 4690
with agricultural operations, to do all of the following: 4691

(1) Upon request or upon their own initiative, inspect 4692
composting at any such operation to determine whether the 4693
composting is being conducted in accordance with section 1511.022 4694
of the Revised Code; 4695

(2) If the board determines that composting is not being so 4696
conducted, request the chief to issue an order under division (H) 4697
of section 1511.02 of the Revised Code requiring the person who is 4698
conducting the composting to prepare a composting plan in 4699
accordance with rules adopted under division (E)(10)(c) of that 4700
section and to operate in accordance with that plan or to operate 4701
in accordance with a previously prepared plan, as applicable; 4702

(3) In accordance with rules adopted under division 4703
(E)(10)(c) of section 1511.02 of the Revised Code, review and 4704
approve or disapprove any such composting plan. If a plan is 4705
disapproved, the board shall provide a written explanation to the 4706
person who submitted the plan. 4707

As used in division ~~(T)~~(U) of this section, "composting" has 4708
the same meaning as in section 1511.01 of the Revised Code. 4709

~~(U)~~(V) To do all acts necessary or proper to carry out the 4710
powers granted in this chapter. 4711

The director of natural resources shall make recommendations 4712
to reduce the adverse environmental effects of each project that a 4713
soil and water conservation district plans to undertake under 4714
division (A), (B), (C), or (D) of this section and that will be 4715
funded in whole or in part by moneys authorized under section 4716
1515.16 of the Revised Code and shall disapprove any such project 4717
~~which he~~ that the director finds will adversely affect the 4718
environment without equal or greater benefit to the public. The 4719
director's disapproval or recommendations, upon the request of the 4720
district filed in accordance with rules adopted by the Ohio soil 4721
and water conservation commission, shall be reviewed by the 4722
commission, which may confirm the director's decision, modify it, 4723
or add recommendations to or approve a project the director has 4724
disapproved. 4725

Sec. 1515.24. Upon receipt of a certification made by the 4726
supervisors of a soil and water conservation district pursuant to 4727
section 1515.20 of the Revised Code, the board of county 4728
commissioners may levy upon the property within the project area 4729
an assessment at a uniform or varied rate based upon the benefit 4730
to the area certified by the supervisors, as necessary to pay the 4731
cost of construction of the improvement not otherwise funded and 4732
to repay advances made for purposes of the improvement from the 4733

fund created by section 1515.15 of the Revised Code. The board of 4734
county commissioners shall direct the person or authority 4735
preparing assessments to give primary consideration, in 4736
determining a parcel's estimated assessments relating to the 4737
disposal of water, to the potential increase in productivity that 4738
the parcel may experience as a result of the improvement and also 4739
to give consideration to the amount of water disposed of, the 4740
location of the property relative to the project, the value of the 4741
project to the watershed, and benefits as defined in ~~division (F)~~ 4742
~~of~~ section 6131.01 of the Revised Code. ~~Such~~ The part of the 4743
assessment ~~as~~ that is found to benefit state, county, or township 4744
roads or highways or municipal streets shall be assessed against 4745
the state, county, township, or municipal corporation, 4746
respectively, payable from motor vehicle revenues. ~~Such~~ The part 4747
of the assessment ~~as~~ that is found to benefit property owned by 4748
any public corporation, any political subdivision of the state, or 4749
the state shall be assessed against the public corporation, the 4750
political subdivision, or the state and shall be paid out of the 4751
general funds or motor vehicle revenues of the public corporation, 4752
the political subdivision of the state, or the state, except as 4753
otherwise provided by law. ~~The~~ 4754

The assessment shall be certified to the county auditor, and 4755
by ~~him~~ the county auditor to the county treasurer. The collection 4756
of ~~such~~ the assessment shall conform in all matters to Chapter 4757
323. of the Revised Code. Any land owned and managed by the 4758
department of natural resources for wildlife, recreation, nature 4759
preserve, or forestry purposes is exempt from assessments if the 4760
director of natural resources determines that the land derives no 4761
benefit from the improvement. In making such a determination, the 4762
director shall consider the purposes for which the land is owned 4763
and managed and any relevant articles of dedication or existing 4764
management plans for the land. If the director determines that the 4765

land derives no benefit from the improvement, ~~he~~ the director 4766
shall notify the board of county commissioners, within thirty days 4767
after receiving the assessment notification required by this 4768
section, indicating that ~~he~~ the director has determined that the 4769
land is to be exempt and explaining ~~his~~ the specific reason for 4770
making this determination. The board of county commissioners ~~may~~, 4771
within thirty days after receiving the director's exemption 4772
notification, may appeal ~~this~~ the determination to the court of 4773
common pleas. If the court of common pleas finds in favor of the 4774
board of county commissioners, the department of natural resources 4775
shall pay all court costs and legal fees. 4776

If the assessment is to be made at a varied rate, the board 4777
shall give notice by first class mail to every public and private 4778
property owner whose property is subject to assessment, at the tax 4779
mailing or other known address of the owner. ~~Such~~ the notice shall 4780
contain a statement of the amount to be assessed against the 4781
property of the addressee and a statement that ~~he~~ the addressee 4782
may file an objection in writing at the office of the board of 4783
county commissioners within thirty days after the mailing of 4784
notice. If the residence of any owner cannot be ascertained, or if 4785
any mailed notice is returned undelivered, the board shall publish 4786
~~such~~ the notice to all such owners in a newspaper of general 4787
circulation within the project area, at least once each week for 4788
three weeks, which notice shall include the information contained 4789
in the mailed notice, but ~~it~~ shall state that the owner may file 4790
an objection in writing at the office of the board of county 4791
commissioners within thirty days after the last publication of 4792
~~such~~ the notice. 4793

Upon receipt of objections as provided in this section, the 4794
board shall proceed within thirty days to hold a final hearing 4795
~~upon~~ on the objections by fixing a date and giving notice by first 4796
class mail to the objectors at ~~such~~ the address ~~as~~ provided in 4797

filing ~~his~~ the objection. If any mailed notice is returned 4798
undelivered, the board shall give due notice to ~~such~~ the objectors 4799
in a newspaper of general circulation in the project area, stating 4800
the time, place, and purpose of the hearing. Upon hearing the 4801
objectors, the board may amend and shall approve the final 4802
schedule of assessments by journal entry. 4803

Any owner whose objection is not allowed may appeal within 4804
thirty days to the court of common pleas of the county in which 4805
the property is located. 4806

Any moneys collected in excess of the amount needed for 4807
construction of the improvement and the subsequent first year's 4808
maintenance may be maintained in a fund to be used for maintenance 4809
of the improvement. In any year subsequent to a year in which an 4810
assessment for construction of an improvement levied under this 4811
section has been collected, and upon determination by the board of 4812
county commissioners that funds are not otherwise available for 4813
maintenance or repair of the improvement, the board shall levy 4814
~~upon~~ on the property within the project area an assessment for 4815
maintenance at a uniform percentage of all construction costs 4816
based upon the assessment schedule used in determining the 4817
construction assessment. ~~Such~~ The assessment is not subject to the 4818
provisions concerning notice and petition contained in section 4819
1515.25 of the Revised Code. An assessment for maintenance shall 4820
not be levied in any year in which the unencumbered balance of 4821
funds available for maintenance of the ~~improvements~~ improvement 4822
exceeds twenty per cent of the cost of construction of the 4823
improvement, except that the board may adjust the level of 4824
assessment within the twenty per cent limitation, or suspend 4825
temporarily the levying of an assessment, for maintenance purposes 4826
as maintenance funds are needed. 4827

For the purpose of levying an assessment for maintenance of 4828
an improvement, a board may use the procedures established in 4829

Chapter 6137. of the Revised Code regarding maintenance of 4830
improvements as defined in section 6131.01 of the Revised Code in 4831
lieu of using the procedures established under this section. 4832

The board of county commissioners may issue bonds and notes 4833
as authorized by section 131.23 or 133.17 of the Revised Code. 4834

Sec. 1517.10. (A) As used in this section, "felony" has the 4835
same meaning as in section 109.511 of the Revised Code. 4836

(B)(1) Any person selected by the chief of the division of 4837
natural areas and preserves for custodial or patrol service on the 4838
lands and waters operated or administered by the division shall be 4839
employed in conformity with the law applicable to the classified 4840
civil service of the state. Subject to division (C) of this 4841
section, the chief may designate that person as a preserve 4842
officer. A preserve officer ~~has~~, in any nature preserve, in any 4843
natural area owned or managed through easement, license, or lease 4844
by the department of natural resources and administered by the 4845
division, and on lands owned or managed through easement, license, 4846
or lease by the department and administered by the division that 4847
are within or adjacent to any wild, scenic, or recreational river 4848
area established under this chapter and along any trail 4849
established under Chapter 1519. of the Revised Code, has the 4850
authority vested in ~~police peace~~ officers under section 2935.03 of 4851
the Revised Code to keep the peace, to enforce all laws and rules 4852
governing those lands and waters, and to make arrests for 4853
violation of those laws and rules, provided that ~~such the~~ 4854
authority shall be exercised on lands or waters administered by 4855
another division of the department only pursuant to an agreement 4856
with the chief of that division or to a request for assistance by 4857
an enforcement officer of that division in an emergency. A 4858
preserve officer, in or along any watercourse within, abutting, or 4859
upstream from the boundary of any area administered by the 4860

department, has the authority to enforce section 3767.32 of the
Revised Code and any other laws prohibiting the dumping of refuse
into or along waters, and to make arrests for violation of those
laws. The jurisdiction of a preserve officer shall be concurrent
with that of the peace officers of the county, township, or
municipal corporation in which the violation occurs.

The governor, upon the recommendation of the chief, shall
issue to each preserve officer a commission indicating authority
to make arrests as provided in this section.

The chief shall furnish a suitable badge to each commissioned
preserve officer as evidence of the preserve officer's authority.

(2) If any person employed under this section is designated
by the chief to act as an agent of the state in the collection of
money resulting from the sale of licenses, fees of any nature, or
other money belonging to the state, the chief shall require a
surety bond from the person in an amount not less than one
thousand dollars.

(C)(1) The chief of the division of natural areas and
preserves shall not designate a person as a preserve officer
pursuant to division (B)(1) of this section on a permanent basis,
on a temporary basis, for a probationary term, or on other than a
permanent basis if the person previously has been convicted of or
has pleaded guilty to a felony.

(2)(a) The chief of the division of natural areas and
preserves shall terminate the employment as a preserve officer of
a person designated as a preserve officer under division (B)(1) of
this section if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated
plea agreement as provided in division (D) of section 2929.29 of
the Revised Code in which the preserve officer agrees to surrender

the certificate awarded to the preserve officer under section 4892
109.77 of the Revised Code. 4893

(b) The chief shall suspend from employment as a preserve 4894
officer a person designated as a preserve officer under division 4895
(B)(1) of this section if that person is convicted, after trial, 4896
of a felony. If the preserve officer files an appeal from that 4897
conviction and the conviction is upheld by the highest court to 4898
which the appeal is taken or if the preserve officer does not file 4899
a timely appeal, the chief shall terminate the employment of that 4900
preserve officer. If the preserve officer files an appeal that 4901
results in the preserve officer's acquittal of the felony or 4902
conviction of a misdemeanor, or in the dismissal of the felony 4903
charge against the preserve officer, the chief shall reinstate 4904
that preserve officer. A preserve officer who is reinstated under 4905
division (C)(2)(b) of this section shall not receive any back pay 4906
unless that preserve officer's conviction of the felony was 4907
reversed on appeal, or the felony charge was dismissed, because 4908
the court found insufficient evidence to convict the preserve 4909
officer of the felony. 4910

(3) Division (C) of this section does not apply regarding an 4911
offense that was committed prior to January 1, 1997. 4912

(4) The suspension from employment, or the termination of the 4913
employment, of a preserve officer under division (C)(2) of this 4914
section shall be in accordance with Chapter 119. of the Revised 4915
Code. 4916

Sec. 1517.14. As used in sections 1517.14 to 1517.18 of the 4917
Revised Code, "watercourse" means a substantially natural channel 4918
with recognized banks and bottom, in which a flow of water occurs, 4919
with an average of at least ten feet mean surface water width and 4920
at least five miles of length. The director of natural resources 4921
or ~~his~~ the director's representative may create, supervise, 4922

operate, protect, and maintain wild, scenic, and recreational 4923
river areas under the classifications established in section 4924
1517.15 of the Revised Code. The director or ~~his~~ the director's 4925
representative may prepare and maintain a plan for the 4926
establishment, development, use, and administration of those areas 4927
as a part of the comprehensive state plans for water management 4928
and outdoor recreation. The director or ~~his~~ the director's 4929
representative may cooperate with federal agencies administering 4930
any federal program concerning wild, scenic, or recreational river 4931
areas. 4932

The director may propose for establishment as a wild, scenic, 4933
or recreational river area a part or parts of any watercourse in 4934
this state, with adjacent lands, ~~which that~~ in ~~his~~ the director's 4935
judgment possesses water conservation, scenic, fish, wildlife, 4936
historic, or outdoor recreation values ~~which that~~ should be 4937
preserved, using the classifications established in section 4938
1517.15 of the Revised Code. The area shall include lands adjacent 4939
to the watercourse in sufficient width to preserve, protect, and 4940
develop the natural character of the watercourse, but shall not 4941
include any lands more than one thousand feet from the normal 4942
waterlines of the watercourse unless an additional width is 4943
necessary to preserve water conservation, scenic, fish, wildlife, 4944
historic, or outdoor recreation values. 4945

The director shall publish ~~his~~ the intention to declare an 4946
area a wild, scenic, or recreational river area at least once in a 4947
newspaper of general circulation in each county, any part of which 4948
is within the area, and shall send written notice of ~~his~~ the 4949
intention to the legislative authority of each county, township, 4950
and municipal corporation and to each conservancy district 4951
established under Chapter 6101. of the Revised Code, any part of 4952
which is within the area, and to the director of transportation, 4953
the director of development, the director of administrative 4954

services, and the director of environmental protection. The 4955
notices shall include a copy of a map and description of the area. 4956

After thirty days from the last date of publication or 4957
dispatch of written notice as required in this section, the 4958
director shall enter a declaration in ~~his~~ the director's journal 4959
that the area is a wild, scenic, or recreational river area. When 4960
so entered, the area is a wild, scenic, or recreational river 4961
area. The director, after thirty days' notice as prescribed in 4962
this section and upon the approval of the ~~recreational~~ recreation 4963
and resources commission created in section 1501.04 Of the Revised 4964
Code, may terminate the status of an area as a wild, scenic, or 4965
recreational river area by an entry in ~~his~~ the director's journal. 4966

Declaration by the director that an area is a wild, scenic, 4967
or recreational river area does not authorize the director or any 4968
governmental agency or political subdivision to restrict the use 4969
of land by the owner thereof or any person acting under ~~his~~ the 4970
landowner's authority or to enter upon the land and does not 4971
expand or abridge the regulatory authority of any governmental 4972
agency or political subdivision over the area. 4973

The chief of the division of natural areas and preserves or 4974
~~his~~ the chief's representative may participate in watershed-wide 4975
planning with federal, state, and local agencies in order to 4976
protect the values of wild, scenic, and recreational river areas. 4977

Sec. 1518.99. (A) Whoever violates section 1518.02 of the 4978
Revised Code is guilty of a minor misdemeanor. 4979

(B) Whoever violates section 1518.05 of the Revised Code 4980
shall be fined not less than one thousand dollars nor more than 4981
five thousand dollars for the first offense; for each subsequent 4982
offense the person shall be fined not less than two thousand 4983
dollars nor more than ten thousand dollars. 4984

~~(C) Whoever violates section 1518.23 or 1518.24 of the Revised Code is guilty of a misdemeanor of the first degree.~~ 4985
4986

Sec. 1520.01. As used in this chapter: 4987

(A) "Canal lands" includes any part of the bed, berm, bank, 4988
or slope of any canal, canal basin, or canal reservoir or of any 4989
lock, aqueduct, dam, culvert, tunnel, feeder, or side cut formerly 4990
a part of any canal system in this state, whether or not 4991
abandoned; the outer slope of any towing path embankment formerly 4992
a part of any canal system in this state; and any tract of land 4993
that was a part of or intended for the use of any canal system in 4994
this state. "Canal lands" means only those canal lands that are 4995
the property of the state. 4996

(B) "~~Reservoir~~ Canal reservoir" means any ~~man-made~~ artificial 4997
lake or impoundment, ~~including any run of the river reservoir,~~ 4998
that was constructed to provide water to any canal system in this 4999
state. 5000

(C) "Domestic use" means the withdrawal of water by an 5001
individual for use on residential property by means of a pump or 5002
other device that generally has a discharge line with an outside 5003
diameter of not more than one and one-half inches. 5004

Sec. 1520.02. (A) The director of natural resources has 5005
exclusive authority to administer, manage, and establish policies 5006
governing canal lands. 5007

(B)(1) Except as provided in division (C) of this section, 5008
the director may sell, lease, exchange, give, or grant all or part 5009
of the state's interest in any canal lands in accordance with 5010
section 1501.01 of the Revised Code. The director may stipulate 5011
that an appraisal or survey need not be conducted for, and may 5012
establish any terms or conditions that ~~he~~ the director determines 5013
appropriate for, any such ~~conveyance~~ CONVEYANCE. 5014

(2) With regard to canal lands, the chief of the division of water, with the approval of the director, may sell, lease, or transfer minerals or mineral rights when the chief and the director determine that the sale, lease, or transfer is in the best interest of the state. Consideration for minerals and mineral rights shall be by rental or on a royalty basis as prescribed by the chief and payable as prescribed by contract. Moneys collected under division (B)(2) of this section shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

(C)(1) Not later than one year after July 1, 1989, the director of transportation and the director of the Ohio historical society shall ~~indentify~~ IDENTIFY all canal lands that are or may be of use to any program operated by the department of transportation or the Ohio historical society, respectively, and shall notify the director of natural resources of those lands. The director of natural resources may transfer any canal lands so identified to the exclusive care, custody, and control of the department of transportation or the Ohio historical society, as applicable, by means of a departmental transfer not later than six months after receiving notification under division (C)(1) of this section.

(2) The director of natural resources may transfer to the Ohio historical society any equipment, maps, and records used on or related to canal lands that are of historical interest and that are not needed by the director to administer this chapter.

(D) If the director of natural resources determines that any canal lands are a necessary part of a county's drainage or ditch system and are not needed for any purpose of the department of natural resources, the director may sell, grant, or otherwise convey those canal lands to that county in accordance with division (B) of this section. The board of county commissioners

shall accept the transfer of canal lands. 5047

(E) Notwithstanding any other section of the Revised Code, 5048
the county auditor shall transfer any canal lands conveyed under 5049
this section, and the county recorder shall record the deed for 5050
those lands in accordance with section 317.12 of the Revised Code. 5051
This division does not apply to canal lands transferred under 5052
division (C)(1) of this section. 5053

Sec. 1520.03. (A) The director of natural resources may 5054
appropriate real property in accordance with Chapter 163. of the 5055
Revised Code for the purpose of administering this chapter. 5056

(B) The director shall operate and maintain all canals and 5057
canal reservoirs owned by the state except those canals that are 5058
operated by the Ohio historical society on July 1, 1989. 5059

(C) The director may sell or lease water from any canal or 5060
canal reservoir that ~~he~~ the director operates and maintains only 5061
to the extent that the water is in excess of the quantity that is 5062
required for navigation, recreation, and wildlife purposes. The 5063
director ~~shall~~ may adopt, ~~and may~~ amend, and rescind, rules in 5064
accordance with Chapter 119. of the Revised Code necessary to 5065
administer this division. 5066

The withdrawal of water from any canal or canal reservoir for 5067
domestic use is exempt from this division. However, the director 5068
may require water conservation measures for water that is 5069
withdrawn from any canal or canal reservoir for domestic use 5070
during drought conditions or other emergencies declared by the 5071
governor. 5072

(D) No person shall take or divert water from any canal or 5073
canal reservoir operated and maintained by the director except in 5074
accordance with ~~a sale or lease entered into under~~ division (C) of 5075
this section. 5076

(E) At the request of the director, the attorney general may 5077
commence a civil action for civil penalties and injunctions, in a 5078
court of common pleas, against any person who has violated or is 5079
violating division (D) of this section. The court of common pleas 5080
in which an action for injunctive relief is filed has jurisdiction 5081
to and shall grant preliminary and permanent injunctive relief 5082
upon a showing that the person against whom the action is brought 5083
has violated or is violating that division. 5084

Upon a finding of a violation, the court shall assess a civil 5085
penalty of not more than one thousand dollars for each day of each 5086
~~violation if the violator is an individual who took or diverted~~ 5087
~~the water in question for residential or agricultural use. The~~ 5088
~~court shall assess a civil penalty of not more than five thousand~~ 5089
~~dollars for each day of each violation if the violator is any~~ 5090
~~other person who took or diverted the water in question for~~ 5091
~~industrial or commercial use excluding agricultural use. Moneys~~ 5092
from civil penalties assessed under this division shall be paid 5093
into the state treasury to the credit of the canal lands fund 5094
created in section 1520.05 of the Revised Code. 5095

Any action under this division is a civil action, governed by 5096
the rules of civil procedure and other rules of practice and 5097
procedure applicable to civil actions. 5098

(F) As used in this section, "person" means any agency of 5099
this state, any political subdivision of this state or of the 5100
United States, or any legal entity defined as a person under 5101
section 1.59 of the Revised Code. 5102

Sec. 1521.03. The chief of the division of water shall do all 5103
of the following: 5104

(A) Assist in an advisory capacity any properly constituted 5105
watershed district, conservancy district, or soil and water 5106

conservation district or any county, municipal corporation, or 5107
other government agency of the state in the planning of works for 5108
ground water recharge, stream management, or the establishment of 5109
water conservation practices, within the limits of the 5110
appropriations for ~~that purpose~~ those purposes; 5111

(B) Have authority to conduct basic inventories of the water 5112
and related natural resources in each drainage basin in the state; 5113
to develop a plan on a watershed basis that will recognize the 5114
variety of uses to which water may be put and the need for its 5115
~~retention and control~~ management for those uses; with the approval 5116
of the director of natural resources and the controlling board, to 5117
transfer appropriated or other funds, authorized for those 5118
inventories and plan, to any division of the department of natural 5119
resources or other state agencies for the purpose of developing 5120
pertinent data relating to the plan of water management; and to 5121
accept and expend moneys contributed by any person for 5122
implementing the development of the plan; 5123

(C) Have authority to make detailed investigations of all 5124
factors relating to floods, floodplain management, ~~and~~ flood 5125
control, and stream management in the state ~~with particular~~ 5126
~~attention to those factors bearing upon the maintenance of the~~ 5127
~~hydraulic efficiency of the channels of rivers, streams, and~~ 5128
~~watercourses as a means of carrying off flood waters~~ recognizing 5129
the variety of uses to which water and watercourses may be put; 5130

(D) Cooperate with the United States or any agency thereof 5131
and with any political subdivision of the state in planning and 5132
constructing flood control works; 5133

(E) Hold meetings or public hearings, whichever is considered 5134
appropriate by the chief, to assist in the resolution of conflicts 5135
between ground water users. Such meetings or hearings shall be 5136
called upon written request from boards of health of city or 5137

general health districts created by or under the authority of 5138
Chapter 3709. of the Revised Code or authorities having the duties 5139
of a board of health as authorized by section 3709.05 of the 5140
Revised Code, boards of county commissioners, boards of township 5141
trustees, legislative authorities of municipal corporations, or 5142
boards of directors of conservancy districts organized under 5143
Chapter 6101. of the Revised Code and may be called by the chief 5144
upon the request of any other person or at ~~his~~ the chief's 5145
discretion. The chief shall collect and present at such meetings 5146
or hearings the available technical information relevant to the 5147
conflicts and to the ground water resource. The chief shall 5148
prepare a report, and may make recommendations, based upon the 5149
available technical data and the record of the meetings or 5150
hearings, about the use of the ground water resource. In making 5151
the report and any recommendations, the chief also may consider 5152
the factors listed in division (B) of section 1521.17 of the 5153
Revised Code. The technical information presented, the report 5154
prepared, and any recommendations made under this division shall 5155
be presumed to be prima-facie authentic and admissible as evidence 5156
in any court pursuant to Evidence Rule 902. 5157

(F) Perform stream or ground water gauging and may contract 5158
with the United States government or any other agency for the 5159
gauging of any streams or ground water within the state; 5160

(G) Primarily with regard to water quantity, have authority 5161
to collect, study, map, and interpret all available information, 5162
statistics, and data pertaining to the availability, supply, use, 5163
conservation, and replenishment of the ground and surface waters 5164
in the state; 5165

(H) Primarily with regard to water quantity and availability, 5166
be authorized to cooperate with and negotiate for the state with 5167
any agency of the United States government or agency of any other 5168
state pertaining to the water resources of the state. 5169

5170

Sec. 1521.05. (A) As used in this section: 5171

(1) "Construct" or "construction" includes drilling, boring, 5172
digging, deepening, altering, and logging. 5173

(2) "Altering" means changing the configuration of a well, 5174
including, without limitation, deepening a well, extending or 5175
replacing any portion of the inside or outside casing or wall of a 5176
well that extends below ground level, plugging a portion of a well 5177
back to a certain depth, and reaming out a well to enlarge its 5178
original diameter. 5179

(3) "Logging" means describing the lithology, grain size, 5180
color, and texture of the formations encountered during the 5181
drilling, boring, digging, deepening, or altering of a well. 5182

(4) "Grouting" means neat ~~cement~~ cement; bentonite products in 5183
slurry, granular, or pelletized form, excluding drilling mud or 5184
fluids; or any combination of neat cement and bentonite products 5185
that is placed within a well to seal the annular space or to seal 5186
an abandoned well and that is impervious to and capable of 5187
preventing the movement of water. 5188

(5) "Abandoned well" means a well whose use has been 5189
permanently discontinued and that poses potential health and 5190
safety hazards or that has the potential to transmit surface 5191
contaminants into the aquifer in which the well has been 5192
constructed. 5193

(6) "Sealing" means the complete filling of an abandoned well 5194
with grouting or other approved materials in order to permanently 5195
prevent the vertical movement of water in the well and thus 5196
prevent the contamination of ground water or the intermixing of 5197
water between aquifers. 5198

(B) Any person that constructs a well shall keep a careful 5199

and accurate log of the construction of the well. The log shall 5200
show all of the following: 5201

(1) The character, including, without limitation, the 5202
lithology, color, texture, and grain size, the name, if known, and 5203
the depth of all formations passed through or encountered; 5204

(2) The depths at which water is encountered; 5205

(3) The static water level of the completed well; 5206

(4) A copy of the record of all pumping tests and analyses 5207
related to those tests, if any; 5208

(5) Construction details, including lengths, diameters, and 5209
thicknesses of casing and screening and the volume, type of 5210
material, and method of introducing gravel packing and grouting 5211
into the well; 5212

(6) The type of pumping equipment installed, if any; 5213

(7) The name of the owner of the well, the address of the 5214
location where the well was constructed, and a description of the 5215
location of the property where the well was constructed; 5216

(8) The signature of the individual who constructed the well 5217
and filed the well log; 5218

(9) Any other information required by the chief of the 5219
division of water. 5220

The log shall be furnished to the division within thirty days 5221
after the completion of construction of the well, ~~upon~~ on forms 5222
prescribed and prepared by the division. The log shall be kept on 5223
file by the division. 5224

In accordance with Chapter 119. of the Revised Code, the 5225
chief may adopt, amend, and rescind rules requiring other persons 5226
that are involved in the construction or subsequent development of 5227
a well to submit well logs under this division containing any or 5228

all of the information specified in divisions (B)(1) to (9) of 5229
this section and requiring any person that seals an abandoned well 5230
to submit a well sealing report under this division containing any 5231
or all of the information specified in those divisions and any 5232
additional information specified in the rules. 5233

(C)(1) No person shall fail to keep and submit a well log as 5234
required by this section. 5235

(2) No person shall make a false statement in any well log 5236
required to be kept and submitted under this section. Violation of 5237
division (C)(2) of this section is falsification under section 5238
2921.13 of the Revised Code. 5239

(D) For the purposes of prosecution of a violation of 5240
division (C)(1) of this section, a prima-facie case is established 5241
when the division obtains either of the following: 5242

(1) A certified copy of a permit for a private water system 5243
issued in accordance with rules adopted under section 3701.344 of 5244
the Revised Code, or a certified copy of the invoice or a canceled 5245
check from the owner of a well indicating the construction 5246
services performed; 5247

(2) A certified copy of any permit issued under Chapter 3734. 5248
or 6111. of the Revised Code or plan approval granted under 5249
Chapter 6109. Of the Revised Code for any activity that includes 5250
the construction of a well. 5251

Sec. 1531.01. As used in this chapter and Chapter 1533. of 5252
the Revised Code: 5253

(A) "Person" means individual, company, partnership, 5254
corporation, municipal corporation, association, or any 5255
combination of individuals, or any employee, agent, or officer 5256
thereof. 5257

(B) "Resident" means any individual who has resided in this 5258

state for not less than six months next preceding the date of	5259
making application for a license.	5260
(C) "Nonresident" means any individual who does not qualify	5261
as a resident.	5262
(D) "Division rule" or "rule" means any rule adopted by the	5263
chief of the division of wildlife under section 1531.10 of the	5264
Revised Code unless the context indicates otherwise.	5265
(E) "Closed season" means that period of time during which	5266
the taking of wild animals protected by this chapter and Chapter	5267
1533. of the Revised Code is prohibited.	5268
(F) "Open season" means that period of time during which the	5269
taking of wild animals protected by this chapter and Chapter 1533.	5270
of the Revised Code is permitted.	5271
(G) "Take or taking" includes pursuing, shooting, hunting,	5272
killing, trapping, angling, fishing with a trotline, or netting	5273
any clam, mussel, crayfish, aquatic insect, fish, frog, turtle,	5274
wild bird, or wild quadruped, and any lesser act, such as	5275
wounding, or placing, setting, drawing, or using any other device	5276
for killing or capturing any wild animal, whether it results in	5277
killing or capturing the animal or not. "Take or taking" includes	5278
every attempt to kill or capture and every act of assistance to	5279
any other person in killing or capturing or attempting to kill or	5280
capture a wild animal.	5281
(H) "Possession" means both actual and constructive	5282
possession and any control of things referred to.	5283
(I) "Bag limit" means the number, measurement, or weight of	5284
any kind of clams, mussels, crayfish, aquatic insects, fish,	5285
frogs, turtles, wild birds, and wild quadrupeds permitted to be	5286
taken.	5287
(J) "Transport and transportation" means carrying or moving	5288

or causing to be carried or moved.	5289
(K) "Sell and sale" means barter, exchange, or offer or expose for sale.	5290 5291
(L) "Whole to include part" means that every provision relating to any wild animal protected by this chapter and Chapter 1533. of the Revised Code applies to any part thereof <u>of the wild animal</u> with the same effect as it applies to the whole.	5292 5293 5294 5295
(M) "Angling" means fishing with not more than two hand lines, not more than two units of rod and line, or a combination of not more than one hand line and one rod and line, either in hand or under control at any time while fishing. The hand line or rod and line shall have attached to it not more than three baited hooks, not more than three artificial fly rod lures, or one artificial bait casting lure equipped with not more than three sets of three hooks each.	5296 5297 5298 5299 5300 5301 5302 5303
(N) "Trotline" means a device for catching fish that consists of a line having suspended from it, at frequent intervals, vertical lines with hooks attached.	5304 5305 5306
(O) "Fish" means a cold-blooded vertebrate having fins.	5307
(P) "Measurement of fish" means length from the end of the nose to the longest tip or end of the tail.	5308 5309
(Q) "Wild birds" includes game birds and nongame birds.	5310
(R) "Game" includes game birds, game quadrupeds, and fur-bearing animals.	5311 5312
(S) "Game birds" includes mourning doves, <u>ringneck</u> pheasants, <u>bobwhite</u> quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, wild turkey, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, duck, geese, brant, and crows.	5313 5314 5315 5316 5317 5318

(T) "Nongame birds" includes all other wild birds not included and defined as game birds.	5319 5320
(U) "Wild quadrupeds" includes game quadrupeds and fur-bearing animals.	5321 5322
(V) "Game quadrupeds" includes hares or cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, <u>flyng squirrels, chipmunks,</u> groundhogs or woodchucks, <u>white-tailed</u> deer, wild boar, and <u>black</u> bears.	5323 5324 5325 5326
(W) "Fur-bearing animals" includes minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, and bobcats.	5327 5328 5329
(X) "Wild animals" includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals.	5330 5331 5332
(Y) "Hunting" means pursuing, shooting, killing, following after or on the trail of, lying in wait for, shooting at, or wounding wild birds or wild quadrupeds while employing any device commonly used to kill or wound wild birds or wild quadrupeds whether or not the acts result in killing or wounding. "Hunting" includes every attempt to kill or wound and every act of assistance to any other person in killing or wounding or attempting to kill or wound wild birds or wild quadrupeds.	5333 5334 5335 5336 5337 5338 5339 5340
(Z) "Trapping" means securing or attempting to secure possession of a wild bird or wild quadruped by means of setting, placing, drawing, or using any device that is designed to close upon, hold fast, confine, or otherwise capture a wild bird or wild quadruped whether or not the means results in capture. "Trapping" includes every act of assistance to any other person in capturing wild birds or wild quadrupeds by means of the device whether or not the means results in capture.	5341 5342 5343 5344 5345 5346 5347 5348

(AA) "Muskrat spear" means any device used in spearing muskrats. 5349
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(BB) "Channels and passages" means those narrow bodies of water lying between islands or between an island and the mainland in Lake Erie. 5351
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(CC) "Island" means a rock or land elevation above the waters of Lake Erie having an area of five or more acres above water. 5354
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(DD) "Reef" means an elevation of rock, either broken or in place, or gravel shown by the latest United States chart to be above the common level of the surrounding bottom of the lake, other than the rock bottom, or in place forming the base or foundation rock of an island or mainland and sloping from the shore ~~thereof~~ of it. "Reef" also means all elevations shown by that chart to be above the common level of the sloping base or foundation rock of an island or mainland, whether running from the shore of an island or parallel with the contour of the shore of an island or in any other way and whether formed by rock, broken or in place, or from gravel. 5357
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(EE) "Fur farm" means any area used exclusively for raising fur-bearing animals or in addition thereto used for hunting game, the boundaries of which are plainly marked as such. 5368
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(FF) "Waters" includes any lake, pond, reservoir, stream, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial. 5371
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(GG) "Crib" or "car" refers to that particular compartment of the net from which the fish are taken when the net is lifted. 5374
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(HH) "Commercial fish" means those species of fish permitted to be taken, possessed, bought, or sold unless otherwise restricted by the Revised Code or division rule and are alewife 5376
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(Alosa pseudoharengus), American eel (Anguilla rostrata), bowfin	5379
(Amia calva), burbot (Lota lota), carp (Cyprinus carpio),	5380
smallmouth buffalo (Ictiobus bubalus), bigmouth buffalo (Ictiobus	5381
cyprinellus), black bullhead (Ictalurus melas), yellow bullhead	5382
(Ictalurus natalis), brown bullheads (Ictalurus nebulosus),	5383
channel catfish (Ictalurus punctatus), flathead catfish	5384
(Pylodictis olivaris), whitefish (Coregonus sp.), cisco (Coregonus	5385
sp.), freshwater drum or sheepshead (Aplodinotus grunniens), gar	5386
(Lepisosteus sp.), gizzard shad (Dorosoma cepedianum), goldfish	5387
(Carassius auratus), lake trout (Salvelinus namaycush), mooneye	5388
(Hiodon tergisus), quillback (Carpiodes cyprinus), smelt	5389
(Allosmerus elongatus, Hypomesus sp., Osmerus sp., Spirinchus	5390
sp.), sturgeon (Acipenser sp., Scaphirhynchus sp.), sucker other	5391
than buffalo and quillback (Carpiodes sp., Catostomus sp.,	5392
Hypentelium sp., Minytrema sp., Moxostoma sp.), white bass (Morone	5393
chrysops), white perch (Roccus americanus), and yellow perch	5394
(Perca flavescens). When the common name of a fish is used in this	5395
chapter or Chapter 1533. of the Revised Code, it refers to the	5396
fish designated by the scientific name in this definition.	5397
(II) "Fishing" means taking or attempting to take fish by any	5398
method, and all other acts such as placing, setting, drawing, or	5399
using any device commonly used to take fish whether resulting in a	5400
taking or not.	5401
(JJ) "Fillet" means the pieces of flesh taken or cut from	5402
both sides of a fish, joined to form one piece of flesh.	5403
(KK) "Part fillet" means a piece of flesh taken or cut from	5404
one side of a fish.	5405
(LL) "Round" when used in describing fish means with head and	5406
tail intact.	5407
(MM) "Migrate" means the transit or movement of fish to or	5408
from one place to another as a result of natural forces or	5409

instinct and includes, but is not limited to, movement of fish 5410
induced or caused by changes in the water flow. 5411

(NN) "Spreader bar" means a brail or rigid bar placed across 5412
the entire width of the back, at the top and bottom of the cars in 5413
all trap, crib, and fyke nets for the purpose of keeping the 5414
meshes hanging squarely while the nets are fishing. 5415

(OO) "Fishing guide" means any person who, for consideration 5416
or hire, operates a boat, rents, leases, or otherwise furnishes 5417
angling devices, ice fishing shanties or shelters of any kind, or 5418
other fishing equipment, and accompanies, guides, directs, or 5419
assists any other person in order for the other person to engage 5420
in fishing. 5421

(PP) "Net" means fishing devices with meshes composed of 5422
twine or synthetic material and includes, but is not limited to, 5423
trap nets, fyke nets, crib nets, carp aprons, dip nets, and 5424
seines, except minnow seines and minnow dip nets. 5425

(QQ) "Commercial fishing gear" means seines, trap nets, fyke 5426
nets, dip nets, carp aprons, trotlines, other similar gear, and 5427
any boat used in conjunction with that gear, but does not include 5428
gill nets. 5429

(RR) "Native wildlife" means any species of the animal 5430
kingdom indigenous to this state. 5431

(SS) "Gill net" means a single section of fabric or netting 5432
seamed to a float line at the top and a lead line at the bottom, 5433
which is designed to entangle fish in the net openings as they 5434
swim into it. 5435

(TT) ~~"Small game" includes pheasants, quail, ruffed grouse,~~ 5436
~~sharp-tailed grouse, pinnated grouse, Hungarian partridge, Chukar~~ 5437
~~partridge, woodcocks, black-breasted plover, golden plover,~~ 5438
~~Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail,~~ 5439

~~eoot, gallinules, ducks, geese, brant, crows, rabbits, gray~~ 5440
~~squirrels, black squirrels, fox squirrels, red squirrels, and~~ 5441
~~groundhogs or woodchucks.~~ 5442

~~(UU)~~ "Tag fishing tournament" means a contest in which a 5443
participant pays a fee, or gives other valuable consideration, for 5444
a chance to win a prize by virtue of catching a tagged or 5445
otherwise specifically marked fish within a limited period of 5446
time, but does not include a scheme of chance conducted under 5447
division (D)(1) of section 2915.02 of the Revised Code. 5448

~~(VV)~~(UU) "Tenant" means an individual who resides on land for 5449
which ~~he~~ the individual pays rent and whose annual income is 5450
primarily derived from agricultural production conducted on that 5451
land, as "agricultural production" is defined in section 929.01 of 5452
the Revised Code. 5453

~~(WW)~~(VV) "Nonnative wildlife" means any wild animal not 5454
indigenous to this state. 5455

(WW) "Reptiles" includes common musk turtle (sternotherus 5456
odoratus), common snapping turtle (Chelydra serpentina 5457
serpentina), spotted turtle (Clemmys guttata), eastern box turtle 5458
(Terrapene carolina carolina), Blanding's turtle (Emydoidea 5459
blandingii), common map turtle (Graptemys geographica), ouachita 5460
map turtle (Graptemys pseudogeographica ouachitensis), midland 5461
painted turtle (Chrysemys picta marginata), red-eared slider 5462
(trachemys scripta elegans), eastern spiny softshell turtle 5463
(Trionyx spiniferus spiniferus), midland smooth softshell turtle 5464
(Trionyx muticus muticus), northern fence lizard (Sceloporus 5465
undulatus hyacinthinus), ground skink (Scincella lateralis), 5466
five-lined skink (Eumeces fasciatus), broadhead skink (Eumeces 5467
laticeps), northern coal skink (Eumeces anthracinus anthracinus), 5468
European wall lizard (Podarcis muralis), queen snake (Regina 5469
septemvittata), Kirtland's snake (Clonophis kirtlandii), northern 5470
water snake (Nerodia sipedon), Lake Erie watersnake (Nerodia 5471

<u>sipedon insularum), copperbelly water snake (Nerodia erythrogaster</u>	5472
<u>neglecta), northern brown snake (Storeria dekayi dekayi), midland</u>	5473
<u>brown snake (Storeria dekayi wrightorum), northern redbelly snake</u>	5474
<u>(Storeria occipitomaculata occipitomaculata), eastern garter snake</u>	5475
<u>(Thamnophis sirtalis sirtalis), eastern plains garter snake</u>	5476
<u>(Thamnophis radix radix), Butler's garter snake (Thamnophis</u>	5477
<u>butleri), shorthead garter snake (Thamnophis brachystoma), eastern</u>	5478
<u>ribbon snake (Thamnophis sauritus sauritus), northern ribbon snake</u>	5479
<u>(Thamnophis sauritus septentrionalis), eastern hognose snake</u>	5480
<u>(Heterodon platyrhinos), eastern smooth earth snake (Virginia</u>	5481
<u>valeriae valeriae), northern ringneck snake (Diadophis punctatus</u>	5482
<u>edwardsii), midwest worm snake (Carphophis amoenus helenae),</u>	5483
<u>eastern worm snake (Carphophis amoenus amoenus), black racer</u>	5484
<u>(Coluber constrictor constrictor), blue racer (Coluber constrictor</u>	5485
<u>foxii), rough green snake (Opheodrys aestivus), eastern smooth</u>	5486
<u>green snake (Opheodrys vernalis vernalis), western smooth green</u>	5487
<u>snake (Opheodrys vernalis blanchardi), black rat snake (Elaphe</u>	5488
<u>obsoleta obsoleta), eastern fox snake (Elaphe vulpina gloydi),</u>	5489
<u>black kingsnake (Lampropeltis getula nigra), eastern milk snake</u>	5490
<u>(Lampropeltis triangulum triangulum), northern copperhead</u>	5491
<u>(Agkistrodon contortrix moskassen), eastern massasauga (Sistrurus</u>	5492
<u>catenatus catenatus), and timber rattlesnake (Crotalus horridus</u>	5493
<u>horridus).</u>	5494
<u>(XX) "Amphibians" includes eastern hellbender (Cryptobranchus</u>	5495
<u>alleganiensis alleganiensis), mudpuppy (Necturus maculosus),</u>	5496
<u>red-spotted newt (Notophthalmus viridescens viridescens),</u>	5497
<u>Jefferson salamander (Ambystoma jeffersonianum), spotted</u>	5498
<u>salamander (Ambystoma maculatum), blue-spotted salamander</u>	5499
<u>(Ambystoma laterale), smallmouth salamander (Ambystoma texanum),</u>	5500
<u>streamside salamander (Ambystoma barbouri), marbled salamander</u>	5501
<u>(Ambystoma opacum), eastern tiger salamander (Ambystoma tigrinum</u>	5502
<u>tigrinum), silvery salamander (Ambystoma platineum), northern</u>	5503
<u>dusky salamander (Desmognathus fuscus fuscus), mountain dusky</u>	5504

salamander (Desmognathus ochrophaeus), redback salamander 5505
(Plethodon cinereus), ravine salamander (Plethodon richmondi), 5506
northern slimy salamander (Plethodon glutinosus), Wehrle's 5507
salamander (Plethodon wehrlei), four-toed salamander 5508
(Hemidactylium scutatum), Kentucky spring salamander (Gyrinophilus 5509
porphyriticus duryi), northern spring salamander (Gyrinophilus 5510
porphyriticus porphyriticus), mud salamander (Pseudotriton 5511
montanus), northern red salamander (Pseudotriton ruber ruber), 5512
green salamander (Aneides aeneus), northern two-lined salamander 5513
(Eurycea bislineata), longtail salamander (Eurycea longicauda 5514
longicauda), cave salamander (Eurycea lucifuga), southern 5515
two-lined salamander (Eurycea cirrigera) Fowler's toad (Bufo 5516
woodhousii fowleri), American toad (Bufo americanus), eastern 5517
spadefoot (Scaphiopus holbrookii), Blanchard's cricket frog (Acris 5518
crepitans blanchardi), northern spring peeper (Pseudacris crucifer 5519
crucifer), gray treefrog (Hyla versicolor), Cope's gray treefrog 5520
(Hyla chrysoscelis), western chorus frog (Pseudacris triseriata 5521
triseriata), mountain chorus frog (Pseudacris brachyphona), 5522
bullfrog (Rana catesbeiana), green frog (Rana clamitans melanota), 5523
northern leopard frog (Rana pipiens), pickerel frog (Rana 5524
palustris), southern leopard frog (Rana utricularia), and wood 5525
frog (Rana sylvatica). 5526

The chief shall not establish a season for the hunting of 5527
mourning doves that opens prior to the fifteenth day of September 5528
of any year. 5529

Sec. 1531.06. (A) The chief of the division of wildlife, with 5530
the approval of the director of natural resources, may acquire by 5531
gift, lease, purchase, or otherwise lands or surface rights upon 5532
lands and waters or surface rights upon waters for wild animals, 5533
fish or game management, preservation, propagation, and 5534
protection, outdoor and nature activities, public fishing and 5535
hunting grounds, and flora and fauna preservation. The chief, with 5536

the approval of the director, may receive by grant, devise, 5537
bequest, donation, or assignment evidences of indebtedness, the 5538
proceeds of which are to be used for the purchase of such lands or 5539
surface rights upon lands and waters or ~~the~~ surface rights upon 5540
waters. 5541

(B)(1) The chief shall adopt rules for the protection of 5542
state owned or leased lands and waters and property under the 5543
division's control against wrongful use or occupancy that will 5544
ensure the carrying out of the intent of this section, protect 5545
those lands, waters, and property from depredations, and preserve 5546
them from molestation, spoilation, destruction, or any improper 5547
use or occupancy thereof, including rules with respect to 5548
recreational activities and for the government and use of such 5549
lands, waters, and property. 5550

(2) The chief may adopt rules benefiting wild animals, fish 5551
or game management, preservation, propagation, and protection, 5552
outdoor and nature activities, public fishing and hunting grounds, 5553
and flora and fauna preservation, and regulating the taking and 5554
possession of wild animals on any lands or waters owned or leased 5555
or under the division's supervision and control and, for a 5556
specified period of years, may prohibit or recall the taking and 5557
possession of any wild animal on any portion of such lands or 5558
waters. The division clearly shall define and mark the boundaries 5559
of the lands and waters owned or leased or under its supervision 5560
and control upon which the taking of any wild animal is 5561
prohibited. 5562

(C) The chief, with the approval of the director, may acquire 5563
by gift, lease, or purchase land for the purpose of establishing 5564
state fish hatcheries and game farms and may erect ~~thereon~~ on it 5565
buildings or structures ~~as~~ that are necessary. 5566

The title to or lease of such lands and waters shall be taken 5567

by the chief in the name of the state. The lease or purchase price 5568
of all such lands and waters may be paid from hunting and trapping 5569
and fishing licenses and any other funds. 5570

(D) To provide more public recreation, stream and lake 5571
agreements for public fishing only may be obtained under rules 5572
adopted by the chief. 5573

(E) The chief, with the approval of the director, may 5574
establish user fees for the use of special public facilities or 5575
participation in special activities on lands and waters 5576
administered by the division. The special facilities and 5577
activities may include hunting or fishing on special designated 5578
public lands and waters intensively managed or stocked with 5579
artificially propagated game birds or fish, field trial 5580
facilities, wildlife nature centers, firearm ranges, boat mooring 5581
facilities, camping sites, and other similar special facilities 5582
and activities. The chief shall determine whether the user fees 5583
are refundable and shall ensure that that information is provided 5584
at the time the user fees are paid. 5585

(F) The chief, with the approval of the director, may enter 5586
into lease agreements for rental of concessions or other special 5587
projects situated on state-owned or leased lands or waters or 5588
other property under the division's control. The chief shall set 5589
and collect the fees for concession rentals or other special 5590
projects; regulate through contracts between the division and 5591
concessionaires the sale of tangible objects at concessions or 5592
other special projects; and keep a record of all such fee payments 5593
showing the amount received, from whom ~~recieved~~ received, and for 5594
what purpose the fee was collected. 5595

(G) The chief may sell conservation-related items or items 5596
that promote wildlife conservation, including, but not limited to, 5597
pins, badges, books, bulletins, maps, publications, calendars, and 5598

any other educational article or artifact pertaining to wild 5599
animals; sell confiscated or forfeited items; and sell surplus 5600
structures and equipment, and timber or crops from lands owned, 5601
administered, leased, or controlled by the division. 5602

(H) The chief may sell, lease, or transfer minerals or 5603
mineral rights, with the approval of the director, when the chief 5604
and the director determine it to be in the best interest of the 5605
state. Upon approval of the director, the chief may make, execute, 5606
and deliver contracts, including leases, to mine, drill, or 5607
excavate iron ore, stone, coal, petroleum, gas, salt, and other 5608
minerals upon and under lands owned by the state and administered 5609
by the division to any person who complies with the terms of such 5610
a contract. No such contract shall be valid for more than fifty 5611
years from its effective date. Consideration for minerals and 5612
mineral rights shall be by rental or royalty basis as prescribed 5613
by the chief and payable as prescribed by contract. Moneys 5614
collected under this division shall be deposited in accordance 5615
with division (I) of this section. Contracts entered into under 5616
this division also may provide for consideration for minerals or 5617
mineral rights in the form of acquisition of lands as provided 5618
under divisions (A) and (C) of this section. 5619

(I) All moneys received under divisions (E), (F), (G), and 5620
(H) of this section shall be paid into the state treasury to the 5621
credit of a fund ~~which~~ that shall be used for the purposes 5622
outlined in section 1533.15 of the Revised Code and for the 5623
management of other wild animals for their ecological and 5624
nonconsumptive recreational value or benefit. 5625

(J) The chief, with the approval of the director, may barter 5626
or sell wild animals to other states, state or federal agencies, 5627
and conservation or zoological organizations. Moneys received from 5628
the sale of wild animals shall be deposited into the wild animal 5629
fund created in section 1531.34 of the Revised Code. 5630

(K) The chief shall adopt rules establishing standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals. The rules may specify chemical delivery methods and devices and monitoring requirements. 5631
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The chief shall establish criteria for the issuance of and shall issue permits for the administration of contraceptive chemicals to noncaptive wild animals. no person shall administer contraceptive chemicals to noncaptive wild animals without a permit issued by the chief. 5635
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(L) All fees set by the chief under this section shall be approved by the wildlife council. 5640
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Sec. 1531.13. The law enforcement officers of the division of wildlife shall be known as "wildlife officers." The chief of the division of wildlife, wildlife officers, and such other employees of the division as the chief of the division of wildlife designates, and other officers who are given like authority, shall enforce all laws pertaining to the taking, possession, protection, preservation, management, and propagation of wild animals and all division rules. They shall enforce all laws against hunting without permission of the owner or authorized agent of the land on which ~~such~~ the hunting is done. They may arrest on view and without issuance of a warrant. They may inspect any container or package at any time except when within a building and the owner or person in charge of the building objects. The inspection shall be only for bag limits of wild animals taken in open season or for wild animals taken during the closed season, or for any kind or species of those wild animals. 5642
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The chief may visit all parts of the state and direct and assist wildlife officers and other employees in the discharge of their duties. The owners or tenants of private lands or waters are not liable to wildlife officers for injuries suffered while 5658
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carrying out their duties while on the lands or waters of the
owners or tenants unless the injuries are caused by the willful or
wanton misconduct of the owners or tenants. Any regularly employed
salaried wildlife officer may enter any private lands or waters if
~~he~~ the wildlife officer has good cause to believe and does believe
that a law is being violated.

A wildlife officer, sheriff, deputy sheriff, constable, or
officer having a similar authority may search any place which ~~he~~
the officer has good reason to believe contains a wild animal or
any part of a wild animal taken or had in possession contrary to
law or division rule, or a boat, gun, net, seine, trap, ferret, or
device used in the violation, and seize any ~~he~~ the officer finds
so taken or possessed. If the owner or person in charge of the
place to be searched refuses to permit the search, upon filing an
affidavit in accordance with law with a court having jurisdiction
of the offense and upon receiving a search warrant issued, the
officer ~~may~~ forcibly may search the place described, and if in the
search ~~he~~ the officer finds any wild animal or part of a wild
animal, or any boat, gun, net, seine, trap, ferret, or device in
the possession of the owner or person in charge, contrary to this
chapter or Chapter 1533. of the Revised Code or division rule, ~~he~~
the officer shall seize ~~them~~ it and arrest the person in whose
custody or possession ~~they were~~ it was found. The wild animal or
parts of a wild animal or boat, gun, net, seine, trap, ferret, or
device so found shall escheat to the state.

Each wildlife officer shall post a bond in a sum not less
than one thousand dollars executed by a surety company authorized
to transact business in this state for the faithful performance of
the duties of ~~his~~ the wildlife officer's office.

The chief and wildlife officers are vested with the authority
of ~~police~~ peace officers under section 2935.03 of the Revised Code
for the purpose of enforcing the criminal laws of the state on any

property owned, controlled, maintained, or administered by the 5694
department of natural resources and may enforce sections 2923.12, 5695
2923.15, and 2923.16 of the Revised Code throughout the state and 5696
may arrest without warrant any person who, in the presence of the 5697
chief or any wildlife officer, is engaged in the violation of any 5698
of those laws. 5699

Sec. 1531.20. Any motor vehicle, all-terrain vehicle, or 5700
boat, used in the unlawful taking or transporting of wild animals, 5701
and any net, seine, trap, ferret, gun, or other device used in the 5702
unlawful taking of wild animals, is a public nuisance. Each 5703
wildlife officer, or other officer with like authority, shall 5704
seize and safely keep such property and the illegal results of its 5705
use, and unless otherwise ordered by the chief of the division of 5706
wildlife shall institute, within five days, proceedings in a 5707
proper court of the county for its forfeiture. A writ of replevin 5708
shall not lie to take the property from the officer's custody or 5709
from the custody or jurisdiction of the court in which the 5710
proceeding is instituted, nor shall the proceeding affect a 5711
criminal prosecution for the unlawful use or possession of the 5712
property. 5713

An action for the forfeiture of any such property shall be 5714
commenced by the filing of an affidavit describing the property 5715
seized and stating the unlawful use made of it, the time and place 5716
of seizure, and the name of the person owning or using it at the 5717
time of seizure. If the name is unknown, that fact shall be 5718
stated. Upon the filing of the affidavit, the court shall issue a 5719
summons setting forth the facts stated in the affidavit and fixing 5720
a time and place for the hearing of the complaint. A copy of the 5721
summons shall be served on the owner or person using the property 5722
at the time of its seizure, if ~~he~~ the owner or user is known, or 5723
by leaving a copy thereof at ~~his~~ the owner's or user's usual 5724
residence or place of business in the county, at least three days 5725

before the time fixed for the hearing of the complaint. If the 5726
owner or user is unknown or a nonresident of the county or cannot 5727
be found therein, a copy of the summons shall be posted at a 5728
suitable place nearest the place of seizure, but if ~~his~~ the 5729
owner's or user's address is known, a copy of the summons shall be 5730
mailed to ~~him~~ the owner or user at least three days before the 5731
time fixed for the hearing of the complaint. On the date fixed for 5732
the hearing, the officer making the service shall make a return of 5733
the time and manner of making the service. Upon the proper cause 5734
shown, the court may postpone the hearing. 5735

If the owner or person unlawfully using the property at the 5736
time of its seizure is arrested, pleads guilty, and confesses that 5737
the property at the time of its seizure was being used by ~~him~~ the 5738
owner or user in violation of law or division rule, no proceeding 5739
of forfeiture shall be instituted, but the court in imposing 5740
sentence shall order the property so seized forfeited to the 5741
state, to be disposed of thereafter as the chief of the division 5742
of wildlife directs. 5743

Sec. 1531.202. Any person who is responsible for causing or 5744
allowing an unauthorized spill, release, or discharge of material 5745
into or on any land or any ground or surface water or into the air 5746
that results in the death of a wild animal and that necessitates 5747
an investigation by the division of wildlife, or who violates 5748
section 1531.02 of the Revised Code in a manner that necessitates 5749
an investigation by the division regarding the death of a wild 5750
animal, is liable to the division for costs incurred in the 5751
investigation. The costs may include wages and benefits of 5752
employees of the division. The chief of the division of wildlife 5753
or the chief's authorized representative shall bring a civil 5754
action against the responsible person to recover those costs. 5755

Sec. 1531.34. There is hereby created in the state treasury 5756
the wild animal fund. The fund shall consist of moneys received 5757

from the sale of wild animals under division (J) of section 5758
1531.06 of the Revised Code. Moneys in the fund shall be spent on 5759
programs administered by the division of wildlife or contributed 5760
by the division to an appropriate nonprofit organization for the 5761
acquisition, development, and management of lands and waters 5762
within the state for wildlife purposes. 5763

Sec. 1531.99. (A) Whoever violates section 1531.02 of the 5764
Revised Code, or any division rule, other than a rule adopted 5765
under section 1531.25 of the Revised Code, is guilty of a 5766
misdemeanor of the fourth degree. 5767

(B) Whoever violates section 1531.02 of the Revised Code 5768
concerning the taking or possession of deer or violates division 5769
(K) of section 1531.06 or section 1531.07 or 1531.29 of the 5770
Revised Code is guilty of a misdemeanor of the third degree on a 5771
first offense; on each subsequent offense, that person is guilty 5772
of a misdemeanor of the first degree. 5773

(C) Whoever violates section 1531.25 of the Revised Code is 5774
guilty of a misdemeanor of the first degree. 5775

(D) Whoever violates section 1531.02 of the Revised Code 5776
concerning the selling or offering for sale of any wild animals or 5777
parts of wild animals, the minimum value of which animals or 5778
parts, in the aggregate, is more than one thousand dollars as 5779
established under section 1531.201 of the Revised Code, is guilty 5780
of a felony of the fifth degree. 5781

(E) A court that imposes sentence for a violation of any 5782
section of this chapter governing the holding, taking, or 5783
possession of wild animals, including, without limitation, section 5784
1531.11 of the Revised Code, shall require the person who is 5785
convicted of or pleads guilty to the offense, in addition to any 5786
fine, term of imprisonment, seizure, and forfeiture imposed, to 5787
make restitution for the minimum value of the wild animal 5788

illegally held, taken, or possessed as established under section 5789
1531.201 of the Revised Code. An officer who collects moneys paid 5790
as restitution under this section shall pay those moneys to the 5791
treasurer of state who shall deposit them in the state treasury to 5792
the credit of the wildlife fund established under section 1531.17 5793
of the Revised Code. 5794

Sec. 1533.01. As used in this chapter, "person," "resident," 5795
"nonresident," "division rule," "rule," "closed season," "open 5796
season," "take or taking," "possession," "bag limit," "transport 5797
and transportation," "sell and sale," "whole to include part," 5798
"angling," "trotline," "fish," "measurement of fish," "wild 5799
birds," "game," "game birds," "nongame birds," "wild quadrupeds," 5800
"game quadrupeds," "fur-bearing animals," "wild animals," 5801
"hunting," "trapping," "muskrat spear," "channels and passages," 5802
"island," "reef," "fur farm," "waters," "crib," "car," "commercial 5803
fish," "fishing," "fillet," "part fillet," "round," "migrate," 5804
"spreader bar," "fishing guide," "net," "commercial fishing gear," 5805
"native wildlife," "gill net," "~~small game~~," "tag fishing 5806
tournament," "tenant," ~~and~~ "nonnative wildlife," "reptiles," and 5807
"amphibians" have the same meanings as in section 1531.01 of the 5808
Revised Code. 5809

Sec. 1533.06. It is hereby provided that a "special hunting 5810
area" is established on the department of natural resources lands 5811
and waters situated in Lucas and Ottawa counties and known as the 5812
"Magee Marsh State Public Hunting Area." 5813

On ~~such that~~ that area the chief of the division of wildlife ~~is~~ 5814
~~hereby empowered to~~ may provide a special daily hunting permit for 5815
all persons permitted to hunt on ~~such the~~ the area. The fee for such a 5816
permit is five dollars per day unless the chief adopts rules 5817
establishing a lower fee. 5818

The permit shall be in ~~such a~~ form ~~as~~ prescribed by the 5819
director ~~of the department~~ of natural resources. All moneys 5820
received as fees shall be paid into the state treasury to the 5821
credit of a fund ~~which~~ that is hereby appropriated exclusively for 5822
the use of the department ~~of natural resources~~ for the purposes 5823
outlined in section 1533.15 of the Revised Code. 5824

Nothing in this section shall be construed to alter or 5825
supersede the laws requiring a hunting ~~and trapping~~ license. 5826

Sec. 1533.08. Except as otherwise provided by division rule, 5827
any person desiring to collect wild animals that are protected by 5828
law or their nests or eggs for scientific study, school 5829
instruction, other educational uses, or rehabilitation shall make 5830
application to the chief of the division of wildlife for a wild 5831
animal collecting permit on a form furnished by the chief. ~~The~~ 5832
~~applicant shall submit written recommendations of two well known~~ 5833
~~scientific persons or teachers of science, certifying to the good~~ 5834
~~character and fitness of the applicant.~~ Each applicant for a wild 5835
animal collecting permit, other than an applicant desiring to 5836
rehabilitate wild animals, shall pay an annual fee of ten dollars 5837
for each permit. No fee shall be charged to an applicant desiring 5838
to rehabilitate wild animals. When it appears that the application 5839
is made in good faith, the chief shall issue to the applicant a 5840
permit to take, possess, and transport at any time and in any 5841
manner specimens of wild animals protected by law or their nests 5842
and eggs for scientific study, school instruction, other 5843
educational uses, or rehabilitation and under any additional rules 5844
recommended by the wildlife council. Upon the receipt of a permit, 5845
the holder may take, possess, and transport ~~such~~ those wild 5846
animals in accordance with the permit. 5847

Each holder of a permit engaged in collecting such wild 5848
animals shall carry ~~his~~ the permit ~~with him~~ at all times and shall 5849

exhibit it upon demand to any wildlife officer, constable, 5850
sheriff, deputy sheriff, or police officer, to the owner or person 5851
in lawful control of the land upon which ~~he~~ the permit holder is 5852
collecting, or to any other person. Failure to so carry or exhibit 5853
the permit constitutes an offense under this section. 5854

Each permit holder shall keep a daily record of all specimens 5855
collected under the permit and the disposition of the specimens 5856
and shall exhibit the daily record to any official of the division 5857
upon demand. 5858

Each permit shall remain in effect for one year from the date 5859
of issuance unless it is revoked sooner by the chief. 5860

All moneys received as fees for the issuance of a wild animal 5861
collecting permit shall be transmitted to the director of natural 5862
resources to be paid into the state treasury to the credit of the 5863
fund created by section 1533.15 of the Revised Code. 5864

Sec. 1533.10. Except as provided in this section or division 5865
(A) of section 1533.12 of the Revised Code, no person shall hunt 5866
any wild bird or wild quadruped without a hunting license. Each 5867
day that any person hunts within the state without procuring such 5868
a license constitutes a separate offense. Every applicant for a 5869
hunting license who is a resident of the state and ~~age~~ sixteen 5870
years of age or ~~over~~ more shall procure a resident hunting 5871
license, the fee for which shall be fourteen dollars, unless the 5872
rules adopted under division (B) of section 1533.12 of the Revised 5873
Code provide for issuance of a resident hunting license to the 5874
applicant free of charge. Every applicant who is a resident of the 5875
state and under the age of sixteen years shall procure a special 5876
youth hunting license, the fee for which shall be one-half of the 5877
regular hunting license fee. The owner and the children of the 5878
owner of lands in the state may hunt ~~thereon~~ on them without a 5879
hunting license. The tenant or manager and children of the tenant 5880

or manager, residing on lands in the state, may hunt ~~thereon~~ on 5881
them without a hunting license. Every applicant for a hunting 5882
license who is a nonresident of the state shall procure a 5883
nonresident hunting license, the fee for which shall be ninety 5884
dollars, unless the applicant is a resident of a state that is a 5885
party to an agreement under section 1533.91 of the Revised Code, 5886
in which case the fee shall be fourteen dollars. 5887

The chief of the division of wildlife may issue a tourist's 5888
~~small-game~~ hunting license expiring three days from the effective 5889
date of the license to a nonresident of the state, the fee for 5890
which shall be twenty-four dollars. No person shall take or 5891
possess deer, wild turkeys, fur-bearing animals, ducks, geese, 5892
brant, or any nongame animal that is not small-game while 5893
possessing only a tourist's ~~small-game~~ hunting license. A 5894
tourist's ~~small-game~~ hunting license does not authorize the taking 5895
or possessing of ducks, geese, or brant without having obtained, 5896
in addition to the tourist's ~~small-game~~ hunting license, a 5897
wetlands habitat stamp as provided in section 1533.112 of the 5898
Revised Code. A tourist's hunting license does not authorize the 5899
taking or possessing of deer, wild turkeys, or fur-bearing 5900
animals. A nonresident of the state who wishes to take or possess 5901
deer, wild turkeys, or fur-bearing animals in this state shall 5902
procure, respectively, a special deer or wild turkey permit as 5903
provided in section 1533.11 of the Revised Code or a fur taker 5904
permit as provided in section 1533.111 of the Revised Code in 5905
addition to a nonresident hunting license as provided in this 5906
section. 5907

No person shall procure or attempt to procure a hunting 5908
license by fraud, deceit, misrepresentation, or any false 5909
statement. 5910

This section does not authorize the taking and possessing of 5911

deer or wild turkeys without first having obtained, in addition to 5912
the hunting license required by this section, a special deer or 5913
wild turkey permit as provided in section 1533.11 of the Revised 5914
Code or the taking and possessing of ducks, geese, or brant 5915
without first having obtained, in addition to the hunting license 5916
required by this section, a wetlands habitat stamp as provided in 5917
section 1533.112 of the Revised Code. 5918

This section does not authorize the hunting or trapping of 5919
fur-bearing animals without first having obtained, in addition to 5920
a hunting license required by this section, a fur taker permit as 5921
provided in section 1533.111 of the Revised Code. 5922

No hunting license shall be issued unless the applicant 5923
presents to the agent authorized to issue the license a previously 5924
held hunting license or evidence of having held such a license in 5925
content and manner approved by the chief, a certificate of 5926
completion issued upon completion of a hunter education and 5927
conservation course approved by the chief, or evidence of 5928
equivalent training in content and manner approved by the chief. 5929

No person shall issue a hunting license to any person who 5930
fails to present the evidence required by this section. No person 5931
shall purchase or obtain a hunting license without presenting to 5932
the issuing agent the evidence required by this section. Issuance 5933
of a hunting license in violation of the requirements of this 5934
section is an offense by both the purchaser of the illegally 5935
obtained hunting license and the clerk or agent who issued the 5936
hunting license. Any hunting license issued in violation of this 5937
section is void. 5938

The chief, with approval of the wildlife council, shall adopt 5939
rules prescribing a hunter education and conservation course for 5940
first-time hunting license buyers and for volunteer instructors. 5941
The course shall consist of subjects including, but not limited 5942

to, hunter safety and health, use of hunting implements, hunting 5943
tradition and ethics, the hunter and conservation, and the law 5944
relating to hunting. Authorized personnel of the division or 5945
volunteer instructors approved by the chief shall conduct such 5946
courses with such frequency and at such locations throughout the 5947
state as to reasonably meet the needs of license applicants. The 5948
chief shall issue a certificate of completion to each person who 5949
successfully completes the course and passes an examination 5950
prescribed by the chief. 5951

~~Notwithstanding the fees otherwise prescribed in this 5952
section, prior to September 1, 1994, the fee for a resident 5953
hunting license shall be eleven dollars, unless the rules adopted 5954
under division (B) of section 1533.12 of the Revised Code provide 5955
for the issuance of a resident hunting license to the applicant 5956
free of charge; the fee for a special youth hunting license shall 5957
be six dollars; the fee for a nonresident hunting license shall be 5958
eighty dollars, unless the applicant is a resident of a state that 5959
is a party to an agreement under section 1533.91 of the Revised 5960
Code; the fee for a nonresident hunting license shall be eleven 5961
dollars if the applicant is a resident of a state that is a party 5962
to such an agreement; and the fee for a tourist's small game 5963
hunting license shall be twenty dollars. 5964~~

Sec. 1533.12. (A) Every person on active duty in the armed 5965
forces of the United States, while on leave or furlough, may take 5966
or catch fish of the kind lawfully permitted to be taken or caught 5967
within the state, may hunt any wild bird or wild quadruped 5968
lawfully permitted to be hunted within the state, and may trap 5969
fur-bearing animals lawfully permitted to be trapped within the 5970
state, without procuring a fishing license, a hunting license, a 5971
fur taker permit, or a wetlands habitat stamp required by this 5972
chapter, provided that the person shall carry on ~~his person~~ self 5973

when fishing, hunting, or trapping, a card or other evidence 5974
identifying ~~him~~ the person as ~~a person being~~ on active duty in the 5975
armed forces of the United States, and provided that the person is 5976
not otherwise violating any of the hunting, fishing, and trapping 5977
laws of this state. 5978

In order to hunt deer or wild turkey, any such person shall 5979
obtain a special deer or wild turkey permit, as applicable, under 5980
section 1533.11 of the Revised Code. However, the person need not 5981
obtain a hunting license in order to obtain such a permit. 5982

(B) The chief of the division of wildlife shall provide by 5983
rule adopted under section 1531.10 of the Revised Code ~~that~~ all of 5984
the following: 5985

(1) Every resident of this state with a disability that has 5986
been determined by the veterans administration to be permanently 5987
and totally disabling, who receives a pension or compensation from 5988
the veterans administration, and who received an honorable 5989
discharge from the armed forces of the United States, and every 5990
veteran to whom the registrar of motor vehicles has issued a set 5991
of license plates under section 4503.41 of the Revised Code, shall 5992
be issued an annual fishing license, hunting license, fur taker 5993
permit, deer or wild turkey permit, or wetlands habitat stamp, or 5994
any combination of those licenses, permits, and stamp, free of 5995
charge when application is made to the chief in the manner 5996
prescribed by and on forms provided by the chief; 5997

(2) Every resident of the state who is sixty-six years of age 5998
or older shall be issued an annual fishing license, hunting 5999
license, fur taker permit, deer or wild turkey permit, or wetlands 6000
habitat stamp, or any combination of those licenses, permits, and 6001
stamp, free of charge when application is made to the chief in the 6002
manner prescribed by and on forms provided by the chief; 6003

(3) Every resident of state or county institutions, 6004

charitable institutions, and military homes in this state shall be 6005
issued an annual fishing license free of charge when application 6006
is made to the chief in the manner prescribed by and on forms 6007
provided by the chief; 6008

(4) Any mobility impaired or blind person, as defined in 6009
section 955.011 Of the Revised Code, who is a resident of this 6010
state and who is unable to engage in fishing without the 6011
assistance of another person ~~because of a physical handicap~~ shall 6012
be issued an annual fishing license free of charge when 6013
application is made to the chief in the manner prescribed by and 6014
on forms provided by the chief. The person who is assisting the 6015
~~handicapped~~ mobility impaired or blind person may assist in taking 6016
or catching fish of the kind permitted to be taken or caught 6017
without procuring the license required under section 1533.32 of 6018
the Revised Code, provided that only one line is used by both 6019
persons. 6020

(5) As used in ~~this~~ division (B)(5) of this section, 6021
"prisoner of war" means any regularly appointed, enrolled, 6022
enlisted, or inducted member of the military forces of the United 6023
States who was captured, separated, and incarcerated by an enemy 6024
of the United States. 6025

Any person who has been a prisoner of war, was honorably 6026
discharged from the military forces, and is a resident of this 6027
state shall be issued an annual fishing license, hunting license, 6028
fur taker permit, or wetlands habitat stamp, or any combination of 6029
those licenses, permits, and stamp, free of charge when 6030
application is made to the chief in the manner prescribed by and 6031
on forms provided by the chief. 6032

(C) The chief shall adopt rules pursuant to section 1531.08 6033
of the Revised Code designating not more than two days, which need 6034
not be consecutive, in each year as "free sport fishing days" on 6035

which any resident may exercise the privileges accorded the holder 6036
of a fishing license issued under section 1533.32 of the Revised 6037
Code without procuring such a license, provided that the person is 6038
not otherwise violating any of the fishing laws of this state. 6039

Sec. 1533.171. (A) No person, in the act of hunting, 6040
pursuing, taking, or killing ~~game~~ a wild animal, shall act in a 6041
negligent, careless, or reckless manner so as to injure persons or 6042
property. 6043

(B) The court before whom any person is convicted of or 6044
pleads guilty to a violation of division (A) of this section shall 6045
report that fact, together with the violator's name and address, 6046
to the chief of the division of wildlife not later than ten days 6047
after the date of conviction or plea. 6048

(C) Not later than seven days after receiving a notification 6049
under division (B) of this section, the chief shall revoke, for 6050
not less than one year nor more than five years, each hunting 6051
license, fur taker permit, special deer permit, special wild 6052
turkey permit, and wetlands habitat stamp issued to that person 6053
under this chapter. No fee paid for such a license, permit, or 6054
stamp shall be returned to the person. 6055

Upon revoking a license, permit, or stamp, or a combination 6056
thereof, under this division, the chief immediately shall send a 6057
notice of ~~his~~ that action by certified mail to the last known 6058
address of the person. The notice shall state the action taken, 6059
order the person to surrender the revoked license, permit, or 6060
stamp, or combination thereof, and state that the department of 6061
natural resources will not afford a hearing as required under 6062
section 119.06 of the Revised Code. 6063

(D) If, after receiving a notice under division (C) of this 6064
section, the person decides to petition for a review of the 6065

revocation, ~~he~~ the person shall file a petition for such a review
not later than thirty days after receiving the notice in the
municipal court or the county court, or, if the person is under
eighteen years of age, the juvenile court, in whose jurisdiction
the violation occurred. The review shall be limited to the
question of the appropriateness of the period of revocation. The
court shall send a copy of the petition to the chief by certified
mail together with timely notice of the date, time, and place of a
hearing on the petition. The filing of a petition for a review
shall not stay the revocation during the pendency of the appeal.

(E) No person whose license, permit, or stamp, or a
combination thereof, has been revoked under this section shall
attempt to purchase, purchase, apply for, or receive any hunting
license, fur taker permit, special deer permit, special wild
turkey permit, or wetlands habitat stamp issued under this chapter
or engage in hunting during the time any such license, permit, or
stamp, or a combination thereof, is revoked.

Sec. 1533.24. Except as otherwise provided by division rule,
every fur dealer shall keep a daily record on forms provided by
the division of wildlife of all purchases and sales of furs,
skins, or parts thereof of fur-bearing animals made during the
previous year. The daily record shall include any pertinent
information that the division may require. The information may
include, but not be limited to, the number and kinds bought and
sold, the dates of each purchase and sale, identification of all
purchases from another fur dealer, and the state and counties in
which the furs, skins, or parts thereof were taken, ~~and other~~
~~pertinent information that the division may require.~~ Every fur
dealer shall submit completed forms to the division of all
transactions made during the preceding season by the fifteenth day
of May each year. All records required to be maintained by a fur

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dealer shall be open at all reasonable times to inspection by duly 6097
authorized division personnel who may inspect the furs, skins, or 6098
parts thereof on hand at any time and check and verify the records 6099
and reports required to be kept. 6100

No common carrier shall knowingly ship or transport or 6101
receive for transportation or shipment any green or dried furs, 6102
skins, or parts thereof of fur-bearing animals unless there is 6103
plainly written thereon the name of the shipper and the number of 6104
~~his~~ the shipper's hunting license or fur dealer's permit. 6105

Sec. 1533.67. The chief of the division of wildlife, wildlife 6106
officers, and ~~such~~ other employees of the division ~~as~~ that the 6107
chief specifies may serve and execute warrants and other processes 6108
of law issued in the enforcement of sections 2923.12, 2923.15, and 6109
2923.16 of the Revised Code and in the enforcement of any law or 6110
division rule governing the taking, possession, protection, 6111
preservation, or propagation of wild animals, or for protection 6112
against the wrongful use or occupancy of state owned or leased 6113
lands and waters, and property under division control, or in the 6114
enforcement of section 3767.32 or any other section of the Revised 6115
Code prohibiting the dumping of refuse into or along waters, or in 6116
the enforcement of a criminal law of the state when violation 6117
~~thereof of it~~ involves equipment or property owned, leased, or 6118
controlled by the division, in the same manner as a sheriff or 6119
constable may serve or execute a process, and may arrest on sight 6120
and without a warrant a person found violating any such law or 6121
rule. The chief or any wildlife officer has the same authority as 6122
sheriffs to require aid in executing a process or making an 6123
arrest. They may seize without process each part of a wild animal 6124
in the possession of a person violating any law or division rule 6125
governing the taking, possession, protection, preservation, or 6126
propagation of wild animals, together with any boat, gun, net, 6127

seine, trap, ferret, or device with which those animals were taken 6128
or killed, or that was used in taking or killing them, and any 6129
firearm, deadly weapon, or dangerous ordnance, as defined in 6130
section 2923.11 of the Revised Code, used or possessed contrary to 6131
sections 2923.12, 2923.15, and 2923.16 of the Revised Code, and 6132
immediately convey the person so offending before any judge of a 6133
county court or judge of a municipal court having jurisdiction 6134
over the area in which the offense was committed. ~~No~~ 6135

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No person shall interfere with, threaten, abuse, assault, 6137
resist, or in any manner deter or attempt to deter a wildlife 6138
officer or any other officer having like authority from carrying 6139
into effect any law or division rule governing the taking, 6140
possession, protection, preservation, or propagation of wild 6141
animals, or for protection against wrongful use or occupancy of 6142
state owned or leased lands and waters, and property under 6143
division control, or any law pertaining to the wearing or 6144
exhibiting of any license or permit required by this chapter or 6145
Chapter 1531. of the Revised Code, or regulating hunting and 6146
trapping on the lands of another. No person shall interfere with, 6147
threaten, abuse, assault, resist, or in any manner deter or 6148
attempt to deter a wildlife officer or any other officer having 6149
like authority from enforcing or from serving or executing any 6150
warrant or other process issued in the enforcement of section 6151
3767.32 or any other section of the Revised Code prohibiting the 6152
dumping of refuse into or along waters, or a criminal law of the 6153
state when violation ~~thereof~~ of it involves equipment or property 6154
owned, leased, or controlled by the division, or any of the 6155
provisions set forth in section 2923.12, 2923.15, or 2923.16 of 6156
the Revised Code regulating use or possession of firearms, deadly 6157
weapons, or dangerous ordnance, as defined in section 2923.11 of 6158
the Revised Code. Arrests for such offenses may be made on Sunday, 6159

in which case the offender immediately shall be taken before any 6160
court or magistrate given jurisdiction in such cases by this 6161
section and required by that court or magistrate to give bond for 6162
~~his~~ the offender's appearance at a time fixed for hearing of the 6163
complaint on a weekday as soon after the arrest is made as is 6164
practicable. If a bond is required of an offender in such a case 6165
and ~~he~~ the offender fails to give it, the court shall order ~~him~~ 6166
the offender committed to the county jail or to some other 6167
suitable place of confinement until the time for the hearing. The 6168
court may make any other arrangements to insure the appearance of 6169
the offender at the designated time it considers advisable. The 6170
jailer or officer in charge of the place of confinement designated 6171
by the court shall receive the person so committed. 6172

Sec. 1533.68. If a person is convicted of a violation of any 6173
law relative to the taking, possession, protection, preservation, 6174
or propagation of wild animals, or a violation of division (C) of 6175
section 2909.08 of the Revised Code while hunting, or is convicted 6176
of a violation of any rule of the division of wildlife, the court 6177
or magistrate before whom the conviction is had, as an additional 6178
part of the penalty in each case, shall suspend or revoke each 6179
license or permit issued to the person in accordance with any 6180
section of the Revised Code pertaining to the hunting, fishing, 6181
trapping, breeding, and sale of wild animals or the sale of their 6182
hides, skins, or pelts. No fee paid for such a license or permit 6183
shall be returned to the person. 6184

No person having ~~his~~ A license or permit suspended or revoked 6185
as provided in this section, in the event of a hunting or trapping 6186
violation, shall engage in hunting or trapping, in the event of a 6187
violation of division (C) of section 2909.08 of the Revised Code 6188
while hunting, shall engage in hunting, or in the event of a 6189
fishing violation, shall engage in fishing, or purchase, apply 6190
for, or receive any such license or permit for the following 6191

periods of time, as applicable: 6192

(A) Three years after the date of conviction, if the person 6193
is convicted of taking or possessing a deer in violation of 6194
section 1531.02 of the Revised Code; 6195

(B) Not more than three years after the date of conviction, 6196
if the person is convicted of taking or possessing any other wild 6197
animal in violation of section 1531.02 of the Revised Code, or is 6198
convicted of a misdemeanor violation of division (C) of section 6199
2909.08 of the Revised Code while hunting; 6200

(C) Not more than five years after the date of conviction, if 6201
the person is convicted of violating section 1533.171 or of taking 6202
or possessing an eagle or osprey in violation of section 1533.07 6203
of the Revised Code, or is convicted of a felony violation of 6204
division (C) of section 2909.08 of the Revised Code while hunting; 6205
6206

(D) Not more than five years after the date of conviction if 6207
the person is convicted of violating any section of this chapter 6208
or Chapter 1531. Of the Revised Code not specified in division 6209
(A), (B), or (C) of this section. 6210

All licenses and permits suspended or revoked as provided in 6211
this section shall be taken up by the magistrate and sent to the 6212
department of natural resources where they shall be filed with a 6213
record of the arrest until the person who held the suspended or 6214
revoked license or permit is lawfully entitled to obtain another 6215
license or permit. 6216

Sec. 1533.70. As used in sections 1533.71 to 1533.80 of the 6217
Revised Code: 6218

(A) "Wholly enclosed preserve" means an area of land that is 6219
surrounded by a fence that is at least six feet in height and is 6220
constructed of a woven wire mesh, or ~~such other~~ another enclosure 6221

~~as that~~ the division of wildlife may approve, where game birds, 6222
game quadrupeds, reptiles, amphibians, or fur-bearing animals are 6223
raised and may be sold under the authority of a commercial 6224
propagating license obtained under section 1533.71 of the Revised 6225
Code. 6226

(B) "Commercial bird shooting preserve" means an area of land 6227
where game birds are released and hunted by shooting as authorized 6228
by a commercial bird shooting preserve license obtained under 6229
section 1533.72 of the Revised Code. 6230

(C) "Wild animal hunting preserve" means an area of land 6231
where game and nonnative wildlife, other than game birds, are 6232
released and hunted as authorized by a wild animal hunting 6233
preserve license obtained under section 1533.721 of the Revised 6234
Code. 6235

(D) All definitions set forth in section 1531.01 of the 6236
Revised Code apply to ~~these~~ sections 1533.70 to 1533.80 Of the 6237
Revised Code. 6238

Sec. 1533.71. ~~Any~~ Unless otherwise provided by division rule, 6239
any person desiring to engage in the business of raising and 6240
selling game birds, game quadrupeds, reptiles, amphibians, or 6241
fur-bearing animals in a wholly enclosed preserve of which ~~he~~ the 6242
person is the owner or lessee, or to have game birds, game 6243
quadrupeds, reptiles, amphibians, or fur-bearing animals in 6244
captivity, ~~may~~ shall apply in writing to the division of wildlife 6245
for a license to do so. 6246

The division, when it appears that the application is made in 6247
good faith, ~~shall,~~ and upon the payment of the fee for each 6248
license, shall issue to the applicant ~~such~~ any of the following 6249
licenses ~~as that~~ may be applied for: 6250

(A) "Commercial propagating license" permitting the licensee 6251

to propagate game birds, game quadrupeds, reptiles, amphibians, or 6252
fur-bearing animals in the wholly enclosed preserve the location 6253
of which is stated in the license and the application therefor, 6254
and to sell ~~such the~~ propagated game birds, game quadrupeds, 6255
reptiles, amphibians, or fur-bearing animals and ship them from 6256
the state alive at any time, and permitting the licensee and the 6257
licensee's employees to kill ~~such the~~ propagated game birds, game 6258
quadrupeds, or fur-bearing animals and sell the carcasses for food 6259
subject to sections 1533.70 to 1533.80 of the Revised Code. The 6260
fee for such a license is twenty-five dollars per annum. 6261

(B) "Noncommercial propagating license" permitting the 6262
licensee to propagate game birds, game quadrupeds, reptiles, 6263
amphibians, or fur-bearing animals and to hold ~~such the~~ animals in 6264
captivity. Game birds, game quadrupeds, reptiles, amphibians, and 6265
fur-bearing animals propagated or held in captivity by authority 6266
of a noncommercial propagating license are for the licensee's own 6267
use and shall not be sold. The fee for such a license is ten 6268
dollars per annum. 6269

(C) A free "raise to release license" permitting duly 6270
organized clubs, associations, or individuals approved by the 6271
division to engage in the raising of game birds, game quadrupeds, 6272
or fur-bearing animals for release only and not for sale or 6273
personal use. 6274

Except as provided by law, no person shall possess game 6275
birds, game quadrupeds, or fur-bearing animals in closed season, 6276
provided that municipal or governmental zoological parks ~~shall~~ are 6277
not ~~be~~ required to obtain the licenses provided for in this 6278
section. 6279

All licenses issued under this section shall expire on the 6280
fifteenth day of March of each year. 6281

The chief of the division of wildlife shall pay all moneys 6282

received as fees for the issuance of ~~such~~ licenses under this 6283
section into the state treasury to the credit of the fund created 6284
by section 1533.15 of the Revised Code for the use of the division 6285
in the purchase, preservation, and protection of wild animals, and 6286
for the necessary clerical help and forms required by sections 6287
1533.70 to 1533.80 of the Revised Code. 6288

The chief shall adopt rules establishing standards, including 6289
specifications for cages or other enclosures, for holding wild 6290
animals in captivity. 6291

This section does not authorize the taking or the release for 6292
taking of the following: 6293

(1) Game birds, without first obtaining a commercial bird 6294
shooting preserve license issued under section 1533.72 of the 6295
Revised Code; 6296

(2) Game or nonnative wildlife, without first obtaining a 6297
wild animal hunting preserve license issued under section 1533.721 6298
of the Revised Code. 6299

Sec. 1533.82. (A) On receipt of a notice pursuant to section 6300
2301.373 of the Revised Code, the chief of the division of 6301
wildlife shall comply with that section with respect to a license 6302
~~or~~, permit, or certificate issued pursuant to section 1533.23, 6303
1533.34, 1533.342, 1533.39, 1533.40, 1533.51, 1533.631, 1533.71, 6304
1533.72, ~~or~~ 1533.81, 1533.88, or 1533.881 of the Revised Code. 6305

(B) On receipt of a notice pursuant to section 2301.375 of 6306
the Revised Code, the chief ~~of the division of wildlife~~ shall 6307
comply with that section with respect to a license, permit, or 6308
stamp issued pursuant to section 1533.10, 1533.11, 1533.111, 6309
1533.112, or 1533.32 of the Revised Code. 6310

Sec. ~~1518.20~~ 1533.86. As used in sections ~~1518.20~~ 1533.86 to 6311
~~1518.27~~ 1533.90 of the Revised Code: 6312

(A) "Ginseng" means the plant *Panax quinquefolius* L., also 6313
known as *Panax quinquefolium* L., commonly known as American 6314
ginseng. 6315

(B) "Wild ginseng" means ginseng that grows in an 6316
uncultivated state and in its natural habitat, whether the plant 6317
occurs naturally from that habitat or was introduced or increased 6318
in abundance by sowing ginseng seed or transplanting ginseng 6319
plants from other areas and performing no other cultivation 6320
practices. 6321

(C) "Cultivated ginseng" means ginseng that grows or has been 6322
grown in tilled beds under the shade of artificial structures or 6323
natural shade and is cultivated according to standard ginseng 6324
horticultural practices. 6325

(D) "Harvest" means to cut, pick, dig, root up, gather, or 6326
otherwise collect ginseng. 6327

(E) "Person" includes any legal entity defined as a person 6328
under section 1.59 of the Revised Code and any political 6329
subdivision, instrumentality, or agency of this state, another 6330
state, or the United States. 6331

(F) "Collector" means a person who harvests ginseng. 6332

(G) "Grower" means a person who grows cultivated ginseng. 6333

(H) "Dealer" means a person who buys or otherwise acquires or 6334
conveys ginseng for resale. 6335

(I) "Buy" includes trade or barter. 6336

(J) "Sell" includes trade or barter. 6337

Sec. ~~1518.21~~ 1533.87. There is hereby established in the 6338
department of natural resources the Ohio ginseng management 6339
program, which shall be administered by the chief of the division 6340
of ~~natural areas and preserves~~ wildlife. The program shall be 6341

administered to achieve and maintain a sustained yield of ginseng 6342
so that harvesting of the plant is not detrimental to the survival 6343
of the species. The chief shall do all things necessary to 6344
regulate the harvesting of wild ginseng and the buying, 6345
possession, transportation, sale, offering for sale, or exposure 6346
for sale of wild or cultivated ginseng. 6347

Sec. ~~1518.22~~ 1533.88. The chief of the division of ~~natural~~ 6348
~~areas and preserves~~ wildlife shall adopt ~~and may amend or rescind~~ 6349
~~rules in accordance with Chapter 119.~~ under section 1531.10 of the 6350
Revised Code as necessary to carry out the purposes of sections 6351
~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code, including, 6352
but not limited to: 6353

(A) Establishing a harvest season for wild ginseng; 6354

(B) Establishing a certification program for all legally 6355
harvested ginseng ~~that is to be exported from the state or is~~ 6356
~~bought or sold outside the buying season,~~ including setting a 6357
certification fee; 6358

(C) Establishing a buying season for ginseng that has not yet 6359
been certified in accordance with rules adopted under division (B) 6360
of this section; 6361

(D) Establishing a registration permit system to authorize 6362
ginseng dealers to buy or otherwise acquire or convey ginseng for 6363
resale and export; 6364

(E) Establishing a record system to be kept by collectors, 6365
dealers, and growers of ginseng; 6366

(F) Developing educational materials about ginseng, ginseng 6367
regulation, and the Ohio ginseng management program. 6368

Sec. ~~1518.23~~ 1533.881. No person shall buy or otherwise 6369
acquire or convey ginseng for resale or export without a 6370

registration permit issued annually by the chief of the division 6371
of ~~natural areas and preserves~~ wildlife in accordance with rules 6372
adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised 6373
Code. In addition to any other penalty, the chief may refuse to 6374
issue a permit to or suspend the permit of any person who fails to 6375
comply with sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the 6376
Revised Code or rules adopted ~~under~~ pursuant to section ~~1518.22~~ 6377
1533.88 of the Revised Code. ~~A person denied a permit is entitled~~ 6378
~~to a hearing in accordance with Chapter 119. of the Revised Code.~~ 6379
~~A person whose permit is to be suspended shall be afforded the~~ 6380
~~opportunity for a hearing under Chapter 119. of the Revised Code~~ 6381
~~prior to the final decision to suspend his permit.~~ 6382

Sec. ~~1518.24~~ 1533.882. No person shall do any of the 6383
following: 6384

(A) Without written authorization from the chief of the 6385
division of ~~natural areas and preserves~~ wildlife, harvest wild 6386
ginseng except during the harvesting season as established by rule 6387
~~under~~ adopted pursuant to section ~~1518.22~~ 1533.88 of the Revised 6388
Code; 6389

(B) Without first obtaining written permission from the 6390
person entitled to the ginseng, willfully destroy, injure, or 6391
harvest ginseng that is the property of that person, ~~except that~~ 6392
~~wild ginseng may be harvested on public property when the public~~ 6393
~~entity that is responsible for the property has authorized~~ 6394
~~permission to harvest wild ginseng;~~ 6395

(C) Ship or otherwise transport out of state ginseng that has 6396
not been certified in accordance with rules adopted ~~under~~ pursuant 6397
to division (B) of section ~~1518.22~~ 1533.88 of the Revised Code; 6398
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(D) Except during the buying season as established by rule 6400

~~under~~ adopted pursuant to section ~~1518.22~~ 1533.88 of the Revised Code, buy, otherwise acquire, or sell uncertified ginseng;

(E) Fail to keep records as established by rule ~~under~~ adopted pursuant to section ~~1518.22~~ 1533.88 of the Revised Code;

(F) Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;

(G) Knowingly provide incorrect or false information on or in any permit application, report, export certificate, or other document required by rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code;

(H) Violate any provision of sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code or rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code.

Sec. ~~1518.25~~ 1533.89. Any sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, park, preserve, or forest officer, conservancy district police officer, or other law enforcement officer, within the limits of ~~his~~ the officer's jurisdiction, may enforce sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code and rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code, and any ~~preserve~~ or wildlife officer may enforce those sections and rules throughout the state.

Sec. ~~1518.26~~ 1533.891. The chief of the division of ~~natural areas and preserves~~ wildlife shall seize any ginseng harvested or acquired in violation of any provision of sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code or rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code. Ginseng so seized is forfeited to the state, to be disposed of as directed by the chief.

Sec. ~~1518.27~~ 1533.90. Unless otherwise directed by the 6431
director of natural resources, all ~~fee fees~~, fines, penalties, and 6432
forfeitures arising from prosecutions, convictions, confiscations, 6433
or other actions taken under sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 6434
1533.90 of the Revised Code shall be paid into the state treasury 6435
to the credit of the ~~ginseng management program~~ wildlife fund, 6436
~~which is hereby created under section 1531.17~~ Of the Revised Code, 6437
to be used for the administration of sections ~~1518.20~~ 1533.86 to 6438
~~1518.27~~ 1533.90 of the Revised Code. 6439

Sec. 1533.99. (A) Whoever violates section 1533.17 of the 6440
Revised Code is guilty of a minor misdemeanor. If the offender 6441
persists in the offense after reasonable warning or request to 6442
desist, the offender is guilty of a misdemeanor of the fourth 6443
degree. 6444

(B) Whoever violates section 1533.161, 1533.23, 1533.24, 6445
1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511, 1533.55, 6446
1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71, 1533.72, 6447
1533.73, 1533.74, 1533.75, 1533.76, 1533.77, 1533.78, 1533.79, or 6448
1533.80, division (F) of section 1533.731, of division (B) or (C) 6449
of section 1533.97 of the Revised Code is guilty of a misdemeanor 6450
of the third degree. 6451

(C) Whoever violates division (B) of section 1533.03, section 6452
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 6453
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, ~~or~~ 1533.721, 6454
1533.881, or 1533.882, division (B)(2) or (3) of section 1533.731, 6455
or division (A) of section 1533.97 of the Revised Code is guilty 6456
of a misdemeanor of the first degree. 6457

(D) Whoever violates division (D) of section 1533.97 of the 6458
Revised Code is guilty of a misdemeanor of the fourth degree. The 6459
court shall require any person who is convicted of or pleads 6460

guilty to the offense to refund to all participants in the fishing 6461
tournament operated by the person any entry fees paid by the 6462
participants. 6463

(E) Whoever violates division (C) or (D) of section 1533.632 6464
of the Revised Code is guilty of a felony of the fifth degree. 6465

(F) Whoever violates any section of this chapter for which no 6466
penalty is otherwise provided is guilty of a misdemeanor of the 6467
fourth degree. 6468

(G) A court that imposes sentence for a violation of any 6469
section of this chapter governing the holding, taking, or 6470
possession of wild animals shall require the person who is 6471
convicted of or pleads guilty to the offense, in addition to any 6472
fine, term of imprisonment, seizure, and forfeiture imposed, to 6473
make restitution for the minimum value of the wild animal or 6474
animals illegally held, taken, or possessed as established under 6475
section 1531.201 of the Revised Code. An officer who collects 6476
moneys paid as restitution under this section shall pay those 6477
moneys to the treasurer of state who shall deposit them in the 6478
state treasury to the credit of the wildlife fund established 6479
under section 1531.17 of the Revised Code. 6480

Sec. 1541.03. All lands and waters dedicated and set apart 6481
for state park purposes shall be under the control and management 6482
of the division of parks and recreation, which shall protect, 6483
maintain, and keep them in repair. The division shall have the 6484
following powers over all such lands and waters: 6485

(A) To make alterations and improvements; 6486

(B) To construct and maintain dikes, wharves, landings, 6487
docks, dams, and other works; 6488

(C) To construct and maintain ~~such~~ roads and drives in, 6489
around, upon, and to ~~such~~ the lands and waters ~~as shall~~ to make 6490

them conveniently accessible and useful to the public; 6491

(D) To adopt, ~~rescind~~ amend, and ~~amend~~ rescind, in accordance 6492
with ~~sections 119.01 to 119.13~~ Chapter 119. of the Revised Code, 6493
rules necessary for the proper management of state parks, bodies 6494
of water, and the lands adjacent ~~thereto~~ to them under its 6495
jurisdiction and control, including the following: 6496

(1) Governing opening and closing times and dates of ~~such~~ the 6497
parks; 6498

(2) Establishing fees and charges for admission to state 6499
parks and for use of facilities ~~therein~~ in them; 6500

(3) Governing camps, camping, and fees ~~therefor~~ for camps and 6501
camping; 6502

(4) Governing the application for and rental of ~~eabins~~, 6503
rental fees ~~therefor~~ for, and the use of cabins; 6504

(5) Relating to public use of state park lands, and governing 6505
the operation of motor vehicles, including speeds, and parking, on 6506
~~such~~ those lands; 6507

(6) ~~Uniform rules governing~~ Governing all advertising within 6508
state parks and the requirements for the operation of places 6509
selling tangible personal property and control of food service 6510
sales on lands and waters under the control of the division, which 6511
rules shall establish uniform requirements; 6512

(7) Providing uniform standards relating to the size, type, 6513
location, construction, and maintenance of structures and devices 6514
used for fishing or moorage of watercraft, rowboats, sailboats, 6515
and powercraft, as those terms are defined in section 1547.01 of 6516
the Revised Code, over waters under the control of the division 6517
and establishing reasonable fees for the construction of and 6518
annual use permits for those structures and devices; 6519

(8) Governing state beaches, swimming, inflatable devices, 6520

and fees ~~therefor~~ for them;

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(9) Governing the removal and disposition of any watercraft,
rowboat, sailboat, or powercraft, as those terms are defined in
section 1547.01 of the Revised Code, left unattended for more than
seven days on any lands or waters under the control of the
division;

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(10) Governing the establishment and collection of check
collection charges for checks that are returned to the division or
dishonored for any reason.

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Every resident of this state with a disability that has been
determined by the veterans administration to be permanently and
totally disabling, who receives a pension or compensation from the
veterans administration, and who received an honorable discharge
from the armed forces of the United States, and every veteran to
whom the registrar of motor vehicles has issued a set of license
plates under section ~~4503.101~~ 4503.41 of the Revised Code, shall
be exempt from the fees for camping, provided that the resident or
veteran carries in the state park such evidence of ~~his~~ the
resident's or veteran's disability as the chief of the division of
parks and recreation prescribes by rule.

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Every resident of this state who is sixty-five years of age
or older or who is permanently and totally disabled and who
furnishes evidence of ~~such~~ that age or disability in a manner
prescribed by division rule shall be charged one-half of the
regular fee for camping, except on the week-ends and holidays
designated by the division. ~~No such~~ Such a person shall not be
charged more than ninety per cent of the regular charges for state
recreational facilities, equipment, services, and food service
operations utilized by ~~him~~ the person at any time of year, whether
maintained or operated by the state or leased for operation by
another entity.

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As used in this section, "food service operations" means 6552
restaurants ~~which~~ that are owned by the department of natural 6553
resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky 6554
Fork state parks, or are part of a state park lodge. ~~It~~ "Food 6555
service operations" does not include automatic vending machines, 6556
concession stands, or snack bars. 6557

As used in this section, "prisoner of war" means any 6558
regularly appointed, enrolled, enlisted, or inducted member of the 6559
military forces of the United States who was captured, separated, 6560
and incarcerated by an enemy of the United States. Any person who 6561
has been a prisoner of war, was honorably discharged from the 6562
military forces, and is a resident of this state is exempt from 6563
the fees for camping. To claim this exemption, the person shall 6564
present written evidence in the form of a record of separation, a 6565
letter from one of the military forces of the United States, or 6566
such other evidence as the chief prescribes by rule that satisfies 6567
the eligibility criteria established by this section ~~for this~~ 6568
~~exemption.~~ 6569

Sec. 1541.10. Any person selected by the chief of the 6570
division of parks and recreation for custodial or patrol service 6571
on the lands and waters operated or administered by the division 6572
of parks and recreation shall be employed in conformity with the 6573
law applicable to the classified civil service of the state. 6574
Subject to section 1541.11 of the Revised Code, the chief may 6575
designate that person as a park officer. A park officer ~~has~~, on 6576
any lands and waters owned, controlled, maintained, or 6577
administered by the department of natural resources and on 6578
~~roadways~~ highways, as defined in section 4511.01 Of the Revised 6579
Code, adjacent to lands and waters owned, controlled, maintained, 6580
or administered by the division ~~of parks and recreation~~, has the 6581
authority vested in ~~police~~ peace officers under section 2935.03 of 6582

the Revised Code to keep the peace, to enforce all laws and ~~all~~ 6583
rules governing those lands and waters, and to make arrests for 6584
violation of those laws and rules, provided that ~~such~~ the 6585
authority shall be exercised on lands or waters administered by 6586
another division of the department only pursuant to an agreement 6587
with the chief of that division or to a request for assistance by 6588
an enforcement officer of that division in an emergency. A park 6589
officer, in or along any watercourse within, abutting, or upstream 6590
from the boundary of any area administered by the department, has 6591
the authority to enforce section 3767.32 of the Revised Code and 6592
any other laws prohibiting the dumping of refuse into or along 6593
waters and to make arrests for violation of those laws. The 6594
jurisdiction of park officers shall be concurrent with that of the 6595
peace officers of the county, township, or municipal corporation 6596
in which the violation occurs. A state park, for purposes of this 6597
section, is any area that is administered as a state park by the 6598
division of parks and recreation. 6599

The governor, upon the recommendation of the chief, shall 6600
issue to each park officer a commission indicating authority to 6601
make arrests as provided in this section. 6602

The chief shall furnish a suitable badge to each commissioned 6603
park officer as evidence of that park officer's authority. 6604

If any person employed under this section is designated by 6605
the chief to act as an agent of the state in the collection of 6606
~~money~~ moneys resulting from the sale of licenses, fees of any 6607
nature, or other moneys belonging to the state, the chief shall 6608
require a surety bond from that person in an amount not less than 6609
one thousand dollars. 6610

A park officer may render assistance to a state or local law 6611
enforcement officer at the request of that officer or may render 6612
assistance to a state or local law enforcement officer in the 6613

event of an emergency. 6614

Park officers serving outside the division of parks and 6615
recreation under this section or serving under the terms of a 6616
mutual aid compact authorized under section 1501.02 of the Revised 6617
Code shall be considered as performing services within their 6618
regular employment for the purposes of compensation, pension or 6619
indemnity fund rights, workers' compensation, and other rights or 6620
benefits to which they may be entitled as incidents of their 6621
regular employment. 6622

Park officers serving outside the division of parks and 6623
recreation under this section or under a mutual aid compact retain 6624
personal immunity from civil liability as specified in section 6625
9.86 of the Revised Code and shall not be considered an employee 6626
of a political subdivision for purposes of Chapter 2744. of the 6627
Revised Code. A political subdivision that uses park officers 6628
under this section or under the terms of a mutual aid compact 6629
authorized under section 1501.02 of the Revised Code is not 6630
subject to civil liability under Chapter 2744. of the Revised Code 6631
as the result of any action or omission of any park officer acting 6632
under this section or under a mutual aid compact. 6633

Sec. 1547.01. (A) As used in sections 1541.03, 1547.25, 6634
1547.26, 1547.39, 1547.40, 1547.53, 1547.54, 1547.541, 1547.542, 6635
1547.543, 1547.56, 1547.57, 1547.66, 3733.21, and 5311.01 of the 6636
Revised Code, "watercraft" means any of the following when used or 6637
capable of being used for transportation on the water: 6638

(1) A ~~boat~~ vessel operated by machinery either permanently or 6639
temporarily affixed; 6640

(2) A sailboat other than a sailboard; 6641

(3) An inflatable, manually propelled boat having a hull 6642
identification number meeting the requirements of the United 6643

States coast guard; 6644

(4) A canoe or ~~row boat~~ rowboat. 6645

"Watercraft" does not include ferries as referred to in 6646
Chapter 4583. of the Revised Code. 6647

Watercraft subject to section 1547.54 of the Revised Code 6648
shall be divided into five classes as follows: 6649

Class A: Less than sixteen feet in length; 6650

Class 1: At least sixteen feet, but less than twenty-six feet 6651
in length; 6652

Class 2: At least twenty-six feet, but less than forty feet 6653
in length; 6654

Class 3: At least forty feet, but less than sixty-five feet 6655
in length; 6656

Class 4: At least sixty-five feet in length. 6657

(B) As used in this chapter: 6658

(1) "Vessel" includes every description of watercraft, 6659
including nondisplacement craft and seaplanes, used or capable of 6660
being used as a means of transportation on water. 6661

(2) "Rowboat" means any vessel designed to be rowed and that 6662
is propelled by human muscular effort by oars or paddles and upon 6663
which no mechanical propulsion device, electric motor, internal 6664
combustion engine, or sail has been affixed or is used for the 6665
operation of the vessel. 6666

(3) "Sailboat" means any vessel, equipped with mast and 6667
sails, dependent upon the wind to propel it in the normal course 6668
of operation. 6669

(a) Any sailboat equipped with an inboard engine is deemed a 6670
powercraft with auxiliary sail. 6671

(b) Any sailboat equipped with detachable motor is deemed a 6672
sailboat with auxiliary power. 6673

(c) Any sailboat being propelled by mechanical power, whether 6674
under sail or not, is deemed a powercraft and subject to all laws 6675
and rules governing powercraft operation. 6676

(4) "Powercraft" means any vessel propelled by machinery, 6677
fuel, rockets, or similar device. 6678

(5) "Person" includes any legal entity defined as a person in 6679
section 1.59 of the Revised Code and any body politic, except the 6680
United States and this state, and includes any agent, trustee, 6681
executor, receiver, assignee, or other representative thereof. 6682

(6) "Owner" includes any person who claims lawful possession 6683
of a vessel by virtue of legal title or equitable interest therein 6684
that entitled the person to that possession. 6685

(7) "Operator" includes any person who navigates or has under 6686
the person's control a vessel, or vessel and detachable motor, on 6687
the waters in this state. 6688

(8) "Visible" means visible on a dark night with clear 6689
atmosphere. 6690

(9) "Waters in this state" means all streams, rivers, lakes, 6691
ponds, marshes, watercourses, waterways, and other bodies of 6692
water, natural or humanmade, that are situated wholly or partially 6693
within this state or within its jurisdiction and are used for 6694
recreational boating. 6695

(10) "Navigable waters" means waters that come under the 6696
jurisdiction of the department of the army of the United States 6697
and any waterways within or adjacent to this state, except inland 6698
lakes having neither a navigable inlet nor outlet. 6699

(11) "In operation" in reference to a vessel means that the 6700
vessel is being navigated or otherwise used on the waters in this 6701

state. 6702

(12) "Sewage" means human body wastes and the wastes from 6703
toilets and other receptacles intended to receive or retain body 6704
waste. 6705

(13) "Canoe" means a narrow vessel of shallow draft, pointed 6706
at both ends and propelled by human muscular effort, and includes 6707
kayaks. 6708

(14) "Coast guard approved" means bearing an approval number 6709
assigned by the United States coast guard. 6710

(15) "Type one personal flotation device" means a device that 6711
is designed to turn an unconscious person floating in water from a 6712
face downward position to a vertical or slightly face upward 6713
position and that has at least nine kilograms, approximately 6714
twenty pounds, of buoyancy. 6715

(16) "Type two personal flotation device" means a device that 6716
is designed to turn an unconscious person in the water from a face 6717
downward position to a vertical or slightly face upward position 6718
and that has at least seven kilograms, approximately fifteen and 6719
four-tenths pounds, of buoyancy. 6720

(17) "Type three personal flotation device" means a device 6721
that is designed to keep a conscious person in a vertical or 6722
slightly face upward position and that has at least seven 6723
kilograms, approximately fifteen and four-tenths pounds, of 6724
buoyancy. 6725

(18) "Type four personal flotation device" means a device 6726
that is designed to be thrown to a person in the water and not 6727
worn and that has at least seven and five-tenths kilograms, 6728
approximately sixteen and five-tenths pounds, of buoyancy. 6729

(19) "Type five personal flotation device" means a device 6730
that, unlike other personal flotation devices, has limitations on 6731

its approval by the United States coast guard, including, without
limitation, all of the following:

(a) The approval label on the type five personal flotation
device indicates that the device is approved for the activity in
which the vessel is being used or as a substitute for a personal
flotation device of the type required on the vessel in use;

(b) The personal flotation device is used in accordance with
any requirements on the approval label;

(c) The personal flotation device is used in accordance with
requirements in its owner's manual if the approval label refers to
such a manual.

(20) "Inflatable watercraft" means any vessel constructed of
rubber, canvas, or other material that is designed to be inflated
with any gaseous substance, constructed with two or more air
cells, and operated as a vessel. Inflatable watercraft propelled
by a motor shall be classified as powercraft and shall be
registered by length.

(21) "Idle speed" means the slowest possible speed needed to
maintain steerage or maneuverability.

(22) "Diver's flag" means a red flag not less than one foot
square having a diagonal white stripe extending from the masthead
to the opposite lower corner that when displayed indicates that
divers are in the water.

(23) "Muffler" means an acoustical suppression device or
system that is designed and installed to abate the sound of
exhaust gases emitted from an internal combustion engine and that
prevents excessive or unusual noise.

(24) "Law enforcement vessel" means any vessel used in law
enforcement and under the command of a law enforcement officer.

(25) "Personal watercraft" means a vessel, less than sixteen

feet in length, that is propelled by machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

(26) "No wake" has the same meaning as "idle speed."

(C) Unless otherwise provided, this chapter applies to all vessels operating on the waters in this state. Nothing in this chapter shall be construed in contravention of any valid federal act or ~~rule~~ regulation, but is in addition to the act or ~~rule~~ regulation where not inconsistent.

The state reserves to itself the exclusive right to regulate the minimum equipment requirements of watercraft and vessels operated on the waters in this state.

Sec. 1547.03. No person shall install or use any intermittently flashing light of any type or color on any vessel in use or operation on the waters in this state, except ~~that such flashing lights may be installed and used in an emergency to attract attention to such an emergency for aid and relief of the distressed, and except that a blue revolving or flashing horizontal beam located at any effective point on the vessel may be displayed by authorized patrol boats when engaged in law enforcement duties day or night on waters in this state in accordance with federal law.~~

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.04. No person, except an authorized watercraft representative of the federal government, the state, or any of its political subdivisions shall use or operate a siren on the waters in this state except for emergency purposes.

No person shall operate or permit to be operated any vessel 6791
on the waters in this state in violation of this section. 6792

Sec. 1547.08. (A) No person shall operate a vessel within or 6793
through a designated bathing area or within or through any area 6794
that has been buoyed off designating it as an area in which 6795
vessels are prohibited. 6796

(B)(1) No person shall operate a vessel at greater than idle 6797
speed or at a speed that creates a wake within three hundred feet 6798
of any marina, boat docking facility, boat gasoline dock, launch 6799
ramp, recreational boat harbor, or harbor entrance, or during the 6800
period from sunset to sunrise according to local time within any 6801
water between the Dan Beard bridge and the Brent Spence bridge on 6802
the Ohio river for any vessel not documented by the United States 6803
coast guard as commercial, or within any area buoyed or marked as 6804
a no wake area. 6805

(2) Division (B)(1) of this section does not apply in any of 6806
the following places: 6807

(a) The Muskingum river unless the river is marked by a buoy 6808
or sign as a no wake or idle speed area; 6809

(b) Any other area designated by the chief of the division of 6810
watercraft unless it is marked by a buoy or sign as a no wake or 6811
idle speed area; 6812

(c) Within any water between the Dan Beard bridge and the 6813
Brent Spence bridge on the Ohio river when the United States coast 6814
guard has authorized the holding of a special event of a community 6815
nature on that water. 6816

(C) No person shall operate a vessel in any area of 6817
restricted or controlled operation in violation of the designated 6818
restriction. 6819

(D) No person shall operate a vessel within three hundred 6820

feet of an official diver's flag unless ~~he~~ the person is tendering 6821
the diving operation. 6822

(E) All areas of restricted or controlled operation as 6823
described in division (A) of this section or as provided for in 6824
section 1547.14 or 1547.61 of the Revised Code shall be marked by 6825
a buoy or sign designating the restriction. All waters surrounded 6826
by or lying between such a buoy or sign and the closest shoreline 6827
are thereby designated as an area in which the designated 6828
restrictions shall apply in the operation of any vessel. 6829

Markings on buoys designating areas of restricted or 6830
controlled operation shall be so spaced as to show all around the 6831
horizon. Lineal spacing between the buoys shall be such that under 6832
normal conditions of visibility any buoy shall be readily visible 6833
from the next adjacent buoy. No colors or symbols, except as 6834
provided for in rules of the chief, shall be used on buoys or 6835
signs for marking closed or controlled areas of boating waters. 6836

Any state department, conservancy district, or political 6837
subdivision having jurisdiction and control of impounded boating 6838
waters may place such buoys or signs on its waters. Any political 6839
subdivision may apply to the chief for permission to place such 6840
buoys or signs on other waters within its territorial limits. No 6841
person shall place or cause to be placed a regulatory buoy or sign 6842
on, into, or along the waters in this state unless the person has 6843
complied with all the provisions of this chapter. 6844

(F) No person shall operate or permit to be operated any 6845
vessel on the waters in this state in violation of this section. 6846

Sec. 1547.09. No person shall moor or anchor any vessel in a 6847
designated speed zone or water ski zone. No person, unless in 6848
distress and no other vessel is endangered thereby, shall moor to, 6849
anchor to, or tie up to any marker, aid, buoy, light, or other aid 6850

to navigation. 6851

No person shall operate or permit to be operated any vessel 6852
on the waters in this state in violation of this section. 6853

Sec. 1547.111. (A) Any person who operates a vessel or uses 6854
any water skis, aquaplane, or similar device upon any waters in 6855
this state shall be deemed to have given consent to a chemical 6856
test or tests of ~~his~~ the person's blood, breath, or urine for the 6857
purpose of determining its alcohol or drug of abuse content if 6858
arrested for the offense of operating a vessel or using any water 6859
skis, aquaplane, or similar device in violation of section 1547.11 6860
of the Revised Code. The test or tests shall be administered at 6861
the direction of a law enforcement officer having reasonable 6862
grounds to believe the person to have been operating a vessel or 6863
using any water skis, aquaplane, or similar device in violation of 6864
section 1547.11 of the Revised Code. The law enforcement agency by 6865
which the officer is employed shall designate which of the tests 6866
shall be administered. 6867

(B) Any person who is dead, unconscious, or ~~who is~~ otherwise 6868
in a condition rendering ~~him~~ the person incapable of refusal shall 6869
be deemed not to have withdrawn consent provided by division (A) 6870
of this section and the test or tests may be administered, subject 6871
to sections 313.12 to 313.16 of the Revised Code. 6872

(C) Any person under arrest for the offense of operating a 6873
vessel or using any water skis, aquaplane, or similar device in 6874
violation of section 1547.11 of the Revised Code shall be advised 6875
of the consequences of ~~his refusal~~ refusing to submit to a 6876
chemical test designated by the law enforcement agency as provided 6877
in division (A) of this section. The advice shall be in a written 6878
form prescribed by the chief of the division of watercraft and 6879
shall be read to the person. The form shall contain a statement 6880

that the form was shown to the person under arrest and read to ~~him~~ 6881
the person in the presence of the arresting officer and either 6882
another law enforcement officer, a civilian law enforcement 6883
employee, or an employee of a hospital, first-aid station, or 6884
clinic, if any, to which the person has been taken for first-aid 6885
or medical treatment. The witnesses shall certify to this fact by 6886
signing the form. 6887

(D) If a person under arrest for the offense of operating a 6888
vessel or using any water skis, aquaplane, or similar device in 6889
violation of section 1547.11 of the Revised Code refuses upon the 6890
request of a law enforcement officer to submit to a chemical test 6891
designated by the law enforcement agency as provided in division 6892
(A) of this section, after first having been advised of the 6893
consequences of ~~his~~ the refusal as provided in division (C) of 6894
this section, no chemical test shall be given, but the chief ~~of~~ 6895
~~the division of watercraft~~, upon receipt of a sworn statement of 6896
the law enforcement officer that ~~he~~ the law enforcement officer 6897
had reasonable grounds to believe the arrested person had been 6898
operating a vessel or using any water skis, aquaplane, or similar 6899
device while under the influence of alcohol or a drug of abuse, 6900
under the combined influence of alcohol and a drug of abuse, or 6901
with a prohibited concentration of alcohol in ~~his~~ the person's 6902
blood, urine, or breath, and that the person refused to submit to 6903
the chemical test upon the request of the law enforcement officer, 6904
and upon receipt of the form as provided in division (C) of this 6905
section certifying that the arrested person was advised of the 6906
consequences of ~~his~~ the refusal, shall inform the person by 6907
written notice that ~~he~~ the person is prohibited from operating a 6908
vessel or using any water skis, aquaplane, or similar device, and 6909
is prohibited from registering any watercraft in accordance with 6910
section 1547.54 of the Revised Code, for one year following the 6911
date of the alleged violation of section 1547.11 of the Revised 6912
Code. The suspension of these operation, use, and registration 6913

privileges shall continue for the entire one-year period, subject 6914
to review as provided in this section. 6915

If the person under arrest is the owner of the vessel 6916
involved in the alleged violation, the law enforcement officer who 6917
arrested the person shall seize the watercraft registration 6918
certificate and tags from the vessel involved in the violation and 6919
forward them to the chief. The chief of the division of 6920
watercraft, in addition to informing ~~him~~ the person by written 6921
notice that ~~he~~ the person is prohibited from operating a vessel or 6922
using any water skis, aquaplane, or similar device, and from 6923
registering any watercraft in accordance with section 1547.54 of 6924
the Revised Code, for one year following the date of the alleged 6925
violation, shall retain the impounded registration certificate and 6926
tags, and shall impound ~~the~~ all other registration ~~certificate~~ 6927
certificates and tags issued to the person in accordance with 6928
sections 1547.54 and 1547.57 of the Revised Code, for a period of 6929
one year following the date of the alleged violation. ~~The~~ 6930
~~registration certificate and tags may be impounded on the date of~~ 6931
~~the alleged violation and such impoundment shall continue for the~~ 6932
~~entire one-year period~~, subject to review as provided in this 6933
section. 6934

If the arrested person fails to surrender the registration 6935
certificate because it is not on the person of the arrested person 6936
or in the watercraft, the law enforcement officer who made the 6937
arrest shall order the person to surrender it within twenty-four 6938
hours to the law enforcement officer or the law enforcement agency 6939
that employs the law enforcement officer. If the person fails to 6940
do so, the law enforcement officer shall notify the chief of that 6941
fact in the statement the officer submits to the chief under this 6942
division. 6943

(E) Upon suspending a person's operation, use, and 6944
registration privileges in accordance with division (D) of this 6945

section, the chief ~~of the division of watercraft~~ shall notify the 6946
person in writing, at ~~his~~ the person's last known address, and 6947
inform ~~him~~ the person that ~~he~~ the person may petition for a 6948
hearing in accordance with division (F) of this section. If a 6949
person whose operation, use, and registration privileges have been 6950
suspended petitions for a hearing or appeals any decision that is 6951
adverse to ~~him~~ the person, the suspension of privileges shall 6952
begin at the termination of any hearing or appeal unless the 6953
hearing or appeal resulted in a decision favorable to the person. 6954

(F) Any person who has been notified by the chief ~~of the~~ 6955
~~division of watercraft~~ that ~~he~~ the person is prohibited from 6956
operating a vessel or using any water skis, aquaplane, or similar 6957
device, and from registering any watercraft in accordance with 6958
section 1547.54 of the Revised Code, or who has had the 6959
registration certificate and tags of ~~his~~ the person's watercraft 6960
impounded pursuant to division (D) of this section, ~~may~~, within 6961
twenty days of the notification or impoundment, may file a 6962
petition in the municipal court or the county court, or ~~in case if~~ 6963
the person is a minor in juvenile court, in whose jurisdiction the 6964
arrest occurred, agreeing to pay the cost of the proceedings and 6965
alleging error in the action taken by the chief ~~of the division of~~ 6966
~~watercraft~~ under division (D) of this section or alleging one or 6967
more of the matters within the scope of the hearing as provided in 6968
this section, or both. The petitioner shall notify the chief ~~of~~ 6969
~~the division of watercraft~~ of the filing of the petition and send 6970
~~him~~ the chief a copy of the petition. 6971

The scope of the hearing is limited to the issues of whether 6972
the law enforcement officer had reasonable grounds to believe the 6973
petitioner was operating a vessel or using any water skis, 6974
aquaplane, or similar device while under the influence of alcohol 6975
or a drug of abuse, under the combined influence of alcohol and a 6976
drug of abuse, or with a prohibited concentration of alcohol or a 6977

drug of abuse in ~~his~~ the person's blood, urine, or breath, whether 6978
the petitioner was placed under arrest, whether the petitioner 6979
refused to submit to the chemical test upon request of the 6980
officer, and whether ~~he~~ the petitioner was advised of the 6981
consequences of ~~his~~ the refusal. 6982

(G)(1) The chief ~~of the division of watercraft~~ shall furnish 6983
the court a copy of the affidavit as provided in division (C) of 6984
this section and any other relevant information requested by the 6985
court. 6986

(2) In hearing the matter and in determining whether the 6987
person has shown error in the decision taken by the chief ~~of the~~ 6988
~~division of watercraft~~ as provided in division (D) of this 6989
section, the court shall decide the issue upon the relevant, 6990
competent, and material evidence submitted by the chief ~~of the~~ 6991
~~division of watercraft~~ or the person whose operation, use, and 6992
registration privileges have been suspended. 6993

In the proceedings, the chief shall be represented by the 6994
prosecuting attorney of the county in which the petition is filed 6995
if the petition is filed in a county court or juvenile court, 6996
except that if the arrest occurred within a city or village within 6997
the jurisdiction of the county court in which the petition is 6998
filed, the city director of law or village solicitor of that city 6999
or village shall represent the chief. If the petition is filed in 7000
the municipal court, the chief shall be represented as provided in 7001
section 1901.34 of the Revised Code. 7002

(3) If the court finds from the evidence submitted that the 7003
person has failed to show error in the action taken by the chief 7004
~~of the division of watercraft~~ under division (D) of this section 7005
or in one or more of the matters within the scope of the hearing 7006
as provided in division (F) of this section, or both, ~~then~~ the 7007
court shall assess the cost of the proceeding against the person 7008
and shall uphold the suspension of the operation, use, and 7009

registration privileges provided in division (D) of this section. 7010
If the court finds that the person has shown error in the action 7011
taken by the chief ~~of the division of watercraft~~ under division 7012
(D) of this section or in one or more of the matters within the 7013
scope of the hearing as provided in division (F) of this section, 7014
or both, the cost of the proceedings shall be paid out of the 7015
county treasury of the county in which the proceedings were held, 7016
the operation, use, and registration privileges of the person 7017
shall be reinstated without charge, and the registration 7018
certificate and tags, if impounded, shall be returned without 7019
charge. 7020

(4) The court shall give information in writing of any action 7021
taken under this section to the chief ~~of the division of~~ 7022
~~watercraft~~. 7023

(H) At the end of any period of suspension or impoundment 7024
imposed under this section, and upon request of the person whose 7025
operation, use, and registration privileges were suspended or 7026
whose registration certificate and tags were impounded, the chief 7027
~~of the division of watercraft~~ shall reinstate the person's 7028
operation, use, and registration privileges by written notice and 7029
return the certificate and tags. 7030

(I) No person who has received written notice from the chief 7031
~~of the division of watercraft~~ that he the person is prohibited 7032
from operating a vessel or using any water skis, aquaplane, or 7033
similar device, and from registering a watercraft, or who has had 7034
the registration certificate and tags of ~~his~~ the person's 7035
watercraft impounded, in accordance with division (D) of this 7036
section, shall operate a vessel or use any water skis, aquaplane, 7037
or similar device for a period of one year following the date of 7038
~~his~~ the person's alleged violation of section 1547.11 of the 7039
Revised Code. 7040

Sec. 1547.12. No person shall operate any vessel if the 7041
person is so mentally or physically incapacitated as to be unable 7042
to operate the vessel in a safe and competent manner. 7043

No person shall operate or permit to be operated any vessel 7044
on the waters in this state in violation of this section. 7045

Sec. 1547.13. (A) No person shall fail to comply with any 7046
lawful order or direction of any law enforcement officer having 7047
authority to direct, control, or regulate the operation or use of 7048
vessels. 7049

(B) No person shall operate any vessel so as to purposely 7050
elude or flee from a law enforcement officer after receiving a 7051
visible or audible signal from a law enforcement officer to bring 7052
the vessel to a stop. 7053

(C) No person shall operate or permit to be operated any 7054
vessel on the waters in this state in violation of this section. 7055

Sec. 1547.131. Upon the approach of a law enforcement vessel 7056
with at least one ~~blue~~ flashing, rotating, or oscillating light of 7057
a color conforming with the requirements of federal law, the 7058
operator of any vessel shall stop if followed or give way in any 7059
crossing, head-on, or overtaking situation, and shall remain in 7060
~~such~~ that position until the law enforcement vessel has passed, 7061
except when otherwise directed by a law enforcement officer. If 7062
traffic conditions warrant, a siren or other sound producing 7063
device also may be operated as an additional signaling device. 7064
This section does not relieve the operator of any law enforcement 7065
vessel from the duty to operate with due regard for the safety of 7066
all persons and property on the waters in this state. 7067

No person shall operate or permit to be operated any vessel 7068
on the waters in this state in violation of this section. 7069

Sec. 1547.14. (A) Except on the waters of Lake Erie, the Ohio River, and immediately connected harbors and anchorage facilities, any person who rides or attempts to ride upon one or more water skis, surfboard, or similar device, or who engages or attempts to engage in barefoot skiing, and any person who operates a vessel towing a person riding or attempting to ride on one or more water skis, surfboard, or similar device, or engaging or attempting to engage in barefoot skiing, shall confine that activity to the water area within a designated ski zone on all bodies of water ~~whereon~~ on which a ski zone has been established.

(B) On all bodies of water designated as "open zone," that is, having a combined speed and ski zone, the activities described in division (A) of this section shall be confined to the open zone.

(C) No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.15. Any person who ~~opeates~~ OPERATES a vessel towing any person riding or attempting to ride upon one or more water skis, ~~or upon a surfboard,~~ or similar device, or engaging or attempting to engage in barefoot skiing, on the waters in this state shall have present in the vessel a person or persons other than the operator, ten years of age or older, who shall at all times observe the progress of the person being towed. The operator of the towing vessel shall at all times observe the traffic pattern toward which the vessel is approaching.

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.22. No occupant of any vessel underway on the waters in this state shall sit, stand, or walk upon any portion of

the vessel not specifically designed for that movement, except 7099
when immediately necessary for the safe and reasonable navigation 7100
or operation of the vessel. No operator of a vessel under way on 7101
the waters in this state shall allow any occupant of the vessel to 7102
sit, stand, or walk on any portion of the vessel underway not 7103
specifically designed for that use, except when immediately 7104
necessary for the safe and reasonable navigation or operation of 7105
the vessel. 7106

No person shall operate or permit to be operated any vessel 7107
on the waters in this state in violation of this section. 7108

Sec. 1547.25. (A) No person shall operate or permit to be 7109
operated any watercraft, other than a commercial vessel, on the 7110
waters in this state: 7111

(1) ~~Sixteen~~ That is sixteen feet or greater in length without 7112
carrying aboard one type one, two, or three personal flotation 7113
device for each person aboard and one type four personal flotation 7114
device; 7115

(2) ~~Less~~ That is less than sixteen feet in length, including 7116
canoes and kayaks of any length, without carrying aboard one type 7117
one, two, or three personal flotation device for each person 7118
aboard. 7119

(B) A type five personal flotation device may be carried in 7120
lieu of a type one, two, or three personal flotation device 7121
required under division (A) of this section. 7122

(C) No person shall operate or permit to be operated any 7123
commercial vessel on the waters in this state: 7124

(1) That is less than forty feet in length and is not 7125
carrying persons for hire without carrying aboard at least one 7126
type one, two, or three personal flotation device for each person 7127
aboard; 7128

(2) That is carrying persons for hire or is forty feet in length or longer and is not carrying persons for hire without carrying aboard at least one type one personal flotation device for each person aboard; 7129
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(3) That is twenty-six feet in length or longer without carrying aboard at least one type four ring life buoy in addition to the applicable requirements of divisions (C)(1) and (2) of this section. 7133
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(D) Each personal flotation device carried aboard a watercraft or commercial vessel pursuant to this section shall be coast guard approved and in good and serviceable condition, of appropriate size for the wearer, and readily accessible to each person aboard the watercraft at all times. 7137
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(E) As used in this section, "commercial vessel" means any vessel used in the carriage of any person or property for a valuable consideration whether flowing directly or indirectly from the owner, partner, or agent or any other person interested in the vessel. "Commercial vessel" does not include any vessel that is manufactured or used primarily for noncommercial use or that is leased, rented, or chartered to another for noncommercial use. 7142
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Sec. 1547.251. (A) No person shall operate on the waters of Lake Erie or the immediately connecting bays, harbors, and anchorage areas at any time a vessel+ 7149
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~~(1) Sixteen~~ That is sixteen or more feet in length or any vessel carrying six or fewer passengers for hire without carrying coast guard approved visual distress signals for both day and night use+ 7152
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~~(2) Less than sixteen feet in length between sunset and sunrise without carrying coast guard approved distress signals for night use.~~ 7156
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~~The distress signals required by this division shall be in good and serviceable condition, readily accessible, and of the type and quantities required by the "Federal Boat Safety Act of 1971," 85 Stat. 213, 46 U.S.C.A. 1451, as amended.~~

~~(B) No person shall operate upon the waters of Lake Erie or the immediately connecting bays, harbors, and anchorage areas during the period from sunset to sunrise according to local time any of the following without carrying coast guard approved visual distress signals for night use:~~

~~(1) A vessel less than sixteen feet in length;~~

~~(2) A vessel competing in an organized marine parade, race, regatta, or similar event;~~

~~(3) A manually propelled vessel;~~

~~(4) A sailboat less than twenty-six feet in length with completely open construction and without propulsion machinery.~~

~~(C) No person shall operate a vessel on the waters in this state other than Lake Erie or the immediately connecting bays, harbors, and anchorage areas unless the vessel carries either a distress flag at least two feet square and international orange in color or a coast guard approved daytime distress signal.~~

~~(D) No person shall display any distress signal unless a vessel or a person is in distress and in need of help.~~

~~(E) Divisions (A) and (C) of this section do not apply to any of the following:~~

~~(1) Vessels competing in an organized marine parade, race, regatta, or similar event;~~

~~(2) Manually propelled vessels;~~

~~(3) Sailboats less than twenty-six feet in length with completely open construction and without propulsion machinery.~~

(F) The distress signals required by this section shall be in 7188
good and serviceable condition, readily accessible, and of the 7189
type and quantities required by regulations adopted under 46 7190
U.S.C. 4302, as amended. 7191

(G) No person shall operate or permit to be operated any 7192
vessel on the waters in this state in violation of this section. 7193

Sec. 1547.26. All watercraft, except sailboats less than 7194
sixteen feet long having a cockpit depth of less than twelve 7195
inches and except canoes, shall carry an anchor and line of 7196
sufficient weight and length to anchor the watercraft securely. 7197
The chief ~~may~~ of the division of watercraft, by rule, may exempt 7198
other types of watercraft from this section ~~if he determines~~ after 7199
determining that carrying such an anchor and line would constitute 7200
a hazard. 7201

No person shall operate or permit to be operated any 7202
watercraft on the waters in this state in violation of this 7203
section. 7204

Sec. 1547.30. (A) As used in this section and sections 7205
1547.301, 1547.302, and 1547.304 of the Revised Code: 7206

(1) "Vessel or outboard motor" excludes an abandoned junk 7207
vessel or outboard motor, as defined in section 1547.303 of the 7208
Revised Code, or any watercraft or outboard motor under section 7209
4585.31 of the Revised Code. 7210

(2) "Law enforcement agency" means any organization or unit 7211
comprised of law enforcement officers, as defined in section 7212
2901.01 of the Revised Code. 7213

(B)(1) The sheriff of a county, chief of police of a 7214
municipal corporation, township, or township police district, or 7215
other chief of a law enforcement agency, within the sheriff's or 7216

chief's respective territorial jurisdiction, upon complaint of any 7217
person adversely affected, may order into storage any vessel or 7218
outboard motor that has been left on private property, other than 7219
a private dock or mooring facility or structure, for at least 7220
seventy-two hours without the permission of the person having the 7221
right to the possession of the property. The sheriff or chief, 7222
upon complaint of the owner of a marine repair facility or place 7223
of storage, may order into storage any vessel or outboard motor 7224
that has been left at the facility or place of storage for a 7225
longer period than that agreed upon. The place of storage shall be 7226
designated by the sheriff or chief. When ordering a vessel or 7227
motor into storage under division (B)(1) of this section, a 7228
sheriff or chief, whenever possible, shall arrange for the removal 7229
of the vessel or motor by a private tow truck operator or towing 7230
company. 7231

(2)(a) Except as provided in division (B)(2)(d) of this 7232
section, no person, without the consent of the owner or other 7233
person authorized to give consent, shall moor, anchor, or tie a 7234
vessel or outboard motor at a private dock or mooring facility or 7235
structure owned by another person if the owner has posted, in a 7236
conspicuous manner, a prohibition against the mooring, anchoring, 7237
or tying of vessels or outboard motors at the dock, facility, or 7238
structure by any person not having the consent of the owner or 7239
other person authorized to give consent. 7240

(b) If the owner of a private dock or mooring facility or 7241
structure has posted at the dock, facility, or structure, in a 7242
conspicuous manner, conditions and regulations under which the 7243
mooring, anchoring, or tying of vessels or outboard motors is 7244
permitted at the dock, facility, or structure, no person, except 7245
as provided in division (B)(2)(d) of this section, shall moor, 7246
anchor, or tie a vessel or outboard motor at the dock, facility, 7247
or structure in violation of the posted conditions and 7248

regulations. 7249

(c) The owner of a private dock or mooring facility or 7250
structure may order towed into storage any vessel or outboard 7251
motor found moored, anchored, or tied in violation of division 7252
(B)(2)(a) or (b) of this section, provided that the owner of the 7253
dock, facility, or structure posts on it a sign that states that 7254
the dock, facility, or structure is private, is visible from all 7255
entrances to the dock, facility, or structure, and contains all of 7256
the following information: 7257

(i) The information specified in division (B)(2)(a) or (b) of 7258
this section, as applicable; 7259

(ii) A notice that violators will be towed and that violators 7260
are responsible for paying the cost of the towing; 7261

(iii) The telephone number of the person from whom a towed 7262
vessel or outboard motor may be recovered, and the address of the 7263
place to which the vessel or outboard motor will be taken and the 7264
place from which it may be recovered. 7265

(d) Divisions (B)(2)(a) and (b) of this section do not 7266
prohibit a person from mooring, anchoring, or tying a vessel or 7267
outboard motor at a private dock or mooring facility or structure 7268
if either of the following applies: 7269

(i) The vessel or outboard motor is disabled due to a 7270
mechanical or structural malfunction, provided that the person 7271
immediately removes the vessel or outboard motor from the dock, 7272
facility, or structure when the malfunction is corrected or when a 7273
reasonable attempt has been made to correct it; 7274

(ii) Weather conditions are creating an imminent threat to 7275
safe operation of the vessel or outboard motor, provided that the 7276
person immediately removes the vessel or outboard motor from the 7277
dock, facility, or structure when the weather conditions permit 7278
safe operation of the vessel or outboard motor. 7279

(e) A person whose vessel or outboard motor is towed into storage under division (B)(2)(c) of this section either shall pay the costs of the towing of the vessel or outboard motor or shall reimburse the owner of the dock or mooring facility or structure for the costs that the owner incurs in towing the vessel or outboard motor.

(3) Subject to division (C) of this section, the owner of a vessel or motor that has been removed under division (B) of this section may recover the vessel or motor only in accordance with division (F) of this section.

(C) If the owner or operator of a vessel or outboard motor that has been ordered into storage under division (B) of this section arrives after the vessel or motor has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of vessels or motors under division (B) of this section that normally is assessed by the person who has prepared the vessel or motor for removal, in order to obtain release of the vessel or motor. Upon payment of that fee, the vessel or motor shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that it is not on the private property without the permission of the person having the right to possession of the property, or is not at the facility or place of storage without the permission of the owner, whichever is applicable.

(D) Each county sheriff, each chief of police of a municipal corporation, township, or township police district, and each other chief of a law enforcement agency shall maintain a record of vessels or outboard motors that are ordered into storage under division (B)(1) of this section. The record shall include an entry for each such vessel or motor that identifies the vessel's hull

identification number or serial number, if any, the vessel's or 7312
motor's make, model, and color, the location from which it was 7313
removed, the date and time of its removal, the telephone number of 7314
the person from whom it may be recovered, and the address of the 7315
place to which it has been taken and from which it may be 7316
recovered. Any information in the record that pertains to a 7317
particular vessel or motor shall be provided to any person who, 7318
pursuant to a statement the person makes either in person or by 7319
telephone, is identified as the owner or operator of the vessel or 7320
motor and requests information pertaining to its location. 7321

(E) Any person who registers a complaint that is the basis of 7322
a sheriff's or chief's order for the removal and storage of a 7323
vessel or outboard motor under division (B)(1) of this section 7324
shall provide the identity of the law enforcement agency with 7325
which the complaint was registered to any person who, pursuant to 7326
a statement the person makes, is identified as the owner or 7327
operator of the vessel or motor and requests information 7328
pertaining to its location. 7329

(F)(1) The owner of a vessel or outboard motor that is 7330
ordered into storage under division (B) of this section may 7331
reclaim it upon payment of any expenses or charges incurred in its 7332
removal, in an amount not to exceed two hundred dollars, and 7333
storage, in an amount not to exceed five dollars per 7334
twenty-four-hour period, and upon presentation of proof of 7335
ownership, which may be evidenced by a certificate of title to the 7336
vessel or motor, certificate of United States coast guard 7337
documentation, or certificate of registration if the vessel or 7338
motor is not subject to titling under section 1548.01 of the 7339
Revised Code. 7340

(2) If a vessel or outboard motor that is ordered into 7341
storage under division (B)(1) of this section remains unclaimed by 7342
the owner for thirty days, the procedures established by sections 7343

1547.301 and 1547.302 of the Revised Code shall apply.

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(3) If a vessel or outboard motor ordered into storage under division (B)(2) of this section remains unclaimed for seventy-two hours after being stored, the tow truck operator or towing company that removed the vessel or outboard motor shall provide notice of the removal and storage to the sheriff of a county, chief of police of a municipal corporation, township, or township police district, or other chief of a law enforcement agency within whose territorial jurisdiction the vessel or outboard motor had been moored, anchored, or tied in violation of division (B)(2) of this section. The notice shall be in writing and include the vessel's hull identification number or serial number, if any, the vessel's or outboard motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

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Upon receipt of the notice, the sheriff or chief immediately shall cause a search to be made of the records of the division of watercraft to ascertain the owner and any lienholder of the vessel or outboard motor, and, if known, shall send notice to the owner and lienholder, if any, at the owner's and lienholder's last known address by certified mail, return receipt requested, that the vessel or outboard motor will be declared a nuisance and disposed of if not claimed not later than thirty days after the date of the mailing of the notice.

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If the owner or lienholder makes no claim to the vessel or outboard motor within thirty days of the date of the mailing of the notice, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of division (F)(3) of this section, and the vessel or outboard motor shall be

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disposed of in accordance with section 1547.302 of the Revised Code. 7376
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(G) No person shall remove, or cause the removal of, any vessel or outboard motor from private property other than in accordance with division (B) of this section or section 1547.301 of the Revised Code. 7378
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Sec. 1547.302. (A) Unclaimed vessels or outboard motors ordered into storage under division (B) of section 1547.30 or section 1547.301 of the Revised Code shall be disposed of at the order of the sheriff of the county, the chief of police of the municipal corporation, township, or township police district, or ~~either another~~ another chief of a law enforcement agency ~~to~~ in any of the following ways: 7382
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(1) To a marine salvage dealer ~~or to;~~ 7389

(2) To any other facility owned, operated, or under contract with the state, or the county, municipal corporation, township, or other political subdivision, ~~or shall be sold;~~ 7390
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(3) To a charitable organization, religious organization, or similar organization not used and operated for profit; 7393
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(4) By sale at public auction by the sheriff, the chief, or an auctioneer licensed under Chapter 4707. of the Revised Code, after giving notice ~~thereof~~ of the auction by advertisement, published once a week for two consecutive weeks in a newspaper of general circulation in the county. ~~Any~~ 7395
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(B) Any moneys accruing from the disposition of an unclaimed vessel or motor that are in excess of the expenses resulting from the removal and storage of the vessel or motor shall be credited to the general revenue fund, or to the general fund of the county, municipal corporation, township, or other political subdivision, as appropriate. 7400
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(C) As used in this section, "charitable organization" has 7406
the same meaning as in section 1716.01 Of the Revised Code. 7407

Sec. 1547.31. No person shall operate or permit to be 7408
operated on the waters in this state any powercraft without a 7409
muffler, underwater exhaust, or other device that muffles or 7410
suppresses the sound of the exhaust at all speeds. 7411

This is an interim section effective until December 31, 1999. 7412

Sec. 1547.33. Except on the waters of Lake Erie, the 7413
Muskingum River, or the Ohio River, no person shall launch, moor, 7414
dock, use, ~~or~~ operate, or permit to be operated on any of the 7415
waters in this state any vessel that contains a sink, toilet, or 7416
sanitary system that is capable of discharging urine, fecal 7417
matter, contents of a chemical commode, kitchen wastes, laundry 7418
wastes, slop sink drainage, or other household wastes into the 7419
waters in this state. Such a sink, toilet, or sanitary system 7420
shall be removed ~~or~~, sealed, or made to drain into a tank or 7421
reservoir that can be carried or pumped ashore for disposal in a 7422
sewage treatment works approved by the director of environmental 7423
protection. 7424

Sec. 1547.39. (A) No person ~~shall~~, after January 1, 1977, 7425
shall manufacture, sell, or offer for sale any watercraft 7426
propelled by machinery as its principal source of power, or 7427
watercraft designed to be manually propelled, less than twenty 7428
feet in length, and designed to carry two or more persons, 7429
manufactured after that date, unless a capacity plate containing 7430
the correct information, as prescribed by regulations adopted by 7431
the United States coast guard, is firmly attached to the 7432
watercraft~~7~~. The capacity plate shall be attached in such a 7433
location that ~~the capacity plate~~ it is clearly legible from the 7434
position designed or intended to be occupied by the operator when 7435

the watercraft is underway. 7436

(B) No person shall operate or permit to be operated on the 7437
waters in this state watercraft for which a capacity plate is 7438
required under this section unless the capacity plate is attached. 7439

(C) No person shall alter, remove, or deface any information 7440
contained on the capacity plate unless the manufacturer has 7441
altered the watercraft in such a way that would require a change 7442
in the information contained on the capacity plate. 7443

(D) As used in this section, "manufacture" means to construct 7444
or assemble a watercraft, or to alter a watercraft in such a 7445
manner as to affect or change its weight capacity or occupant 7446
capacity. 7447

Sec. 1547.40. (A) No person shall operate or permit to be 7448
operated on the waters in this state a watercraft to which a 7449
capacity plate is attached, if the total load exceeds the weight 7450
capacity indicated on the capacity plate, if the number of persons 7451
aboard exceeds the occupant capacity indicated on the capacity 7452
plate, or if the horsepower of any attached outboard motor exceeds 7453
the maximum horsepower indicated on the capacity plate. 7454

(B) When no capacity plate exists, no person shall operate or 7455
permit to be operated on the waters in this state a watercraft if 7456
a reasonably prudent person would believe that either of the 7457
following circumstances applies: 7458

(1) The total load aboard the watercraft has associated with 7459
it a risk of physical harm to persons or property; 7460

(2) The total horsepower of any inboard engine or attached 7461
outboard motor has associated with it a risk of physical harm to 7462
persons or property. 7463

Sec. 1547.52. (A) The division of watercraft shall be 7464

administered by the chief of the division of watercraft. The chief 7465
may adopt, amend, and rescind: 7466

(1) Rules considered necessary by the chief to supplement the 7467
identification, operation, titling, use, registration, and 7468
numbering of watercraft or vessels as provided in this chapter and 7469
Chapter 1548. of the Revised Code; 7470

(2) Rules governing the navigation of vessels on waters in 7471
this state, including, but not limited to, rules regarding 7472
steering and sailing, the conduct of vessels in sight of one 7473
another or in restricted visibility, lights and shapes of lights 7474
used on vessels, and sound and light signals. As the chief 7475
considers necessary, these navigational rules shall be consistent 7476
with and equivalent to the ~~rules~~ regulations and interpretive 7477
rulings governing inland waters adopted or issued under the 7478
"Inland Navigational Rules Act of 1980," 94 Stat. 3415, 33 7479
U.S.C.A. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 2073. 7480

(3) Rules establishing fees and charges for all of the 7481
following: 7482

(a) Boating skill development classes and other educational 7483
classes; 7484

(b) Law enforcement services provided at special events when 7485
the services are in addition to normal enforcement duties; 7486

(c) Inspections of vessels or motors conducted under this 7487
chapter or Chapter 1548. of the Revised Code. 7488

All rules adopted by the chief under ~~this~~ division (A) of 7489
this section shall be adopted in accordance with Chapter 119. of 7490
the Revised Code, and ~~shall be~~ are subject to the prior approval 7491
of the director of natural resources. 7492

(B) The chief, with the approval of the director ~~of natural~~ 7493
~~resources~~, may employ such clerical and technical help as ~~he~~ the 7494

chief considers necessary. 7495

(C) The chief may designate license agents with the approval 7496
of the director ~~of natural resources~~. 7497

(D) The division is hereby designated as the agency to 7498
administer the Ohio boating safety program and allocated federal 7499
funds under, and the chief shall prepare and submit reports in 7500
such form as may be required by, the "Federal Boat Safety Act of 7501
1971," 85 Stat. 222, 46 U.S.C.A. 1475(a)(6), as amended. 7502

(E) The chief may sell any of the following: 7503

(1) Items related to or that promote boating safety, 7504
including, but not limited to, pins, badges, books, bulletins, 7505
maps, publications, calendars, and other educational articles; 7506

(2) Artifacts pertaining to boating; 7507

(3) Confiscated or forfeited items; 7508

(4) Surplus equipment. 7509

Sec. 1547.521. (A) The law enforcement officers of the 7510
division of watercraft shall be known as "state watercraft 7511
officers." The chief of the division of watercraft and state 7512
watercraft officers: 7513

(1) Shall develop and conduct educational programs in vessel 7514
safety, sanitation, and operation, and in other related subjects 7515
~~which~~ that the chief considers appropriate or necessary; 7516

(2) Shall enforce this chapter and Chapter 1548. of the 7517
Revised Code and rules adopted under them, and may enforce laws 7518
prohibiting the dumping of refuse, trash, or litter into the 7519
waters in this state and Chapters 2925. and 3719. of the Revised 7520
Code on all waters in the state; 7521

(3) ~~Shall have, on~~ On any lands owned, controlled, 7522
maintained, or administered by the department of natural resources 7523

and on any waters in this state, shall have the authority vested 7524
in ~~police~~ peace officers under section 2935.03 of the Revised Code 7525
to keep the peace, to enforce all laws and rules governing those 7526
lands and waters, and to make arrests for violation of those laws 7527
and rules, provided that ~~such~~ the authority shall be exercised on 7528
lands or waters administered by another division of the department 7529
only pursuant to an agreement with the chief of that division or 7530
to a request for assistance by an enforcement officer of that 7531
division in an emergency. The jurisdiction of state watercraft 7532
officers shall be concurrent with that of the peace officers of 7533
the county, township, or municipal corporation in which the 7534
violation occurs. 7535

(4) ~~May, for~~ For the purpose of enforcing the laws and rules 7536
~~which~~ that they have the authority to enforce, may stop, board, 7537
and conduct a safety inspection of any vessel; 7538

(5) May serve and execute any citation, summons, warrant, or 7539
other process issued with respect to any law that they have the 7540
authority to enforce. 7541

(B) A state watercraft officer may render assistance to a 7542
state or local law enforcement officer at the request of that 7543
officer or may render assistance to a state or local law 7544
enforcement officer in the event of an emergency. 7545

~~Watercraft~~ State watercraft officers serving outside the 7546
division of watercraft under this section or serving under the 7547
terms of a mutual aid compact authorized under section 1501.02 of 7548
the Revised Code shall be considered as performing services within 7549
their regular employment for the purposes of compensation, pension 7550
or indemnity fund rights, workers' compensation, and other rights 7551
or benefits to which they may be entitled as incidents of their 7552
regular employment. 7553

~~Watercraft~~ State watercraft officers serving outside the 7554

division of watercraft under this section or under a mutual aid 7555
compact retain personal immunity from civil liability as specified 7556
in section 9.86 of the Revised Code and shall not be considered an 7557
employee of a political subdivision for purposes of Chapter 2744. 7558
of the Revised Code. A political subdivision that uses state 7559
watercraft officers under this section or under the terms of a 7560
mutual aid compact authorized under section 1501.02 of the Revised 7561
Code is not subject to civil liability under Chapter 2744. of the 7562
Revised Code as the result of any action or omission of any state 7563
watercraft officer acting under this section or under a mutual aid 7564
compact. 7565

Sec. 1547.57. When the chief of the division of watercraft 7566
issues a registration certificate under section 1547.54 of the 7567
Revised Code, ~~he~~ the chief also shall issue to the applicant two 7568
tags not larger than three inches square, color coded, indicating 7569
the expiration date of the certificate. The owner of watercraft 7570
currently documented by the United States coast guard and for 7571
which a registration certificate is issued shall securely affix 7572
one tag to the watercraft's port side and the other tag to the 7573
starboard side, so that the tags are clearly visible under normal 7574
operating conditions. The tags shall be removed from the 7575
watercraft when they become invalid. The owner of any other 7576
watercraft for which a registration certificate is issued shall 7577
securely affix one tag to the watercraft's port side, six inches 7578
toward the stern from the identification number, and the other tag 7579
to the starboard side, six inches toward the stern from the 7580
identification number. The tags shall be securely affixed to the 7581
watercraft prior to its operation, but shall be removed from the 7582
watercraft when they become invalid. A person may operate without 7583
a registration certificate, for a period not to exceed thirty 7584
days, any watercraft required to be titled on the waters in this 7585
state, if ~~he~~ the person has in ~~his~~ the person's possession on the 7586

watercraft a dealer's dated bill of sale or, in the case of a 7587
casual sale, a notarized bill of sale. 7588

The owner of every watercraft requiring numbering by this 7589
state shall attach to each side of the bow of the watercraft the 7590
permanent identification number in such manner as may be 7591
prescribed by applicable federal standards in order that it shall 7592
be clearly visible. The number shall be maintained in a legible 7593
condition at all times. No number other than the number assigned 7594
to a watercraft or granted by reciprocity pursuant to this chapter 7595
shall be painted, attached, or otherwise displayed on either side 7596
of the bow of the watercraft. 7597

No person shall operate or permit to be operated any 7598
watercraft on the waters in this state in violation of this 7599
section. 7600

Sec. 1547.69. (A) As used in this section: 7601

(1) "Firearm" has the same meaning as in section 2923.11 of 7602
the Revised Code. 7603

(2) "Unloaded" has the same meaning as in section 2923.16 of 7604
the Revised Code. 7605

(B) No person shall knowingly discharge a firearm while in or 7606
on a vessel. 7607

(C) No person shall knowingly transport or have a loaded 7608
firearm in a vessel, in such a manner that the firearm is 7609
accessible to the operator or any passenger. 7610

(D) No person shall knowingly transport or have a firearm in 7611
a vessel, unless it is unloaded and is carried in one of the 7612
following ways: 7613

(1) In a closed package, box, or case; 7614

(2) In plain sight with the action opened or the weapon 7615

stripped~~;~~ or, if the firearm is of a type on which the action
will not stay open or ~~which~~ that cannot easily be stripped, in
plain sight.

(E) The affirmative ~~defense~~ defenses contained in divisions
(C)(1) and (2) of section 2923.12 of the Revised Code are
affirmative defenses to a charge under division (C) or (D) of this
section.

(F) Divisions (B), (C), and (D) of this section do not apply
to the possession or discharge of a United States coast guard
approved signaling device required to be carried aboard a vessel
under section 1547.251 of the Revised Code when the signaling
device is possessed or used for the purpose of giving a visual
distress signal. No person shall knowingly transport or possess
any such signaling device in or on a vessel in a loaded condition
at any time other than immediately prior to the discharge of the
signaling device for the purpose of giving a visual distress
signal.

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

(H) This section does not apply to officers, agents, or
employees of this or any other state or of the United States or to
law enforcement officers when authorized to carry or have loaded
or accessible firearms in a vessel and acting within the scope of
their duties, nor to persons legally engaged in hunting.

Sec. 1548.01. (A) As used in this chapter, "watercraft" ~~means~~
~~any of the following when used or capable of being used as a means~~
~~of transportation on the water:~~

~~(1) A boat operated by machinery either permanently or
temporarily affixed;~~

~~(2) A sailboat other than a sailboard;~~

~~(3) An inflatable, manually propelled boat having a hull identification number meeting the requirements of the United States coast guard.~~

~~"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code has the same meaning as in section 1547.01 Of the Revised Code.~~

(B) This chapter does not apply to any of the following:

(1) A watercraft covered by a marine document in effect that has been assigned to it by the United States government pursuant to federal law;

(2) A watercraft from a country other than the United States temporarily using the waters in this state;

(3) A watercraft whose owner is the United States, a state, or a political subdivision thereof;

(4) A ship's lifeboat. As used in division (B)(4) of this section, "lifeboat" means a watercraft that is held aboard another vessel and used exclusively for emergency purposes.

~~(5) A canoe, kayak, or rowboat;~~

(6) ~~Watercraft~~ A watercraft less than fourteen feet in length without a permanently affixed mechanical means of propulsion;

(7) Outboard motors of less than ten horsepower as determined by the manufacturer's rating.

(C) The various certificates, applications, and assignments necessary to provide certificates of title for watercraft and outboard motors shall be made on appropriate forms approved by the chief of the division of watercraft.

Sec. 1548.05. No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new watercraft or

outboard motor to a dealer to be used by the dealer for purposes 7675
of display and resale without delivering to the dealer a 7676
manufacturer's or importer's certificate executed in accordance 7677
with this section, and with such assignments ~~thereon~~ on it as are 7678
necessary to show title in the name of the purchaser. No dealer 7679
shall purchase or acquire a new watercraft or outboard motor 7680
without obtaining from the seller the manufacturer's or importer's 7681
certificate. 7682

A manufacturer's or importer's certificate of the origin of a 7683
watercraft or outboard motor shall contain the following 7684
information, in such form and together with such further 7685
information as the chief of the division of watercraft may 7686
require: 7687

(A) Description of the watercraft, including the make, year, 7688
length, series or model, if any, body type, hull identification 7689
number or serial number, and make, manufacturer's serial number, 7690
and horsepower of any inboard motor or motors; or description of 7691
the outboard motor, including the make, year, series or model, if 7692
any, manufacturer's serial number, and horsepower; 7693

(B) Certification of the date of transfer of the watercraft 7694
or outboard motor to a distributor or dealer or other transferee, 7695
and the name and address of the transferee; 7696

(C) Certification that this was the first transfer of the new 7697
watercraft or outboard motor in ordinary trade and commerce; 7698

(D) Signature and address of a representative of the 7699
transferor. 7700

An assignment of a manufacturer's or importer's certificate 7701
before a notary public or other officer empowered to administer 7702
oaths shall be printed on the reverse side of the manufacturer's 7703
or importer's certificate in the form to be prescribed by the 7704

chief. The assignment form shall include the name and address of 7705
the transferee, a certification that the watercraft or outboard 7706
motor is new, and a warranty that the title at the time of 7707
delivery is subject only to such liens and encumbrances as are set 7708
forth and described in full in the assignment. 7709

Sec. 1548.06. Application for a certificate of title for a 7710
watercraft or outboard motor shall be made upon a form prescribed 7711
by the chief of the division of watercraft and shall be sworn to 7712
before a notary public or other officer empowered to administer 7713
oaths. The application shall be filed with the clerk of the court 7714
of common pleas of the county in which the applicant resides if 7715
the applicant is a resident of this state or, if not a resident, 7716
in the county in which the transaction is consummated. The 7717
application shall be accompanied by the fee prescribed in section 7718
1548.10 of the Revised Code, and if a certificate of title 7719
previously has been issued for the watercraft or outboard motor, 7720
it shall be accompanied by the certificate of title duly assigned 7721
unless otherwise provided in this chapter. If a certificate of 7722
title previously has not been issued for the watercraft or 7723
outboard motor in this state, the application, unless otherwise 7724
provided in this chapter, shall be accompanied by a manufacturer's 7725
or importer's certificate 7i by a sworn statement of ownership if 7726
the watercraft or outboard motor was purchased by the applicant on 7727
or before October 9, 1963, or if the watercraft is less than 7728
fourteen feet long with a permanently affixed mechanical means of 7729
propulsion and was purchased by the applicant on or before January 7730
1, 2000; or by a certificate of title, bill of sale, or other 7731
evidence of ownership required by the law of another state from 7732
which the watercraft or outboard motor was brought into this 7733
state. Evidence of ownership of a watercraft or outboard motor for 7734
which an Ohio certificate of title previously has not been issued 7735
and which watercraft or outboard motor does not have permanently 7736

affixed thereto a manufacturer's serial number shall be 7737
accompanied by the certificate of assignment of a hull 7738
identification number assigned by the chief as provided in section 7739
1548.07 of the Revised Code. ~~The~~ 7740

The clerk shall retain the evidence of title presented by the 7741
applicant and on which the certificate of title is issued. The 7742
clerk shall use reasonable diligence in ascertaining whether the 7743
facts in the application are true by checking the application and 7744
documents accompanying it with the records of watercraft and 7745
outboard motors in ~~his~~ the clerk's office. If satisfied that the 7746
applicant is the owner of the watercraft or outboard motor and 7747
that the application is in the proper form, the clerk shall issue 7748
a certificate of title over ~~his~~ the clerk's signature and sealed 7749
with ~~his~~ the clerk's seal. However, if the evidence indicates and 7750
an investigation shows that one or more Ohio titles already exist 7751
for the watercraft or outboard motor, the chief may cause the 7752
redundant title or titles to be canceled. 7753

In the case of the sale of a watercraft or outboard motor by 7754
a vendor to a general purchaser or user, the certificate of title 7755
shall be obtained in the name of the purchaser by the vendor upon 7756
application signed by the purchaser. In all other cases the 7757
certificate shall be obtained by the purchaser. In all cases of 7758
transfer of watercraft or outboard motors, the application for 7759
certificate of title shall be filed within thirty days after the 7760
later of the date of purchase or assignment of ownership of the 7761
watercraft or outboard motor. If the application for certificate 7762
of title is not filed within thirty days after the later of the 7763
date of purchase or assignment of ownership of the watercraft or 7764
outboard motor, the clerk shall charge a late penalty fee of five 7765
dollars in addition to the fee prescribed by section 1548.10 of 7766
the Revised Code. The clerk shall retain the entire amount of each 7767
late penalty fee. 7768

The clerk shall refuse to accept an application for 7769
certificate of title unless the applicant either tenders with the 7770
application payment of all taxes levied by or pursuant to Chapter 7771
5739. or 5741. of the Revised Code, less, in the case of a sale by 7772
a vendor, any discount to which the vendor is entitled under 7773
section 5739.12 of the Revised Code, or submits any of the 7774
following: 7775

(A) A receipt issued by the tax commissioner or a clerk of 7776
courts showing payment of the tax; 7777

(B) A copy of the unit certificate of exemption completed by 7778
the purchaser at the time of sale, as provided in section 5739.03 7779
of the Revised Code; 7780

(C) An exemption certificate, in a form prescribed by the tax 7781
commissioner, that specifies why the purchase is not subject to 7782
the tax imposed by Chapter 5739. or 5741. of the Revised Code. 7783

Payment of the tax shall be in accordance with rules issued 7784
by the tax commissioner, and the clerk shall issue a receipt in 7785
the form prescribed by the tax commissioner to any applicant who 7786
tenders payment of the tax with the application for registration 7787
of title. 7788

For receiving and disbursing the taxes paid to the clerk, the 7789
clerk may retain a poundage fee of one per cent of the taxes 7790
collected, which shall be paid into the general fund of the 7791
county. In the case of casual sales of watercraft or outboard 7792
motors that are subject to the tax imposed by Chapter 5739. or 7793
5741. of the Revised Code, the purchase price for the purpose of 7794
determining the tax shall be the purchase price on an affidavit 7795
executed and filed with the clerk by the vendor on a form to be 7796
prescribed by the chief ~~of the division of watercraft~~, which shall 7797
be prima-facie evidence of the price for the determination of the 7798
tax. In addition to the information required by section 1548.08 of 7799

the Revised Code, each certificate of title shall contain in bold 7800
lettering the following notification and statements: "WARNING TO 7801
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER). You are required by 7802
law to state the true selling price. A false statement is a 7803
violation of section 2921.13 of the Revised Code and is punishable 7804
by six months imprisonment or a fine of up to one thousand 7805
dollars, or both. All transfers are audited by the department of 7806
taxation. The seller and buyer must provide any information 7807
requested by the department of taxation. The buyer may be assessed 7808
any additional tax found to be due." 7809

The clerk shall forward all payments of taxes, less poundage 7810
fees, to the treasurer of state in a manner to be prescribed by 7811
the tax commissioner and shall furnish such information to the 7812
commissioner as the commissioner may require. For purposes of a 7813
transfer of a certificate of title, if the clerk is satisfied that 7814
a secured party has discharged a lien, but has not canceled the 7815
lien notation with the clerk of the county of origin, ~~he~~ the clerk 7816
may cancel the lien notation on the automated title processing 7817
system and notify the clerk of the county of origin. 7818

Sec. 2935.01. As used in this chapter: 7819

(A) "Magistrate" has the same meaning as in section 2931.01 7820
of the Revised Code. 7821

(B) "Peace officer" includes, except as provided in section 7822
2935.081 of the Revised Code, a sheriff_{7i} deputy sheriff_{7i} 7823
marshal_{7i} deputy marshal_{7i} member of the organized police 7824
department of any municipal corporation, including a member of the 7825
organized police department of a municipal corporation in an 7826
adjoining state serving in Ohio under a contract pursuant to 7827
section 737.04 of the Revised Code_{7i} member of a police force 7828
employed by a metropolitan housing authority under division (D) of 7829
section 3735.31 of the Revised Code_{7i} member of a police force 7830

employed by a regional transit authority under division (Y) of 7831
section 306.05 of the Revised Code; state university law 7832
enforcement officer appointed under section 3345.04 of the Revised 7833
Code; liquor control investigator or food stamp trafficking agent 7834
of the department of public safety; employee of the department of 7835
natural resources who is a forest officer designated pursuant to 7836
section 1503.29, a preserve officer designated pursuant to section 7837
1517.10, a wildlife officer designated pursuant to section 7838
1531.13, a park officer designated pursuant to section 1541.10, or 7839
a state watercraft officer designated pursuant to section 1547.521 7840
of the Revised Code; Ohio veterans' home policeman police officer 7841
appointed under section 5907.02 of the Revised Code; police 7842
constable of any township; and police officer of a township or 7843
joint township police district; and, for the purpose of arrests 7844
within those areas, and for the purposes of Chapter 5503. of the 7845
Revised Code, and the filing of and service of process relating to 7846
those offenses witnessed or investigated by them, includes the 7847
superintendent and troopers of the state highway patrol. 7848

(C) "Prosecutor" includes the county prosecuting attorney; 7849
and any assistant prosecutor designated to assist the county 7850
prosecuting attorney, and, in the case of courts inferior to 7851
courts of common pleas, includes the village solicitor, city 7852
director of law, or similar chief legal officer of a municipal 7853
corporation, any such officer's assistants, or any attorney 7854
designated by the prosecuting attorney of the county to appear for 7855
the prosecution of a given case. 7856

(D) "Offense," except where the context specifically 7857
indicates otherwise, includes felonies, misdemeanors, and 7858
violations of ordinances of municipal corporations and other 7859
public bodies authorized by law to adopt penal regulations. 7860

Sec. 2935.03. (A) A sheriff, deputy sheriff, marshal, deputy 7861

marshal, municipal police officer, township constable, police 7862
officer of a township or joint township police district, member of 7863
a police force employed by a metropolitan housing authority under 7864
division (D) of section 3735.31 of the Revised Code, member of a 7865
police force employed by a regional transit authority under 7866
division (Y) of section 306.35 of the Revised Code, state 7867
university law enforcement officer appointed under section 3345.04 7868
of the Revised Code, ~~or~~ Ohio veterans' home police officer 7869
appointed under section 5907.02 of the Revised Code, or peace 7870
officer of the department of natural resources shall arrest and 7871
detain, until a warrant can be obtained, a person found violating, 7872
within the limits of the political subdivision, metropolitan 7873
housing authority housing project, regional transit authority 7874
facilities or areas of a municipal corporation that have been 7875
agreed to by a regional transit authority and a municipal 7876
corporation located within its territorial jurisdiction, college, 7877
university, ~~or~~ Ohio veterans' home, or lands and waters of the 7878
department of natural resources in which the peace officer is 7879
appointed, employed, or elected, a law of this state, an ordinance 7880
of a municipal corporation, or a resolution of a township. 7881

(B)(1) When there is reasonable ground to believe that an 7882
offense of violence, the offense of criminal child enticement as 7883
defined in section 2905.05 of the Revised Code, the offense of 7884
public indecency as defined in section 2907.09 of the Revised 7885
Code, the offense of domestic violence as defined in section 7886
2919.25 of the Revised Code, the offense of violating a protection 7887
order as defined in section 2919.27 of the Revised Code, the 7888
offense of menacing by stalking as defined in section 2903.211 of 7889
the Revised Code, the offense of aggravated trespass as defined in 7890
section 2911.211 of the Revised Code, a theft offense as defined 7891
in section 2913.01 of the Revised Code, or a felony drug abuse 7892
offense as defined in section 2925.01 of the Revised Code, has 7893

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been committed within the limits of the political subdivision,
metropolitan housing authority housing project, regional transit
authority facilities or those areas of a municipal corporation
that have been agreed to by a regional transit authority and a
municipal corporation located within its territorial jurisdiction,
college, university, ~~or~~ Ohio veterans' home, or lands and waters
of the department of natural resources in which the peace officer
is appointed, employed, or elected, a peace officer described in
division (A)~~(1)~~ of this section may arrest and detain until a
warrant can be obtained any person ~~whom~~ who the peace officer has
reasonable cause to believe is guilty of the violation.

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(2) For purposes of division (B)(1) of this section, the
execution of any of the following constitutes reasonable ground to
believe that the offense alleged in the statement was committed
and reasonable cause to believe that the person alleged in the
statement to have committed the offense is guilty of the
violation:

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(a) A written statement by a person alleging that an alleged
offender has committed the offense of menacing by stalking or
aggravated trespass;

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(b) A written statement by the administrator of the
interstate compact on mental health appointed under section
5119.51 of the Revised Code alleging that a person who had been
hospitalized, institutionalized, or confined in any facility under
an order made pursuant to or under authority of section 2945.37,
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the
Revised Code has escaped from the facility, from confinement in a
vehicle for transportation to or from the facility, or from
supervision by an employee of the facility that is incidental to
hospitalization, institutionalization, or confinement in the
facility and that occurs outside of the facility, in violation of
section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility 7926
in which a person has been hospitalized, institutionalized, or 7927
confined under an order made pursuant to or under authority of 7928
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 7929
2945.402 of the Revised Code alleging that the person has escaped 7930
from the facility, from confinement in a vehicle for 7931
transportation to or from the facility, or from supervision by an 7932
employee of the facility that is incidental to hospitalization, 7933
institutionalization, or confinement in the facility and that 7934
occurs outside of the facility, in violation of section 2921.34 of 7935
the Revised Code. 7936

(3)(a) For purposes of division (B)(1) of this section, a 7937
peace officer described in ~~that~~ division (A) of this section has 7938
reasonable grounds to believe that the offense of domestic 7939
violence or the offense of violating a protection order has been 7940
committed and reasonable cause to believe that a particular person 7941
is guilty of committing the offense if any of the following 7942
occurs: 7943

(i) A person executes a written statement alleging that the 7944
person in question has committed the offense of domestic violence 7945
or the offense of violating a protection order against the person 7946
who executes the statement or against a child of the person who 7947
executes the statement. 7948

(ii) No written statement of the type described in division 7949
(B)(3)(a)(i) of this section is executed, but the peace officer, 7950
based upon the peace officer's own knowledge and observation of 7951
the facts and circumstances of the alleged incident of the offense 7952
of domestic violence or the alleged incident of the offense of 7953
violating a protection order or based upon any other information, 7954
including, but not limited to, any reasonably trustworthy 7955
information given to the peace officer by the alleged victim of 7956
the alleged incident of the offense or any witness of the alleged 7957

incident of the offense, concludes that there are reasonable
grounds to believe that the offense of domestic violence or the
offense of violating a protection order has been committed and
reasonable cause to believe that the person in question is guilty
of committing the offense.

(iii) No written statement of the type described in division
(B)(3)(a)(i) of this section is executed, but the peace officer
witnessed the person in question commit the offense of domestic
violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace
officer has reasonable grounds to believe that the offense of
domestic violence or the offense of violating a protection order
has been committed and reasonable cause to believe that a
particular person is guilty of committing the offense, it is the
preferred course of action in this state that the officer arrest
and detain that person pursuant to division (B)(1) of this section
until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace
officer has reasonable grounds to believe that the offense of
domestic violence or the offense of violating a protection order
has been committed and reasonable cause to believe that family or
household members have committed the offense against each other,
it is the preferred course of action in this state that the
officer, pursuant to division (B)(1) of this section, arrest and
detain until a warrant can be obtained the family or household
member who committed the offense and whom the officer has
reasonable cause to believe is the primary physical aggressor.
There is no preferred course of action in this state regarding any
other family or household member who committed the offense and
whom the officer does not have reasonable cause to believe is the
primary physical aggressor, but, pursuant to division (B)(1) of
this section, the peace officer may arrest and detain until a

warrant can be obtained any other family or household member who 7990
committed the offense and whom the officer does not have 7991
reasonable cause to believe is the primary physical aggressor. 7992

(c) If a peace officer described in division ~~(B)(1)~~(A) of 7993
this section does not arrest and detain a person whom the officer 7994
has reasonable cause to believe committed the offense of domestic 7995
violence or the offense of violating a protection order when it is 7996
the preferred course of action in this state pursuant to division 7997
(B)(3)(b) of this section that the officer arrest that person, the 7998
officer shall articulate in the written report of the incident 7999
required by section 2935.032 of the Revised Code a clear statement 8000
of the officer's reasons for not arresting and detaining that 8001
person until a warrant can be obtained. 8002

(d) In determining for purposes of division (B)(3)(b) of this 8003
section which family or household member is the primary physical 8004
aggressor in a situation in which family or household members have 8005
committed the offense of domestic violence or the offense of 8006
violating a protection order against each other, a peace officer 8007
described in division ~~(B)(1)~~(A) of this section, in addition to 8008
any other relevant circumstances, should consider all of the 8009
following: 8010

(i) Any history of domestic violence or of any other violent 8011
acts by either person involved in the alleged offense that the 8012
officer reasonably can ascertain; 8013

(ii) If violence is alleged, whether the alleged violence was 8014
caused by a person acting in self-defense; 8015

(iii) Each person's fear of physical harm, if any, resulting 8016
from the other person's threatened use of force against any person 8017
or resulting from the other person's use or history of the use of 8018
force against any person, and the reasonableness of that fear; 8019

(iv) The comparative severity of any injuries suffered by the 8020

persons involved in the alleged offense. 8021

(e)(i) A peace officer described in division ~~(B)(1)~~(A) of 8022
this section shall not require, as a prerequisite to arresting or 8023
charging a person who has committed the offense of domestic 8024
violence or the offense of violating a protection order, that the 8025
victim of the offense specifically consent to the filing of 8026
charges against the person who has committed the offense or sign a 8027
complaint against the person who has committed the offense. 8028

(ii) If a person is arrested for or charged with committing 8029
the offense of domestic violence or the offense of violating a 8030
protection order and if the victim of the offense does not 8031
cooperate with the involved law enforcement or prosecuting 8032
authorities in the prosecution of the offense or, subsequent to 8033
the arrest or the filing of the charges, informs the involved law 8034
enforcement or prosecuting authorities that the victim does not 8035
wish the prosecution of the offense to continue or wishes to drop 8036
charges against the alleged offender relative to the offense, the 8037
involved prosecuting authorities, in determining whether to 8038
continue with the prosecution of the offense or whether to dismiss 8039
charges against the alleged offender relative to the offense and 8040
notwithstanding the victim's failure to cooperate or the victim's 8041
wishes, shall consider all facts and circumstances that are 8042
relevant to the offense, including, but not limited to, the 8043
statements and observations of the peace officers who responded to 8044
the incident that resulted in the arrest or filing of the charges 8045
and of all witnesses to that incident. 8046

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 8047
this section whether to arrest a person pursuant to division 8048
(B)(1) of this section, a peace officer described in division 8049
~~(B)(1)~~(A) of this section shall not consider as a factor any 8050
possible shortage of cell space at the detention facility to which 8051
the person will be taken subsequent to the person's arrest or any 8052

possibility that the person's arrest might cause, contribute to, 8053
or exacerbate overcrowding at that detention facility or at any 8054
other detention facility. 8055

(g) If a peace officer described in division ~~(B)(1)~~(A) of 8056
this section intends pursuant to divisions (B)(3)(a) to (g) of 8057
this section to arrest a person pursuant to division (B)(1) of 8058
this section and if the officer is unable to do so because the 8059
person is not present, the officer promptly shall seek a warrant 8060
for the arrest of the person. 8061

(h) If a peace officer described in division ~~(B)(1)~~(A) of 8062
this section responds to a report of an alleged incident of the 8063
offense of domestic violence or an alleged incident of the offense 8064
of violating a protection order and if the circumstances of the 8065
incident involved the use or threatened use of a deadly weapon or 8066
any person involved in the incident brandished a deadly weapon 8067
during or in relation to the incident, the deadly weapon that was 8068
used, threatened to be used, or brandished constitutes contraband, 8069
and, to the extent possible, the officer shall seize the deadly 8070
weapon as contraband pursuant to section 2933.43 of the Revised 8071
Code. Upon the seizure of a deadly weapon pursuant to ~~this~~ 8072
division (B)(3)(h) of this section, section 2933.43 of the Revised 8073
Code shall apply regarding the treatment and disposition of the 8074
deadly weapon. For purposes of that section, the "underlying 8075
criminal offense" that was the basis of the seizure of a deadly 8076
weapon under ~~this~~ division (B)(3)(h) of this section and to which 8077
the deadly weapon had a relationship is any of the following that 8078
is applicable: 8079

(i) The alleged incident of the offense of domestic violence 8080
or the alleged incident of the offense of violating a protection 8081
order to which the officer who seized the deadly weapon responded; 8082

(ii) Any offense that arose out of the same facts and 8083
circumstances as the report of the alleged incident of the offense 8084

of domestic violence or the alleged incident of the offense of 8085
violating a protection order to which the officer who seized the 8086
deadly weapon responded. 8087

(4) If, in the circumstances described in divisions (B)(3)(a) 8088
to (g) of this section, a peace officer described in division 8089
~~(B)(1)(A)~~ of this section arrests and detains a person pursuant to 8090
division (B)(1) of this section, or if, pursuant to division 8091
(B)(3)(h) of this section, a peace officer described in division 8092
~~(B)(1)(A)~~ of this section seizes a deadly weapon, the officer, to 8093
the extent described in and in accordance with section 9.86 or 8094
2744.03 of the Revised Code, is immune in any civil action for 8095
damages for injury, death, or loss to person or property that 8096
arises from or is related to the arrest and detention or the 8097
seizure. 8098

(C) When there is reasonable ground to believe that a 8099
violation of division (A), (B), or (C) of section 4506.15 or a 8100
violation of section 4511.19 of the Revised Code has been 8101
committed by a person operating a motor vehicle subject to 8102
regulation by the public utilities commission of Ohio under Title 8103
XLIX of the Revised Code, a peace officer with authority to 8104
enforce that provision of law may stop or detain the person whom 8105
the officer has reasonable cause to believe was operating the 8106
motor vehicle in violation of the division or section and, after 8107
investigating the circumstances surrounding the operation of the 8108
vehicle, may arrest and detain the person. 8109

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 8110
municipal police officer, member of a police force employed by a 8111
metropolitan housing authority under division (D) of section 8112
3735.31 of the Revised Code, member of a police force employed by 8113
a regional transit authority under division (Y) of section 306.35 8114
of the Revised Code, township constable, police officer of a 8115
township or joint township police district, ~~or~~ state university 8116

law enforcement officer appointed under section 3345.04 of the Revised Code, or peace officer of the department of natural resources is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, ~~or~~ university, or lands and waters of the department of natural resources in which the officer is appointed, employed, or elected, a person until a warrant can be obtained, the peace officer ~~may~~, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed~~;~~

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, ~~or~~ university, or lands and waters of the department of natural resources in which the peace officer is appointed, employed, or elected~~;~~

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to division (G) of section 4507.021 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until 8149
a warrant can be obtained, any person found violating section 8150
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 8151
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 8152
portion of any street or highway that is located immediately 8153
adjacent to the boundaries of the county in which the sheriff or 8154
deputy sheriff is elected or appointed. 8155

(2) A member of the police force of a township police 8156
district created under section 505.48 of the Revised Code, a 8157
member of the police force of a joint township police district 8158
created under section 505.481 of the Revised Code, ~~and~~ or a 8159
township constable appointed in accordance with section 509.01 of 8160
the Revised Code, who has received a certificate from the Ohio 8161
peace officer training commission under section 109.75 of the 8162
Revised Code, may arrest and detain, until a warrant can be 8163
obtained, any person found violating any section or chapter of the 8164
Revised Code listed in division (E)(1) of this section, other than 8165
sections 4513.33 and 4513.34 of the Revised Code, on the portion 8166
of any street or highway that is located immediately adjacent to 8167
the boundaries of the township police district or joint township 8168
police district, in the case of a member of a township police 8169
district or joint township police district police force, or the 8170
unincorporated territory of the township, in the case of a 8171
township constable. However, if the population of the township 8172
that created the township police district served by the member's 8173
police force, or the townships that created the joint township 8174
police district served by the member's police force, or the 8175
township that is served by the township constable, is sixty 8176
thousand or less, the member of the township police district or 8177
joint police district police force or the township constable may 8178
not make an arrest under ~~this~~ division (E)(2) of this section on a 8179
state highway that is included as part of the interstate system. 8180

(3) A police officer or village marshal appointed, elected, 8181
or employed by a municipal corporation may arrest and detain, 8182
until a warrant can be obtained, any person found violating any 8183
section or chapter of the Revised Code listed in division (E)(1) 8184
of this section on the portion of any street or highway that is 8185
located immediately adjacent to the boundaries of the municipal 8186
corporation in which the police officer or village marshal is 8187
appointed, elected, or employed. 8188

(F)(1) A department of mental health special police officer 8189
or a department of mental retardation and developmental 8190
disabilities special police officer may arrest without a warrant 8191
and detain until a warrant can be obtained any person found 8192
committing on the premises of any institution under the 8193
jurisdiction of the particular department a misdemeanor under a 8194
law of the state. 8195

A department of mental health special police officer or a 8196
department of mental retardation and developmental disabilities 8197
special police officer may arrest without a warrant and detain 8198
until a warrant can be obtained any person who has been 8199
hospitalized, institutionalized, or confined in an institution 8200
under the jurisdiction of the particular department pursuant to or 8201
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 8202
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 8203
found committing on the premises of any institution under the 8204
jurisdiction of the particular department a violation of section 8205
2921.34 of the Revised Code that involves an escape from the 8206
premises of the institution. 8207

(2)(a) If a department of mental health special police 8208
officer or a department of mental retardation and developmental 8209
disabilities special police officer finds any person who has been 8210
hospitalized, institutionalized, or confined in an institution 8211
under the jurisdiction of the particular department pursuant to or 8212

under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 8213
2945.40, 2945.401, or 2945.402 of the Revised Code committing a 8214
violation of section 2921.34 of the Revised Code that involves an 8215
escape from the premises of the institution, or if there is 8216
reasonable ground to believe that a violation of section 2921.34 8217
of the Revised Code has been committed that involves an escape 8218
from the premises of an institution under the jurisdiction of the 8219
department of mental health or the department of mental 8220
retardation and developmental disabilities and if a department of 8221
mental health special police officer or a department of mental 8222
retardation and developmental disabilities special police officer 8223
has reasonable cause to believe that a particular person who has 8224
been hospitalized, institutionalized, or confined in the 8225
institution pursuant to or under authority of section 2945.37, 8226
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 8227
Revised Code is guilty of the violation, the special police 8228
officer, outside of the premises of the institution, may pursue, 8229
arrest, and detain that person for that violation of section 8230
2921.34 of the Revised Code, until a warrant can be obtained, if 8231
both of the following apply: 8232

(i) The pursuit takes place without unreasonable delay after 8233
the offense is committed-; 8234

(ii) The pursuit is initiated within the premises of the 8235
institution from which the violation of section 2921.34 of the 8236
Revised Code occurred. 8237

(b) For purposes of division (F)(2)(a) of this section, the 8238
execution of a written statement by the administrator of the 8239
institution in which a person had been hospitalized, 8240
institutionalized, or confined pursuant to or under authority of 8241
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 8242
2945.402 of the Revised Code alleging that the person has escaped 8243
from the premises of the institution in violation of section 8244

2921.34 of the Revised Code constitutes reasonable ground to 8245
believe that the violation was committed and reasonable cause to 8246
believe that the person alleged in the statement to have committed 8247
the offense is guilty of the violation. 8248

(G) As used in this section: 8249

(1) A "department of mental health special police officer" 8250
means a special police officer of the department of mental health 8251
designated under section 5119.14 of the Revised Code who is 8252
certified by the Ohio peace officer training commission under 8253
section 109.77 of the Revised Code as having successfully 8254
completed an approved peace officer basic training program. 8255

(2) A "department of mental retardation and developmental 8256
disabilities special police officer" means a special police 8257
officer of the department of mental retardation and developmental 8258
disabilities designated under section 5123.13 of the Revised Code 8259
who is certified by the Ohio peace officer training council under 8260
section 109.77 of the Revised Code as having successfully 8261
completed an approved peace officer basic training program. 8262

(3) "Deadly weapon" has the same meaning as in section 8263
2923.11 of the Revised Code. 8264

(4) "Family or household member" has the same meaning as in 8265
section 2919.25 of the Revised Code. 8266

(5) "Street" or "highway" has the same meaning as in section 8267
4511.01 of the Revised Code. 8268

(6) "Interstate system" has the same meaning as in section 8269
5516.01 of the Revised Code. 8270

(7) "Department of natural resources peace officer" means an 8271
employee of the department of natural resources who is a forest 8272
officer designated pursuant to section 1503.29, a preserve officer 8273
designated pursuant to section 1517.10, a wildlife officer 8274

designated pursuant to section 1531.13, a park officer designated 8275
pursuant to section 1541.10, or a state watercraft officer 8276
designated pursuant to section 1547.521 of the Revised Code. 8277

(8) "Lands and waters of the department of natural resources" 8278
means lands and waters owned, controlled, maintained, or 8279
administered by the department of natural resources and any other 8280
areas specified in section 1503.29, 1517.10, 1531.13, 1541.10, or 8281
1547.521 of the Revised Code over which a department of natural 8282
resources peace officer may exercise authority. 8283

Sec. 3937.42. (A) The chief or head law enforcement officer 8284
of any federal, state, or local law enforcement agency or a 8285
prosecuting attorney of any county may request any insurance 8286
company, or agent authorized by the company to act on its behalf, 8287
that has investigated or is investigating a claim involving motor 8288
vehicle insurance or vessel insurance to release any information 8289
in its possession relevant to the claim. The company or agent 8290
shall release the information that is requested in writing by the 8291
law enforcement officer. 8292

(B) If an insurance company, or agent authorized by the 8293
company to act on its behalf, has reason to suspect that a loss 8294
involving a motor vehicle or vessel that is insured by the company 8295
is part of a fraudulent scheme to obtain control of ~~motor vehicle~~ 8296
insurance proceeds, the company or agent shall notify a law 8297
enforcement officer or a prosecuting attorney of any county having 8298
jurisdiction over the alleged fraud. 8299

(C) An insurance company, or agent authorized by the company 8300
to act on its behalf, shall release any information requested in 8301
writing pursuant to division (A) of this section and cooperate 8302
with the officer or a prosecuting attorney of any county 8303
authorized to request the information. The company or agent shall 8304
take such action as may be reasonably requested of it by the 8305

officer or a prosecuting attorney of any county and shall permit 8306
any other person ordered by a court to inspect any information 8307
that is specifically requested by the court. 8308

The information that may be requested pursuant to this 8309
section may include, but is not limited to, the following: 8310

(1) Any insurance policy relevant to the claim under 8311
investigation and any application for such a policy; 8312

(2) Policy premium payment records; 8313

(3) History of previous ~~motor vehicle~~ claims involving a 8314
motor vehicle or vessel made by the insured; 8315

(4) Material relating to the investigation of the claim, 8316
including statements of any person, proof of loss, and any other 8317
relevant evidence. 8318

(D) If the law enforcement officer or a prosecuting attorney 8319
of any county mentioned in division (A) of this section has 8320
received information pursuant to this section from an insurance 8321
company, or agent authorized by the company to act on its behalf, 8322
the officer or a prosecuting attorney of any county may release 8323
to, and share with, the insurance company or agent any information 8324
in ~~his~~ the officer's or prosecuting attorney's possession relative 8325
to the claim, upon the written request of the insurance company or 8326
agent. 8327

(E) In the absence of fraud, recklessness, or malice, no 8328
insurance company, or agent authorized by the company to act on 8329
its behalf, is liable for damages in any civil action, including 8330
any action brought pursuant to section 1347.10 of the Revised Code 8331
for any oral or written statement made or any other action taken 8332
that is necessary to supply information required pursuant to this 8333
section. 8334

(F) Except as otherwise provided in division (D) of this 8335

section, any officer or a prosecuting attorney of any county 8336
receiving any information furnished pursuant to this section shall 8337
hold the information in confidence and shall not disclose it to 8338
anyone except other law enforcement officers or agencies until its 8339
release is required pursuant to a criminal or civil proceeding. 8340

(G) Any officer or a prosecuting attorney of any county 8341
referred to in division (A) of this section may testify as to any 8342
information in ~~his~~ the officer's or prosecuting attorney's 8343
possession regarding the claim referred to in that division in any 8344
civil action in which any person seeks recovery under a policy 8345
against an insurance company. 8346

(H) As used in this section, ~~"motor vehicle"~~: 8347

(1) "Motor vehicle" has the same meaning as in section 8348
4501.01 of the Revised Code. 8349

(2) "Vessel" has the same meaning as in section 1547.01 Of 8350
the Revised Code. 8351

(I)(1) No person shall purposely refuse to release any 8352
information requested pursuant to this section by an officer or a 8353
prosecuting attorney of any county authorized by division (A) of 8354
this section to request the information. 8355

(2) No person shall purposely refuse to notify an appropriate 8356
law enforcement officer or a prosecuting attorney of any county of 8357
a loss required to be reported pursuant to division (B) of this 8358
section. 8359

(3) No person shall purposely fail to hold in confidence 8360
information required to be held in confidence by division (F) of 8361
this section. 8362

Sec. 4905.03. As used in this chapter: 8363

(A) Any person, firm, copartnership, voluntary association, 8364

joint-stock association, company, or corporation, wherever
organized or incorporated, is: 8365
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(1) A telegraph company, when engaged in the business of
transmitting telegraphic messages to, from, through, or in this
state; 8367
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(2) A telephone company, when engaged in the business of
transmitting telephonic messages to, from, through, or in this
state and as such is a common carrier; 8370
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8372

(3) A motor transportation company, when engaged in the
business of carrying and transporting persons or property or the
business of providing or furnishing such transportation service,
for hire, in or by motor-propelled vehicles of any kind, including
trailers, for the public in general, over any public street, road,
or highway in this state, except as provided in section 4921.02 of
the Revised Code; 8373
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(4) An electric light company, when engaged in the business
of supplying electricity for light, heat, or power purposes to
consumers within this state; 8380
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8382

(5) A gas company, when engaged in the business of supplying
artificial gas for lighting, power, or heating purposes to
consumers within this state or when engaged in the business of
supplying artificial gas to gas companies or to natural gas
companies within this state, but a producer engaged in supplying
to one or more gas or natural gas companies, only such ~~artificial~~
ARTIFICIAL gas as is manufactured by ~~such that~~ producer as a
by-product of some other process in which ~~such the~~ producer is
primarily engaged within this state is not thereby a gas company.
All rates, rentals, tolls, schedules, charges of any kind, or
agreements between any gas company and any other gas company or
any natural gas company providing for the supplying of artificial
gas and for compensation for the same, are subject to the 8383
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jurisdiction of the public utilities commission. 8396

(6) A natural gas company, when engaged in the business of 8397
supplying natural gas for lighting, power, or heating purposes to 8398
consumers within this state, ~~or when engaged in the business of~~ 8399
~~supplying natural gas to gas companies or to natural gas companies~~ 8400
~~within this state, but where a producer supplies to one or more~~ 8401
~~gas or natural gas companies only such gas as is produced by such~~ 8402
~~producer from wells drilled on land owned in fee by such producer~~ 8403
~~or where the principal use of such land by said producer is other~~ 8404
~~than the production of gas, within this state, such producer is~~ 8405
~~not thereby a natural gas company. All. Notwithstanding the above,~~ 8406
neither the delivery nor sale of Ohio produced natural gas by a 8407
producer or gatherer under a public utilities commission-ordered 8408
exemption, adopted before, as to producers, or after, as to 8409
producers or gatherers, the effective date of this amendment, or 8410
the delivery or sale of Ohio produced natural gas by a producer or 8411
gatherer of Ohio produced natural gas, either to a lessor under an 8412
oil and gas lease of the land on which the producer's drilling 8413
unit is located, or the grantor incident to a right-of-way or 8414
easement to the producer or gatherer, shall cause the producer or 8415
gatherer to be a natural gas company for the purposes of this 8416
section. 8417

All rates, rentals, tolls, schedules, charges of any kind, or 8418
agreements between a natural gas company and other natural gas 8419
companies or gas companies providing for the supply of natural gas 8420
and for compensation for the same, are subject to the jurisdiction 8421
of the public utilities commission. The commission ~~may~~, upon 8422
application made to it, may relieve any producer or gatherer of 8423
natural gas, defined in this section as a gas company or a natural 8424
gas company, of compliance with the obligations imposed by this 8425
chapter and Chapters 4901., 4903., ~~4905.,~~ 4907., 4909., 4921., and 8426
4923. of the Revised Code, so long as ~~such~~ the producer is not 8427

affiliated with or under the control of a gas company or a natural 8428
gas company engaged in the transportation or distribution of 8429
natural gas, or so long as ~~such~~ the producer does not engage in 8430
the distribution of natural gas to consumers. 8431

Nothing in division (A)(6) of this section limits the 8432
authority of the commission to enforce sections 4905.90 to 4905.96 8433
Of the Revised Code. 8434

(7) A pipe-line company, when engaged in the business of 8435
transporting natural gas, oil, or coal or its derivatives through 8436
pipes or tubing, either wholly or partly within this state; 8437

(8) A water-works company, when engaged in the business of 8438
supplying water through pipes or tubing, or in a similar manner, 8439
to consumers within this state; 8440

(9) A heating or cooling company, when engaged in the 8441
business of supplying water, steam, or air through pipes or tubing 8442
to consumers within this state for heating or cooling purposes; 8443

(10) A messenger company, when engaged in the business of 8444
supplying messengers for any purpose; 8445

(11) A street railway company, when engaged in the business 8446
of operating as a common carrier, a railway, wholly or partly 8447
within this state, with one or more tracks upon, along, above, or 8448
below any public road, street, alleyway, or ground, within any 8449
municipal corporation, operated by any motive power other than 8450
steam and not a part of an interurban railroad, whether ~~such~~ the 8451
railway is termed street, inclined-plane, elevated, or underground 8452
railway; 8453

(12) A suburban railroad company, when engaged in the 8454
business of operating as a common carrier, whether wholly or 8455
partially within this state, a part of a street railway 8456
constructed or extended beyond the limits of a municipal 8457
corporation, and not a part of an interurban railroad; 8458

(13) An interurban railroad company, when engaged in the 8459
business of operating a railroad, wholly or partially within this 8460
state, with one or more tracks from one municipal corporation or 8461
point in this state to another municipal corporation or point in 8462
this state, whether constructed upon the public highways or upon 8463
private rights_of_way, outside of municipal corporations, using 8464
electricity or other motive power than steam power for the 8465
transportation of passengers, packages, express matter, United 8466
States mail, baggage, and freight. Such an interurban railroad 8467
company is included in the term "railroad" as used in section 8468
4907.02 of the Revised Code. 8469

(14) A sewage disposal system company, when engaged in the 8470
business of sewage disposal services through pipes or tubing, and 8471
treatment works, or in a similar manner, within this state. 8472

(B) "Motor-propelled vehicle" means any automobile, 8473
automobile truck, motor bus, or any other self-propelled vehicle 8474
not operated or driven upon fixed rails or tracks. 8475

Nothing in this section shall be construed to mean that an 8476
electric light company operated not for profit, owned and operated 8477
exclusively by and solely for its customers, or owned or operated 8478
by a municipal corporation, is subject to sections 4905.66, 8479
4905.67, 4905.68, and 4905.69 of the Revised Code. 8480

Sec. 5749.02. (A) For the purpose of providing revenue to 8481
administer the state's coal mining and reclamation regulatory 8482
program, to meet the environmental and resource management needs 8483
of this state, and to reclaim land affected by mining, an excise 8484
tax is hereby levied on the privilege of engaging in the severance 8485
of natural resources from the soil or water of this state. The tax 8486
shall be imposed upon the severer and shall be: 8487

(1) Seven cents per ton of coal; 8488

(2) Four cents per ton of salt;	8489
(3) Two cents per ton of limestone or dolomite;	8490
(4) Two cents per ton of sand and gravel;	8491
(5) Ten cents per barrel of oil;	8492
(6) Two and one-half cents per thousand cubic feet of natural gas;	8493 8494
(7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite.	8495 8496
(B) Of the moneys received by the treasurer of state from the tax levied in division (A)(1) of this section, six and three-tenths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, fourteen and two-tenths per cent shall be credited to the defaulted areas <u>reclamation supplemental forfeiture</u> fund created in division (B) of section 1513.18 of the Revised Code, fifty-seven and nine-tenths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and the remainder shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code. When, within ten days before or after the beginning of a fiscal year, the chief of the division of mines and reclamation finds that the balance of the coal mining administration and reclamation reserve fund is below two million dollars, the chief shall certify that fact to the director of budget and management. Upon receipt of the chief's certification, the director shall direct the treasurer of state to instead credit to the coal mining administration and reclamation reserve fund during the fiscal year for which the certification is made the fourteen and two-tenths per cent of the moneys collected from the tax levied in division (A)(1) of this section and otherwise required by this division to be credited to the defaulted areas	8497 8498 8499 8500 8501 8502 8503 8504 8505 8506 8507 8508 8509 8510 8511 8512 8513 8514 8515 8516 8517 8518 8519

reclamation supplemental forfeiture fund. 8520

Fifteen per cent of the moneys received by the treasurer of 8521
state from the tax levied in division (A)(2) of this section shall 8522
be credited to the geological mapping fund and the remainder shall 8523
be credited to the unreclaimed lands fund. 8524

Of the moneys received by the treasurer of state from the tax 8525
levied in divisions (A)(3) and (4) of this section, seven and 8526
five-tenths per cent shall be credited to the geological mapping 8527
fund, forty-two and five-tenths per cent shall be credited to the 8528
unreclaimed lands fund, and the remainder shall be credited to the 8529
surface mining administration fund created in section 1514.11 of 8530
the Revised Code. 8531

Of the moneys received by the treasurer of state from the tax 8532
levied in divisions (A)(5) and (6) of this section, twenty per 8533
cent shall be credited to the oil and gas well plugging fund 8534
created in section 1509.071 of the Revised Code, ten per cent 8535
shall be credited to the geological mapping fund, and seventy per 8536
cent shall be credited to the oil and gas permit fund created in 8537
section 1509.02 of the Revised Code. All of the moneys received by 8538
the treasurer of state from the tax levied in division (A)(7) of 8539
this section shall be credited to the surface mining 8540
administration fund. 8541

(C) For the purpose of paying the state's expenses for 8542
reclaiming ~~coal~~ mined lands that the operator failed to reclaim ~~in~~ 8543
~~accordance with Chapter 1513. of the Revised Code~~ under a coal 8544
mining and reclamation permit issued under ~~that chapter on or~~ 8545
~~after September 1, 1981, and Chapter 1513. Of the Revised Code, or~~ 8546
under a surface mining permit issued under Chapter 1514. Of the 8547
Revised Code, for which the operator's bond is not sufficient to 8548
pay the state's expense for reclamation, there is hereby levied an 8549
excise tax on the privilege of engaging in the severance of coal 8550
from the soil or water of this state in addition to the taxes 8551

levied by divisions (A)(1) and (D) of this section. The tax shall 8552
be imposed at the rate of one cent per ton of coal ~~as prescribed~~ 8553
~~in this division~~. Moneys received by the treasurer of state from 8554
the tax levied under this division shall be credited to the 8555
reclamation supplemental forfeiture fund created in division 8556
~~(D)(B)~~ of section 1513.18 of the Revised Code. 8557

~~The tax levied by this division shall be imposed when, during 8558
any fiscal year, the balance of the reclamation supplemental 8559
forfeiture fund is reduced below two million dollars and five 8560
hundred thousand dollars has been transferred to the reclamation 8561
supplemental forfeiture fund from the unreclaimed lands fund 8562
during the fiscal year. The tax shall be imposed in the calendar 8563
year following the close of the fiscal year during which the 8564
balance is so reduced and shall continue to be imposed until the 8565
end of the calendar year in which the balance of the reclamation 8566
supplemental forfeiture fund is restored to two million dollars, 8567
at which time the imposition of the tax shall be suspended until 8568
the time that the circumstances requiring the tax to be imposed 8569
recur. 8570~~

~~When, at the close of the fiscal year, the chief of the 8571
division of mines and reclamation finds that the balance of the 8572
reclamation supplemental forfeiture fund is below two million 8573
dollars and that five hundred thousand dollars has been 8574
transferred to the fund previously in the fiscal year, the chief, 8575
within thirty days after the close of the fiscal year, shall 8576
certify that fact to the tax commissioner, at which time the 8577
circumstances requiring the imposition of the tax shall be deemed 8578
to have occurred. 8579~~

(D) For the purpose of paying the state's expenses for 8580
reclaiming coal mined lands that the operator failed to reclaim in 8581
accordance with Chapter 1513. of the Revised Code under a coal 8582
mining and reclamation permit issued after April 10, 1972, but 8583

before September 1, 1981, for which the operator's bond is not 8584
sufficient to pay the state's expense for reclamation and paying 8585
the expenses for administering the state's coal mining and 8586
reclamation regulatory program, there is hereby levied an excise 8587
tax on the privilege of engaging in the severance of coal from the 8588
soil or water of this state in addition to the taxes levied by 8589
divisions (A)(1) and (C) of this section. The tax shall be imposed 8590
at the rate of one cent per ton of coal as prescribed in this 8591
division. Moneys received by the treasurer of state from the tax 8592
levied by this division shall be credited to the ~~defaulted areas~~ 8593
reclamation supplemental forfeiture fund created in division (B) 8594
of section 1513.18 of the Revised Code. 8595

When, at the close of any fiscal year, the chief finds that 8596
the balance of the ~~defaulted areas~~ reclamation supplemental 8597
forfeiture fund, plus estimated transfers to it from the coal 8598
mining and reclamation reserve fund under section 1513.181 of the 8599
Revised Code, plus the estimated revenues from the tax levied by 8600
this division for the remainder of the calendar year that includes 8601
the close of the fiscal year, are sufficient to complete the 8602
reclamation of such lands, the purposes for which the tax under 8603
this division is levied shall be deemed accomplished at the end of 8604
that calendar year. The chief, within thirty days after the close 8605
of the fiscal year, shall certify ~~his~~ those findings to the tax 8606
commissioner, and the tax shall cease to be imposed after the last 8607
day of that calendar year. 8608

(E) On the day fixed for the payment of the severance taxes 8609
required to be paid by this section, the taxes with any penalties 8610
or interest ~~thereon~~ on them shall become a lien on all property of 8611
the taxpayer in this state, whether the property is employed by 8612
the taxpayer in the prosecution of its business or is in the hands 8613
of an assignee, trustee, or receiver for the benefit of creditors 8614
or stockholders. The lien shall continue until the taxes and any 8615

penalties or interest thereon are paid. 8616

Upon failure of the taxpayer to pay a tax on the day fixed 8617
for payment, the tax commissioner may file, for which no filing 8618
fee shall be charged, in the office of the county recorder in each 8619
county in this state in which the taxpayer owns or has a 8620
beneficial interest in real estate, notice of the lien containing 8621
a brief description of the real estate. The lien shall not be 8622
valid as against any mortgagee, purchaser, or judgment creditor 8623
whose rights have attached prior to the time the notice is filed 8624
in the county in which the real estate that is the subject of the 8625
mortgage, purchase, or judgment lien is located. The notice shall 8626
be recorded in a book kept by the recorder called the "severance 8627
tax lien record" and indexed under the name of the taxpayer 8628
charged with the tax. When the tax has been paid, the tax 8629
commissioner shall furnish to the taxpayer an acknowledgement of 8630
payment, which the taxpayer may record with the recorder of each 8631
county in which notice of the lien has been filed. 8632

Sec. 6111.42. The environmental protection agency shall do 8633
all of the following: 8634

(A) ~~Collect~~ Primarily with regard to water quality, collect, 8635
study, and interpret all available information, statistics, and 8636
data pertaining to the supply, use, conservation, and 8637
replenishment of the ~~underground~~ ground and surface waters in the 8638
state; 8639

(B) ~~Be~~ Primarily with regard to water quality, be authorized 8640
to cooperate with and negotiate for the state with any agency of 8641
the United States government or agency of any other state 8642
pertaining to the water resources of the state; 8643

(C) Be authorized to perform stream gauging and contract with 8644
the United States government or any other agency for the gauging 8645
of any streams within the state; 8646

(D) Have authority to furnish information to all public 8647
officials, offices, and agencies of and in the state, and to 8648
farmers, well drillers, water consumers, industries, and any other 8649
persons seeking information regarding water resources; 8650

(E) ~~Prescribe such regulations subject to and~~ adopt rules in 8651
accordance with ~~sections 119.01 to 119.13~~ Chapter 119. of the 8652
Revised Code, for the drilling, operation, maintenance, and 8653
abandonment of wells ~~as that~~ are deemed determined to be necessary 8654
by the director of environmental protection to prevent the 8655
contamination of the ~~underground~~ ground waters in the state, 8656
except that ~~such regulations~~ the rules shall not apply to wells 8657
for the provision of water for human consumption unless they are 8658
used, or are for use, by a public water system as defined in 8659
section 6109.01 of the Revised Code. No person shall violate ~~any~~ 8660
~~such regulation~~ a rule adopted under this division. 8661

(F) Have access to all information and statistics ~~which that~~ 8662
any public authority within the state has available ~~which~~ and that 8663
the director ~~deems~~ determines are pertinent to its duties; 8664

(G) Have authority to prepare an accurate map and description 8665
of the territorial boundaries of proposed watershed districts 8666
within the state. ~~Such~~ The map and description shall follow the 8667
property line, section line, half section line, or patent line 8668
~~which that~~ is nearest to the hydrologic boundary of the proposed 8669
watershed district. There shall be not less than fifteen nor more 8670
than eighteen proposed watershed districts in the state, and each 8671
shall be composed of one or more major river watersheds. When a 8672
map and a description of a proposed watershed district has been 8673
completed, the director shall cause a copy ~~thereof~~ of them to be 8674
filed with the secretary of state and the board of county 8675
commissioners of each county contained in whole or in part within 8676
the territorial boundaries of ~~such~~ the proposed watershed 8677
district. 8678

Section 2. That existing sections 123.01, 145.01, 145.33, 8679
1501.01, 1501.02, 1501.10, 1502.01, 1502.04, 1502.05, 1502.99, 8680
1503.01, 1503.05, 1503.29, 1503.43, 1504.02, 1505.10, 1505.99, 8681
1506.02, 1506.11, 1507.05, 1509.01, 1509.06, 1509.07, 1509.071, 8682
1509.072, 1509.13, 1509.14, 1509.22, 1509.222, 1509.31, 1511.02, 8683
1511.022, 1513.02, 1513.18, 1513.181, 1513.20, 1513.30, 1513.37, 8684
1515.03, 1515.08, 1515.24, 1517.10, 1517.14, 1518.20, 1518.21, 8685
1518.22, 1518.23, 1518.24, 1518.25, 1518.26, 1518.27, 1518.99, 8686
1520.01, 1520.02, 1520.03, 1521.03, 1521.05, 1531.01, 1531.06, 8687
1531.13, 1531.20, 1531.99, 1533.01, 1533.06, 1533.08, 1533.10, 8688
1533.12, 1533.171, 1533.24, 1533.67, 1533.68, 1533.70, 1533.71, 8689
1533.82, 1533.99, 1541.03, 1541.10, 1547.01, 1547.03, 1547.04, 8690
1547.08, 1547.09, 1547.111, 1547.12, 1547.13, 1547.131, 1547.14, 8691
1547.15, 1547.22, 1547.25, 1547.251, 1547.26, 1547.30, 1547.302, 8692
1547.31, 1547.33, 1547.39, 1547.40, 1547.52, 1547.521, 1547.57, 8693
1547.69, 1548.01, 1548.05, 1548.06, 2935.01, 2935.03, 3937.42, 8694
4905.03, 5749.02, and 6111.42 and sections 1515.06 and 1515.071 of 8695
the Revised Code are hereby repealed. 8696

Section 3. That section 1506.11 of the Revised Code, as 8697
amended by Am. Sub. H.B. 60 of the 121st General Assembly, be 8698
amended to read as follows: 8699

Sec. 1506.11. (A) "Territory," as used in this section, means 8700
the waters and the lands presently underlying the waters of Lake 8701
Erie and the lands formerly underlying the waters of Lake Erie and 8702
now artificially filled, between the natural shoreline and the 8703
international boundary line with Canada. 8704

(B) Whenever the state, acting through the director of 8705
natural resources, upon application of any person who wants to 8706
develop or improve part of the territory, and after notice that 8707
the director, at the director's discretion, may give as provided 8708

in this section, determines that any part of the territory can be 8709
developed and improved or the waters thereof used as specified in 8710
the application without impairment of the public right of 8711
navigation, water commerce, and fishery, a lease of all or any 8712
part of the state's interest therein may be entered into with the 8713
applicant, or a permit may be issued for that purpose, subject to 8714
the powers of the United States government and in accordance with 8715
rules adopted by the director in accordance with Chapter 119. of 8716
the Revised Code, and without prejudice to the littoral rights of 8717
any owner of land fronting on Lake Erie, provided that the 8718
legislative authority of the municipal corporation within which 8719
any such part of the territory is located, if the municipal 8720
corporation is not within the jurisdiction of a port authority, or 8721
the county commissioners of the county within which such part of 8722
the territory is located, excluding any territory within a 8723
municipal corporation or under the jurisdiction of a port 8724
authority, or the board of directors of a port authority with 8725
respect to such part of the territory included in the jurisdiction 8726
of the port authority, has enacted an ordinance or resolution 8727
finding and determining that such part of the territory, described 8728
by metes and bounds, is not necessary or required for the 8729
construction, maintenance, or operation by the municipal 8730
corporation, county, or port authority of breakwaters, piers, 8731
docks, wharves, bulkheads, connecting ways, water terminal 8732
facilities, and improvements and marginal highways in aid of 8733
navigation and water commerce and that the land uses specified in 8734
the application comply with regulation of permissible land use 8735
under a waterfront plan of the local authority. 8736

(C) Upon the filing of the application with the director, the 8737
director may hold a public hearing thereon and ~~shall~~ may cause 8738
written notice of the filing to be given to any municipal 8739
corporation, county, or port authority, as the case may be, in 8740
which such part of the territory is located and also shall cause 8741

public notice of the filing to be given by advertisement in a 8742
newspaper of general circulation within the locality where such 8743
part of the territory is located. If a hearing is to be held, 8744
public notice of the filing may be combined with public notice of 8745
the hearing and shall be given once a week for four consecutive 8746
weeks prior to the date of the initial hearing. All hearings shall 8747
be before the director and shall be open to the public, and a 8748
record shall be made of the proceeding. Parties thereto are 8749
entitled to be heard and to be represented by counsel. The 8750
findings and order of the director shall be in writing. All costs 8751
of the hearings, including publication costs, shall be paid by the 8752
applicant. The director also may hold public meetings on the 8753
filing of an application. 8754

If the director finds that a lease may properly be entered 8755
into with the applicant or a permit may properly be issued to the 8756
applicant, the director shall determine the consideration to be 8757
paid by the applicant, which consideration shall exclude the value 8758
of the littoral rights of the owner of land fronting on Lake Erie 8759
and improvements made or paid for by the owner of land fronting on 8760
Lake Erie or that owner's predecessors in title. The lease or 8761
permit may be for such periods of time as the director determines. 8762
The rentals received under the terms of such a lease or permit 8763
shall be paid into the state treasury to the credit of the Lake 8764
Erie submerged lands fund, which is hereby created, and shall be 8765
distributed from that fund as follows: 8766

(1) Fifty per cent of each rental shall be paid to the 8767
department of natural resources for the administration of this 8768
section and section 1506.10 of the Revised Code and for the 8769
coastal management assistance grant program required to be 8770
established under division (C) of section 1506.02 of the Revised 8771
Code; 8772

(2) Fifty per cent of each rental shall be paid to the 8773

municipal corporation, county, or port authority making the
finding provided for in this section.

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All leases and permits shall be executed in the manner
provided by section 5501.01 of the Revised Code and shall contain,
in addition to the provisions required in this section, a
reservation to the state of all mineral rights and a provision
that the removal of any minerals shall be conducted in such manner
as not to damage any improvements placed by the littoral owner,
lessee, or permit holder on the lands. No lease or permit of the
lands defined in this section shall express or imply any control
of fisheries or aquatic wildlife now vested in the division of
wildlife of the department.

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(D) Upland owners who, prior to October 13, 1955, have
erected, developed, or maintained structures, facilities,
buildings, or improvements or made use of waters in the part of
the territory in front of those uplands shall be granted a lease
or permit by the state upon the presentation of a certification by
the chief executive of a municipal corporation, resolution of the
board of county commissioners, or resolution of the board of
directors of the port authority establishing that the structures,
facilities, buildings, improvements, or uses do not constitute an
unlawful encroachment on navigation and water commerce. The lease
or permit shall specifically enumerate the structures, facilities,
buildings, improvements, or uses so included.

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(E) Persons having secured a lease or permit under this
section are entitled to just compensation for the taking, whether
for navigation, water commerce, or otherwise, by any governmental
authority having the power of eminent domain, of structures,
facilities, buildings, improvements, or uses erected or placed
upon the territory pursuant to the lease or permit or the littoral
rights of the person and for the taking of the leasehold and the
littoral rights of the person pursuant to the procedure provided

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in Chapter 163. of the Revised Code. The compensation shall not
include any compensation for the site in the territory except to
the extent of any interest in the site theretofore acquired by the
person under this section or by prior acts of the general assembly
or grants from the United States government. The failure of any
person to apply for or obtain a lease or permit under this section
does not prejudice any right the person may have to compensation
for a taking of littoral rights or of improvements made in
accordance with a lease, a permit, or littoral rights.

(F) If any taxes or assessments are levied or assessed upon
property that is the subject of a lease or permit under this
section, the taxes or assessments are the obligation of the lessee
or permit holder.

(G) If a lease or permit secured under this section requires
the lessee or permit holder to obtain the approval of the
department or any of its divisions for any changes in structures,
facilities, or buildings, for any improvements, or for any changes
or expansion in uses, no lessee or permit holder shall change any
structures, facilities, or buildings, make any improvements, or
expand or change any uses unless the director first determines
that the proposed action will not adversely affect any current or
prospective exercise of the public right of recreation in the
territory and in the state's reversionary interest in any
territory leased or permitted under this section.

Proposed changes or improvements shall be deemed to
"adversely affect" the public right of recreation if the changes
or improvements cause or will cause any significant demonstrable
negative impact upon any present or prospective recreational use
of the territory by the public during the term of the lease or
permit or any renewals and of any public recreational use of the
leased or permitted premises in which the state has a reversionary
interest.

Section 4. That all existing versions of section 1506.11 of 8838
the Revised Code are hereby repealed. 8839

Section 5. Sections 3 and 4 of this act shall take effect 8840
March 4, 1998. 8841

Section 6. That section 1547.31 of the Revised Code, as 8842
amended by Am. S.B. 295 of the 121st General Assembly, be amended 8843
to read as follows: 8844

Sec. 1547.31. (A) Every powercraft operated on the waters in 8845
this state shall be equipped at all times with a muffler or a 8846
muffler system that is in good working order, in constant 8847
operation, and effectively installed to prevent excessive or 8848
unusual noise. 8849

(B)(1) No person shall operate or give permission for the 8850
operation of a powercraft on the waters in this state in such a 8851
manner as to exceed a noise level of ninety decibels on the "A" 8852
scale when subjected to a stationary sound level test as 8853
prescribed by SAE J2005. 8854

(2) No person shall operate or give permission for the 8855
operation of a powercraft on the waters in this state in such a 8856
manner as to exceed a noise level of seventy-five decibels on the 8857
"A" scale measured as specified by SAE J1970. Measurement of a 8858
noise level of not more than seventy-five decibels on the "A" 8859
scale of a powercraft in operation does not preclude the 8860
conducting of a stationary sound level test as prescribed by SAE 8861
J2005. 8862

(C) No person shall operate or give permission for the 8863
operation of a powercraft on the waters in this state that is 8864
equipped with an altered muffler or muffler cutout, or operate or 8865

give permission for the operation of a powercraft on the waters in 8866
this state in any manner that bypasses or otherwise reduces or 8867
eliminates the effectiveness of any muffler or muffler system 8868
installed in accordance with this section, unless the applicable 8869
mechanism has been permanently disconnected or made inoperable. 8870

(D) No person shall remove, alter, or otherwise modify in any 8871
way a muffler or muffler system in a manner that will prevent it 8872
from being operated in accordance with this section. 8873

(E) No person shall manufacture, sell, or offer for sale a 8874
powercraft that is not equipped with a muffler or muffler system 8875
that prevents noise levels in excess of those established in 8876
division (B)(1) of this section. 8877

(F) This section does not apply to any of the following: 8878

(1) A powercraft that is designed, manufactured, and sold for 8879
the sole purpose of competing in racing events. The exception 8880
established under division (F)(1) of this section shall be 8881
documented in each sale agreement and shall be acknowledged 8882
formally by the signatures of the buyer and the seller. The buyer 8883
and the seller shall maintain copies of the sale agreement. A copy 8884
of the sale agreement shall be kept aboard the powercraft when it 8885
is operated. A powercraft to which the exception established under 8886
division (F)(1) of this section applies shall be operated on the 8887
waters in this state only in accordance with division (F)(2) of 8888
this section. 8889

(2) A powercraft that is actually participating in a 8890
sanctioned racing event or in tune-up periods for a sanctioned 8891
racing event on the waters in this state and that is being 8892
operated in accordance with division (F)(2) of this section. For 8893
the purposes of division (F)(2) of this section, a sanctioned 8894
racing event is a racing event that is conducted in accordance 8895
with section 1547.20 of the Revised Code or that is approved by 8896

the United States coast guard. The operator of a powercraft that
is operated on the waters in this state for the purpose of a
sanctioned racing event shall comply with that section and
requirements established under it or with requirements established
by the coast guard, as appropriate. Failure to comply subjects the
operator to this section.

(3) A powercraft that is being operated on the waters in this
state by or for a boat or engine manufacturer for the purpose of
testing, development, or both and that complies with division
(F)(3) of this section. The operator of such a powercraft shall
have aboard at all times and shall produce on demand of a law
enforcement officer a current, valid letter issued by the chief of
the division of watercraft in accordance with rules adopted under
division (I)(1) of this section. Failure to produce the letter
subjects the operator to this section.

(G) A law enforcement officer who is trained in accordance
with rules adopted under division (I)(2) of this section and who
has reason to believe that a powercraft is not in compliance with
the noise levels established in this section may direct the
operator of the powercraft to submit it to an on-site test to
measure the level of the noise emitted by the powercraft. The
operator shall comply with that direction. The officer may remain
aboard the powercraft during the test at the officer's discretion.

If the level of the noise emitted by the powercraft exceeds
the noise levels established in this section, the officer may
direct the operator to take immediate and reasonable measures to
correct the violation, including returning the powercraft to a
mooring and keeping it at the mooring until the violation is
corrected or ceases.

(H) A law enforcement officer who conducts powercraft noise
level tests pursuant to this section shall be trained to do so in

accordance with rules adopted under division (I)(2) of this section. 8928
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(I) In accordance with Chapter 119. of the Revised Code, the chief shall adopt rules establishing both of the following: 8930
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(1) Requirements and procedures for the issuance of letters under division (F)(3) of this section. The rules shall require, without limitation, that each such letter adequately identify the powercraft concerning which the letter is issued and specify the purposes for which the powercraft is being operated. 8932
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(2) Requirements and procedures for the training of law enforcement officers who conduct powercraft noise level tests pursuant to this section. The rules shall require the training to include, without limitation, the selection of a site where noise level is measured and the calibration and use of noise measurement equipment. 8937
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Section 7. That all existing versions of section 1547.31 of the Revised Code are hereby repealed. 8943
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Section 8. Sections 6 and 7 of this act shall take effect January 1, 2000. 8945
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Section 9. Not later than ninety days after the effective date of this act, each preserve officer, as defined in section 145.01 of the Revised Code as amended by this act, who is a member of the Public Employees Retirement System shall indicate to the system, on a form supplied by the retirement system, a choice of whether to receive benefits under division (A) of section 145.33 of the Revised Code or division (B) of that section. 8947
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Section 10. All rules adopted by the Chief of the Division of Natural Areas and Preserves in the Department of Natural Resources 8954
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pursuant to section 1518.22 of the Revised Code, as it existed 8956
prior to the effective date of this act, continue in effect as 8957
rules until amended or rescinded by the Chief of the Division of 8958
Wildlife in that Department pursuant to section 1533.88 of the 8959
Revised Code, as amended by this act. If necessary to ensure the 8960
integrity of the numbering of the Administrative Code, the 8961
Director of the Legislative Service Commission shall renumber the 8962
rules of the Division of Natural Areas and Preserves to reflect 8963
their transfer to the Division of Wildlife. 8964

Section 11. The amendments to section 4905.03 of the Revised 8965
Code by this act shall not be construed to modify rules and orders 8966
of the Public Utilities Commission in existence on the effective 8967
date of this act. 8968

Section 12. Section 123.01 of the Revised Code is presented 8969
in this act as a composite of the section as amended by Am. Sub. 8970
H.B. 117, Am. Sub. S.B. 99, and Am. Sub. S.B. 162 of the 121st 8971
General Assembly, with the new language of none of the acts shown 8972
in capital letters. Section 145.33 of the Revised Code is 8973
presented in this act as a composite of the section as amended by 8974
both Am. Sub. H.B. 379 and Am. Sub. H.B. 450 of the 121st General 8975
Assembly, with the new language of neither of the acts shown in 8976
capital letters. Section 1511.02 of the Revised Code is presented 8977
in this act as a composite of the section as amended by Am. Sub. 8978
S.B. 73, Am. Sub. S.B. 182, and Am. Sub. S.B. 226 of the 120th 8979
General Assembly, with the new language of none of the acts shown 8980
in capital letters. Section 1513.181 of the Revised Code is 8981
presented in this act as a composite of the section as amended by 8982
both Am. Sub. S.B. 2 and Am. Sub. S.B. 162 of the 121st General 8983
Assembly, with the new language of neither of the acts shown in 8984
capital letters. Section 1515.08 of the Revised Code is presented 8985
in this act as a composite of the section as amended by both Am. 8986

Sub. S.B. 73 and Am. Sub. S.B. 182 of the 120th General Assembly, 8987
with the new language of neither of the acts shown in capital 8988
letters. Section 1531.01 of the Revised Code is presented in this 8989
act as a composite of the section as amended by both Am. Sub. S.B. 8990
182 and Am. H.B. 287 of the 120th General Assembly, with the new 8991
language of neither of the acts shown in capital letters. Section 8992
1533.10 of the Revised Code is presented in this act as a 8993
composite of the section as amended by both Sub. H.B. 715 and Am. 8994
Sub. S.B. 182 of the 120th General Assembly, with the new language 8995
of neither of the acts shown in capital letters. Section 5749.02 8996
of the Revised Code is presented in this act as a composite of the 8997
section as amended by both Am. Sub. H.B. 117 and Am. Sub. S.B. 162 8998
of the 121st General Assembly, with the new language of neither of 8999
the acts shown in capital letters. This is in recognition of the 9000
principle stated in division (B) of section 1.52 of the Revised 9001
Code that such amendments are to be harmonized where not 9002
substantively irreconcilable and constitutes a legislative finding 9003
that such is the resulting version in effect prior to the 9004
effective date of this act. 9005