

AN ACT

To amend sections 121.04, 124.24, 127.16, 317.08, 1501.01, 1501.022, 1505.10, 1507.02 to 1507.07, 1507.071, 1507.08 to 1507.11, 1509.01 to 1509.05, 1509.06, 1509.061, 1509.07, 1509.071, 1509.072, 1509.08, 1509.09 to 1509.15, 1509.17, 1509.18, 1509.21, 1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23 to 1509.29, 1509.31 to 1509.33, 1509.36, 1509.38 to 1509.40, 1510.01, 1510.08, 1513.01 to 1513.03, 1513.07, 1513.072, 1513.073, 1513.08, 1513.09, 1513.11, 1513.13, 1513.15, 1513.16, 1513.161, 1513.17, 1513.18, 1513.181, 1513.20 to 1513.37, 1513.39 to 1513.41, 1514.02, 1514.021, 1514.03 to 1514.08, 1514.10, 1514.11, 1521.01, 1521.03, 1521.99, 1561.01 to 1561.07, 1561.10, 1561.13, 1561.26 to 1561.28, 1561.31 to 1561.35, 1561.351, 1561.36 to 1561.38, 1561.45, 1561.47 to 1561.51, 1561.53, 1561.54, 1561.99, 1563.04 to 1563.06, 1563.11, 1563.111, 1563.12, 1563.13, 1563.17, 1563.20, 1563.24, 1563.26, 1563.33 to 1563.35, 1563.37, 1563.40 to 1563.43, 1563.46, 1565.05 to 1565.08, 1565.11, 1565.12, 1565.15, 1567.02, 1567.08 to 1567.11, 1567.13, 1567.17 to 1567.19, 1567.23, 1567.34, 1567.35, 1567.39, 1567.45, 1567.52, 1567.54, 1567.55, 1567.57, 1567.61, 1567.69 to 1567.71, 1567.73, 1567.74, 1567.78, 1571.01 to 1571.06, 1571.08 to 1571.11, 1571.14, 1571.16, 1571.99, 5749.02, 6111.044, and 6121.04; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1507.02 (1521.20), 1507.03

(1521.21), 1507.04 (1521.22), 1507.05 (1521.23), 1507.06 (1521.24), 1507.07 (1521.25), 1507.071 (1521.26), 1507.08 (1521.27), 1507.09 (1521.28), 1507.10 (1521.29), and 1507.11 (1521.30); and to repeal section 1507.99 of the Revised Code and to amend Section 72 of Am. Sub. H.B. 283 of the 123rd General Assembly to create the Division of Mineral Resources Management in the Department of Natural Resources by combining the Division of Mines and Reclamation with the Division of Oil and Gas, to transfer responsibility for the control of shore erosion along Lake Erie from the Division of Engineering to the Division of Water in that Department, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 121.04, 124.24, 127.16, 317.08, 1501.01, 1501.022, 1505.10, 1507.02, 1507.03, 1507.04, 1507.05, 1507.06, 1507.07, 1507.071, 1507.08, 1507.09, 1507.10, 1507.11, 1509.01, 1509.02, 1509.03, 1509.04, 1509.05, 1509.06, 1509.061, 1509.07, 1509.071, 1509.072, 1509.08, 1509.09, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, 1509.18, 1509.21, 1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23, 1509.24, 1509.25, 1509.26, 1509.27, 1509.28, 1509.29, 1509.31, 1509.32, 1509.33, 1509.36, 1509.38, 1509.39, 1509.40, 1510.01, 1510.08, 1513.01, 1513.02, 1513.03, 1513.07, 1513.072, 1513.073, 1513.08, 1513.09, 1513.11, 1513.13, 1513.15, 1513.16, 1513.161, 1513.17, 1513.18, 1513.181, 1513.20, 1513.21, 1513.22, 1513.23, 1513.24, 1513.25, 1513.26, 1513.27, 1513.28, 1513.29, 1513.30, 1513.31, 1513.32, 1513.33, 1513.34, 1513.35, 1513.36, 1513.37, 1513.39, 1513.40, 1513.41, 1514.02, 1514.021, 1514.03, 1514.04, 1514.05, 1514.06, 1514.07, 1514.08, 1514.10, 1514.11, 1521.01, 1521.03, 1521.99, 1561.01, 1561.02, 1561.03, 1561.04, 1561.05, 1561.06, 1561.07, 1561.10, 1561.13, 1561.26, 1561.27, 1561.28, 1561.31, 1561.32, 1561.33, 1561.34, 1561.35, 1561.351, 1561.36, 1561.37, 1561.38, 1561.45, 1561.47, 1561.48, 1561.49, 1561.50, 1561.51, 1561.53, 1561.54, 1561.99, 1563.04, 1563.05, 1563.06, 1563.11, 1563.111, 1563.12, 1563.13, 1563.17, 1563.20, 1563.24, 1563.26, 1563.33,

1563.34, 1563.35, 1563.37, 1563.40, 1563.41, 1563.42, 1563.43, 1563.46, 1565.05, 1565.06, 1565.07, 1565.08, 1565.11, 1565.12, 1565.15, 1567.02, 1567.08, 1567.09, 1567.10, 1567.11, 1567.13, 1567.17, 1567.18, 1567.19, 1567.23, 1567.34, 1567.35, 1567.39, 1567.45, 1567.52, 1567.54, 1567.55, 1567.57, 1567.61, 1567.69, 1567.70, 1567.71, 1567.73, 1567.74, 1567.78, 1571.01, 1571.02, 1571.03, 1571.04, 1571.05, 1571.06, 1571.08, 1571.09, 1571.10, 1571.11, 1571.14, 1571.16, 1571.99, 5749.02, 6111.044, and 6121.04 be amended and sections 1507.02 (1521.20), 1507.03 (1521.21), 1507.04 (1521.22), 1507.05 (1521.23), 1507.06 (1521.24), 1507.07 (1521.25), 1507.071 (1521.26), 1507.08 (1521.27), 1507.09 (1521.28), 1507.10 (1521.29), and 1507.11 (1521.30) of the Revised Code be amended for the purpose of adopting new section numbers as indicated in parentheses to read as follows:

Sec. 121.04. Offices are created within the several departments as follows:

In the department of commerce:

- Commissioner of securities;
- Superintendent of real estate and professional licensing;
- Superintendent of financial institutions;
- Fire marshal;
- Beginning on July 1, 1997,
- Superintendent of liquor control;
- Superintendent of industrial compliance.

In the department of administrative services:

- State architect and engineer;
- Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

- Administration;
- Animal industry;
- Dairy;
- Food safety;
- Plant industry;
- Markets;
- Meat inspection;
- Consumer analytical laboratory;
- Amusement ride safety;
- Enforcement;
- Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

Water;
~~Mines and Reclamation~~ Mineral resources management;
Forestry;
Natural areas and preserves;
Wildlife;
Geological survey;
Parks and recreation;
Watercraft;
~~Oil and gas~~;
Recycling and litter prevention;
Civilian conservation;
Soil and water conservation;
Real estate and land management;
Engineering.

~~Until July 1, 1997, in the department of liquor control:~~

~~Chiefs of divisions as follows:~~

~~Accounting and finance;~~
~~Store management;~~
~~Personnel;~~
~~Beer.~~

In the department of insurance:

Deputy superintendent of insurance;
Assistant superintendent of insurance, technical;
Assistant superintendent of insurance, administrative;
Assistant superintendent of insurance, research.

Sec. 124.24. Notwithstanding sections 124.01 to 124.64 and 145.01 to 145.57 of the Revised Code, the examinations of applicants for the ~~position~~ positions of deputy mine inspector, superintendent of rescue stations, assistant superintendent of rescue stations, electrical inspectors, gas storage well inspector, and mine chemists in the division of ~~mines and reclamation~~ mineral resources management, department of natural resources, as provided in Chapters 1561., 1563., 1565., and 1567. of the Revised Code shall be ~~provided~~ provided for, conducted, and administered by the mine examining board created by section 1561.10 of the Revised Code.

From the returns of the examinations the mine examining board shall prepare eligible lists of the persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by

the rules of ~~said~~ the board and who are otherwise eligible. All appointments to ~~the said~~ a position shall be made from such eligible list in the same manner as appointments are made from eligible lists prepared by the director of administrative services. Any person upon being appointed to fill one of the positions provided for in this section, from any such eligible list, shall have the same standing, rights, privileges, and status as other state employees in the classified service.

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code or payments or provider agreements under disability assistance medical assistance established under Chapter 5115. of the Revised Code;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered

into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of ~~mines and reclamation~~ mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.21, or 5101.211 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by

the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by ~~the department or, on and after July 1, 1997,~~ the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5111.252 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and

an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code or the children's health insurance program part II provided for under section 5101.51 of the Revised Code.

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "~~competitive section selection~~," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 317.08. Except as provided in division (F) of this section, the county recorder shall keep six separate sets of records as follows:

(A) A record of deeds, in which shall be recorded all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements, and hereditaments; all notices as provided for in sections 5301.47 to 5301.56 of the Revised Code; all judgments or decrees in actions brought under section 5303.01 of the Revised Code; all declarations and bylaws as provided for in Chapter 5311. of the Revised Code; affidavits as provided for in section 5301.252 of the Revised Code; all certificates as provided for in section 5311.17 of the Revised Code; all articles dedicating archaeological preserves accepted by the director of the Ohio historical society under section 149.52 of the Revised Code; all articles dedicating nature preserves accepted by the director of natural resources under section 1517.05 of the Revised Code; all agreements for the registration of lands as archaeological or historic landmarks under section 149.51 or 149.55 of the Revised Code; all conveyances of conservation easements and agricultural easements under section 5301.68 of the Revised

Code; all instruments extinguishing agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code; all instruments or orders described in division (B)(1)(c)(ii) of section 5301.56 of the Revised Code; all no further action letters issued under section 3746.11 of the Revised Code; all covenants not to sue issued under section 3746.12 of the Revised Code; any restrictions on the use of property identified pursuant to division (C)(3) of section 3746.10 of the Revised Code; all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section ~~1507.071~~ 1521.26 of the Revised Code;

(B) A record of mortgages, in which shall be recorded all of the following:

(1) All mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered;

(2) All executory installment contracts for the sale of land executed after September 29, 1961, that by their terms are not required to be fully performed by one or more of the parties to them within one year of the date of the contracts;

(3) All options to purchase real estate, including supplements, modifications, and amendments of the options, but no option of that nature shall be recorded if it does not state a specific day and year of expiration of its validity;

(4) Any tax certificate sold under section 5721.33 of the Revised Code, or memorandum thereof, that is presented for filing of record.

(C) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(D) A record of plats, in which shall be recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings as provided for in Chapter 5311. of the Revised Code;

(E) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(F) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.

All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, 5111.021, and 5311.18 of the Revised Code.

The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option.

(G) In lieu of keeping the six separate sets of records required in divisions (A) to (F) of this section and the records required in division (H) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A), (B), (C), (E), (F), and (H) of this section. The second set of records shall contain the instruments listed in division (D) of this section.

(H) Except as provided in division (G) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant to section 2923.36 of the Revised Code and a separate set of records containing all medicaid fraud lien notices filed with the recorder pursuant to section 2933.75 of the Revised Code.

Sec. 1501.01. Except where otherwise expressly provided, the director of natural resources shall formulate and institute all the policies and programs of the department of natural resources. The chief of any division of the department shall not enter into any contract, agreement, or understanding unless it is approved by the director. No appointee or employee of the director, other than the assistant director, may bind the director in a contract except when given general or special authority to do so by the director.

The director shall correlate and coordinate the work and activities of the

divisions in the department to eliminate unnecessary duplications of effort and overlapping of functions. The chiefs of the various divisions of the department shall meet with the director at least once each month at a time and place designated by the director.

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

The director may accept and expend gifts, devises, and bequests of money, lands, and other properties on behalf of the department or any division thereof under the terms set forth in 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 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 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 are necessary for the purposes of the department or any division therein. The director, with the approval of the governor and the attorney general, may sell, lease, or exchange portions of lands or property, real or personal, of any division of the department or grant easements or licenses for the use thereof, or enter into agreements for the sale of water from lands and waters under the administration or care of the department or any of its divisions, when the sale, lease, exchange, easement, agreement, or license for use is advantageous to the state, provided that such approval is not required for leases and contracts made under section 1507.12, if any, or section 1501.07, 1501.09, or 1520.03 or Chapter 1523. of the Revised Code. Water may be sold from a reservoir

only to the extent that the reservoir was designed to yield a supply of water for a purpose other than recreation or wildlife, and the water sold is in excess of that needed to maintain the reservoir for purposes of recreation or wildlife.

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

The director shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by the department or its employees prior to paying them to the treasurer of state under section 113.08 of the Revised Code.

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

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 1501.022. There is hereby created in the state treasury the injection well review fund consisting of moneys transferred to it under section 6111.046 of the Revised Code. Moneys in the fund shall be used by the chiefs of the divisions of ~~oil and gas~~ mineral resources management, geological survey, and water in the department of natural resources exclusively for the purpose of executing their duties under sections 6111.043 to 6111.047 of the Revised Code.

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:

- (A) A list of the operators of mines, quarries, pits, or other mineral

resource extraction operations in this state;

(B) Information on the location of and commodity extracted at each operation;

(C) Information on the employment at each operation;

(D) Information on the tonnage of coal or other minerals extracted at each operation along with the method of extraction;

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

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

No person shall fail to comply with this section.

Sec. 1509.01. As used in this chapter:

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

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

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

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

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

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

(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.

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

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

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

(3) Inefficient storing of oil or gas;

(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;

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

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

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter.

(L) "Royalty interest" means the fee holder's share in the production from a well.

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

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

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

(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.

(Q) "Coal bearing township" means a township designated as such by the chief of the ~~division of mines and reclamation~~ under section 1561.06 of

the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

(2) Is used primarily to provide gas for the owner's domestic use;

(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;

(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.

Sec. 1509.02. There is hereby created in the department of natural resources the division of ~~oil and gas~~ mineral resources management, which shall be administered by the chief of the division of ~~oil and gas~~ mineral resources management.

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

All moneys collected by the chief pursuant to sections 1509.06, 1509.061, 1509.071, 1509.13, 1509.22, and 1509.222, ninety per cent of moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of section 5749.02, all civil penalties paid under section 1509.33, and, notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under divisions (A) and (B) of section 1509.99 of the Revised Code and fines imposed under divisions (C) and (D) of section 1509.99 of the Revised Code for all violations prosecuted by the attorney general and for violations prosecuted by prosecuting attorneys that do not involve the transportation of brine by vehicle shall be deposited into the state treasury to the credit of the oil and gas well fund, which is hereby created. Fines imposed under divisions (C) and (D) of section 1509.99 of the Revised Code for violations prosecuted by prosecuting attorneys that involve the transportation of brine by vehicle shall be paid to the county treasury of the county where the violation occurred.

The fund shall be used for the purposes enumerated in division (B) of section 1509.071 of the Revised Code, for the expenses of the division associated with the administration of the "Natural Gas Policy Act of 1978," 92 Stat. 3358, 15 U.S.C. 3301, and for the division's other functions. The expenses of the division in excess of the moneys available in the fund shall be paid from general revenue fund appropriations to the department.

Sec. 1509.03. The chief of the division of ~~oil and gas~~ mineral resources management shall ~~make, adopt, repeal,~~ rescind, and amend, in accordance with ~~sections 119.01 to 119.13~~ Chapter 119, of the Revised Code, rules for the administration, implementation, and enforcement of ~~Chapter 1509. of the Revised Code~~ this chapter. No person shall violate any rule of the chief adopted under this chapter.

Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to ~~Chapter 1509. of the Revised Code~~ this chapter shall be made in compliance with ~~the provisions of sections 119.01 to 119.13~~ Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by mail. Every order issuing, denying, or modifying a permit under ~~Chapter 1509. of the Revised Code~~ this chapter and described as such shall be considered an adjudication order for purposes of ~~sections 119.01 to 119.13~~ Chapter 119. of the Revised Code.

Where notice to the owners is required by ~~Chapter 1509. of the Revised Code~~ such this chapter., the notice shall be given as prescribed by a rule adopted by the chief to govern the giving of notices. Such rule shall provide for notice by publication except in those cases where other types of notice are necessary in order to meet the requirements of the law.

The chief or ~~his~~ the chief's authorized representative may at any time enter upon lands, public or private, for the purpose of administration or enforcement of ~~Chapter 1509. of the Revised Code~~ this chapter, the rules adopted or orders made thereunder, or terms or conditions of permits or registration certificates issued thereunder and may examine and copy records pertaining to the drilling, conversion, or operation of a well for injection of fluids and logs required by division (C) of section 1509.223 of the Revised Code. No person shall prevent or hinder the chief or ~~his~~ the chief's authorized representative in the performance of ~~his~~ official duties. If entry is prevented or hindered, the chief or ~~his~~ the chief's authorized representative may apply for, and the court of common pleas may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

The chief may issue orders to enforce this chapter, rules adopted thereunder, and terms or conditions of permits issued thereunder. Any such order shall be considered an adjudication order for the purposes of Chapter 119. of the Revised Code. No person shall violate any order of the chief issued under this chapter. No person shall violate a term or condition of a permit or registration certificate issued under ~~the~~ this chapter.

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

1509.224 of the Revised Code, as appropriate.

Sec. 1509.04. ~~In both coal-bearing and noncoal-bearing townships, the~~ The chief of the division of oil and gas mineral resources management, or his ~~the chief's~~ authorized representatives, shall enforce ~~the provisions of Chapter 1509. of the Revised Code~~ this chapter and the rules, terms and conditions of permits and registration certificates, and orders adopted or issued pursuant thereto, except that any "peace officer," as defined in section 2935.01 of the Revised Code, may arrest for violations of this chapter involving transportation of brine by vehicle. The prosecuting attorney of the county or the attorney general, upon the request of the chief, may apply to the court of common pleas in the county in which any of the provisions of ~~Chapter 1509. of the Revised Code~~ this chapter or any rules, terms or conditions of a permit or registration certificate, or orders adopted or issued pursuant to ~~Chapter 1509. of the Revised Code~~ this chapter are being violated for a temporary restraining order, preliminary injunction, or permanent injunction restraining any person from such violation.

~~In a coal-bearing township, the chief of the division of mines and reclamation, or his authorized representatives, shall enforce sections 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code and the rules adopted and terms and conditions of permits and orders issued pursuant thereto. The prosecuting attorney of the county or the attorney general, upon the request of the chief of the division of mines and reclamation, may apply to the court of common pleas in the county in which section 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, or 1509.18 of the Revised Code, or any rules adopted or terms or conditions of permits or orders issued pursuant thereto are being violated for a temporary restraining order, preliminary injunction, or permanent injunction restraining any person from such violation.~~

Sec. 1509.05. No person shall drill a new well, drill an existing well any deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a source of supply different from the existing pool, without having a permit to do so issued by the chief of the division of oil and gas mineral resources management, and until the original permit or a photostatic copy thereof is posted or displayed in a conspicuous and easily accessible place at the well site, with the name, current address, and telephone number of the permit holder and the telephone numbers for fire and emergency medical services maintained on the posted permit or copy. The permit or a copy shall be continuously displayed in such manner at all times during the work authorized by the permit.

Such permit shall be issued by the chief in accordance with ~~Chapter~~

~~1509. of the Revised Code~~ this chapter and shall be valid for twelve months.

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~~ mineral resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

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

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

(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;

(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;

(E) Designation of the well by name and number;

(F) The geological formation to be tested or used and the proposed total depth of the well;

(G) The type of drilling equipment to be used;

(H) 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;

(I) 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~~ mineral resources management 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;

(J) 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.

(K) 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;

(L) Such other relevant information as the chief prescribes by rule.

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

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

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

An applicant may file a request with the chief for expedited review of a permit application if the well is not or is not to be located in a gas storage reservoir or reservoir protective area, as "reservoir protective area" is defined in section 1571.01 of the Revised Code. If the well is or is to be located in a coal bearing township, the application shall be accompanied by the affidavit of the landowner prescribed in section 1509.08 of the Revised Code.

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 other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request unless 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 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 finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions.

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

The chief may order the immediate suspension of drilling, operating, or plugging activities after finding that any person is causing, engaging in, or maintaining a condition or activity that in the chief's judgment presents an imminent danger to public health or safety or results in or is likely to result in immediate substantial damage to natural resources or for nonpayment of the fee required by this section. The chief may order the immediate suspension of the drilling or reopening of a well ~~after being so requested by the chief of the division of mines and reclamation under section 1509.08 of the Revised Code~~ in a coal bearing township after determining that the drilling or reopening activities present an imminent and substantial threat to public health or safety or to miners' health or safety. Before issuing any such order, the chief shall notify the owner in such manner as in the chief's judgment would provide reasonable notification that the chief intends to issue a suspension order. The chief may issue such an order without prior notification if reasonable attempts to notify the owner have failed, but in such an event notification shall be given as soon thereafter as practical. Within five calendar days after the issuance of the order, the chief shall provide the owner an opportunity to be heard and to present evidence that the condition or activity is not likely to result in immediate substantial damage to natural resources or does not present an imminent danger to public health or safety or to miners' health or safety, if applicable. In the case of activities in a coal bearing township, if the chief, after considering evidence presented by the owner, determines that the activities do not present such a threat, the chief shall revoke the suspension order. Notwithstanding any provision of this chapter, the owner may appeal ~~the a~~

suspension order directly to the court of common pleas of the county in which the activity is located or, if in a coal bearing township, to the mine examining board.

Sec. 1509.061. An owner of a well who has been issued a permit under section 1509.06 of the Revised Code may submit to the chief of the division of ~~oil and gas~~ mineral resources management, on a form prescribed by the chief, a request to revise an existing tract upon which exists a producing or idle well. The chief shall adopt, and may amend and rescind, rules under section 1509.03 of the Revised Code that are necessary for the administration of this section. The rules at least shall stipulate the information to be included on the request form and shall establish a fee to be paid by the person submitting the request, which fee shall not exceed two hundred fifty dollars.

The chief shall approve a request submitted under this section unless it would result in a violation of this chapter or rules adopted under it, including provisions establishing spacing or minimum acreage requirements.

Sec. 1509.07. An owner of any well, except an exempt Mississippian well or an exempt domestic well, shall obtain liability insurance coverage from a company authorized to do business in this state in an amount of not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in this state. The owner shall maintain that coverage until all the owner's wells are plugged and abandoned as required by law. The owner shall provide proof of liability insurance coverage to the chief of the division of ~~oil and gas~~ mineral resources management upon request. Upon failure of the owner to provide that proof when requested, the chief may order the suspension of any outstanding permits and operations of the owner until the owner provides proof of the required insurance coverage.

Except as otherwise provided in this section, an owner of any well, before being issued a permit under section 1509.06 of the Revised Code, shall execute and file with the division of ~~oil and gas~~ mineral resources management a surety bond conditioned on compliance with the restoration requirements of section 1509.072, the plugging requirements of section 1509.12, the permit provisions of section 1509.13 of the Revised Code, and all rules and orders of the chief relating thereto, in an amount set by rule of the chief.

The owner may deposit with the chief, instead of a surety bond, cash in an amount equal to the surety bond as prescribed pursuant to this section or

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

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

Instead of a surety bond, the chief may accept proof of financial responsibility consisting of a sworn financial statement showing a net financial worth within this state equal to twice the amount of the bond for which it substitutes and, as may be required by the chief, a list of producing properties of the owner within this state or other evidence showing ability and intent to comply with the law and rules concerning restoration and plugging that may be required by rule of the chief. The owner of an exempt domestic or exempt Mississippian well is not required to file scheduled updates of the financial documents, but shall file updates of those documents if requested to do so by the chief. The owner of a nonexempt domestic or nonexempt Mississippian well shall file updates of the financial documents in accordance with a schedule established by rule of the chief. The chief, upon determining that an owner for whom the chief has accepted proof of financial responsibility instead of bond cannot demonstrate financial responsibility, shall order that the owner execute and file a bond or deposit cash, certificates of deposit, or irrevocable letters of credit as required by this section for the wells specified in the order within ten days of receipt of the order. If the order is not complied with, all wells of the owner that are specified in the order and for which no bond is filed or cash, certificates of deposit, or letters of credit are deposited shall be plugged. No

owner shall fail or refuse to plug such a well. Each day on which such a well remains unplugged thereafter constitutes a separate offense.

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

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

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

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

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

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

(B) All moneys collected because of forfeitures of bonds as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code. The fund shall be expended by the chief for the following purposes in addition to the other purposes specified in that section:

(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 the bonds have been forfeited, for abandoned wells for which no funds are available to plug 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 of the lease or to each person owning an interest in the lease, as appropriate.

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

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

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

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. Agents or

employees of persons contracting with the chief for the restoration, plugging, and injection projects may enter upon any land, public or private, for which a project has been approved by the controlling board and on which the well is located, for the purpose of performing the work. Prior to such entry, the chief shall give to the following persons written notice of the existence of a contract for a project to restore, plug, or inject oil or gas production wastes into a well, the names of the persons with whom the contract is made, and the 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 plug the well properly and shall specify the price for doing the work, including a credit for the equipment appurtenant to the well that was forfeited to the state through the operation of division (C)(2) of this section. The application also shall be accompanied by the permit fee required by section 1509.13 of the Revised Code unless the chief, in the chief's discretion, waives payment of the permit fee. The application constitutes an

application for a permit to plug and abandon the well for the purposes of section 1509.13 of the Revised Code.

(b) Within thirty days after receiving an application and accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, arms length contract.

(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 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 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.

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

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

(1) Chapter 4115. of the Revised Code;

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

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

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

(1) Filing an application with the chief under section 1509.06 of the

Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

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

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

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

(A) Within five months after the date upon which the surface drilling of a well is commenced, the owner or the owner's agent, in accordance with the restoration plan filed under division (J) of section 1509.06 of the Revised Code, shall fill all the pits for containing brine, other waste substances resulting, obtained, or produced in connection with exploration or drilling for, or production of, oil or gas, or oil that are not required by other state or federal law or regulation, and remove all concrete bases, drilling supplies, and drilling equipment. Within nine months after the date upon which the surface drilling of a well is commenced, the owner or the 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~~ mineral resources management 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 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 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 that period the owner or 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 the request unless 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, 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, upon written application by an owner or an owner's agent showing reasonable cause, may extend the period within which restoration shall be completed under divisions (A) and (B) of this section, but not to exceed a further six-month period, except under extraordinarily adverse weather conditions or when essential equipment, fuel, or labor is unavailable to the owner or the owner's agent.

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

Sec. 1509.08. Upon receipt of an application for a permit required by section 1509.05 of the Revised Code, or upon receipt of an application for a permit to plug and abandon under section 1509.13 of the Revised Code, the chief of the division of ~~oil and gas~~ mineral resources management shall determine whether the well is or is to be located in a coal bearing township.

Whether or not the well is or is to be located in a coal bearing township, the chief, by order, may refuse to issue a permit required by section 1509.05 of the Revised Code to any applicant who at the time of applying for the permit is in material or substantial violation of this chapter or rules adopted or orders issued under it. The chief shall refuse to issue a permit to any applicant who at the time of applying for the permit has been found liable by a final nonappealable order of a court of competent jurisdiction for damage to streets, roads, highways, bridges, culverts, or drainways pursuant to section 4513.34 or 5577.12 of the Revised Code until the applicant provides the chief with evidence of compliance with the order. No applicant shall attempt to circumvent this provision by applying for a permit under a different name or business organization name, by transferring responsibility to another person or entity, by abandoning the well or lease, or by any other similar act.

If the well is not or is not to be located in a coal bearing township, or if it is to be located in a coal bearing township, but the landowner submits an affidavit attesting to ownership of the property in fee simple, including the coal, and has no objection to the well, the chief shall issue the permit.

If the application to drill, reopen, or convert concerns a well that is or is to be located in a coal bearing township, the ~~chief of the division of oil and~~

~~gas shall transmit to the chief of the division of mines and reclamation two copies of the application and three copies of the map required in section 1509.06 of the Revised Code, except that, when the affidavit with the waiver of objection described in the preceding paragraph is submitted, the chief of the division of oil and gas shall not transmit the copies.~~

~~The chief of the division of mines and reclamation~~ immediately shall notify the owner or lessee of any affected mine that the application has been filed and send to the owner or lessee two copies of the map accompanying the application setting forth the location of the well.

If the owner or lessee objects to the location of the well or objects to any location within fifty feet of the original location as a possible site for relocation of the well, the owner or lessee shall notify the chief ~~of the division of mines and reclamation~~ of the objection, giving the reasons for the objection and, if applicable, indicating on a copy of the map the particular location or locations within fifty feet of the original location to which the owner or lessee objects as a site for possible relocation of the well, within six days after the receipt of the notice. If the chief ~~of the division of mines and reclamation~~ receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief ~~of the division of mines and reclamation~~ the objections offered by the owner or lessee are not sufficiently well founded, the chief immediately shall notify the owner or lessee of those findings. The owner or lessee may appeal the decision of the chief ~~of the division of mines and reclamation~~ to the mine examining board created under section 1561.10 of the Revised Code. The appeal shall be filed within fifteen days from the date on which the owner or lessee receives the notice. If the appeal is not filed within that time, the chief ~~of the division of mines and reclamation~~ immediately shall approve the application, ~~retain a copy of the application and map, and return a copy of the application to the chief of the division of oil and gas with the approval noted on it. The chief of the division of oil and gas then shall~~ and issue the permit if the provisions of this chapter pertaining to the issuance of such a permit have been complied with.

If the chief ~~of the division of mines and reclamation~~ receives an objection from the owner or lessee of the mine as to the location of the well within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief shall disapprove the application and ~~immediately return it to the chief of the division of oil and gas together with the reasons for disapproval and a suggestion for~~ suggest a new location for the well, provided that the

ted new location shall not be a location within fifty feet of the original location to which the owner or lessee has objected as a site for possible relocation of the well if the chief has determined that the objection is well founded. The chief ~~of the division of oil and gas~~ immediately shall notify the applicant for the permit of the disapproval and any suggestion ~~made by the chief of the division of mines and reclamation~~ as to a new location for the well. The applicant may withdraw the application or amend the application to drill the well at the location suggested by the chief ~~of the division of mines and reclamation~~, or the applicant may appeal the disapproval of the application by the chief ~~of the division of mines and reclamation~~ to the mine examining board.

If the chief ~~of the division of mines and reclamation~~ receives no objection from the owner or lessee of a mine as to the location of the well, but does receive an objection from the owner or lessee as to one or more locations within fifty feet of the original location as possible sites for relocation of the well within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief nevertheless shall approve the application and ~~shall return it immediately to the chief of the division of oil and gas together with the reasons for disapproving any of the locations to which the owner or lessee objects as possible sites for relocation of the well. The chief of the division of oil and gas then shall~~ issue a permit if the provisions of this chapter pertaining to the issuance of such a permit have been complied with, incorporating as a term or condition of the permit that the applicant is prohibited from commencing drilling at any location within fifty feet of the original location that has been disapproved by the chief ~~of the division of mines and reclamation~~. The applicant may appeal to the mine examining board the terms and conditions of the permit prohibiting the commencement of drilling at any such location disapproved by the chief ~~of the division of mines and reclamation~~.

Any such appeal shall be filed within fifteen days from the date the applicant receives notice of the disapproval of the application, any other location within fifty feet of the original location, or terms or conditions of the permit, or the owner or lessee receives notice of the chief's decision. No approval or disapproval of an application shall be delayed by the chief ~~of the division of mines and reclamation~~ for more than fifteen days from the date of sending the notice of the application to the mine owner or lessee as required by this section.

All appeals provided for in this section shall be treated as expedited appeals. The mine examining board shall hear any such appeal in

accordance with section 1561.53 of the Revised Code and render a decision within thirty days of the filing of the appeal.

The chief of the division of oil and gas shall not issue a permit to drill a new well or reopen a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or inflammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of mines and reclamation determines that life or property will not be endangered by drilling and operating the well in that location.

~~The chief of the division of mines and reclamation may suspend the drilling or reopening of a well in a coal bearing township after determining that the drilling or reopening activities present an imminent and substantial threat to public health or safety or to miners' health or safety and having been unable to contact the chief of the division of oil and gas to request an order of suspension under section 1509.06 of the Revised Code. Before issuing a suspension order for this purpose, the chief of the division of mines and reclamation shall notify the owner in a manner that in the chief's judgment would provide reasonable notification that the chief intends to issue a suspension order. The chief may issue such an order without prior notification if reasonable attempts to notify the owner have failed, but in that event notification shall be given as soon thereafter as practical. Within five calendar days after the issuance of the order, the chief shall provide the owner an opportunity to be heard and to present evidence that the activities do not present an imminent and substantial threat to public health or safety or to miners' health or safety. If, after considering the evidence presented by the owner, the chief determines that the activities do not present such a threat, the chief shall revoke the suspension order. An owner may appeal a suspension order issued by the chief of the division of mines and reclamation under this section to the mine examining board or may appeal the order directly to the court of common pleas of the county in which the well is located.~~

Sec. 1509.09. A well may be drilled under a permit only at the location designated on the map required in section 1509.06 of the Revised Code. The location of a well may be changed after the issuance of a permit only with the approval of the chief of the division of oil and gas and, if the well is located in a coal bearing township, with the approval of the chief of the division of mines and reclamation the same as required in section 1509.08 of the Revised Code for the application for a permit to drill a well mineral resources management unless the permit holder requests the issuance of an

emergency drilling permit under this section due to a lost hole under such circumstances that completion of the well is not feasible at the original location. If a permit holder requests a change of location, ~~he~~ the permit holder shall return the original permit and file an amended map indicating the proposed new location.

Drilling shall not be commenced at a new location until the original permit bearing a notation of approval by the chief is posted at the well site. However, a permit holder may commence drilling at a new location without first receiving the prior approval required by this section, if all of the following conditions are met:

(A) Within one working day after spudding the new well, the permit holder files a request for an emergency drilling permit and submits to the chief an application for a permit that meets the requirements of section 1509.06 of the Revised Code, including the permit fee required by that section, with an amended map showing the new location;

(B) ~~An oil and gas well~~ A mineral resources inspector is present before spudding operations are commenced at the location;

(C) The original well is plugged prior to the skidding of the drilling rig to the new location, and the plugging is witnessed or verified by ~~an oil and gas well~~ a mineral resources inspector or, if the well is located in a coal bearing township, ~~the gas storage well inspector or both~~ both a deputy mine inspector and a mineral resources inspector unless the chief or ~~his~~ the chief's authorized representative temporarily waives the requirement, but in any event the original well shall be plugged before the drilling rig is moved from the location;

(D) The new location is within fifty feet of the original location unless, upon request of the permit holder, the chief ~~of the division of oil and gas, with the approval of the chief of the division of mines and reclamation~~ if the well is located in a coal bearing township, agrees to a new location farther than fifty feet from the original location;

(E) The new location meets all the distance and spacing requirements prescribed by rules adopted under sections 1509.23 and 1509.24 of the Revised Code;

(F) If the well is located in a coal bearing township, use of the new well location has not been disapproved by the chief ~~of the division of mines and reclamation~~ and has not been prohibited as a term or condition of the permit under section 1509.08 of the Revised Code.

If the chief ~~of the division of oil and gas~~ approves the change of location, ~~he~~ the chief shall issue an emergency permit within two working days after the filing of the request for the emergency permit. If the chief

disapproves the change of location, ~~he~~ the chief shall, by order, deny the request and may issue an appropriate enforcement order under section 1509.03 of the Revised Code.

Sec. 1509.10. Any person drilling within the state shall, within thirty days after the completion of the well, file with the division of ~~oil and gas~~ mineral resources management an accurate log designating:

(A) The purpose for which the well was drilled;

(B) The character, depth, and thickness of geological formations encountered, including fresh water, coal seams, mineral beds, brine, and oil and gas bearing formations;

(C) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, and all other data relating to mudding in the annular space behind such casing or tubing, indicating completion as a dry, gas, oil, combination oil and gas, brine, or artificial brine well;

(D) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well.

The log shall be submitted in duplicate. The first copy shall be retained as a permanent record in the files of the division, and the second copy shall be transmitted by the chief of the division of ~~oil and gas~~ mineral resources management to the division of geological survey.

Any electric log, or radioactivity log, or other geophysical log, if made in connection with the well shall be filed with the division and the chief shall transmit such logs to the division of geological survey. Such logs may be retained by the owner for a period of not more than six months, or such additional time as may be granted by the chief in writing, after the completion of the well substantially to the depth shown in the application required by section 1509.06 of the Revised Code.

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

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

Sec. 1509.11. The owner of any well producing or capable of producing

oil or gas shall file with the chief of the division of ~~oil and gas~~ mineral resources management, on or before the fifteenth day of April, a statement of production of oil, gas, and brine for the last preceding calendar year in such form as the chief may prescribe.

Sec. 1509.12. No owner of any well shall permit defective casing or tubing in such well to leak fluids or gas ~~which that~~ may cause damage to other permeable strata. Upon notice from the chief of the division of ~~oil and gas~~ mineral resources management, such owner shall immediately repair such tubing or casing or plug and abandon such well.

Unless written permission is granted by the chief, any well ~~which that~~ is or becomes incapable of producing oil or gas in commercial quantities shall be plugged, but no well shall be required to be plugged under this section ~~which that~~ is being used to produce oil or gas for domestic purposes, or ~~which that~~ is being lawfully used for a purpose other than production of oil or gas. When the chief finds that a well should be plugged, ~~he~~ the chief shall notify the owner to that effect by order in writing and shall specify in such order a reasonable time within which to comply. No owner shall fail or refuse to plug a well within the time specified in the order. Each day on which such a well remains unplugged thereafter constitutes a separate offense.

Where the plugging method prescribed by rules adopted pursuant to section 1509.15 of the Revised Code cannot be applied or if applied would be ineffective in carrying out the protection ~~which that~~ the law is meant to give, the chief ~~of the division of oil and gas, or if a well is located in a coal-bearing township, the chief of the division of mines and reclamation,~~ by order, may designate a different method of plugging. The abandonment report shall show the manner in which the well was plugged.

In case of oil or gas wells abandoned prior to September 1, 1951, the board of county commissioners of the county in which such wells are located may submit to the electors of the county the question of establishing a special fund, by special levy, bond issue, or out of current funds, which shall be approved by a majority of the electors voting upon such question for the purpose of plugging such wells. The fund shall be administered by the board and the plugging of oil and gas wells shall be under the supervision of the chief ~~of the division of oil and gas,~~ and the board shall let contracts for such purpose, provided that such fund shall not be used for the purpose of plugging oil and gas wells ~~which that~~ were abandoned subsequent to September 1, 1951.

Sec. 1509.13. No person shall plug and abandon a well without having a permit to do so issued by the chief of the division of ~~oil and gas~~ mineral

resources management. The permit shall be issued by the chief in accordance with this chapter, and the chief may establish by rule a period of time from date of issue during which permits will be valid. Application by the owner for a permit to plug and abandon shall be filed as many days in advance as will be necessary for ~~an oil and gas well~~ a mineral resources inspector or, if the well is located in a coal bearing township, ~~the gas storage well inspector or~~ both a deputy mine inspector and a mineral resources inspector to be present at the plugging. The application shall be filed with the chief upon a form that the chief prescribes and shall contain the following information:

(A) The name and address of the owner;

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

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

(D) Designation of well by name and number;

(E) The total depth of the well to be plugged;

(F) The date and amount of last production from the well;

(G) Other data that the chief may require.

If oil or gas has been produced from the well, the application shall be accompanied by a fee of fifty dollars. If a new dry well has been drilled in accordance with law and the permit is still valid, the permit holder may receive approval to plug the well from ~~an oil and gas well~~ a mineral resources inspector or, if the well is located in a coal bearing township, ~~the gas storage well inspector or~~ both a deputy mine inspector and a mineral resources inspector so that the well can be plugged and abandoned without undue delay. No well ~~located outside a coal bearing township~~ shall be plugged and abandoned without ~~an oil and gas well~~ a mineral resources inspector present unless permission has been granted by the chief ~~of the division of oil and gas, and no well located within a coal bearing township shall be plugged and abandoned without the gas storage well inspector or a deputy mine inspector present unless permission has been granted by the chief of the division of mines and reclamation.~~ The owner of the well shall give written notice at the same time to the owner of the land upon which the well is located, the owners or agents of adjoining land, adjoining well owners or agents, and, if the well penetrates or passes within one hundred feet of the excavations and workings of a mine, the owner or lessee of that mine, of the well owner's intention to abandon the well and of the time when the well owner will be prepared to commence plugging it.

An applicant may file a request with the chief ~~of the division of oil and gas~~ for expedited review of an application for a permit to plug and abandon a well. The chief may refuse to accept a request for expedited review if, in the chief's judgment, acceptance of the request will prevent the issuance, within twenty-one days of filing, of permits for which applications filed under section 1509.06 of the Revised Code are pending. In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, if applicable, a request shall be accompanied by a nonrefundable filing fee of two hundred fifty dollars unless the chief has ordered the applicant to plug and abandon the well. When a request for expedited review is filed, the chief shall immediately begin to process the application and shall issue a permit within seven days of the filing of the request unless the chief, by order, denies the application.

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

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

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

- (A) The date of abandonment;
- (B) The name of the owner or operator of the well at the time of abandonment and the post-office address of the owner or operator;
- (C) The location of the well as to township and county and the name of the owner of the surface upon which the well is drilled, with the address thereof;
- (D) The date of the permit to drill;
- (E) The date when drilled;
- (F) The depth of the well;
- (G) The depth of the top of the formation to which the well was drilled;
- (H) The depth of each seam of coal drilled through;

(I) A detailed report as to how the well was plugged, giving in particular the manner in which the coal and various formations were plugged, and the date of the plugging of the well, including the names of those who witnessed the plugging of the well.

The report shall be signed by the owner or operator, or the agent of the owner or operator, who abandons and plugs the well and verified by the oath of the party so signing. For the purposes of this section, the ~~oil and gas well inspectors, gas storage well inspectors, or deputy mine~~ mineral resources inspectors may take acknowledgments and administer oaths to the parties signing the report.

Sec. 1509.15. When any well is to be abandoned, it shall first be plugged in accordance with a method of plugging adopted by rule by the chief of the division of ~~oil and gas, except that if a well is located in a coal-bearing township, it shall be plugged in accordance with a method of plugging adopted by rule by the chief of the division of mines and reclamation~~ mineral resources management. The abandonment report shall show the manner in which the well was plugged.

Sec. 1509.17. Any person who drills a well shall, before drilling into the principal or major producing formation therein, encase such well with good and sufficient wrought iron or steel casing so as to exclude all surface, fresh, or salt water from any part of such well penetrating the oil or gas bearing sand or rock or fresh water strata. The method of placing such casing shall be approved by the chief of the division of ~~oil and gas,~~ mineral resources management and shall be in accord with the most approved method used in the operation of such type of well. The chief may, in lieu of the casing method outlined in this section, accept adequate mudding methods with prepared clay in the annular space behind such casing in sufficient quantities to shut ~~of~~ OFF all gas or oil and ~~which that~~ will exclude all surface, fresh, or salt water from any part of such well penetrating the oil, gas, or mineral bearing formation, or fresh water strata.

Written approval from the chief is required in each case. In the operation of a gas well, it is permissible, with the written consent of the chief, to withdraw all casing in such well, leaving only the tubing and the packer therein, provided that such well is filled with prepared clay from the top of such packer to the surface, as each succeeding string of casing in such well is withdrawn. When the well penetrates the excavations of a mine, the casing shall remain intact as provided in section 1509.18 of the Revised Code and be plugged and abandoned in accordance with section 1509.15 of the Revised Code.

Sec. 1509.18. Any person who drills a well within the limits of a mining

operation shall give consideration for the safety of the ~~men~~ personnel working in such mine, and, if possible, shall locate such well so as to penetrate a pillar.

If a well is to be drilled within the limits of a mining operation ~~which~~ that may penetrate the excavation of a mine, the hole shall be reduced approximately fifteen feet above the roof of the mine. If roof conditions at the mine warrant, the hole shall be reduced in the rock formation immediately above such mine, and a string of casing placed upon the shoulder so as to shut off all water, then drilling shall be continued to a point approximately thirty feet below the floor of the mine and another string of casing set. Both strings of casing shall be approximately the same diameter as the diameter of the hole.

If no water is encountered between the bottom of the drive pipe and the approximate casing shoulder above the roof of such mine, in lieu of the casing method outlined above, it is permissible to use the following casing method: the hole shall be drilled thirty feet below the floor of the mine and a string of casing shall be extended from the surface to a point thirty feet below the floor of the mine with a packer of sufficient size attached to such string of casing. Such packer shall be placed so that it will be below all water and will be located in the rock formation immediately above such mine and shall prevent water or destructive matter from entering therein. Then the annular space above such packer between the casing and well wall shall be filled with prepared clay a minimum distance of fifty feet.

If a well is drilled within the limits of a mining operation and does not penetrate the excavations of a mine, the hole shall be reduced thirty feet below the coal or mineral ~~which~~ that is being mined and a string of casing placed at this point. The annular space behind such casing shall be filled with neat cement from the casing seat to a point not less than fifty feet above such seam of coal or mineral ~~which~~ that is being mined. The packer method, outlined in this section, is also permissible in this type of well.

It is permissible to attach a release coupling or a right and left nipple to the string of casing that extends through the mine, but such release coupling or right and left nipple shall be placed in such a manner that it is above the packer or at least twenty feet above the coal or mineral that is being mined.

In wells penetrating the excavation of a mine, the casing shall be enclosed, if possible, with a column extending from the floor to the roof of such mine, built of brick or other suitable material, subject to the approval of the chief of the division of ~~mines and reclamation~~ mineral resources management. If the chief finds the method prescribed in this section unsafe, inadequate, or not suitable, ~~he~~ the chief shall require such method to be

altered in such manner that it will be safe.

Sec. 1509.21. No person shall, without first having obtained a permit from the chief of the division of ~~oil and gas~~ mineral resources management, conduct secondary or additional recovery operations, including any underground injection of fluids for the secondary or tertiary recovery of oil or natural gas or for the storage of hydrocarbons that are liquid at standard temperature or pressure, unless a rule of the chief expressly authorizes such operations without a permit. Such permit shall be in addition to any permit required by section 1509.05 of the Revised Code. Secondary or additional recovery operations shall be conducted in accordance with rules and orders of the chief and any terms or conditions of the permit authorizing such operations. Rules adopted under this section shall include provisions regarding applications for and the issuance of permits; the terms and conditions of permits; entry to conduct inspections and to examine records to ascertain compliance with this section and rules, orders, and terms and conditions of permits adopted or issued thereunder; the provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the "Safe Drinking Water Act." To implement the goals of the "Safe Drinking Water Act," ~~88 Stat. 1661, 42 U.S.C.A 300(f), as amended,~~ the chief shall not issue a permit for the underground injection of fluids for the secondary or tertiary recovery of oil or natural gas or for the storage of hydrocarbons that are liquid at standard temperature and pressure, unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in underground water that supplies or can be reasonably expected to supply any public water system, such that the presence of any such contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. Rules, orders, and terms or conditions of permits adopted or issued under this section shall be construed to be no more stringent ~~that~~ **THAN** required for compliance with the Safe Drinking Water Act, unless essential to ensure that underground sources of drinking water will not be endangered.

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

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

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

(B) No person shall store or dispose of brine in violation of a plan approved under division (A) of section 1509.222 or section 1509.226 of the Revised Code, in violation of a resolution submitted under section 1509.226 of the Revised Code, or in violation of rules or orders applicable to those plans or resolutions.

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

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

(2) Muds, cuttings, and other waste substances shall not be disposed of in violation of any rule;

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

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

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

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

(D) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or

produced in connection with oil or gas drilling, exploration, or production into an underground formation unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one hundred dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production. The rules shall include provisions regarding applications for and issuance of the permits required by this division; entry to conduct inspections and to examine and copy records to ascertain compliance with this division and rules, orders, and terms and conditions of permits adopted or issued under it; the provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the Safe Drinking Water Act. To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. This division and rules, orders, and terms and conditions of permits adopted or issued under it shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act unless essential to ensure that underground sources of drinking water will not be endangered.

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

(F) An owner shall replace the water supply of the holder of an interest in real property who obtains all or part of the holder's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been substantially disrupted by contamination, diminution, or interruption proximately

resulting from the owner's oil or gas operation, or the owner may elect to compensate the holder of the interest in real property for the difference between the fair market value of the interest before the damage occurred to the water supply and the fair market value after the damage occurred if the cost of replacing the water supply exceeds this difference in fair market values. However, during the pendency of any order issued under this division, the owner shall obtain for the holder or shall reimburse the holder for the reasonable cost of obtaining a water supply from the time of the contamination, diminution, or interruption by the operation until the owner has complied with an order of the chief for compliance with this division or such an order has been revoked or otherwise becomes not effective. If the owner elects to pay the difference in fair market values, but the owner and the holder have not agreed on the difference within thirty days after the chief issues an order for compliance with this division, within ten days after the expiration of that thirty-day period, the owner and the chief each shall appoint an appraiser to determine the difference in fair market values, except that the holder of the interest in real property may elect to appoint and compensate the holder's own appraiser, in which case the chief shall not appoint an appraiser. The two appraisers appointed shall appoint a third appraiser, and within thirty days after the appointment of the third appraiser, the three appraisers shall hold a hearing to determine the difference in fair market values. Within ten days after the hearing, the appraisers shall make their determination by majority vote and issue their final determination of the difference in fair market values. The chief shall accept a determination of the difference in fair market values made by agreement of the owner and holder or by appraisers under this division and shall make and dissolve orders accordingly. This division does not affect in any way the right of any person to enforce or protect, under applicable law, the person's interest in water resources affected by an oil or gas operation.

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

Sec. 1509.221. No person, without first having obtained a permit from the chief of the division of ~~oil and gas~~ mineral resources management, shall drill a well or inject a substance into a well for the exploration for or extraction of minerals or energy, other than oil or natural gas, including, but not limited to, the mining of sulfur by the Frasch process, the solution mining of minerals, the in situ combustion of fossil fuel, or the recovery of

geothermal energy to produce electric power, unless a rule of the chief expressly authorizes the activity without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code governing the issuance of permits under this section. The rules shall include provisions regarding the matters the applicant for a permit shall demonstrate to establish eligibility for a permit; the form and content of applications for permits; the terms and conditions of permits; entry to conduct inspections and to examine and copy records to ascertain compliance with this section and rules, orders, and terms and conditions of permits adopted or issued thereunder; provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the "Safe Drinking Water Act," ~~88 Stat. 1661, 42 U.S.C.A. 300(f), as amended.~~ To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit under this section, unless ~~he~~ the chief concludes that the applicant has demonstrated that the drilling, injection of a substance, and extraction of minerals or energy will not result in the presence of any contaminant in underground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. The chief may issue, without a prior adjudication hearing, orders requiring compliance with this section and rules, orders, and terms and conditions ~~of~~ OF permits adopted or issued thereunder. This section and rules, orders, and terms and conditions of permits adopted or issued thereunder shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act, unless essential to ensure that underground sources of drinking water will not be endangered.

In an action under section 1509.04 or 1509.33 of the Revised Code to enforce this section, the court shall grant preliminary and permanent injunctive relief and impose a civil penalty upon the showing that the person against whom the action is brought has violated, is violating, or will violate this section or rules, orders, or terms or conditions of permits adopted or issued thereunder. The court shall not require, prior to granting such preliminary and permanent injunctive relief or imposing a civil penalty, proof that the violation was, is, or will be the result of intentional conduct or negligence. In any such action, any person may intervene as a plaintiff upon the demonstration that the person has an interest that is or may be adversely affected by the activity for which injunctive relief or a civil penalty is

sought.

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

(2) No more than one registration certificate shall be required of any business entity. Registration certificates issued under this section are not transferable. An applicant shall file an application with the chief, containing such information in such form as the chief prescribes, but including a plan for disposal that provides for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported and that lists all disposal sites that the applicant intends to use, the bond required by section 1509.225 of the Revised Code, and a certificate issued by an insurance company authorized to do business in this state certifying that the applicant has in force a liability insurance policy in an amount not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to pay damages for injury to persons or property caused by the collecting, handling, transportation, or disposal of brine. The policy shall be maintained in effect during the term of the registration certificate. The policy or policies providing the coverage shall require the insurance company to give notice to the chief if the policy or policies lapse for any reason. Upon such termination of the policy, the chief may suspend the registration certificate until proper insurance coverage is obtained. Each application for a registration certificate shall be accompanied by a nonrefundable fee of five hundred dollars.

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

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

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

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

or by any similar act.

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

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

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

(B) Each registered transporter shall file with the chief of the division of ~~oil and gas~~ mineral resources management, on or before the fifteenth day of April, a statement concerning brine transported, including quantities transported and source and delivery points, during the last preceding calendar year, and such other information in such form as the chief may prescribe.

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

- (1) The name of the owner or owners of the well or wells producing the brine to be transported;
- (2) The date and time the brine is loaded;
- (3) The name of the driver;
- (4) The amount of brine loaded at each collection point;
- (5) The disposal location; ~~and~~
- (6) The date and time the brine is disposed of and the amount of brine disposed of at each location.

No registered transporter shall falsify or fail to keep or submit the log required by this division.

(D) Each registered transporter shall legibly identify with reflective paints all vehicles employed in transporting or disposing of brine. Letters

shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter.

(E) The chief shall maintain and keep a current list of persons registered to transport brine under section 1509.222 of the Revised Code. The list shall be open to public inspection. It is an affirmative defense to a charge under division (A) of this section that at the time the permit holder or owner of a well entered into an agreement with or permitted a person to transport brine, the person was shown on the list as currently registered to transport brine.

Sec. 1509.224. (A) In addition to any other remedies provided in ~~Chapter 1509. of the Revised Code~~ this chapter, if the chief of the division of ~~oil and gas~~ mineral resources management has reason to believe that a pattern of the same or similar violations of any requirements of sections 1509.22, 1509.222, or 1509.223 of the Revised Code, or any rule adopted thereunder or term or condition of the registration certificate issued thereunder exists or has existed, and the violations are caused by the transporter's indifference, lack of diligence, or lack of reasonable care, or are willfully caused by the transporter, the chief shall immediately issue an order to the transporter to show cause why the certificate should not be suspended or revoked. After the issuance of the order, the chief shall provide the transporter an opportunity to be heard and to present evidence at an informal hearing conducted by the chief. If, at the conclusion of the hearing, the chief finds that such a pattern of violations exists or has existed, ~~he~~ the chief shall issue an order suspending or revoking the transporter's registration certificate. An order suspending or revoking a certificate under this section may be appealed under sections 1509.36 and 1509.37 of the Revised Code, or notwithstanding any other provision of this chapter, may be appealed directly to the court of common pleas of Franklin county.

(B) Before issuing an order denying a registration certificate; approving or denying approval of an application for revision of a registered transporter's plan for disposal; or to implement, administer, or enforce section 1509.22, 1509.222, 1509.223, 1509.225, or 1509.226 of the Revised Code and rules and terms and conditions of registration certificates adopted or issued thereunder pertaining to the transportation of brine by vehicle and the disposal of brine so transported, the chief shall issue a preliminary order indicating the chief's intent to issue a final order. The preliminary order shall clearly state the nature of the chief's proposed action and the findings on which it is based and shall state that the preliminary order becomes a final order thirty days after its issuance unless the person to whom the preliminary order is directed submits to the chief a written request for an

informal hearing before the chief within that thirty-day period. At the hearing the person may present evidence as to why the preliminary order should be revoked or modified. Based upon the findings from the informal hearing, the chief shall revoke, issue, or modify and issue the preliminary order as a final order. A final order may be appealed under sections 1509.36 and 1509.37 of the Revised Code.

Sec. 1509.225. (A) Before being issued a registration certificate under section 1509.222 of the Revised Code, an applicant shall execute and file with the division of ~~oil and gas~~ mineral resources management a surety bond for fifteen thousand dollars to provide compensation for damage and injury resulting from transporters' violations of sections 1509.22, 1509.222, and 1509.223 of the Revised Code, all rules and orders of the chief of the division of ~~oil and gas~~ mineral resource management relating thereto, and all terms and conditions of the registration certificate imposed thereunder. The applicant may deposit with the chief, in lieu of a surety bond, cash in an amount equal to the surety bond as prescribed in this section, or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or certificates of deposit issued by any building and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount of the surety bond as prescribed in this section. Cash or certificates of deposit shall be deposited upon the same terms as those upon which surety bonds may be deposited. If certificates of deposit are deposited with the chief in lieu of a surety bond, ~~he~~ the chief shall require the bank or building and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by any of the agencies and instrumentalities created ~~by or under the following acts and amendments thereto:~~

(1) "~~Federal Deposit Insurance Corporation Act,~~" 64 Stat. 873 (1950), 12 U.S.C. 1811;

(2) ~~Federal Savings and Loan Insurance Corporation,~~ 48 Stat. 1256, 12 U.S.C. 1726;

(3) ~~Deposit guaranty association, sections 1151.80 to 1151.92 of the Revised Code, as amended, and regulations adopted under it, including at least the federal deposit insurance corporation, bank insurance fund, and savings association insurance fund.~~

Such securities shall be security for the repayment of the certificate of deposit. Immediately upon a deposit of cash or certificates with the chief, ~~he~~ the chief shall deliver it to the treasurer of ~~the~~ state who shall hold it in trust for the purposes for which it has been deposited.

(B) The surety bond provided for in this section shall be executed by a surety company authorized to do business in this state. The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by ~~his~~ an attorney in fact, with a certified copy of the power of attorney attached thereto. The chief shall not approve such bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state. All bonds shall be given in a form to be prescribed by the chief.

(C) If a registered transporter is found liable for a violation of section 1509.22, 1509.222, or 1509.223 of the Revised Code or a rule, order, or term, or condition of a certificate involving, in any case, damage or injury to persons or property, or both, the court may order the forfeiture of any portion of the bond, cash, or other securities required by this section in full or partial payment of damages to the person to whom the damages are due. The treasurer of state and the chief shall deliver the bond or any cash or other securities deposited in lieu of bond, as specified in the court's order, to the person to whom the damages are due; however, execution against the bond, cash, or other securities, if necessary, is the responsibility of the person to whom the damages are due. The chief shall not release the bond, cash, or securities required by this section except by court order or until two years after the date on which a registration is terminated.

Sec. 1509.226. (A) If a board of county commissioners, a board of township trustees, or the legislative authority of a municipal corporation wishes to permit the surface application of brine to roads, streets, highways, and other similar land surfaces it owns or has the right to control for control of dust or ice, it may adopt a resolution permitting such application as provided in this section. If a board or legislative authority does not adopt such a resolution, then no such surface application of brine is permitted on such roads, streets, highways, and other similar surfaces. If a board or legislative authority votes on a proposed resolution to permit such surface application of brine, but the resolution fails to receive the affirmative vote of a majority of the board or legislative authority, the board or legislative authority shall not adopt such a resolution for one year following the date on which the vote was taken. A board or legislative authority shall hold at least one public hearing on any proposal to permit surface application of brine under this division and may hold additional hearings. The board or legislative authority shall publish notice of the time and place of each such public hearing in a newspaper of general circulation in the political subdivision at least five days before the day on which the hearing is to be

held.

(B) If a board or legislative authority adopts a resolution permitting the surface application of brine to roads, streets, highways, and other similar land surfaces under division (A) of this section, the board or legislative authority shall, within thirty days after the adoption of the resolution, prepare and submit to the chief of the division of ~~oil and gas~~ mineral resources management a copy of the resolution. Any department, agency, or instrumentality of this state or the United States that wishes to permit the surface application of brine to roads, streets, highways, and other similar land surfaces it owns or has a right to control shall prepare and submit guidelines for such application, but need not adopt a resolution under division (A) of this section permitting such surface application.

All resolutions and guidelines shall be subject to the following standards:

- (1) Brine shall not be applied:
 - (a) To a water-saturated surface;
 - (b) Directly to vegetation near or adjacent to surfaces being treated;
 - (c) Within twelve feet of structures crossing bodies of water or crossing drainage ditches;
 - (d) Between sundown and sunrise, except for ice control.
- (2) The discharge of brine through the spreader bar shall stop when the application stops;
- (3) The applicator vehicle shall be moving at least five miles per hour at all times while the brine is being applied;
- (4) The maximum spreader bar nozzle opening shall be three-quarters of an inch in diameter;
- (5) The maximum uniform application rate of brine shall be three thousand gallons per mile on a twelve-foot-wide road or three gallons per sixty square feet on unpaved lots;
- (6) The applicator vehicle discharge valve shall be closed between the brine collection point and the specific surfaces that have been approved for brine application;
- (7) Any valves that provide for tank draining other than through the spreader bar shall be closed during the brine application and transport;
- (8) The angle of discharge from the applicator vehicle spreader bar shall not be greater than sixty degrees from the perpendicular to the unpaved surface;
- (9) Only the last twenty-five per cent of an applicator vehicle's contents shall be allowed to have a pressure greater than atmospheric pressure; therefore, the first seventy-five per cent of the applicator vehicle's contents

shall be discharged under atmospheric pressure.

If a resolution or guidelines contain only the standards listed in division (B)(1) to (9) of this section, without addition or qualification, the resolution or ~~guidelines~~ GUIDELINES shall be deemed effective when submitted to the chief without further action by the chief. All other resolutions and guidelines shall comply with and be no less stringent than this chapter, rules concerning surface application that the chief shall adopt under division (C) of section 1509.22 of the Revised Code, and other rules of the chief. Within fifteen days after receiving such other resolutions and guidelines, the chief shall review them for compliance with the law and rules and disapprove them if they do not comply.

The board, legislative authority, or department, agency, or instrumentality may revise and resubmit any resolutions or guidelines that the chief disapproves after each disapproval, and the chief shall again review and approve or disapprove them within fifteen days after receiving them. The board, legislative authority, or department, agency, or instrumentality may amend any resolutions or guidelines previously approved by the chief and submit them, as amended, to the chief. The chief shall receive, review, and approve or disapprove the amended resolutions or guidelines on the same basis and in the same time as original resolutions or guidelines. The board, legislative authority, or department, agency, or instrumentality shall not implement amended resolutions or guidelines until they are approved by the chief under this division.

(C) Any person, other than a political subdivision required to adopt a resolution under division (A) of this section or a department, agency, or instrumentality of this state or the United States, who owns or has a legal right or obligation to maintain a road, street, highway, or other similar land surface may file with the board of county commissioners a written plan for the application of brine to the road, street, highway, or other surface. The board need not approve any such plans, but if it approves a plan, the plan shall comply with this chapter, rules adopted thereunder, and the board's resolutions, if any. Disapproved plans may be revised and resubmitted for the board's approval. Approved plans may also be revised and submitted to the board. A plan or revised plan shall do all of the following:

- (1) Identify the sources of brine to be used under the plan;
 - (2) Identify by name, address, and registration certificate, if applicable, any transporters of the brine;
 - (3) Specifically identify the places to which the brine will be applied;
- and**
- (4) Specifically describe the method, rate, and frequency of application.

(D) The board may attach terms and conditions to approval of a plan, or revised plan, and may revoke approval for any violation of this chapter, rules adopted thereunder, resolutions adopted by the board, or terms or conditions attached by the board. The board shall conduct at least one public hearing before approving a plan or revised plan, publishing notice of the time and place of each such public hearing in a newspaper of general circulation in the county at least five days before the day on which the hearing is to be held. The board shall record the filings of all plans and revised plans in its journal. The board shall approve, disapprove, or revoke approval of a plan or revised plan by the adoption of a resolution. Upon approval of a plan or revised plan, the board shall send a copy of the plan to the chief. Upon revoking approval of a plan or revised plan, the board shall notify the chief of the revocation.

(E) No person shall:

(1) Apply brine to a water-saturated surface;

(2) Apply brine directly to vegetation adjacent to the surface of roads, streets, highways, and other surfaces to which brine may be applied.

(F) Each political subdivision that adopts a resolution under divisions (A) and (B) of this section, each department, agency, or instrumentality of this state or the United States that submits guidelines under division (B) of this section, and each person who files a plan under divisions (C) and (D) of this section shall, on or before the fifteenth day of April of each year, file a report with the chief concerning brine applied within ~~his~~ the person's or its governmental entity's jurisdiction, including the quantities transported and the sources and application points during the last preceding calendar year and such other information in such form as the chief requires.

(G) Any political subdivision or department, agency, or instrumentality of this state or the United States that applies brine under this section may do so with its own personnel, vehicles, and equipment without registration under or compliance with section 1509.222 or 1509.223 of the Revised Code and without the necessity for filing the surety bond or other security required by section 1509.225 of the Revised Code. However, each such entity shall legibly identify vehicles used to apply brine with reflective paint in letters no less than four inches in height, indicating the word "brine" and that the vehicle is a vehicle of the political subdivision, department, agency, or instrumentality. Except as stated in this division, such entities shall transport brine in accordance with sections 1509.22 to 1509.226 of the Revised Code.

(H) A surface application plan filed for approval under division (C) of this section shall be accompanied by a nonrefundable fee of fifty dollars,

which shall be credited to the general fund of the county. An approved plan is valid for one year from the date of its approval unless it is revoked before that time. An approved revised plan is valid for the remainder of the term of the plan it supersedes unless it is revoked before that time. Any person who has filed such a plan or revised plan and had it approved may renew it by refiling it in accordance with divisions (C) and (D) of this section within thirty days before any anniversary of the date on which the original plan was approved. The board shall notify the chief of renewals and nonrenewals of plans. Even if a renewed plan is approved under those divisions, the plan is not effective until notice is received by the chief, and until notice is received, the chief shall enforce this chapter and rules adopted thereunder with regard to the affected roads, streets, highways, and other similar land surfaces as if the plan had not been renewed.

(I) A resolution adopted under division (A) of this section by a board or legislative authority shall be effective for one year following the date of its adoption and from month to month thereafter until the board or legislative authority, by resolution, terminates the authority granted in the original resolution. The termination shall be effective not less than seven days after enactment of the resolution, and a copy of the resolution shall be sent to the chief.

~~(J) As used in this section, "board of county commissioners" includes any other county legislative authority established by law.~~

Sec. 1509.23. Rules of the chief of the division of ~~oil and gas~~ mineral resources management may specify practices to be followed in the drilling of wells and production of oil and gas for protection of public health or safety or to prevent damage to natural resources, including specification of devices, minimum distances that wells and other excavations, structures, and equipment shall be located from water wells, streets, roads, highways, railroad tracks, and buildings, other methods of operation, and procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of oil from oil production facilities and oil drilling and workover facilities consistent with and equivalent in scope, content, and coverage to section 311(j)(1)(c) of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended, and regulations adopted under it.

Sec. 1509.24. The chief of the division of ~~oil and gas~~ mineral resources management, with the approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, may adopt, amend, ~~modify~~, or rescind rules relative to minimum acreage requirements for drilling units and minimum distances from which a new well may be drilled

or an existing well deepened, plugged back, or reopened to a source of supply different from the existing pool from boundaries of tracts, drilling units, and other wells for the purpose of conserving oil and gas reserves. Rules ~~made pursuant to~~ adopted under this section and special orders made under section 1509.25 of the Revised Code shall apply only to new wells to be drilled or existing wells to be deepened, plugged back, or reopened to a source of supply different from the existing pool for the purpose of extracting oil or gas in their natural state.

Sec. 1509.25. The chief of the division of ~~oil and gas~~ mineral resources management, upon ~~his~~ the chief's own motion or upon application of an owner, may hold a hearing to consider the need or desirability of adopting a special order for drilling unit requirements in a particular pool different from those established under section 1509.24 of the Revised Code. The chief shall notify every owner of land within the area proposed to be included within the order, of the date, time, and place of the hearing and the nature of the order being considered at least thirty days prior to the date of the hearing. Each application for such an order shall be accompanied by such information as the chief may request. If the chief finds that the pool can be defined with reasonable certainty, that the pool is in the initial state of development, and that the establishment of such different requirements for drilling a well on a tract or drilling unit in such pool is reasonably necessary to protect correlative rights or to provide effective development, use, or conservation of oil and gas, the chief, with the written approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, shall make a special order designating the area covered by the order, and specifying the acreage requirements for drilling a well on a tract or drilling unit in such area, which acreage requirements shall be uniform for the entire pool. The order shall specify minimum distances from the boundary of the tract or drilling unit for the drilling of wells and minimum distances from other wells and allow exceptions for wells drilled or drilling in a particular pool at the time of the filing of the application. The chief may exempt the discovery well from minimum acreage and distance requirements in the order. After the date of the notice for a hearing called to make such order, no additional well shall be commenced in the pool for a period of sixty days or until an order has been made pursuant to the application, whichever is earlier. The chief, upon ~~his~~ the chief's own motion or upon application of an owner, after a hearing and with the approval of the technical advisory council on oil and gas may include additional lands determined to be underlaid by a particular pool or to exclude lands determined not to be underlaid by a particular pool, and may modify the

spacing and acreage requirements of the order.

Nothing in this section ~~shall permit~~ permits the chief to establish drilling units in a pool by requiring the use of a survey grid coordinate system with fixed or established unit boundaries.

Sec. 1509.26. The owners of adjoining tracts may agree to pool such tracts to form a drilling unit ~~which that~~ conforms to the minimum acreage and distance requirements of the division of ~~oil and gas~~ mineral resources management under section 1509.24 or 1509.25 of the Revised Code. Such agreement shall be in writing, a copy of which shall be submitted to the division of ~~oil and gas~~ with the application for permit required by section 1509.05 of the Revised Code. Parties to the agreement shall designate one of their number as the applicant for such permit.

Sec. 1509.27. If a tract of land is of insufficient size or shape to meet the requirements for drilling a well thereon as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, and the owner has been unable to form a drilling unit under agreement as provided in section 1509.26 of the Revised Code, on a just and equitable basis, the owner of such tract may make application to the division of ~~oil and gas~~ mineral resources management for a mandatory pooling order.

Such application shall include such data and information as shall be reasonably required by the chief of the division of ~~oil and gas~~ mineral resources management and shall be accompanied by an application for a permit as required by section 1509.05 of the Revised Code. The chief shall notify all owners of land within the area proposed to be included within the order of the filing of such application and of their right to a hearing if requested. After the hearing or after the expiration of thirty days from the date notice of application was mailed to such owners, the chief, if satisfied that the application is proper in form and that mandatory pooling is necessary to protect correlative rights or to provide effective development, use, or conservation of oil and gas, shall issue a drilling permit and a mandatory pooling order complying with the requirements for drilling a well as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, which shall:

(A) Designate the boundaries of the drilling unit within which the well shall be drilled;

(B) Designate the proposed drilling site;

(C) Describe each separately owned tract or part thereof pooled by the order;

(D) Allocate on a surface acreage basis a pro rata portion of the production to the owner of each tract;

(E) Specify the basis upon which each owner shall share all reasonable costs and expenses of drilling and producing;

(F) Designate the person to whom the permit shall be issued.

If an owner does not elect to participate in the risk and cost of the drilling and operation, or operation, of a well, ~~he~~ the owner may elect to be a nonparticipating owner in the drilling and operation, or operation, of the well, on a limited or carried basis upon terms and conditions determined by the chief to be just and reasonable. If one or more of the participating owners bear the costs of drilling, equipping, or operating a well for the benefit of a nonparticipating owner, as provided for in the pooling order, then such participating owner or owners shall be entitled to the share of production from the drilling unit accruing to the interest of such nonparticipating owner, exclusive of the royalty interest if the fee holder has leased ~~his~~ the fee holder's land to others, otherwise, one-eighth of ~~his~~ the fee holder's share of the production, until there has been received the share of costs charged to such nonparticipating owner plus such additional percentage of ~~said~~ the share of costs as the chief shall determine. The total amount receivable hereunder shall in no event exceed double the share of costs charged to such nonparticipating owner.

If there is a dispute as to costs of drilling, equipping, or operating a well, the chief shall determine such costs.

In instances where a well is completed prior to the pooling of interests in a drilling unit under this section, the sharing of production and adjustment of the original costs of drilling, equipping, and completing the well shall be from the effective date of the mandatory pooling order.

From and after the date of a pooling order, all operation, including the commencement of drilling or the operating of or production from a well upon any tract or portion of the drilling unit, shall be deemed for all purposes the conduct of such operations upon and production from any lease or contract for lands any portion of which is included in the drilling unit.

Sec. 1509.28. (A) The chief of the division of ~~oil and gas~~ mineral resources management, upon ~~his~~ the chief's own motion or upon application by the owners of sixty-five per cent of the land area overlying the pool, shall hold a hearing to consider the need for the operation as a unit of an entire pool or part thereof. An application by owners shall be accompanied by such information as the chief may request.

The chief shall make an order providing for the unit operation of a pool or part thereof if ~~he~~ the chief finds that such operation is reasonably necessary to increase substantially the ultimate recovery of oil and gas, and the value of the estimated additional recovery of oil or gas exceeds the

estimated additional cost incident to conducting such operation. The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

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

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

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

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

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

(6) A provision, if necessary, for carrying or otherwise financing any person who is unable to meet ~~his~~ the person's financial obligations in connection with the unit, allowing a reasonable interest charge for such service;

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

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

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

(B) No order of the chief providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the chief has been approved in writing by those owners who, under the chief's order, will be required to pay at least sixty-five per cent of the costs of the unit

operation, and also by the royalty or, with respect to unleased acreage, fee owners of sixty-five per cent of the acreage to be included in the unit. If the plan for unit operations has not been so approved by owners and royalty owners at the time the order providing for unit operations is made, the chief shall upon application and notice hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the owners and royalty owners, or either, owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, such order shall cease to be of force and shall be revoked by the chief.

An order providing for unit operations may be amended by an order made by the chief, in the same manner and subject to the same conditions as an original order providing for unit operations, provided that:

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

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

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

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

Oil and gas allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or

to whose credit, the same are allocated or payable under the order providing for unit operations.

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

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

Sec. 1509.29. Upon application by an owner of a tract for which a drilling permit may not be issued, and a showing by ~~him~~ the owner that ~~he~~ the owner is unable to enter a voluntary pooling agreement and that ~~he~~ the owner would be unable to participate under a mandatory pooling order, the chief of the division of ~~oil and gas~~ mineral resources management shall issue a permit and order establishing the tract as an exception tract if the chief finds that such owner would otherwise be precluded from producing oil or gas from ~~his~~ the owner's tract because of minimum acreage or distance requirements. The order shall set a percentage of the maximum daily potential production at which the well may be produced. The percentage shall be the same as the percentage that the number of acres in the tract bears to the number of acres in the minimum acreage requirement ~~which~~ that has been established under section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, but if the well drilled on such tract is located nearer to the boundary of the tract than the required minimum distance, the percentage may not exceed the percentage determined by dividing the distance from the well to the boundary by the minimum distance requirement. Within ten days after completion of the well, the maximum daily potential production of the well shall be determined by such drill stem, open flow, or other tests as may be required by the chief. The chief shall require such tests, at least once every three months, as are necessary to determine the maximum daily potential production at that time.

Sec. 1509.31. Whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor shall notify the holders of the royalty interests, and, if a well or wells exist on the lease, the division of ~~oil and gas~~ mineral resources management, of the name and

address of the assignee or transferee by certified mail, return receipt requested, not later than thirty days after the date of the assignment or transfer. When notice of any such assignment or transfer is required to be provided to the division, it shall be provided on a form prescribed and provided by the division and verified by both the assignor or transferor and by the assignee or transferee. The notice form applicable to assignments or transfers of a well to the owner of the surface estate of the tract on which the well is located shall contain a statement informing the landowner that the well may require periodic servicing to maintain its productivity; that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for compliance with the requirements of this chapter and rules adopted under it, including, without limitation, the proper disposal of brine obtained from the well, the plugging of the well when it becomes incapable of producing oil or gas, and the restoration of the well site; and that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for the costs of compliance with the requirements of this chapter and rules adopted under it and the costs for operating and servicing the well.

The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit adopted or issued under it, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division the information described in divisions (A), (B), (C), (D), (E), (I), (J), (K), and (L) of section 1509.06 of the Revised Code; obtains liability insurance coverage required by section 1509.07 of the Revised Code, except when none is required by that section; and executes and files a surety bond, negotiable certificates of deposit or irrevocable letters of credit, or cash, as described in that section. Instead of a bond, but only upon acceptance by the chief of the division of mineral resources management, the assignee or transferee may file proof of financial responsibility, described in section 1509.07 of the Revised Code. Section 1509.071 of the Revised Code applies to the surety bond, cash, and negotiable certificates of deposit and irrevocable letters of credit described in this section. Unless the chief approves a modification, each assignee or transferee shall operate in accordance with the plans and information filed by the permit holder pursuant to section 1509.06 of the Revised Code.

Sec. 1509.32. Any person adversely affected may file with the chief of the division of ~~oil and gas~~ mineral resources management a written complaint alleging failure to restore disturbed land surfaces in violation of section 1509.072 or 1509.22 of the Revised Code or a rule adopted

reunder.

Upon receipt of a complaint, the chief shall cause an investigation to be made of the lands where the alleged violation has occurred and send copies of the investigation report to the person who filed the complaint and to the owner. Upon finding a violation the chief shall order the owner to eliminate the violation within a specified time. If the owner fails to eliminate the violation within the time specified, the chief may request the prosecuting attorney of the county in which the violation occurs or the attorney general to bring appropriate action to secure compliance with such sections. If the chief fails to bring an appropriate action to secure compliance with such sections within twenty days after the time specified, the person filing the complaint may request the prosecuting attorney of the county in which the violation occurs to bring an appropriate action to secure compliance with such sections. The division of ~~oil and gas~~ mineral resources management may cooperate with any state or local agency to provide technical advice or minimum standards for the restoration of various soils and land surfaces or to assist in any investigation.

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

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

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

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

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

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

(G) In addition to any other penalties provided in this chapter, whoever violates division (B) of section 1509.22; or division (A)(1) of section 1509.222; or knowingly violates division (A) of section 1509.223 of the Revised Code is liable for any damage or injury caused by the violation and for the cost of rectifying the violation and conditions caused by the violation. If two or more persons knowingly violate one or more of such divisions in connection with the same event, activity, or transaction, they are jointly and severally liable under this division. ~~As used in this division, "knowingly" has the same meaning as in section 2901.22 of the Revised Code.~~

(H) The attorney general, upon the request of the chief of the division of ~~oil and gas~~ mineral resources management, shall commence an action under this section against any person who violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections. Any action under this section is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. The remedy provided in this division is cumulative and concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other, except that no person shall be subject to both a civil penalty under division (A), (B), (C), or (D) of this section and a criminal penalty under section 1509.99 of the Revised Code for the same offense.

Sec. 1509.36. Any person claiming to be aggrieved or adversely affected by an order by the chief of the division of ~~oil and gas~~ mineral resources management may appeal to the oil and gas commission for an order vacating or modifying such order.

The person so appealing to the ~~board~~ commission shall be known as appellant and the chief shall be known as appellee. Appellant and appellee shall be deemed to be parties to the appeal.

The appeal shall be in writing and shall set forth the order complained of and the grounds upon which the appeal is based. The appeal shall be filed with the commission within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of. Notice of the filing of the appeal shall be filed with the chief within three days after the appeal is filed with the commission.

Upon the filing of the appeal the commission promptly shall fix the time and place at which the hearing on the appeal will be held, and shall give the appellant and the chief at least ten days' written notice thereof by mail. The commission may postpone or continue any hearing upon its own motion or

upon application of appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the commission may suspend or stay such execution pending determination of the appeal upon such terms as the commission considers proper.

Either party to the appeal or any interested person who, pursuant to ~~board~~ commission rules has been granted permission to appear, may submit such evidence as the commission considers admissible.

For the purpose of conducting a hearing on an appeal, the commission may require the attendance of witnesses and the production of books, records, and papers, and it may, and at the request of any party it shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the ~~sheriff~~ sheriffs of the counties where such witnesses are found. The subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. Such fees and mileage expenses incurred at the request of appellant shall be paid in advance by the appellant, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division of ~~oil and gas~~ mineral resources management.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the commission or any member thereof, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and any member of the commission may administer oaths or affirmations to persons who so testify.

At the request of any party to the appeal, a stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter at the expense of the party making the request therefor. Such record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence

the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

If upon completion of the hearing the commission finds that the order appealed from was lawful and reasonable, it shall make a written order affirming the order appealed from; if the commission finds that the order was unreasonable or unlawful, it shall make a written order vacating the order appealed from and making the order ~~which~~ that it finds the chief should have made. Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based.

Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by certified mail.

The order of the commission is final unless vacated by the court of common pleas of Franklin county in an appeal as provided for in section 1509.37 of the Revised Code. Sections 1509.01 to 1509.37 of the Revised Code, providing for appeals relating to orders by the chief or by the commission, or relating to rules adopted ~~and promulgated~~ by the chief, do not constitute the exclusive procedure ~~which~~ that any person who believes the person's rights to be unlawfully affected by those sections or any official action taken thereunder must pursue in order to protect and preserve those rights, nor do those sections constitute a procedure ~~which~~ that that person must pursue before that person may lawfully appeal to the courts to protect and preserve those rights.

Sec. 1509.38. There is hereby created in the division of ~~oil and gas~~ mineral resources management a technical advisory council on oil and gas, which shall consist of eight members to be appointed by the governor with the advice and consent of the senate. Three members shall be independent oil or gas producers, operators, or their representatives, operating and producing primarily in this state, three members shall be oil or gas producers, operators, or their representatives having substantial oil and gas producing operations in this state and at least one other state, one member shall represent the public, and one member shall represent persons having landowners' royalty interests in oil and gas production. All members shall be residents of this state, and all members, except the members representing the public and persons having landowners' royalty interests, shall have at least five years of practical or technical experience in oil or gas drilling and production. Not more than one member may represent any one company, producer, or operator.

Terms of office shall be for three years, commencing on the first day of

February and ending on the thirty-first day of January. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. A vacancy in the office of a member shall be filled by the governor, with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The council shall select from among its members a chairperson, a vice-chairperson, and a secretary. All members are entitled to their actual and necessary expenses incurred in the performance of their duties as members, payable from the appropriations for the division.

The governor may remove any member for inefficiency, neglect of duty, or malfeasance in office.

The council shall hold at least one regular meeting in each quarter of a calendar year and shall keep a record of its proceedings. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request signed by two or more members of the council. A written notice of the time and place of each meeting shall be sent to each member of the council. Five members constitute a quorum, and no action of the council is valid unless five members concur.

The council, when requested by the chief of the division of ~~oil and gas~~ mineral resources management, shall consult with and advise the chief and perform other duties that may be lawfully delegated to it by the chief. The council may participate in hearings held by the chief under this chapter and has powers of approval as provided in sections 1509.24 and 1509.25 of the Revised Code. The council shall conduct the activities required, and exercise the authority granted, under Chapter 1510. of the Revised Code.

Sec. 1509.39. This chapter or rules adopted under it shall not be construed to prevent any municipal corporation, county, or township from enacting and enforcing health and safety standards for the drilling and exploration for oil and gas, provided that such standards are not less restrictive than this chapter or the rules adopted thereunder by the division of ~~oil and gas~~ mineral resources management. No county or township shall adopt or enforce any ordinances, resolutions, rules, or requirements relative to the minimum acreage requirements for drilling units; minimum distances from which a new well or related production facilities may be drilled or an existing well deepened, plugged back, or reopened to a source of supply

different from the existing pool from boundaries of tracts, drilling units, other wells, streets, roads, highways, railroad tracks, and any other structures or facilities included in section 1509.23 of the Revised Code; or the restoration or plugging of an oil and gas well. No county or township shall require any permit or license for the drilling, operation, production, plugging, or abandonment of any oil or gas well nor any fee, bond or other security, or insurance for any activity associated with the drilling, operation, production, plugging, or abandonment of a well, except for the permit provided for in section 4513.34 of the Revised Code and any bond or other security associated therewith.

Sec. 1509.40. Except as provided in section 1509.29 of the Revised Code, no authority granted in ~~Chapter 1509. of the Revised Code~~ this chapter shall be construed as authorizing a limitation on the amount that any well, leasehold, or field is permitted to produce under proration orders of the division of ~~oil and gas~~ mineral resources management.

Sec. 1510.01. As used in this chapter:

(A) "First purchaser" means:

(1) With regard to crude oil, the person to whom title first is transferred beyond the gathering tank or tanks, beyond the facility from which the crude oil was first produced, or both;

(2) With regard to natural gas, the person to whom title first is transferred beyond the inlet side of the measurement station from which the natural gas was first produced.

(B) "Independent producer" means a person who complies with both of the following:

(1) Produces oil or natural gas and is not engaged in refining either product;

(2) Derives a majority of income from ownership in properties producing oil or natural gas.

(C) "Qualified independent producer association" means an association that complies with all of the following:

(1) It is in existence on ~~the effective date of this section;~~ December 18, 1997.

(2) It is organized and operating within this state;

(3) A majority of the members of its governing body are independent producers.

(D) "Technical advisory council" or "council" means the technical advisory council created in the division of ~~oil and gas~~ mineral resources management under section 1509.38 of the Revised Code.

Sec. 1510.08. (A)(1) Except as provided in division (A)(2) of this

section, an operating committee may levy assessments on the production of oil and natural gas in this state for the purposes of a marketing program established under this chapter.

(2) An operating committee shall not levy an assessment that was not approved by independent producers or that exceeds the amount authorized under division (B)(1) of section 1510.04 of the Revised Code. An operating committee shall not levy an assessment against an independent producer who is not eligible to vote in a referendum for the marketing program that the operating committee administers, as determined under division (C) of section 1510.02 of the Revised Code.

(B) The technical advisory council may require a first purchaser to withhold assessments from any amounts that the first purchaser owes to independent producers and, notwithstanding division (A)(2) of this section, to remit them to the chairperson of the council at the office of the division of ~~oil and gas~~ mineral resources management. A first purchaser who pays an assessment that is levied pursuant to this section for an independent producer may deduct the amount of the assessment from any moneys that the first purchaser owes the independent producer.

(C) A marketing program shall require a refund of assessments collected under this section after receiving an application for a refund from an independent producer. An application for a refund shall be made on a form furnished by the council. The operating committee shall ensure that refund forms are available where assessments for its program are withheld.

An independent producer who desires a refund shall submit a request for a refund not later than the thirty-first day of March of the year in which the request is submitted. The council shall refund the assessment to the independent producer not later than the thirtieth day of June of the year in which the request for the refund is submitted.

(D) An operating committee shall not use moneys from any assessments that it levies for any political or legislative purpose or for preferential treatment of one person to the detriment of another person who is affected by the marketing program that the operating committee administers.

Sec. 1513.01. As used in this chapter:

(A) "Approximate original contour" means that surface configuration achieved by backfilling and grading of a mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the chief of the division of ~~mines and reclamation~~ mineral resources

management determines that they are in compliance with division (A)(8) of section 1513.16 of the Revised Code.

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

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

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

(E) "Imminent danger to the health and safety of the public" means the existence of any condition or practice or violation of a permit or other requirement of this chapter or rule adopted thereunder in a coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person subjected to the same conditions or practices giving rise to the peril would not expose ~~himself or herself~~ oneself to the danger during the time necessary for abatement.

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

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

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

(1) Activities conducted on the surface of lands in connection with a coal mine, the removal of coal from coal refuse piles, and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the

ading of coal at or near the mine site. Such activities do not include any of the following:

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

(b) The extraction of coal as an incidental part of federal, state, or local highway or other government-financed construction when approved by the chief;

(c) Coal exploration subject to section 1513.072 of the Revised Code.

(2) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities, and for hauling, and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. Separation by a stream, roadway, or utility easement does not preclude two or more contiguous tracts of land from being considered contiguous.

(I) "Operator" means any person conducting a coal mining operation.

(J) "Overburden" means all of the earth and other materials, except topsoil, covering a natural deposit of coal, and also means such earth and other materials after removal from their natural state in the process of coal mining.

(K) "Permit" means a permit to conduct coal mining and reclamation operations issued by the chief pursuant to section 1513.07 or 1513.074 of the Revised Code.

(L) "Permit area" means the area of land to be affected indicated on the approved map submitted by the operator with the application required by section 1513.07 or 1513.074 of the Revised Code.

(M) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any political subdivision, instrumentality, or agency of this state or the United States.

(N) "Pollution" means placing any sediments, solids, or waterborne mining related wastes, including, but not limited to, acids, metallic cations, or their salts, in excess of amounts prescribed by the chief into any waters of the state or affecting the properties of any waters of the state in a manner ~~which~~ that renders those waters harmful or inimical to the public health, or

to animal or aquatic life, or to the use of the waters for domestic water supply, industrial or agricultural purposes, or recreation.

(O) "Prime farmland" has the same meaning as that previously prescribed by the secretary of the United States department of agriculture as published in the federal register on August 23, 1977, or subsequent revisions thereof, on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics and ~~which~~ that historically has been used for intensive agricultural purposes, and as published in the rules adopted pursuant to this chapter.

(P) "Reclamation" means backfilling, grading, resoiling, planting, and other work that has the effect of restoring an area of land affected by coal mining so that it may be used for forest growth, grazing, agricultural, recreational, and wildlife purpose, or some other useful purpose of equal or greater value than existed prior to any mining.

(Q) "Spoil bank" means a deposit of removed overburden.

(R) "Steep slope" means any slope above twenty degrees or such lesser slope as may be defined by the chief ~~of reclamation~~ after considering soil, climate, and other characteristics of a region.

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

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

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

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

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

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

(3) Regularly maintained with public funds;

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

Sec. 1513.02. (A) The division of ~~mines and reclamation~~ mineral resources management shall administer, enforce, and implement this chapter. The chief of the division of ~~mines and reclamation~~ mineral resources management shall do all of the following:

(1) Adopt, amend, and rescind rules:

(a) To administer and enforce this chapter;

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

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

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

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

(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.

(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;

(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;

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

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

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

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

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

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

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

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

(i) "Coal combustion byproducts" means fly ash, bottom ash, coal slag, flue gas desulphurization and fluidized bed combustion byproducts, air or water pollution control residues from the operation of a coal-fired electric or steam generation facility, and any material from a clean coal technology

demonstration project or other innovative process at a coal-fired electric or steam generation facility.

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

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

(iv) "Pavement aggregate" means the discrete, controlled use of a coal combustion byproduct as a subbase material or drainage layer under or immediately adjacent to a paved road or a paved parking lot where the coal combustion byproduct is a substitute for a conventional aggregate, raw material, or soil.

(v) "Pipe bedding aggregate" means the discrete, controlled use of a coal combustion byproduct as a substitute for a conventional aggregate, raw material, or soil under, around, or immediately adjacent to a water, sewer, or other pipeline.

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

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

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

(B) The chief, by rule, may designate as unsuitable for coal mining natural areas maintained on the registry of natural areas of the department of natural resources pursuant to Chapter 1517. of the Revised Code, wild, scenic, or recreational river areas designated pursuant to that chapter, publicly owned or dedicated parks, and other areas of unique and irreplaceable natural beauty or condition, or areas within specified distances of a public road, occupied dwelling, public building, school, church,

nity, or institutional building, public park, or cemetery. Such a designation may include land adjacent to the perimeters of those areas that may be necessary to protect their integrity.

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

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

(D)(1) When the chief or an authorized representative of the chief determines that any condition or practice exists or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation creates an imminent danger to the health or safety of the public or is causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative immediately shall order the cessation of coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. The cessation order shall remain in effect until the chief or the authorized representative determines that the condition, practice, or violation has been abated or until the order is modified, vacated, or terminated by the chief or the authorized representative pursuant to division (D)(4) of this section or by the reclamation commission pursuant to section 1513.13 of the Revised Code. When the chief or the authorized representative finds that the ordered cessation of coal mining and reclamation operations or any portion thereof will not completely abate the imminent danger to the health or safety of the public or the significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative, in addition to the cessation order, shall order the operator to take whatever steps the chief or the authorized representative considers necessary to abate the imminent danger or the significant environmental harm.

(2) When the chief or an authorized representative of the chief determines that any person is in violation of any requirement of this chapter or any permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative shall issue a notice of violation to the person or the person's agent fixing a reasonable time for the abatement of the violation, provided that the time afforded a person to abate the violation shall not exceed the time limitations

prescribed by the secretary of the interior in 30 C.F.R. Part 843 for an approvable state regulatory program under the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.

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

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

(4) Notices of violation and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the alleged violator or the agent of the alleged violator by the chief or an authorized representative of the chief who issues the notice or order. Notices and orders shall be in writing and shall be signed by the chief or the authorized representative and may be modified, vacated, or terminated by the chief or the authorized

representative. Any notice or order issued pursuant to this section that requires cessation of mining by the operator shall expire within thirty days after actual notice to the operator unless a public hearing pursuant to section 1513.13 of the Revised Code is held at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of the public hearing.

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

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

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

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

proposed assessment with the secretary of the reclamation commission pursuant to section 1513.13 of the Revised Code. If, after the hearing, the commission affirms or modifies the proposed amount of the penalty, the person charged with the penalty then shall have thirty days after receipt of the written decision to pay the amount in full or file an appeal with the court of appeals in accordance with section 1513.14 of the Revised Code. At the time the petition for review of the proposed assessment is filed with the secretary, the person shall forward the amount of the penalty to the secretary for placement in the reclamation penalty fund, which is hereby created. The fund shall be in the custody of the treasurer of state, but shall not be a part of the state treasury. Pursuant to administrative or judicial review of the penalty, the secretary, within thirty days, shall remit the appropriate amount of the penalty to the person, with interest, if it is determined that no violation occurred or that the amount of the penalty should be reduced, and the secretary shall forward the balance of the penalty or, if the penalty was not reduced, the entire amount of the penalty, with interest, to the chief for deposit in the coal mining administration and reclamation reserve 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 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 division ~~(F)~~(E)(4) of this section if the commission orders the suspension of the abatement requirement after determining, based upon the findings of an expedited hearing held under section 1513.13 of the Revised Code at the request of the operator, that the operator will suffer irreparable loss or damage from the application of the abatement requirement or if the court

orders suspension of the abatement requirement pursuant to review proceedings held under section 1513.14 of the Revised Code at the request of the operator.

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

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

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

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

Sec. 1513.03. The chief of the division of ~~mines and reclamation~~ mineral resources management shall designate certain employees of the division as ~~inspection officers of coal and surface mining operations~~ mineral resources inspectors for the purpose of enforcing the coal mining laws and the surface mining laws. Such ~~inspection officers~~ inspectors may enter upon and inspect any coal or surface mining operation at any time, and upon entering the permit area the inspector shall notify the operator and shall furnish proper identification. After the final maps have been approved, the inspector shall notify the nearest mine office of the operator and advise of the inspection. They may serve and execute warrants and other processes of law issued in the enforcement of this chapter and Chapter 1514. of the Revised Code and rules adopted thereunder.

Such ~~inspection officers~~ inspectors, while in the normal, lawful, and peaceful pursuit of their duties, may enter upon, cross over, and remain upon privately owned lands for such purposes, and shall not be subject to arrest for trespass while so engaged or for such cause thereafter.

Before a person other than a person who was an inspector of coal or

face mining operations or oil and gas operations on ~~April 10, 1972~~ July 1, 1999, is eligible for appointment as ~~an inspection officer~~ a mineral resources inspector, ~~he~~ the person shall pass an examination prepared and administered by the department of administrative services and shall serve in a provisional status for a probationary period of ~~one year~~ six months to the satisfaction of the chief. The chief may hire provisionally, pending the administration of a civil service examination and establishment of a civil service eligibility list. A person serving in a provisional status has the same authority as a permanently appointed ~~inspection officer~~ inspector. This section does not affect the status of any person employed as an inspector of coal or surface mining operations or oil and gas operations prior to ~~April 10, 1972~~ July 1, 1999, if the person is a certified employee in the classified service of the state.

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining operation without a permit for the operation issued by the chief of the division of ~~mines and reclamation~~. ~~Any permit validly issued by the chief after February 3, 1978, in effect on September 1, 1981, that would expire at any time before eight months after approval of the state reclamation program by the secretary of the United States department of the interior pursuant to the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 446, 20 U.S.C. 1201, shall remain in effect until eight months after approval of the program. A permit so extended shall continue as a valid existing permit beyond the eight month period if the permittee, having filed an application for a new permit within two months after the date of approval of the state program, has not received an initial administrative decision on the application~~ mineral resources management.

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

(3) A permit shall terminate if the permittee has not commenced the coal mining operations covered by the permit within three years after the issuance of the permit, except that the chief may grant reasonable extensions

of the time upon a showing that the extensions are necessary by reason of litigation precluding the commencement or threatening substantial economic loss to the permittee or by reason of conditions beyond the control and without the fault or negligence of the permittee, and except that with respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced coal mining operations at the time construction of the synthetic fuel or generating facility is initiated.

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

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

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

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

(iv) The applicant has not provided evidence that the performance bond in effect for the operation will continue in effect for any renewal requested in the application;

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

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

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

(5) A permit issued pursuant to this chapter does not eliminate the requirements for obtaining a permit to install or modify a disposal system or

any part thereof or to discharge sewage, industrial waste, or other wastes into the waters of the state in accordance with Chapter 6111. of the Revised Code.

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

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

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

(i) The permit applicant;

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

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

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

(v) The operator if different from the applicant;

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

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

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

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

(e) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, any partner if the applicant is a partnership, any officer, principal shareholder, or

director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant:

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

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

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

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

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

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

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

(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and

quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application;

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

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

(n)(i) Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer or certified professional geologist with assistance from experts in related fields such as hydrology, hydrogeology, geology, and landscape architecture, showing pertinent elevations and locations of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined within the area to be affected; existing or previous coal mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water

treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the land to be affected or adjacent thereto; profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan; the location of subsurface water, if encountered; the location and quality of aquifers; and the estimated elevation of the water table. Registered surveyors shall be allowed to perform all plans, maps, and certifications under this chapter as they are authorized under Chapter 4733. of the Revised Code.

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

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

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

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

outstanding permits until proper insurance coverage is obtained.

(r) The business telephone number of the applicant;

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

(3) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available by the chief to any person with an interest that is or may be adversely affected, except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental content that is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

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

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

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

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

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

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

(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other

environmental values required by the chief under this chapter.

(b) A coal operator that has received assistance under division (B)(4)(a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit.

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

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

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

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

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

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

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

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

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

(3) The use that is proposed to be made of the land following reclamation, including information regarding the utility and capacity of the

reclaimed land to support a variety of alternative uses, the relationship of the proposed use to existing land use policies and plans, and the comments of any owner of the land and state and local governments or agencies thereof that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;

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

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

(6) A description of the means by which the utilization and conservation of the solid fuel resource being recovered will be maximized so that re-affecting the land in the future can be minimized;

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

(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;

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

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

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

(12) The results of test borings that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the chief, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden; except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding

information regarding mineral or elemental contents that are potentially toxic in the environment, shall be kept confidential and not made a matter of public record;

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

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

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

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

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

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

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

(E)(1) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this chapter, and information obtained as a result of public notification and public hearing, if any, as provided by section 1513.071 of the Revised Code, the chief shall grant, require modification of, or deny the application for a permit in a reasonable time set by the chief and notify the applicant in writing. The applicant for a permit or revision of a permit has the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the chief shall notify the boards of township trustees and county commissioners, the mayor, and the legislative authority in the township, county, and municipal corporation in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land. However, failure of the chief to notify the local officials shall not affect the status of the permit.

(2) No permit application or application for revision of an existing permit shall be approved unless the application affirmatively demonstrates

and the chief finds in writing on the basis of the information set forth in the application or from information otherwise available, which ~~will~~ shall be documented in the approval and made available to the applicant, all of the following:

(a) The application is accurate and complete and ~~that~~ all the requirements of this chapter have been complied with;

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

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

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

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

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

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

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

(iii) If the conveyance does not expressly grant the right to extract coal by strip mining methods, the surface-subsurface legal relationship shall be determined under the law of this state. This chapter does not authorize the

chief to adjudicate property rights disputes.

(3)(a) The applicant shall file with the permit application a schedule listing all notices of violations of any law, rule, or regulation of the United States or of any department or agency thereof or of any state pertaining to air or water environmental protection incurred by the applicant in connection with any coal mining operation during the three-year period prior to the date of application. The schedule also shall indicate the final resolution of such a notice of violation. Upon receipt of an application, the chief shall provide a schedule listing all notices of violations of this chapter pertaining to air or water environmental protection incurred by the applicant during the three-year period prior to receipt of the application and the final resolution of all such notices of violation. The chief shall provide this schedule to the applicant for filing by the applicant with the application filed for public review, as required by division (B)(6) of this section. When the schedule or other information available to the chief indicates that any coal mining operation owned or controlled by the applicant is currently in violation of such laws, the permit shall not be issued until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency that has jurisdiction over the violation and that any civil penalties owed to the state for a violation and not the subject of an appeal have been paid. No permit shall be issued to an applicant after a finding by the chief that the applicant or the operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of a nature and duration to result in irreparable damage to the environment as to indicate an intent not to comply with or a disregard of this chapter.

(b) ~~Until October 1, 2004, for~~ For the purposes of division (E)(3)(a) of this section, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person submitting an application for a coal mining permit under this section shall not prevent issuance of that permit. As used in this division, "unanticipated event or condition" means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(4)(a) In addition to finding the application in compliance with division (E)(2) of this section, if the area proposed to be mined contains prime farmland as determined pursuant to division (B)(2)(p) of this section, the chief, after consultation with the secretary of the United States department of agriculture and pursuant to regulations issued by the secretary of the

interior with the concurrence of the secretary of agriculture, may grant a permit to mine on prime farmland if the chief finds in writing that the operator has the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 1513.16 of the Revised Code.

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

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

(6) The chief may issue an order denying a permit after finding that the applicant, any partner, if the applicant is a partnership, any officer, principal shareholder, or director, if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has been a sole proprietor or partner, officer, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a business entity that ever has had a coal mining license or permit issued by this or any other state or the United States suspended or revoked, ever has forfeited a coal or surface mining bond or security deposited in lieu of bond in this or any other state or with the United States, or ever has substantially or materially failed to comply with this chapter.

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

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

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

economically achievable;

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

(c) Implementation of the plan will not cause any additional degradation of surface water quality off the permit area with respect to pH, iron, and manganese;

(d) Implementation of the plan will not cause any additional degradation of ground water;

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

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

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

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

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

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

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

(2) An application for a revision of a permit shall not be approved unless the chief finds that reclamation required by this chapter can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within ninety days after receipt of a complete

revision application. The chief shall establish, by rule, criteria for determining the extent to which all permit application information requirements and procedures, including notice and hearings, shall apply to the revision request, except that any revisions that propose significant alterations in the reclamation plan, at a minimum, shall be subject to notice and hearing requirements.

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

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

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

(I)(1) If an informal conference has been held pursuant to section 1513.071 of the Revised Code, the chief shall issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections pursuant to division (B) of section 1513.071 of the Revised Code, with the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within sixty days of the conference.

(2) If there has been no informal conference held pursuant to section 1513.071 of the Revised Code, the chief shall notify the applicant for a permit within a reasonable time as provided by rule of the chief, taking into account the time needed for proper investigation of the site, the complexity of the permit application, whether or not a written objection to the application has been filed, and whether the application has been approved or disapproved in whole or in part.

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

(4) Any applicant or any person with an interest that is or may be adversely affected who has participated in the administrative proceedings as an objector and is aggrieved by the decision of the reclamation commission,

or if the commission fails to act within the time limits specified in this chapter, may appeal in accordance with section 1513.14 of the Revised Code.

Sec. 1513.072. (A) Coal exploration operations that substantially disturb the natural land surface shall be conducted in accordance with exploration rules adopted by the chief of the division of ~~mines and reclamation~~ mineral resources management. The rules shall include, at a minimum:

(1) The requirement that prior to conducting any exploration under this section, any person shall file with the chief notice of intention to explore, which shall include a description of the exploration area and period of proposed exploration;

(2) Provisions for reclamation in accordance with the performance standards in section 1513.16 of the Revised Code of all lands disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment.

(B) Information submitted to the chief pursuant to this section as confidential concerning trade secrets or privileged commercial or financial information that relates to the competitive rights of the person or entity intending to explore the described area shall not be available for public examination.

(C) A person who conducts any coal exploration activities that substantially disturb the natural land surface in violation of this section or rules ~~issued~~ adopted pursuant thereto is subject to division ~~(F)~~(E) of section 1513.02 of the Revised Code.

(D) No person shall remove more than two hundred fifty tons of coal pursuant to an exploration permit without the specific written approval of the chief.

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

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

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

(b) Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, and esthetic

values and natural systems;

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

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

(3) The chief shall develop the following:

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

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

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

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

(5) The requirements of this section ~~shall do~~ not apply to lands on which coal mining operations were being conducted on August 3, 1977, or under a permit issued pursuant to ~~Chapter 1513. of the Revised Code~~ this chapter, or where substantial legal and financial commitments in the operation were in existence prior to January 4, 1977.

(B) A person having an interest that is or may be adversely affected may petition the chief to have an area designated as unsuitable for coal mining operations or to have such a designation terminated. The petition shall contain allegations of facts with supporting evidence that would tend to establish the allegations. The chief shall hold a public meeting in the locality of the affected area, after appropriate notice and publication of the date, time, and location of the meeting within ninety days after receipt of the petition, provided that the chief may extend the time for holding the meeting an additional two hundred ten days when, in ~~his~~ the chief's judgment, such additional time is needed for adequate review of the petition. Any person may appear at the meeting and present a statement or evidence regarding the petition. Within sixty days after the meeting, the chief shall issue and furnish to the petitioner and any other participant at the meeting a written decision regarding the petition, and the reasons therefor.

(C) Prior to designating any land areas as unsuitable for coal mining

operations or terminating previous determinations of unsuitability, the chief shall prepare a detailed statement on:

- (1) The potential coal resources of the area;
- (2) The demand for coal resources;
- (3) The impact of the designation on the environment, the economy, and the supply of coal.

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

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

(2) On any federal lands within the boundaries of any national forest unless approval is granted by the secretary of the United States department of the interior;

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

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

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

Sec. 1513.08. (A) After a coal mining and reclamation permit application has been approved, but before the permit is issued, the applicant shall file with the chief of the division of ~~mines and reclamation~~ mineral resources management, on a form prescribed and furnished by the chief, a bond for performance payable, as appropriate, to the state and conditioned upon faithful performance of all the requirements of this chapter and the permit. The bond shall be in the amount of twenty-five hundred dollars

times the number of acres of land upon which the operator states in ~~his~~ the application for a permit ~~he~~ the operator will initiate and conduct coal mining and reclamation operations within the initial term of the permit. The minimum amount of a bond shall be ten thousand dollars. The bond shall cover areas of land affected by mining within or immediately adjacent to the permitted area, so long as the total number of acres does not exceed the number of acres bonded. However, the authority for bond to cover areas of land immediately adjacent to the permitted area does not authorize a permittee to mine areas outside an approved permit area. As succeeding increments of coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the chief an additional bond or bonds to cover the increments in accordance with this section. In the event of forfeiture of a bond, if the bond is insufficient to complete the reclamation, the chief shall complete the reclamation in accordance with section 1513.18 of the Revised Code using funds from the reclamation ~~supplemental~~ forfeiture fund created in that section.

(B) Liability under the bond shall be for the duration of the coal mining and reclamation operation and for a period coincident with the operator's responsibility for revegetation requirements under section 1513.16 of the Revised Code. The bond shall be executed by the operator and a corporate surety licensed to do business in this state, except that the operator may elect to deposit cash, negotiable bonds of the United States or this state, or negotiable certificates of deposit of any bank or savings and loan association organized or transacting business in the United States. The cash deposit or market value of the securities shall be equal to or greater than the amount of the bond required for the bonded area.

(C) The chief may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the chief the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond the amount.

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

(E) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the chief from time to time as affected land acreages are increased or decreased.

Sec. 1513.09. (A) The chief of the division of ~~mines and reclamation~~ mineral resources management shall cause to be made such inspections of

ny coal mining and reclamation operations as ~~he~~ the chief considers necessary. The chief and ~~his~~ authorized representatives ~~shall~~ of the chief have a right of entry to, upon, or through any area of land upon which coal mining and reclamation operations are being conducted or upon which the chief or ~~his~~ authorized representative has reason to believe such operations are being conducted for the purpose of performing such inspections.

(B) For the purpose of administration and enforcement of any requirement of this chapter or in the administration and enforcement of any permit under this chapter or of determining whether any person is in violation of any requirement of this chapter:

(1) The chief shall require any permittee or operator to:

(a) Establish and maintain appropriate records;

(b) Make monthly reports to the chief;

(c) Install, use, and maintain any necessary monitoring equipment or methods;

(d) Evaluate results in accordance with such methods, at such locations, intervals, and in such manner as the chief shall prescribe;

(e) Provide such other information relative to coal mining and reclamation operations as the chief considers reasonable and necessary.

(2) For those coal mining and reclamation operations that remove or disturb strata that serve as aquifers that significantly ensure the hydrologic balance of water use either on or off the mining site, the chief shall specify those:

(a) Monitoring sites to record the quantity and quality of surface drainage above and below the minesite, as well as in the potential zone of influence;

(b) Monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining, including aquifers directly below the lower-most, deepest, coal seam to be mined;

(c) Records of well logs and borehole data to be maintained;

(d) Monitoring sites to record precipitation.

The monitoring and data collection and analysis required by this section shall be conducted according to standards and procedures set forth, by rule, by the chief in order to assure their reliability and validity.

(3) The authorized representatives of the chief, without advance notice and upon presentation of appropriate credentials:

(a) May enter into, upon, or through any coal mining and reclamation operations, any premises upon which the authorized representatives have a reasonable belief that such operations are being conducted, or any premises in which any records required to be maintained under division (B)(1) of this

section are located;

(b) May, during office hours, have access to and copy any records and at reasonable times, without delay, any monitoring equipment or method of operation required under this chapter.

(C) The inspections by the chief or ~~his~~ an authorized representative of the chief shall:

(1) Occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the coal mining and reclamation operation covered by each permit;

(2) Occur without prior notice to the permittee or ~~his~~ the permittee's agents or employees, except for necessary onsite meetings with the permittee;

(3) Include the filing of inspection records adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.

(D) Each permittee shall conspicuously maintain at the entrances to the coal mining and reclamation operations a clearly visible sign that sets forth the name, business address, and phone number of the permittee and the permit number of the coal mining and reclamation operations.

(E) Each ~~inspection officer~~ mineral resources inspector, upon detection of each violation of any requirement of ~~Chapter 1513. of the Revised Code~~ this chapter, shall immediately inform the operator in writing and shall report in writing any such violation to the chief.

(F) Copies of any records, reports, inspection material, or information obtained under this chapter by the chief shall be made available immediately to the public at central and sufficient locations in the county, multi-county, and state area of mining so that they are conveniently available to residents in the areas of mining.

(G)(1) A person who is or may be adversely affected by a coal mining operation may notify the chief or any representative of the chief responsible for conducting the inspection, in writing, of any violation of this chapter that ~~he~~ the person has reason to believe exists at the mining site. The chief shall, by rule, establish procedures for informal review of any refusal by ~~his~~ an authorized representative to issue a notice of violation or order with respect to any such alleged violation. The chief shall furnish the persons requesting the review a written statement of the reasons for the chief's final disposition of the matter.

(2) The chief shall also, by rule, establish procedures to ensure that adequate and complete inspections are made. Any person who is aggrieved or adversely affected may notify the chief of any failure to make such inspections, after which the chief shall determine whether adequate and

complete inspections have been made. The chief shall furnish such persons a written statement of the reasons for the chief's determination that adequate and complete inspections have or have not been conducted.

Sec. 1513.11. Every order of the chief of the division of ~~mines and reclamation~~ mineral resources management or ~~his~~ an authorized representative of the chief affecting the rights, duties, or privileges of an operator or ~~his~~ the operator's surety or of an applicant for a license or permit shall be in writing and contain a finding of the facts upon which the order is based. Notice of the order shall be given by certified mail or personal service to the person whose rights, duties, or privileges are affected.

Sec. 1513.13. (A)(1) A person having an interest that is or may be adversely affected by a finding or determination of the chief of the division of ~~mines and reclamation~~ mineral resources management made under section 1509.08, 1561.35, 1561.351, 1563.13, or 6111.044 of the Revised Code or an investigation made by the chief under section 1561.51 of the Revised Code may appeal to the mine examining board in accordance with those sections. Any other person having an interest that is or may be adversely affected by a notice of violation, order, or decision of the chief, other than a show cause order or an order that adopts a rule, or by any modification, vacation, or termination of such a notice, order, or decision, may appeal by filing a notice of appeal with the reclamation commission for review of the notice, order, or decision within thirty days after the notice, order, or decision is served upon the person or within thirty days after its modification, vacation, or termination and by filing a copy of the notice of appeal with the chief within three days after filing the notice of appeal with the commission. The notice of appeal shall contain a copy of the notice of violation, order, or decision complained of and the grounds upon which the appeal is based. The commission has exclusive original jurisdiction to hear and decide such appeals. The filing of a notice of appeal under division (A)(1) of this section does not operate as a stay of any order, notice of violation, or decision of the chief.

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

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

violation, or decision of the chief. The chief's determination of an informal review is appealable to the commission under this section.

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

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

(1) When the appeal concerns an order for the cessation of coal mining and reclamation operations issued pursuant to division (D)(1) or (2) of section 1513.02 of the Revised Code, the commission shall issue its written decision within thirty days after the receipt of the appeal unless temporary relief has been granted by the chairperson pursuant to division (C) of this section.

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

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

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

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

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

(3) The relief will not adversely affect public health or safety or cause significant imminent environmental harm to land, air, or water resources.

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

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

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

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

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

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

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

related solely to the preparation, defense, and appeal of a petition for costs and expenses, provided that the costs and expenses are limited and proportionate to costs and expenses otherwise allowed under division (E) of this section.

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

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

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

(2) Whenever an order issued under this section or as a result of any administrative proceeding under this chapter is the subject of judicial review, at the request of any party, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined by the court to have been necessary and reasonably incurred by the party for or in connection with participation in the proceedings, may be awarded to either party, in accordance with division (E)(1) of this section, as the court, on the basis of judicial review, considers proper.

Sec. 1513.15. (A) In addition to any other remedy under ~~Chapter 1513. of the Revised Code~~ this chapter, the chief of the division of ~~mines and~~

~~reclamation~~ mineral resources management may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the court of common pleas of the county wherein a violation of this chapter is occurring or has occurred whenever a person:

- (1) Violates or fails or refuses to comply with any order or decision issued by the chief under ~~Chapter 1513. of the Revised Code~~ this chapter;
- (2) Interferes with, hinders, or delays the chief or ~~his~~ authorized representatives of the chief in carrying out ~~Chapter 1513. of the Revised Code~~ this chapter;
- (3) Refuses to admit an authorized representative to the mine;
- (4) Refuses to permit inspection of the mine by an authorized representative;
- (5) Refuses to furnish any information or report requested by the chief in furtherance of ~~Chapter 1513. of the Revised Code~~ this chapter;
- (6) Refuses to permit access to, and copying of, such records as the chief determines necessary in carrying out ~~Chapter 1513. of the Revised Code~~ this chapter.

The court shall issue an injunction upon demonstration that a violation of this chapter is occurring or has occurred.

(B) Except as provided in division (D) of this section, any person having an interest ~~which that~~ is or may be adversely affected may commence a civil action on ~~his~~ the person's own behalf to compel compliance with ~~Chapter 1513. of the Revised Code~~ this chapter against any of the following:

- (1) The division of ~~mines and reclamation~~ mineral resources management where the division is alleged to be in violation of ~~Chapter 1513. of the Revised Code~~ this chapter or of any rule, order, or permit adopted or issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, order, or permit adopted or issued pursuant to ~~Chapter 1513. of the Revised Code~~ this chapter;
- (2) The chief ~~of the division of mines and reclamation~~ where there is alleged a failure of the chief to perform any act or duty under ~~Chapter 1513. of the Revised Code~~ this chapter that is not discretionary with the chief.

(C) No action may be commenced under division (B)(1) of this section in either of the following situations:

- (1) Prior to sixty days after the plaintiff has given notice in writing of the violation to the chief and any alleged violator;
- (2) If the chief has commenced and is diligently prosecuting a civil action in the appropriate court to require compliance with ~~Chapter 1513. of~~

~~the Revised Code~~ this chapter or of any rule, order, or permit adopted or issued pursuant thereto, but in any such action any person may intervene as a matter of right.

(D) No action may be commenced under division (B)(2) of this section prior to sixty days after the plaintiff has given notice in writing of such action to the chief in such manner as the chief shall, by rule, prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(E) Any action respecting a violation of ~~Chapter 1513. of the Revised Code~~ this chapter or rules adopted thereunder may be brought only in the court of common pleas of the county in which the coal mining operation complained of is located.

(F) The court, in issuing any final order in any action brought pursuant to division (B) of this section, may award to any party costs of litigation, including attorney's and expert witness fees that the court determines to have been necessary and reasonably incurred, in accordance with division (E)(2) of section 1513.13 of the Revised Code, and whenever the court determines such an award is appropriate.

(G) Nothing in this section shall restrict any right ~~which~~ that any person or class of persons may have under law to seek enforcement of any of the provisions of ~~Chapter 1513. of the Revised Code~~ this chapter and the rules adopted thereunder, or to seek any other relief, including relief against the chief.

(H) Any person who is injured in ~~his~~ person or property through the violation by any operator of any rule, requirement, order, or permit adopted or issued pursuant to ~~Chapter 1513. of the Revised Code~~ this chapter may bring an action for damages, including reasonable attorney's and expert witness fees, in the court of common pleas of Franklin county or in the court of common pleas of the county in which the coal mining operation complained of is located. Nothing in this division shall affect the rights established by or limits imposed under worker's compensation laws.

In any action under division (B), (C), (D), (E), (F), (G), or (H) of this section, the secretary of the United States department of the interior or the chief, if not a party, may intervene as a matter of right.

(I) An owner of real property who obtains all or part of ~~his~~ a supply of water for domestic, industrial, agricultural, or other legitimate use from an underground source other than a subterranean stream having a permanent, distinct, and known channel, may maintain an action against an operator to

recover damages for contamination, diminution, or interruption of such water supply, proximately resulting from coal mining.

A servient tract of land is not bound to receive surface water contaminated by coal mining on a dominant tract of land, and the owner of the servient tract may maintain an action against an operator to recover damages proximately resulting from the natural drainage from the dominant tract of surface waters contaminated by coal mining on the dominant tract.

This division shall not be construed as creating, modifying, or affecting any right, liability, or remedy other than as expressly provided herein, nor shall such division be construed as creating, modifying, or affecting any right, liability, or remedy of surface riparian owners.

(J) In addition to any municipal or county prosecuting authority, the attorney general upon the request of the chief, may prosecute any person who violates, or who fails to perform any duty imposed by, ~~Chapter 1513. of the Revised Code~~ this chapter, or who violates any order or rule, or condition of a permit or license issued by the chief.

(K) The civil penalties owed under section 1513.02 of the Revised Code may be recovered in a civil action brought by the attorney general upon the request of the chief ~~of the division of mines and reclamation.~~

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

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

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

(3) Except as provided in division (B) of this section, with respect to all

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

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

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

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

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

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

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

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

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

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

(a) The size of the impoundment is adequate for its intended purposes;

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

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

(d) The level of water will be reasonably stable;

(e) Final grading will provide adequate safety and access for proposed water users;

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

(9) Conduct any augering operation associated with strip mining in a manner to maximize recoverability of mineral reserves remaining after the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The chief finds in writing that:

(i) The applicant has presented, as part of the permit application,

specific, feasible plans for the proposed underground mining operations;

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

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

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

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

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

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

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

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

(16) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, and damage to fish or wildlife or their habitat, or to public or private property;

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

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

(19)(a) Assume the responsibility for successful revegetation, as

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

(b) On lands eligible for re-mining, assume the responsibility for successful revegetation, as required by division (A)(18) of this section, for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division.

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

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

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

(b) The areas of disposal are within the bonded permit areas. All organic matter shall be removed immediately prior to spoil placement except in the zoned concept method.

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

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

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

(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed;

(g) The final configuration is compatible with the natural drainage

pattern and surroundings and suitable for intended uses;

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

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

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

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

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

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

(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided in division (B)(4)(a) of this section, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accordance with this division.

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

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

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

(i) Compatible with adjacent land uses;

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

- (iii) Assured of investment in necessary public facilities;
 - (iv) Supported by commitments from public agencies where appropriate;
 - (v) Practicable with respect to private financial capability for completion of the proposed use;
 - (vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use;
 - (vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.
- (c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs;
- (d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;
- (e) All other requirements of this chapter will be met.
- (4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:
- (a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;
 - (b) The reclaimed area is stable;
 - (c) The resulting plateau or rolling contour drains inward from the out slopes except at specified points;
 - (d) No damage will be done to natural watercourses;
 - (e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section;
 - (f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met.
- (5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of this section and may impose such additional requirements as the chief considers necessary.
- (6) All permits granted under divisions (B)(1) to (4) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved

schedule and reclamation plan.

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

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

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

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

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

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

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

(a) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is considered to constitute an

equal or better economic or public use.

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

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

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

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

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

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

(F)(1) The permittee may file a request with the chief for release of a part of a performance bond or deposit under division (F)(3) of this section. Within thirty days after any request for bond or deposit release under this section has been filed with the chief, the operator shall submit a copy of an

advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the coal mining operation. The advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan and, if applicable, the operator's pollution abatement plan. In addition, as part of any bond release application, the applicant shall submit copies of the letters sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the coal mining and reclamation activities took place, notifying them of the applicant's intention to seek release from the bond.

(2) Upon receipt of a copy of the advertisement and request for release of a bond or deposit under division (F)(3)(c) of this section, the chief, within thirty days, shall conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuation or future occurrence of the pollution, and the estimated cost of abating the pollution. The chief shall notify the permittee in writing of the decision to release or not to release all or part of the performance bond or deposit within sixty days after the filing of the request if no public hearing is held pursuant to division (F)(6) of this section or, if there has been a public hearing held pursuant to division (F)(6) of this section, within thirty days thereafter.

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

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with the approved reclamation plan, and, if the area covered by the bond or deposit is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief

shall grant a release of fifty per cent of the bond or deposit for the applicable permit area;

(b) After resoiling and revegetation have been established on the regraded mined lands in accordance with the approved reclamation plan, the chief shall grant a release in an amount not exceeding thirty-five per cent of the original bond or deposit for all or part of the affected area under the permit. When determining the amount of bond to be released after successful revegetation has been established, the chief shall retain that amount of bond for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation for the period specified for operator responsibility in this section for reestablishing revegetation. No part of the bond or deposit shall be released under this division so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of this section or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 1513.07 of the Revised Code. If the area covered by the bond or deposit is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, no part of the bond or deposit shall be released under this division until the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas. Where a silt dam is to be retained as a permanent impoundment pursuant to division (A)(10) of this section, the portion of bond may be released under this division so long as provisions for sound future maintenance by the operator or the landowner have been made with the chief.

(c) When the operator has completed successfully all coal mining and reclamation activities, including, if applicable, all additional requirements established in the pollution abatement plan approved under division (E)(7) of section 1513.07 of the Revised Code and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall release all or any of the remaining portion of the bond or deposit for all or part of the affected area under a permit, but not before the expiration of the period specified for operator responsibility in this section, except that the chief may adopt rules for a

variance to the operator period of responsibility considering vegetation success and probability of continued growth and consent of the landowner, provided that no bond shall be fully released until all reclamation requirements of this chapter are fully met.

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

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

(6) A person with a valid legal interest that might be adversely affected by release of a bond under this section or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from the bond with the chief within thirty days after the last publication of the notice required by division (F)(1) of this section. If written objections are filed and an informal conference is requested, the chief shall inform all interested parties of the time and place of the conference. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality of the coal mining operation proposed for bond release for at least once a week for two consecutive weeks. The informal conference shall be held in the locality of the coal mining operation proposed for bond release or in Franklin county, at the option of the objector, within thirty days after the request for the conference. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the performance bond at issue. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

(7) If an informal conference has been held pursuant to division (F)(6) of this section, the chief shall issue and furnish the applicant and persons who participated in the conference with the written decision regarding the release within sixty days after the conference. Within thirty days after

notification of the final decision of the chief regarding the bond release, the applicant or any person with an interest that is or may be adversely affected by the decision may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

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

~~(H) Notwithstanding divisions (A) to (F) of this section, the following time frames for reclamation and procedures for bond release shall apply to those permits issued after April 10, 1972, but before September 1, 1981:~~

~~(1) Within three months after the removal of overburden, the operator shall commence backfilling, grading, resoiling, and other work, except planting, on the area of land affected by that removal. The work shall be completed within twelve months after the end of the permit year within which the area of land was affected, or within twelve months after the operation is terminated, completed, or abandoned, whichever occurs first. Whenever possible, the chief of the division of mines and reclamation shall require backfilling, grading, resoiling, and other work, including planting, as mining progresses. In any case, planting shall take place not later than the next appropriate season for such planting following the completion of backfilling, grading, resoiling, and other work, as required by this division.~~

~~If the chief finds that the operator cannot comply with the time limits of this division because of a labor dispute, the chief may extend them for the period of time lost.~~

~~The chief may extend the time limits of this division for periods of not more than one year at a time if the operator needs more time than that otherwise allowed under this division for the purpose of removing limestone, clay, or shale which was uncovered by strip mining, if the operator is in a business which substantially utilizes limestone, clay, or shale, and if the chief determines that the operator has a bona fide need for the extension of time in order to carry out limestone, clay, or shale removal. Removal of limestone, clay, and shale shall be performed under rules adopted by the chief for the purpose of ensuring compliance with the requirements and objectives of this chapter. An extension of time made under this division shall not delay reclamation on any part of the area of land affected for which the extension is not necessary in order to carry out the limestone, clay, or shale removal.~~

~~request, on a form provided by the chief, for inspection of the area. The request shall state all of the following:~~

- ~~(a) The location of the area and number of acres;~~
- ~~(b) The permit number;~~
- ~~(c) The amount of bond, cash, or certificates of deposit on deposit to ensure reclamation of the area;~~
- ~~(d) The results of testing on the soil of the reclaimed area for such vegetation sustaining factors as the chief shall prescribe by rule.~~

~~The chief shall make an inspection and evaluation of the reclamation of the area within the prescribed period after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief approves the reclamation other than planting as meeting the requirements of this chapter, rules adopted thereunder, any orders issued during the mining or reclamation, and the specifications of the plan for mining and reclaiming, the chief shall issue an order to the operator and the operator's surety releasing them from liability for one half the total amount of their surety bonds on deposit to ensure reclamation for the area upon which reclamation is completed. If the operator has deposited cash or certificates of deposit in lieu of a surety bond to ensure reclamation, the chief shall issue an order to the operator releasing one half of the total amount so held and shall promptly transmit a certified copy of that order to the treasurer of state. Upon presentation of the order to the treasurer of state by the operator to whom it was issued, or by the operator's authorized agent, the treasurer of state shall deliver to the operator or the operator's authorized agent the cash or certificates of deposit designated in the order.~~

~~If the chief does not approve the reclamation other than planting, the chief shall notify the operator by certified mail within the prescribed period after the request for inspection is filed or after the chief learns of the default. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of bond, cash, or certificates of deposit in the same manner as in the case of approval of reclamation other than planting by the chief, and the treasurer of state shall proceed as in such a case. If the operator does not comply within the extension of time granted~~

~~for compliance, the chief shall issue another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief then shall proceed under division (H)(4) of this section.~~

~~(3) When the planting of the area of land affected as shown on an annual or final map is completed and the growing season in which the planting occurred has terminated, the operator shall file a request, on a form provided by the chief, for inspection of the area. The request shall state all of the following:~~

~~(a) The location of the area and number of acres;~~

~~(b) The permit number;~~

~~(c) The amount of bond, cash, or certificates of deposit on deposit to ensure reclamation of the area;~~

~~(d) The type and date of planting of vegetative cover, the degree of success of growth, and results of testing on the soil of the reclaimed area for such vegetation sustaining factors as the chief shall prescribe by rule.~~

~~The chief shall make an inspection and evaluation of the reclamation of the area within the prescribed period after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. If the chief finds that the reclamation meets the requirements of this chapter, rules adopted thereunder in accordance with Chapter 119. of the Revised Code, any order issued during the mining and reclamation, and the specifications of the plan for mining and reclaiming, and decides to release any remaining bond, cash, or certificates of deposit on deposit to ensure reclamation of the area upon which reclamation is completed, the chief shall publish, within ten days of completing the inspection and evaluation, notice of that decision in a newspaper of general circulation in the county in which the operation is located. The notice shall be published on two days one week apart and shall describe the size and location of the area for which bond, cash, or certificates of deposit are to be released and the amount of the bond, cash, or certificates of deposit. Any person claiming to be deprived of a right or protection afforded the person by law may file an appeal with the reclamation commission, within ten days after the second publication of notice, objecting to the decision to release the bond, cash, or certificates of deposit. If such an appeal is filed, the requirements of section 1513.13 of the Revised Code shall be followed to the extent that they are not inconsistent with the requirements of this section. The person filing the appeal, within three days after the appeal is filed with the commission, shall notify the chief and the operator by certified mail of the filing of the appeal. If the~~

~~commission affirms the decision of the chief, the costs of the appeal shall be taxed against the appellant, and the chief shall release the remaining bond, cash, or certificates of deposit. If the commission finds that the decision of the chief was unreasonable or unlawful, it shall make a written order vacating the decision appealed from and ordering the chief to take all necessary further actions in requiring compliance with this section. After the operator has completed all actions so required by the chief, the operator shall file another request for inspection and proceed under this division as in the first instance. If no such appeal is filed, the chief, upon expiration of the ten days following the second publication of notice, shall order release of the remaining bond, cash, or certificates of deposit in the same manner as in the case of approval of reclamation other than planting, and the treasurer of state shall proceed as in such a case.~~

~~If the chief does not approve the reclamation performed by the operator, the chief shall notify the operator by certified mail within the prescribed period after the request for inspection is filed or after learning of the default. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the remaining bond, cash, or certificates of deposit in the same manner as in the case of approval of reclamation by the chief, and the treasurer of state shall proceed as in such a case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall make another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief then shall proceed under division (H)(4) of this section.~~

~~(4) Upon issuing an order under division (H)(2) or (3) of this section declaring that the operator has failed to reclaim, the chief shall make a finding as to the number and location of the acres of land which the operator has failed to reclaim in the manner required by this chapter and the amount of the estimated cost to the state to perform reclamation on those acres as determined by the chief at the time of application. The chief shall order the release of that proportion of the bond, cash, or certificates of deposit which~~

~~are on deposit to ensure reclamation of those acres which the chief finds to have been reclaimed in the manner required by this chapter, provided that all the land contained within a yearly segment as shown in the annual or final map has been so reclaimed. Such a release shall be ordered in the same manner as in the case of other approval of reclamation by the chief, and the treasurer of state shall proceed as in such a case. If the operator has on deposit cash or certificates of deposit to ensure reclamation of the area of land affected, the chief shall issue at the same time an order declaring that the remaining proportion of the cash or certificates of deposit is the property of the state and is available for use by the chief in performing reclamation of the area and shall proceed as under section 1513.18 of the Revised Code.~~

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

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

~~If the surety chooses not to perform and so notifies the chief, does not respond to the chief's notice within ten days of receipt thereof, or fails to begin work within thirty days of the day it timely notifies the chief of its decision to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work and demanding payment of the amount due, as required by this chapter.~~

~~Upon receipt of an order of the chief demanding payment of the amount due, the surety immediately shall deposit with the chief cash in the full amount due under the order for deposit with the treasurer of state. If the surety fails to make such an immediate deposit, the chief shall certify the amount to the attorney general for collection. When the chief has issued an order terminating the right of the surety and has the cash on deposit, the cash~~

~~is the property of the state and is available for use by the chief, who shall proceed as under section 1513.18 of the Revised Code.~~

~~(5) For purposes of division (H) of this section, "prescribed period" means, in the case of a request for inspection pertaining to twenty five acres or less, sixty days; in the case of a request for inspection pertaining to more than twenty five acres, but not more than one hundred twenty five acres, ninety days; in the case of a request for inspection pertaining to more than one hundred twenty five acres, but not more than one thousand acres, one hundred twenty days; and in the case of a request for inspection pertaining to more than one thousand acres, one hundred eighty days.~~

Sec. 1513.161. An operator shall use explosives only in accordance with Chapter 1567. of the Revised Code and rules adopted pursuant thereto by the chief of the division of ~~mines and reclamation~~ mineral resources management, and in accordance with this section and rules adopted pursuant thereto by the chief, and in accordance with all applicable federal laws and regulations. If, in any situation involving a coal mining operation, except when underground coal mining is part or all of the coal mining operation, a rule adopted pursuant to Chapter 1567. of the Revised Code is in conflict with a rule adopted pursuant to this section, the rule adopted pursuant to this section ~~shall prevail~~ prevails. When underground coal mining is part or all of the coal mining operation, the rule adopted pursuant to Chapter 1567. ~~shall prevail~~ of the Revised Code prevails.

Before an explosive is set off, sufficient warning shall be given to allow any person in or approaching the area ample time to retreat a safe distance.

No blasting shall be done between the hours of sunset and sunrise.

The chief shall adopt rules to:

(A) Provide adequate advance written notice to local governments and residents who might be affected by the use of explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality of the coal mining operation, by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed blasting site, and by providing daily notice to residents or occupants in such areas prior to any blasting;

(B) Maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(C) Limit the type of explosives and detonating equipment, the size, and the timing and frequency of blasts based upon the physical conditions of the site so as to prevent:

- (1) Injury to persons;
- (2) Damage to public and private property outside the permit area;
- (3) Adverse impacts on any underground mine;
- (4) Change in the course, channel, or availability of ground or surface water outside the permit area.

(D) Require that all blasting operations be conducted by trained and competent persons as certified by the chief;

(E) Provide that upon the request of a resident or owner of ~~a man-made~~ an artificial dwelling or structure or water supply within one-half mile of any portion of the permit area, the applicant or permittee shall conduct a preblasting survey of the structures or water supply and submit the survey to the chief and a copy to the resident or owner making the request. The area of the survey shall be decided by the chief and shall include such provisions as the chief prescribes;

(F) Require the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in coal mining operations.

The chief, by rule or order, may prohibit blasting in specific areas where the safety of the public would be endangered.

No person shall use explosives in violation of this section, a rule adopted thereunder, or an order of the chief.

Sec. 1513.17. (A) No person shall:

(1) Engage in coal mining or conduct a coal mining operation without a permit issued by the chief of the division of ~~mines and reclamation~~ mineral resources management;

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

(3) Knowingly fail to comply with an order of the chief ~~of the division of mines and reclamation~~ issued under ~~Chapter 1513. of the Revised Code~~ this chapter;

(4) Knowingly violate any provision of ~~Chapter 1513. of the Revised Code~~ this chapter not ~~specifically~~ specifically mentioned in this section;

(5) Knowingly make any false statement, representation, or certification or knowingly fail to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under ~~Chapter 1513. of the Revised Code~~ this chapter or under a final order or decision issued by the chief;

(6) Knowingly prevent, hinder, delay, or otherwise obstruct the operator from completing backfilling, grading, resoiling, establishing successful vegetation, and meeting all other reclamation requirements of ~~Chapter 1513. of the Revised Code~~ this chapter prior to the final release of the operator's

bond.

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

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

~~(B) All cash that becomes the property of the state under division (H) of section 1513.16 of the Revised Code shall be deposited in the reclamation supplemental forfeiture fund, which is hereby created in the state treasury. The fund also shall consist of all moneys so deposited, any moneys transferred to it under this division from the unreclaimed lands fund created in section 1513.30 of the Revised Code, any moneys transferred to it under section 1513.181 of the Revised Code from the coal mining and reclamation reserve fund created in that section, and moneys collected and credited to it pursuant to section 5749.02 of the Revised Code. Disbursements from the fund shall be made by the chief only for the purpose of reclaiming areas that an operator has affected by mining and failed to reclaim under a coal mining and reclamation permit issued under this chapter or under a surface mining permit issued under Chapter 1514. of the Revised Code. The chief's priority for management of the fund, including the selection of projects and transfer of moneys, shall be to ensure that sufficient moneys are available for the reclamation of areas affected by mining under a coal mining and reclamation permit.~~

The chief may expend moneys from the fund to pay necessary administrative costs, including engineering and design services, incurred by the division of of mineral resources management in reclaiming these areas. Expenditures from the fund to pay such administrative costs need not be made under contract.

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

(C) Except when paying necessary administrative costs authorized by division (B) of this section, expenditures from ~~either~~ the fund shall be made

under contracts entered into by the chief, with the approval of the director of natural resources, in accordance with procedures established by the chief, by rules adopted in accordance with section 1513.02 of the Revised Code. The chief may reclaim the land in the same manner as set forth in sections 1513.21 to 1513.24 of the Revised Code. Each contract awarded by the chief shall be awarded to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once and at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after advertising, no bids are received at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will best be served, the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published. The chief, with the approval of the director, may enter into a contract with the landowner, a coal mine operator or surface mine operator mining under a current, valid permit issued under this chapter or Chapter 1514. of the Revised Code, or a contractor hired by the surety to complete reclamation to carry out reclamation on land affected by coal mining on which an operator has defaulted without advertising for bids.

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

(E) The chief shall keep a detailed accounting of the expenditures from the ~~reclamation supplemental forfeiture~~ fund to complete reclamation of the land and, upon completion of the reclamation, shall certify the expenditures to the attorney general. Upon the chief's certification of the expenditures from the ~~reclamation supplemental forfeiture~~ fund, the attorney general shall bring an action for that amount of money. The operator is liable for that expense in addition to any other liabilities imposed by law. Moneys so

recovered shall be credited to the reclamation ~~supplemental~~ forfeiture fund. The chief shall not postpone the reclamation because of any action brought by the attorney general under this division. Prior to completing reclamation, the chief may collect through the attorney general any additional amount that the chief believes will be necessary for reclamation in excess of the forfeited bond amount applicable to the land that the operator should have, but failed to, reclaim.

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

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

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

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

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

Sec. 1513.21. From moneys appropriated for this purpose, the chief of the division of ~~mines and reclamation~~ mineral resources management shall reclaim any land or tract of land acquired pursuant to section 1513.20 of the Revised Code in such manner that, after reclamation, such land or tract shall be suitable for agriculture, forests, recreation, wildlife, water conservation, or such other use as the chief may deem proper for such land, or tract of land, in ~~the~~ light of the character of the soil, the topography of the land or tract to be reclaimed and of the surrounding lands, the proximity thereof to urban centers, and the requirements of any applicable conservation program.

Sec. 1513.22. Before proceeding to reclaim any land or tract of land acquired pursuant to section 1513.20 of the Revised Code, the chief of the division of ~~mines and reclamation~~ mineral resources management shall determine the purpose or purposes for which such land or tract should be devoted after reclamation and shall develop a plan of reclamation for such land or tract reasonably designed to accomplish such purpose or purposes and an estimate of the cost thereof. When completed such plan shall be submitted to the director of natural resources who may approve or disapprove the same.

Sec. 1513.23. In determining the purpose or purposes for which any land or tract of land should be devoted after reclamation and in preparing a plan of reclamation, the chief of the division of ~~mines and reclamation~~ mineral resources management may call to ~~his~~ the chief's assistance, temporarily, any engineers or other employees in any state department or in the Ohio state university, or other educational institutions financed wholly or in part by the state, for the purpose of making studies, surveys, and maps and for the purpose of devising the most effective and economical plan of reclamation.

Such engineers and employees shall not receive any additional compensation other than that which they receive from the department by which they are employed, but they shall be reimbursed for their actual and

necessary expenses incurred while working under the direction of the chief of the division of mines and reclamation.

Sec. 1513.24. After a plan of reclamation is approved by the director of natural resources, the chief of the division of ~~mines and reclamation~~ mineral resources management, from any moneys appropriated for the reclamation of strip mined lands, shall proceed to carry out the plan.

With the approval of the director, the chief may carry out any such plan or any part of such plan with the employees and equipment of any division of the department of natural resources or ~~he~~ the chief may carry out any such plan, or any part of such plan by contracting therefor, provided that the chief shall not enter into any contract, agreement, or understanding unless the same is approved by the director.

Any such contract shall be entered into by the chief, with the approval of the director, with persons who agree therein to furnish any of the materials, equipment, or labor. Each such contract shall be awarded by the chief to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids therefor are received, opened, and published at the time and place fixed by the chief, and notice of the time and place at which the sealed bids will be received, opened, and published, has been published by the chief at least once at least ten days before the opening of the bids in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located, provided that if, after so advertising for bids for the contract, no bids therefor are received by the chief at the time and place fixed for receiving them, the chief may advertise again for such bids, but ~~he~~ the chief is not required to do so, and ~~he~~ the chief may, if ~~he~~ the chief considers the public interest will be best served thereby, enter into a contract for the reclamation of the land or tract without further advertisement for bids. The chief may reject any or all bids received and fix and publish again notice of the time and place at which bids for such contracts will be received, opened, and published.

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

Sec. 1513.25. After completion of the reclamation of a tract of land acquired pursuant to section 1513.20 of the Revised Code, the chief of the division of ~~mines and reclamation~~ mineral resources management may, if the land is suitable to the uses of any other department, division, office, or

institution of the state, transfer the land or tract to that department, division, office, or institution, subject to the approval of the director of natural resources.

With the approval of the attorney general and the director, the chief may sell any such land or tract, after completion of the plan of reclamation, when the sale is advantageous to the state.

With the approval of the attorney general and the director, the chief may grant easements and leases on the land or tract under terms advantageous to the state, and may grant mineral rights on a royalty basis.

All moneys received from the sale of reclaimed lands, or in payment for easements, leases, or royalties, shall be paid to the unreclaimed lands fund created in section 1513.30 of the Revised Code.

Sec. 1513.26. The chief of the division of ~~mines and reclamation~~ mineral resources management shall make an annual report to the governor and to the general assembly. The report shall identify each reclamation project, state the number of acres reclaimed by the division or persons with whom it contracts under sections 1513.20 to 1513.25 of the Revised Code, identify the county in which the project is located, and make a detailed accounting of expenditures.

Sec. 1513.27. As used in this section and sections 1513.28, 1513.30, 1513.31, and 1513.32 of the Revised Code, "damage to adjacent property" means physical injury or harm to nearby property caused by the unreclaimed condition of lands mined prior to April 10, 1972, or pursuant to a license issued prior to April 10, 1972, including, without limitation, injury or harm to vegetation on adjacent property, pollution of surface or underground waters on adjacent property, loss or interruption of water supply on adjacent property, flow of acid water onto or across adjacent property, flooding of adjacent property, landslides onto or across adjacent property, erosion of adjacent property, or deposition of sediment upon adjacent property. Damage to adjacent property does not include any diminution of the market value of adjacent property caused exclusively by the visual or aesthetic appearance of such unreclaimed lands.

The chief of the division of ~~mines and reclamation~~ mineral resources management, with the approval of the director of natural resources, may enter into a written agreement, which may be in the form of a contract, with the owner of any unreclaimed land affected by mining before April 10, 1972, or pursuant to a license issued before April 10, 1972, that causes or may cause pollution of the waters of the state or damage to adjacent property, is not likely to be mined in the foreseeable future, and lies within the boundaries of a project area approved by the council on unreclaimed

p mined lands created in section 1513.29 of the Revised Code, under which the state or its agents may enter the land to reclaim it at state expense with moneys from the unreclaimed lands fund created by section 1513.30 of the Revised Code by establishing vegetative cover and substantially reducing or eliminating erosion, sedimentation, landslides, pollution, accumulation or discharge of acid water, flooding, and damage to adjacent property. The agreement may include provisions pertaining to liability for damages and any other provisions necessary or desirable to achieve the purposes of this section.

If the chief makes a finding of fact that land or water resources have been adversely affected by past coal mining practices; if 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; and if the owners of the affected land or water resources either are not known or readily available or will not give permission for the state, political subdivisions, or their agents, employees, or contractors to enter on the property to restore, reclaim, abate, control, or prevent the adverse effects, the chief or the chief's agents, employees, or contractors may enter on the affected property in order to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. Prior to entering on the property, the chief or the chief's agents, employees, or contractors shall give notice by mail to the owners, if known, or, if not known, by posting notice on the premises and advertising once in a newspaper of general circulation in the county or municipal corporation in which the land lies. Such an entry shall be construed as an exercise of the police power for the protection of public health, safety, and welfare and shall not be construed as an act of condemnation of property or of trespass. The moneys expended for the work and the benefits accruing to any premises so entered upon shall be chargeable against 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. This provision is not intended to create new rights of action or eliminate existing immunities.

Each agreement entered into pursuant to this section shall contain provisions for the reimbursement of a portion of the costs of the reclamation that is commensurate with the increase in the fair market value of the property attributable to the reclamation work thereon, as determined by appraisals made before and after reclamation in the manner stated in the agreement, unless the determination discloses an increase in value that is insubstantial. For reimbursement of the portion, the agreement may include provisions for any of the following:

(A) Public use for soil, water, forest, or wildlife conservation or public recreation purposes;

(B) Payment to the state of the share of the income from the crops or timber produced on the land that is stated in the agreement;

(C) Imposition of a lien in the amount of the increase in fair market value payable upon transfer or conveyance of the property to a new owner. All such reimbursements and payments shall be credited to the unreclaimed lands fund.

(D) Payment to the state in cash of the amount of the increase in fair market value, payable upon completion of the reclamation.

For the purpose of selecting lands to be reclaimed within the boundaries of approved project areas, the chief shall consult the owners of unreclaimed lands, may consult with local officials, civic and professional organizations, and interested individuals, and shall consider the feasibility, cost, and public benefits of reclaiming particular lands, their potential for being mined, and the availability of federal or other assistance for reclamation. Before entering into the agreement, the chief shall prepare or approve a detailed plan with topographic maps indicating the reclamation improvements to be made. The plan may include improvements recommended by the owner, but may not include improvements that the chief finds are not necessary to establish vegetative cover or substantially reduce or eliminate erosion, sedimentation, landslides, pollution, accumulation or discharge of acid water, flooding, or damage to adjacent property.

With the approval of the director and upon entering into the agreement with the owner, the chief may carry out the plan of reclamation or any part thereof with the employees and equipment of any division of the department of natural resources, or the chief may carry out the plan or any part thereof by contracting therefor.

The chief, with the approval of the director and written consent of the owner, may enter into a contract with an operator mining adjacent land under a current, valid permit to carry out the plan of reclamation on the unreclaimed land or any part of the plan without advertising for bids. Contracts entered into with operators mining adjacent land ~~shall~~ are not ~~be~~ subject to division (B) of section 127.16 of the Revised Code.

The chief shall require every operator mining adjacent land who performs reclamation work pursuant to this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work performed in the same or similar locality by private companies doing their own reclamation work. Each contract awarded by the

chief to other than an operator mining adjacent land shall be awarded to the lowest responsible bidder after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after so advertising for bids, no bids are received by the chief at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will be best served, the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published. The chief, with the approval of the director and written consent of the owner, may enter into a contract with a licensed mine operator mining adjacent land under a valid permit to carry out the plan of reclamation on the unreclaimed land or any part of the plan without advertising for bids.

Sec. 1513.28. The chief of the division of ~~mines and reclamation~~ mineral resources management, with the approval of the director of natural resources, may make grants of moneys from the unreclaimed lands fund created by section 1513.30 of the Revised Code for the payment by the state of up to seventy-five per cent of the reasonable and necessary reclamation expenses incurred by the owner of any unreclaimed land affected by mining before April 10, 1972, or pursuant to a license issued before April 10, 1972, that causes or may cause pollution of the waters of the state or damage to adjacent property, is not likely to be mined in the foreseeable future, and lies within the boundaries of a project area approved by the council on unreclaimed strip mined lands created in section 1513.29 of the Revised Code, in accordance with a plan of reclamation approved by the chief.

The owner shall submit application for a grant on forms furnished by the division, together with detailed plans and topographic maps indicating the reclamation improvements to be made, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the chief prescribes. The plan of reclamation may be prepared in consultation with a local soil and water conservation district.

The chief may award the applicant a grant only after finding that the proposed reclamation work will establish vegetative cover and substantially reduce or eliminate erosion, sedimentation, landslides, pollution, accumulation or discharge of acid water, flooding, and damage to adjacent property.

For the purpose of establishing priorities for awarding grants under this section and section 1513.31 of the Revised Code, the chief shall consider each project's feasibility, cost, and public benefits of reclaiming the particular land, its potential for being mined, and the availability of federal or other financial assistance for reclamation.

The chief shall determine the amount of a grant under this section based upon the chief's determination of what constitutes reasonable and necessary expenses actually incurred for establishing vegetative cover, substantially reducing or eliminating erosion, sedimentation, landslides, pollution, accumulation or discharge of acid water, flooding, or damage to adjacent property, and preparing the plan of reclamation. The owner may elect to have other improvements made concurrently, but in no event shall any part of the grant be made for such other improvements, and in no event shall the amount of the grant exceed seventy-five per cent of the total amount, determined by the chief, of what constitutes reasonable and necessary expenses actually incurred for the reclamation measures listed in this section.

The chief shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purposes of this section and that the reclamation work is properly done. The final payment may not be made until the chief inspects and approves the completed reclamation work.

Each such contract shall contain provisions for the reimbursement of a portion of the costs of the reclamation that is commensurate with the increase in the fair market value of the property attributable to the reclamation work thereon, as determined by appraisals made before and after reclamation in the manner stated in the agreement, unless such determination discloses an increase in value that is insubstantial in comparison to the benefits to the public from the abatement of pollution or prevention of damage to adjacent property, considering the applicant's share of the reclamation cost. For reimbursement of such portion, the contract may include provisions for:

(A) Public use for soil, water, forest, or wildlife conservation or public recreation purposes;

(B) Payment to the state of the share of the income from the crops or timber produced on the land that is stated in the agreement;

(C) Imposition of a lien in the amount of the increase in fair market value payable upon transfer or conveyance of the property to a new owner;

(D) Payment to the state in cash in the amount of the increase in fair market value, payable upon completion of the reclamation.

All such reimbursements and payments shall be credited to the unreclaimed lands fund.

Not more than forty per cent of the money credited to the fund during the preceding calendar year may be expended during a calendar year for grants under this section.

The chief shall require every landowner performing reclamation work pursuant to this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate in this state for the same or similar work performed in the same or similar locality by private companies doing their own reclamation work.

Sec. 1513.29. There is hereby created the council on unreclaimed strip mined lands. Its members are the chief of the division of ~~mines and reclamation~~ mineral resources management, four persons appointed by the director of natural resources, two members of the house of representatives appointed by the speaker of the house of representatives, one member of the house of representatives appointed by the minority leader of the house of representatives, two members of the senate appointed by the president of the senate, and one member of the senate appointed by the minority leader of the senate.

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

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

The council shall gather information, study, and make recommendations concerning the number of acres, location, ownership, condition, environmental damage resulting from the condition, cost of acquiring, reclaiming, and possible future uses and value of eroded lands within the state, including land affected by strip mining for which no cash is held in the strip mining reclamation fund.

The council may employ such staff and hire such consultants as necessary to perform its duties. Members appointed by the director and, notwithstanding section 101.26 of the Revised Code, members who are members of the general assembly, when engaged in their official duties as members of the council, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code. Members shall be reimbursed for their necessary expenses. Expenses incurred by the council and compensation provided under this section shall be paid by the chief of the division of ~~mines and reclamation~~ mineral resources management from the unreclaimed lands fund created in section 1513.30 of the Revised Code.

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

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

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

The council shall give priority to areas where there is little or no likelihood of mining within the foreseeable future, reclamation is feasible at reasonable cost with available funds, and either of the following applies:

- (A) The pollution of the waters of the state and damage to adjacent property are most severe and widespread;
- (B) Reclamation will make possible public uses for soil, water, forest, or

wildlife conservation or public recreation purposes, will facilitate orderly commercial or industrial site development, or will facilitate the use or improve the enjoyment of nearby public conservation or recreation lands.

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

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

The controlling board may transfer excess funds from the oil and gas well fund created in section 1509.02 of the Revised Code, after recommendation by the council on unreclaimed strip mined lands, to meet deficiencies in the unreclaimed lands fund.

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

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

Sec. 1513.31. For the purpose of promoting local or regional economic or community development, the chief of the division of ~~mines and reclamation~~ mineral resources management, with the approval of the director of natural resources, may make grants of money from the unreclaimed lands ~~special account~~ fund created by section 1513.30 of the Revised Code for the payment by the state of up to seventy-five per cent of the reasonable and necessary expenses incurred by a political subdivision, community improvement corporation incorporated under Chapter 1724. of the Revised Code, or other nonprofit corporation incorporated under

Chapter 1702. of the Revised Code for the reclamation of any unreclaimed land affected by mining before April 10, 1972, or pursuant to a license issued before April 10, 1972, that is owned by the political subdivision or corporation, is to be reclaimed for the purpose of commercial or industrial site development by the political subdivision or corporation or the development of recreational facilities by the political subdivision, and lies within the boundaries of a project area approved by the council on unreclaimed strip mined lands, in accordance with a plan of reclamation approved by the chief.

The owner shall submit an application for a grant on forms furnished by the division of mineral resources management together with detailed plans and topographic maps indicating the reclamation improvements to be made, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the chief prescribes. The chief may award the applicant a grant only after finding that the proposed reclamation work will render the unreclaimed land suitable for commercial, industrial, or, if the land is owned by a political subdivision, recreational site development and will substantially reduce or eliminate the damage, if any, to adjacent property that is or may be caused by the condition of the unreclaimed land.

The chief shall determine the amount of the grant based upon the chief's determination of what constitutes reasonable and necessary expenses actually incurred for preparing the plan of reclamation; preparing the unreclaimed land for commercial, industrial, or, in the case of land owned by a political subdivision, recreational site development, including backfilling, grading, resoiling, planting, or other work to restore the land to a condition suitable for such development; and, if the condition of the unreclaimed land so requires, establishing vegetative cover or substantially reducing or eliminating erosion, sedimentation, landslides, pollution, accumulation or discharge of acid water, flooding, or damage to adjacent property. The owner may have other improvements made concurrently with the reclamation work, but shall not spend any part of the grant for such other improvements. No grant shall exceed seventy-five per cent of the total amount, as determined by the chief, of what constitutes reasonable and necessary expenses actually incurred for the reclamation measures listed in this section.

The chief shall enter into a contract for funding with each applicant awarded a grant in order to ensure that the moneys granted are used for the purposes of this section and that the reclamation work is properly done. The final payment under a grant may not be made until the chief inspects and

approves the completed reclamation work.

Sec. 1513.32. For the purpose of promoting local or regional economic or community development, the chief of the division of ~~mines and reclamation~~ mineral resources management, with the approval of the director of natural resources, may enter into a written agreement, which may be in the form of a contract, with a political subdivision, community improvement corporation incorporated under Chapter 1724. of the Revised Code, or other nonprofit corporation incorporated under Chapter 1702. of the Revised Code that owns any unreclaimed land affected by mining before April 10, 1972, or pursuant to a license issued before April 10, 1972, under which the state or its agents may enter upon the land to reclaim it at state expense with moneys from the unreclaimed lands fund created by section 1513.30 of the Revised Code for the purpose of commercial or industrial site development if the land is owned by a political subdivision or corporation or the development of recreational facilities if the land is owned by a political subdivision. The agreement may include provisions pertaining to liability for damages and any other provisions necessary or desirable to achieve the purposes of this section.

For the purpose of selecting lands to be reclaimed for commercial, industrial, or, if the lands are owned by a political subdivision, recreational site development, the chief shall consult with the owners of unreclaimed lands and with local officials, civic and professional organizations, and interested individuals and shall consider the feasibility, cost, and public benefits of reclaiming particular lands and the availability of federal or other assistance for the reclamation. The chief shall select for reclamation under this section only lands that lie within the boundaries of a project area approved by the council on unreclaimed strip mined lands.

Before entering into the agreement, the chief shall prepare or approve a detailed plan with topographic maps indicating the reclamation improvements to be made, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the chief considers appropriate. The plan shall include only reclamation work that is necessary to render the unreclaimed land suitable for commercial, industrial, or, if the land is owned by a political subdivision, recreational site development and will substantially reduce or eliminate the damage, if any, to adjacent property that is or may be caused by the condition of the unreclaimed land. The plan may include improvements recommended by the owner, but may not include any improvements that the chief finds are not necessary to prepare the unreclaimed land for commercial, industrial, or, if the land is owned by a political subdivision, recreational site development,

or if the condition of the unreclaimed land so requires, are not necessary to establish vegetative cover or substantially reduce or eliminate erosion, sedimentation, landslides, pollution, accumulation or discharge of acid water, flooding, or damage to adjacent property.

With the approval of the director and upon entering into an agreement with the owner, the chief may carry out the plan of reclamation or any part thereof with the employees or equipment of the department, or the chief may carry out the plan or any part thereof by contracting therefor in accordance with the procedures prescribed in section 1513.27 of the Revised Code. The chief shall keep an itemized record of the state's expense in carrying out the plan.

Expenditure of not more than twenty per cent of the moneys credited to the unreclaimed lands fund during the preceding fiscal year may be approved by the council on unreclaimed strip mined lands during a fiscal year for conducting reclamation projects under this section and for making grants under section 1513.31 of the Revised Code, provided that such expenditures are primarily for the pollution abatement purposes of section 1513.30 of the Revised Code.

Sec. 1513.33. The amount of any grant to a community improvement corporation or nonprofit corporation made under section 1513.31 of the Revised Code or the state's expenses incurred in reclaiming unreclaimed land owned by a community improvement corporation or nonprofit corporation under section 1513.32 of the Revised Code shall constitute a loan by the state to the corporation. Entry into a grant contract under section 1513.31 of the Revised Code or into a reclamation agreement under section 1513.32 of the Revised Code by the chief of the division of ~~mines and reclamation~~ mineral resources management constitutes the designation of the community improvement corporation or nonprofit corporation as the state's agent for the commercial or industrial development of the land named in the contract or agreement.

Each grant contract under section 1513.31 of the Revised Code or reclamation agreement under section 1513.32 of the Revised Code shall include terms for repayment of the grant or reimbursement of the state for its reclamation expenses, which shall require repayment of the loan in full upon the first sale, lease, or rental of the land reclaimed under the contract or agreement if the entire parcel of reclaimed land is sold, leased, or rented. If the corporation establishes a business enterprise on the entire parcel of reclaimed land, the contract shall require repayment of the loan in full upon the commencement of operation of the business enterprise. If the reclaimed land is sold, leased, or rented in portions or the corporation establishes a

business enterprise on any portion of the reclaimed land, the contract or agreement shall require repayment of that portion of the loan that corresponds to the portion of the reclaimed land sold, leased, or rented upon the first sale, lease, or rental of that portion, or upon commencement of operation of the business enterprise on that portion, by the corporation in the proportion that the acreage of the reclaimed land sold, leased, rented, or used in business by the corporation bears to the total acreage of land reclaimed under the contract or agreement.

To secure repayment of the moneys granted under section 1513.31 of the Revised Code or of the state's reclamation expenses under section 1513.32 of the Revised Code to or on behalf of a community improvement corporation or nonprofit corporation, the state shall have a lien on the land owned by the corporation that is land reclaimed under section 1513.31 or 1513.32 of the Revised Code equal to the amount of the grant made under section 1513.31 of the Revised Code or to the state's expenses incurred in reclaiming the land under section 1513.32 of the Revised Code. Within thirty days after the final grant payment is made under section 1513.31 of the Revised Code or after the completion of the reclamation work under section 1513.32 of the Revised Code, the chief shall cause to be recorded in the office of the county recorder of the county in which the reclaimed land is located a statement that shall contain an itemized accounting of the grant paid under section 1513.31 of the Revised Code or an itemized record of the state's expenses incurred in reclaiming the land under section 1513.32 of the Revised Code. The statement shall constitute a notice of lien and operate as of the date of delivery as a lien on the land reclaimed in the amount of the grant moneys paid out or the reclamation expenses incurred by the state and shall have priority as a lien second only to the lien of real property taxes imposed upon the land. The notice of lien and the lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor whose rights have attached prior to the date of filing of the statement by the chief or to any prior or subsequent lien for real property taxes imposed pursuant to section 5719.04 of the Revised Code.

The county recorder shall record and index the chief's statement, under the name of the state and the corporation, in the records of mechanic's liens maintained by the recorder's office. The county recorder shall impose no charge for the recording or indexing of the statement. If the land is registered, the county recorder shall make a notation and enter a memorial of the lien upon the page of the register in which the last certificate of title to the land is registered, stating the name of the claimant, amount claimed, volume and page of the record where recorded, and exact time the memorial

was entered.

The lien shall continue in force so long as any portion of the amount granted under section 1513.31 of the Revised Code or the state's reclamation expenses incurred under section 1513.32 of the Revised Code remains unpaid. Upon repayment in full of those moneys or expenses, the chief promptly shall issue a certificate of release of the lien. Upon presentation of the certificate of release, the county recorder of the county where the lien is recorded shall record the lien as having been discharged.

A lien imposed under this section shall be foreclosed upon the substantial failure of a corporation to repay any portion of the amount granted under section 1513.31 of the Revised Code or the state's reclamation expenses incurred under section 1513.32 of the Revised Code in accordance with the terms of the grant contract or reclamation agreement. Before foreclosing any lien under this section, the chief shall make a written demand upon the corporation to comply with the repayment terms of the contract or agreement. If the corporation does not pay the amount due within sixty days, the chief shall refer the matter to the attorney general, who shall institute a civil action to foreclose the lien of the state.

All moneys collected from loan repayments and lien foreclosures under this section shall be credited to the unreclaimed lands fund created by section 1513.30 of the Revised Code.

Sec. 1513.34. The chief of the division of ~~mines and reclamation~~ mineral resources management shall provide education and training for ~~inspection officers~~ mineral resources inspectors, district supervisors, and enforcement personnel. The chief shall provide adequate training and education as necessary for all persons appointed as ~~inspection officers~~ mineral resources inspectors during their provisional status. The chief shall provide, on a regular basis as funding allows, continuing education and training as necessary for all ~~inspection officers~~ mineral resources inspectors, district supervisors, and enforcement personnel.

Sec. 1513.35. (A) In addition to the other requirements of ~~Chapter 1513. of the Revised Code~~ this chapter, each permit issued by the chief of the division of ~~mines and reclamation~~ mineral resources management under section 1513.07 of the Revised Code for underground coal mining shall require the operator to:

(1) Implement measures consistent with known technology in order to prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires

planned subsidence in a predictable and controlled manner. This section does not prohibit the standard method of room and pillar mining.

(2) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for mining operations;

(3) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible the return of mining and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

(4) With respect to the surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all surface waste piles created by the operator from current operations through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and ensure that the leachate will not degrade below water quality standards established pursuant to applicable federal and state law surface or ground waters, that the final contour of the waste pile will be compatible with natural surroundings, and that the site is stabilized and revegetated according to this section;

(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(6) Establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) Protect offsite areas from damage that may result from such mining operations;

(8) Eliminate fire hazards and conditions that may constitute a hazard to the health and safety of the public;

(9) Minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation by:

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

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

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses;

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

(b) Conducting coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall such contributions be in excess of requirements set by applicable state or federal law, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

(10) With respect to other surface impacts not specified in this division, including the construction of new roads or in improvement or use of existing roads for hauling or to gain access to the site, repair areas, storage areas, processing areas, shipping areas, or other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 1513.16 of the Revised Code for such effects that result from coal mining operations. The chief shall make such modifications in the requirements imposed by this division as are necessary to accommodate the difference between strip and underground coal mining.

(11) Minimize disturbances and adverse impacts of the operation on wildlife, fish, and related environmental values, and achieve enhancement of such resources where practicable, to the extent possible using the best currently available technology;

(12) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner so as to prevent a gravity discharge of water from the mine in accordance with rules adopted by the chief.

(B) In order to protect the stability of the land, the chief shall suspend underground coal mining under urbanized areas, municipal corporations, or unincorporated communities or adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if ~~he~~ the chief finds imminent danger to inhabitants of the urbanized areas, municipal corporations, and unincorporated communities.

(C) ~~The provisions of Chapter 1513. of the Revised Code shall be~~ This chapter is applicable to surface operations and surface impacts incident to an underground coal mine with modifications as are necessary to accommodate the difference between surface coal mining and underground coal mining. The chief shall adopt the modifications by rule in accordance with section

1513.02 and Chapter 119. of the Revised Code.

Sec. 1513.36. In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, residential, agricultural, or public use, including recreational facilities, the chief of the division of ~~mines and reclamation~~ mineral resources management, with approval by the secretary of the United States department of the interior, may authorize departures in individual cases on an experimental basis from the environmental performance standards set forth in this chapter. Such departures may be authorized if:

(A) The experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required under ~~Chapter 1513. of the Revised Code~~ this chapter and rules adopted thereunder;

(B) The mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practice;

(C) The experimental practices do not reduce the protection afforded public health and safety below that provided under ~~Chapter 1513. of the Revised Code~~ this chapter and rules adopted thereunder.

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

(1) Reclamation and restoration of land and water resources adversely affected by past coal mining, including, but not limited to, reclamation and restoration of abandoned strip mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling of abandoned deep mine entries and voids; planting of land adversely affected by past coal mining; prevention of erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage, including restoration of streambeds and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; and prevention, abatement, and control of coal mine subsidence;

(2) Acquisition and filling of voids and sealing of tunnels, shafts, and

entryways of noncoal lands;

(3) Acquisition of land as provided for in this section;

(4) Administrative expenses incurred in accomplishing the purposes of this section;

(5) All other necessary expenses to accomplish the purposes of this section.

(B) Expenditures of moneys from the fund on land and water eligible pursuant to division (C) of this section shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(2) The protection of public health, safety, and general welfare from adverse effects of coal mining practices;

(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil and water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;

(4) Research and demonstration projects relating to the development of coal mining reclamation and water quality control program methods and techniques;

(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation facilities, and conservation facilities adversely affected by coal mining practices;

(6) The development of publicly owned land adversely affected by coal mining practices, including land acquired as provided in this section for recreation and historic purposes, conservation and reclamation purposes, and open space benefits.

(C)(1) Lands and water eligible for reclamation or drainage abatement expenditures under this section are those that were mined for coal or were affected by such mining, wastebanks, coal processing, or other coal mining processes and that meet one of the following criteria:

(a) Are lands that were abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws;

(b) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and August 16, 1982, and that any moneys for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at

the site;

(c) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and November 5, 1990, that the surety of the mining operator became 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 the work in accordance with this section.

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

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

emergency projects to the council for review.

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

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

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

(E)(1) There is hereby created in the state treasury the acid mine drainage abatement and treatment fund, which shall be administered by the chief. The fund shall consist of grants from the secretary of the interior from the federal abandoned mine reclamation fund pursuant to section 402(g)(6) of Title IV of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. All investment earnings of the fund shall be credited to the fund.

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

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

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

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

(iii) The unit contains lands and waters that are proposed to be the subject of expenditures from the reclamation forfeiture fund created in

section 1513.18 of the Revised Code, ~~the reclamation supplemental forfeiture fund created in that section,~~ or the unreclaimed lands fund created in section 1513.30 of the Revised Code.

(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;

(c) An identification of the sources of acid mine drainage within the hydrologic unit;

(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;

(e) The cost of undertaking the proposed abatement and treatment measures;

(f) An identification of existing and proposed sources of funding for those measures;

(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

(3) The chief may make grants of moneys from the acid mine drainage abatement and treatment fund to watershed groups for conducting projects to accomplish the purposes of this section. A grant may be made in an amount equal to not more than fifty per cent of each of the following:

(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:

(i) Identify a watershed as a qualified hydrologic unit;

(ii) Monitor the quality of water in a qualified hydrologic unit before, during, and at any time after completion of the project by the watershed group.

(b) Engineering design costs and construction costs involved in the project, provided that the project is conducted in a qualified hydrologic unit and the chief considers the project to be a priority.

A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to the chief on forms provided by the division of ~~mines and reclamation~~ mineral resources management, together with detailed estimates and timetables for accomplishing the stated goals of the project and any other information that the chief requires.

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

The chief shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purposes

of this section and that the work that the project involves is done properly. The contract is not subject to division (B) of section 127.16 of the Revised Code. The final payment of grant moneys shall not be made until the chief inspects and approves the completed project.

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

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

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

existing immunities.

(2) The chief or the chief's authorized representatives may enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of 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 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 relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices;

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

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

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

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

(b) The chief, when requested, and after appropriate public notice, shall hold a public meeting in the county, counties, or other appropriate political subdivisions of the state in which lands acquired pursuant to this section are

located. The meetings shall be held at a time that shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

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

(G)(1) Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the chief shall itemize the moneys so expended and may file a statement 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 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 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 land is registered, the county recorder shall make a notation and enter a memorial of the lien upon the page of the register in which the last certificate of title to the land is registered, stating the name of the claimant, amount claimed, volume and page of the record where recorded, and exact time the memorial was entered.

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

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

(H)(1) The chief may fill voids, seal abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or strip mines that

the chief determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment.

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

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

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

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

(2) The chief may engage in cooperative projects under this section with any agency of the United States, any other state, or their governmental agencies or with any state university or college as defined in section 3345.27 of the Revised Code. The cooperative projects are not subject to division (B) of section 127.16 of the Revised Code.

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

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

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

(K) The chief may contract for any part of work to be performed under this section, with or without advertising for bids, if the chief determines that

a condition exists that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

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

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

(2) The chief or the chief's agents, employees, or contractors may enter on any land where such an emergency exists, and on other land in order to have access to that land, in order to restore, reclaim, abate, control, or prevent the adverse effects of mining practices and to do all things necessary or expedient to protect the public health, safety, or welfare. Such an entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property or of trespass. The moneys expended for the work and the benefits accruing to any 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. This provision is not intended to create new rights of action or eliminate existing immunities.

Sec. 1513.39. (A) No person shall discharge, or in any other way discriminate against or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that the employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter or has testified or is about to testify in any proceeding resulting from the administration or enforcement of this chapter.

(B) Any employee or representative of employees who believes that ~~he~~ the employee or representative has been fired or otherwise discriminated against by any person in violation of division (A) of this section may, within

thirty days after the alleged violation occurs, apply to the chief of the division of ~~mines and reclamation~~ mineral resources management for a review of the firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of the application, the chief shall cause such investigation to be made as ~~he~~ the chief considers appropriate. The investigation shall provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record. Upon receiving the report of the investigation the chief shall make findings of fact. If ~~he~~ the chief finds that a violation did occur, ~~he~~ the chief shall issue a decision incorporating therein ~~his~~ the chief's findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the chief considers appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to ~~his~~ the employee's or representative's former position with compensation. If ~~he~~ the chief finds that there was no violation, ~~he~~ the chief shall issue a finding to that effect. Orders issued by the chief under this division shall be subject to judicial review in the same manner as orders and decisions of the chief are subject to judicial review under this chapter.

(C) Whenever an order is issued under this section to abate any violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, determined to have been necessary and reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation and may be awarded in accordance with division (E) of section 1513.13 of the Revised Code.

Sec. 1513.40. Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order of the chief of the division of ~~mines and reclamation~~ mineral resources management or ~~his~~ the chief's representative, any director, officer, or agent of the corporation who purposely authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under this chapter.

Sec. 1513.41. When an inspection by the chief of the division of ~~mines and reclamation~~ mineral resources management or ~~his~~ the chief's representative results from information provided by any person, the chief or ~~his~~ the chief's representative shall notify the person when the inspection is

proposed to be carried out and the person may accompany the chief or ~~his~~ the chief's representative during the inspection.

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

An application for a permit shall be upon the form that the chief prescribes and provides and shall contain all of the following:

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

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

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

(4) The name and address of the owner of surface rights in the land upon which the applicant proposes to engage in surface mining;

(5) A copy of the deed, lease, or other instrument that authorizes entry upon the land by the applicant or the applicant's agents if surface rights in the land are not owned by the applicant;

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

(7) A statement of whether the applicant, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has ever had a surface mining permit or coal mining and reclamation permit issued by this or any other state suspended or revoked or has ever forfeited a surface mining or coal mining and reclamation bond or

cash, an irrevocable letter of credit, or a security deposited in lieu of a bond;

(8) A report of the results of test borings that the operator has conducted on the area or otherwise has readily available, including, to the extent that the information is readily available to the operator, the nature and depth of overburden and material underlying each mineral or coal deposit, and the thickness and extent of each mineral or coal deposit. All information relating to test boring results submitted to the chief pursuant to this section shall be kept confidential and not made a matter of public record, except that the information may be disclosed by the chief in any legal action in which the truthfulness of the information is material.

(9) A complete plan for mining and reclamation of the area to be affected, which shall include a statement of the intended future uses of the area and show the approximate sequence in which mining and reclamation measures are to occur, the approximate intervals following mining during which the reclamation of all various parts of the area affected will be completed, and the measures the operator will perform to prevent damage to adjoining property and to achieve all of the following general performance standards for mining and reclamation:

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

(b) Where a plan of zoning or other comprehensive plan has been adopted that governs land uses or the construction of public improvements and utilities for an area that includes the area sought to be mined, ensure that future land uses within the site will not conflict with the plan;

(c) Grade, contour, or terrace final slopes, wherever needed, sufficient to achieve soil stability and control landslides, erosion, and sedimentation. Highwalls will be permitted if they are compatible with the future uses specified in the plan and measures will be taken to ensure public safety. Where ponds, impoundments, or other resulting bodies of water are intended for recreational use, establish banks and slopes that will ensure safe access to those bodies of water. Where such bodies of water are not intended for recreation, include measures to ensure public safety, but access need not be provided.

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

(e) Establish a diverse vegetative cover of grass and legumes or trees, grasses, and legumes capable of self-regeneration and plant succession

wherever required by the plan;

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

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

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

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

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

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

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

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

(10) For any applicant who intends to extract less than ten thousand tons of minerals per year and no incidental coal, a current tax map, in triplicate and notarized, and the appropriate United States geological survey seven and one-half minute topographic map. Each copy shall bear the applicant's name and shall identify the area of land to be affected corresponding to the application.

(11) For any applicant who intends to extract ten thousand tons of minerals or more per year or who intends to extract any incidental coal

pective of the tonnage of minerals intended to be mined, a map, in triplicate, on a scale of not more than four hundred feet to the inch, or three copies of an enlarged United States geological survey topographic map on a scale of not more than four hundred feet to the inch.

The map shall comply with all of the following:

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

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

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

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

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

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

(g) Show the drainage plan on, above, below, and away from the area of land to be affected, indicating the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving or to receive this discharge;

(h) Show the location of available test boring holes that the operator has conducted on the area of land to be affected or otherwise has readily available;

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

(j) Show the type, kind, location, and references of all existing boundary, section corner, government, and other survey monuments within the area to be affected and within five hundred feet of the perimeter of the area.

The certification of the maps shall read: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all of the information required by the surface mining laws of the state." The certification shall be signed and attested before a notary public. The chief may reject any map as incomplete if its accuracy is not so certified and attested.

(12) A certificate of public liability insurance issued by an insurance company authorized to do business in this state or obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code covering all surface mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts not less than the following:

(a) One hundred thousand dollars for all damages because of bodily injury sustained by one person as the result of any one occurrence, and three hundred thousand dollars for all damages because of bodily injury sustained by two or more persons as the result of any one occurrence;

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

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

The chief shall issue an order denying an application for an operating permit or an amendment if the chief determines that the measures set forth in the plan are likely to be inadequate to prevent damage to adjoining property or to achieve one or more of the performance standards required in division (A)(9) of this section.

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

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

The chief shall issue an order granting a permit upon the chief's approval of an application, as required by this section, filing of the performance bond required by section 1514.04 of the Revised Code, and payment of a permit fee in the amount of two hundred fifty dollars and an acreage fee in the amount of thirty dollars multiplied by the number of acres

estimated in the application that will comprise the area of land to be affected within the first year of operation under the permit, but which acreage fee shall not exceed one thousand dollars per year.

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

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

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

(C) If the chief approves the application, the order granting the permit shall authorize the person to whom the permit is issued to engage as the operator of a surface mining operation upon the land described in the permit during a period that shall expire ten years after the date of issuance of the permit, or upon the date when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.

(D) Before an operator engages in a surface mining operation on land not described in the operator's permit, but that is contiguous to the land described in the operator's permit, the operator shall file with the chief an application for an amendment to the operator's permit. Before approving an amendment, the chief shall require the information, maps, fees, and performance bond as required for an original application under this section and shall apply the same prohibitions and restrictions applicable to land described in an original application for a permit. If the chief disapproves the

amendment, the chief shall state the reasons for disapproval in the order disapproving the amendment. Upon the approval of an amendment by the chief, the operator shall be authorized to engage in surface mining on the land described in the operator's original permit plus the land described in the amendment until the date when the permit expires, or when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.

(E) An operator, at any time and upon application therefor and approval by the chief, may amend the plan of mining and reclamation filed with the application for a permit in order to change the reclamation measures to be performed, modify the interval after mining within which reclamation measures will be performed, change the sequence in which mining or reclamation will occur at specific locations within the area affected, mine acreage previously mined or reclaimed, or for any other purpose, provided that the plan, as amended, includes measures that the chief determines will be adequate to prevent damage to adjoining property and to achieve the performance standards set forth in division (A)(9) of this section.

The chief may propose one or more amendments to the plan in writing, within ninety days after the fifth anniversary of the date of issuance of the permit and upon a finding of any of the following conditions after a complete review of the plan and inspection of the area of land affected, and the plan shall be so amended upon written concurrence in the findings and approval of the amendments by the operator:

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

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

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

(F) The chief shall issue an order granting or denying an operating permit or amendment to a permit or approving or denying an amendment to the operator's plan of mining and reclamation within ninety days after the filing of an application therefor. If the chief fails to act within that period with respect to a surface mining operation that existed prior to the initial date by which the chief requires a permit to be obtained, the operator may continue the operation until the chief issues an order denying a permit for

the operation, and if the operator elects to appeal the order pursuant to section 1513.13 of the Revised Code, until the reclamation commission affirms the order of the chief denying the permit, and if the operator elects to appeal the order of the commission pursuant to section 1513.14 of the Revised Code, until the court of common pleas affirms the order.

Sec. 1514.021. (A) A permit holder who wishes to continue surface mining operations after the expiration date of the existing permit or renewal permit shall file with the chief of the division of ~~mines and reclamation~~ mineral resources management an application for renewal of a surface mining permit or renewal permit at least ninety days before the expiration date of the existing permit or renewal permit. The application shall be upon the form that the chief prescribes and provides and shall be accompanied by the permit fees required under division (B) of section 1514.02 of the Revised Code.

(B) Upon receipt of an application for renewal and the permit fee under division (A) of this section, the chief shall notify the applicant to submit a map that is a composite of the information required to be contained in the most recent annual report map under section 1514.03 of the Revised Code and of all surface mining and reclamation activities conducted under the existing permit or renewal permit; the annual report required under section 1514.03 of the Revised Code; and additional maps, plans, and revised or updated information that the chief determines to be necessary for permit renewal. Within sixty days after receipt of this notification, the applicant shall submit all the required information to the chief.

(C) Upon receipt of the information required under division (B) of this section, the chief may approve the application for renewal and issue an order granting a renewal permit if the chief finds that both of the following apply:

(1) The permit holder's operation is in compliance with this chapter, rules adopted and orders issued under it, and the plan of mining and reclamation under the existing permit or renewal permit;

(2) The permit holder has provided evidence that a performance bond filed under section 1514.04 of the Revised Code applicable to lands affected under the existing permit or renewal permit will remain effective until released under section 1514.05 of the Revised Code.

(D) Within sixty days after receiving the information and permit fees required under divisions (A) and (B) of this section, the chief shall approve the application for renewal and issue an order granting a renewal permit, issue an order denying the application, or notify the applicant that the time limit for issuing such an order has been extended. This extension of time shall not exceed sixty days.

(E) If an applicant for a renewal permit has complied with division (A) of this section, the applicant may continue surface mining operations under the existing permit or renewal permit after its expiration date until the sixty-day period for filing the information required by the chief under division (B) of this section has expired or until the chief issues an order under division (D) of this section denying the renewal permit.

(F) A permit holder who fails to submit an application and required permit fees within the time prescribed by division (A) of this section shall cease surface mining operations on the expiration date of the existing permit or renewal permit. If such a permit holder then submits an application for renewal and the permit fees otherwise required by division (A) of this section on or before the thirtieth day after the expiration date of the expired permit or renewal permit and provides the information required by the chief under division (B) of this section within sixty days after being notified of the information required under that division, the permit holder need not submit the final map and report required by section 1514.03 of the Revised Code until the later of thirty days after the chief issues an order denying the application for renewal or thirty days after the chief's order is affirmed upon appeal under section 1513.13 or 1513.14 of the Revised Code. An applicant under this division who fails to provide the information required by the chief under division (B) of this section within the prescribed time period shall submit the final map and report required by section 1514.03 of the Revised Code within thirty days after the expiration of that prescribed period.

(G) If the chief issues an order denying an application for renewal of a permit or renewal permit after the expiration date of the permit, the permit holder shall cease surface mining operations immediately and, within thirty days after the issuance of the order, shall submit the final report and map required under section 1514.03 of the Revised Code. The chief shall state the reasons for denial in the order denying renewal of the application. An applicant may appeal the chief's order denying the renewal under section 1513.13 of the Revised Code and may continue surface mining and reclamation operations under the expired permit until the reclamation commission affirms the chief's order under that section and, if the applicant elects to appeal the order of the commission under section 1513.14 of the Revised Code, until the court of appeals affirms the order.

(H) The approval of an application for renewal under this section authorizes the continuation of the existing permit or renewal permit for a term of ten years from the expiration date of the existing permit.

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

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

Each annual report shall include a progress map indicating the location of areas of land affected during the period of the report and the location of the area of land estimated to be affected during the next year. The map shall be prepared in accordance with division (A)(10) or (11) of section 1514.02 of the Revised Code, as appropriate, except that a map prepared in accordance with division (A)(11) of that section may be certified by the operator or authorized agent of the operator in lieu of certification by a professional engineer or surveyor registered under Chapter 4733. of the Revised Code. However, the chief may require that an annual progress map or a final map be prepared by a registered professional engineer or registered surveyor if ~~he~~ the chief has reason to believe that the operator exceeded the boundaries of the permit area or, if the operator filed the map required under division (A)(10) of section 1514.02 of the Revised Code, that the operator extracted ten thousand tons or more of minerals during the period covered by the report.

Each annual report shall be accompanied by a filing fee in the amount of two hundred fifty dollars and an acreage fee in the amount of thirty dollars multiplied by the number of acres estimated in the report to be affected during the next year of operation under the permit. The acreage fee shall be adjusted by subtracting a credit of thirty dollars per excess acre paid for the preceding year if the acreage paid for the preceding year exceeds the acreage actually affected or by adding an additional amount of thirty dollars per excess acre affected if the acreage actually affected exceeds the acreage paid for the preceding year. ~~No acreage fee shall exceed one thousand dollars per year.~~

With each annual report the operator shall file a performance bond in the amount of five hundred dollars multiplied by the number of acres estimated to be affected during the next year of operation under the permit for which no performance bond previously was filed. The bond shall be adjusted by subtracting a credit of five hundred dollars per excess acre for which bond was filed for the preceding year if the acreage for which the

bond was filed for the preceding year exceeds the acreage actually affected, or by adding an amount of five hundred dollars per excess acre affected if the acreage actually affected exceeds the acreage for which bond was filed for the preceding year.

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

Each final report shall include a map indicating the location of the area of land affected during the period of the report and the location of the total area of land affected under the permit. The map shall be prepared in accordance with division (A)(10) or (11) of section 1514.02 of the Revised Code, as appropriate.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is larger than the number of acres for which the operator has paid an acreage fee or filed a performance bond, upon notification by the chief, the operator shall pay an additional acreage fee in the amount of thirty dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee and shall file an additional performance bond in the amount of five hundred dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is smaller than the number of acres for which the operator has ~~paid an acreage fee or~~ filed a performance bond, the chief shall order release of the ~~excess acreage fee and the~~ excess bond. However, the chief shall retain a performance bond in a minimum amount of two thousand dollars irrespective of the number of acres affected under the permit. ~~The release of the excess acreage fee shall be in an amount equal to thirty dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee.~~ The release of the excess bond shall be in an amount equal to five hundred dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond. ~~Refunds of excess acreage fees shall be paid by the treasurer of state out of the surface mining reclamation fee fund, which is hereby created in the state treasury. The treasurer of state~~

~~shall place twenty thousand dollars from the fees collected pursuant to sections 1514.02 and 1514.03 of the Revised Code in that fund and, as required by the depletion thereof, place to the credit of the fund an amount sufficient to make the total in the fund at the time of each such credit twenty thousand dollars. The balance of the~~

~~The fees collected pursuant to sections~~ this section and section 1514.02 and 1514.03 of the Revised Code shall be deposited with the treasurer of state to the credit of the surface mining ~~administration~~ fund created under section ~~1514.11~~ 1514.06 of the Revised Code.

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

Sec. 1514.04. Upon receipt of notification from the chief of the division of ~~mines and reclamation~~ mineral resources management of ~~his~~ the chief's intent to issue an order granting a surface mining permit to the applicant, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of two thousand dollars, or five hundred dollars per acre of land to be affected, whichever is greater. Upon receipt of notification from the chief of ~~his~~ the chief's intent to issue an order granting an amendment to a surface mining permit, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of five hundred dollars per acre of land to be affected.

In the case of a surface mining permit, the bond shall be filed for the number of acres estimated to be affected during the first year of operation under the permit. In the case of an amendment to a surface mining permit, the bond shall be filed for the number of acres estimated to be affected during the balance of the period until the next anniversary date of the permit.

A surety bond filed pursuant to this section and sections 1514.02 and 1514.03 of the Revised Code shall be upon the form that the chief prescribes and provides and shall be signed by the operator as principal and by a surety company authorized to transact business in the state as surety. The bond shall be payable to the state and shall be conditioned upon the faithful performance by the operator of all things to be done and performed by ~~him~~ the operator as provided in this chapter and the rules and orders of the chief adopted or issued pursuant thereto.

The operator may deposit with the chief, in lieu of a surety bond, cash in

an amount equal to the surety bond as prescribed in this section, an irrevocable letter of credit or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or an irrevocable letter of credit or certificates of deposit issued by any savings and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount of the surety bond as prescribed in this section. Cash or certificates of deposit shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. If one or more certificates of deposit are deposited with the chief in lieu of surety bond, ~~he~~ the chief shall require the bank or savings and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate, or certificates, that is in excess of the amount insured by the federal deposit insurance corporation. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, a letter of credit, or certificates with the chief, ~~he~~ the chief shall deliver it to the treasurer of state who shall hold it in trust for the purposes for which it has been deposited. The treasurer of state shall be responsible for the safekeeping of such deposits. An operator making a deposit of cash, a letter of credit, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any part of the cash, letter of credit, or certificates in the possession of the treasurer of state, upon depositing with the treasurer of state cash, an irrevocable letter of credit or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or an irrevocable letter of credit or certificates of deposit issued by any savings and loan association, equal in value to the value of the cash, letter of credit, or certificates withdrawn. An operator may demand and receive from the treasurer of state all interest or other income from any certificates as it becomes due. If certificates deposited with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the operator who deposited them, shall convert the proceeds of the redemption or payment of the certificates into such other negotiable certificates of deposit issued by any bank organized or transacting business in this state, such other certificates of deposit issued by any savings and loan association, or cash, as may be designated by the operator.

Sec. 1514.05. (A) At any time within the period allowed an operator by section 1514.02 of the Revised Code to reclaim an area of land affected by surface mining, the operator may file a request, on a form provided by the chief of the division of ~~mines and reclamation~~ mineral resources

nt, for inspection of the area of land upon which the reclamation, other than any required planting, is completed. The request shall include all of the following:

- (1) The location of the area and number of acres;
- (2) The permit number;
- (3) The amount of performance bond on deposit to ensure reclamation of the area;
- (4) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(10) or (11) of section 1514.02 of the Revised Code, as appropriate.

The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief approves the reclamation other than any required planting as meeting the requirements of this chapter, rules adopted thereunder, any orders issued during the mining or reclamation, and the specifications of the plan for mining and reclaiming, ~~he~~ the chief shall issue an order to the operator and the operator's surety releasing them from liability for one-half the total amount of their surety bond on deposit to ensure reclamation for the area upon which reclamation is completed. If the operator has deposited cash, an irrevocable letter of credit, or certificates of deposit in lieu of a surety bond to ensure reclamation, the chief shall issue an order to the operator releasing one-half of the total amount so held and promptly shall transmit a certified copy of the order to the treasurer of state. Upon presentation of the order to the treasurer of state by the operator to whom it was issued, or by the operator's authorized agent, the treasurer of state shall deliver to the operator or the operator's authorized agent the cash, irrevocable letter of credit, or certificates of deposit designated in the order.

If the chief does not approve the reclamation other than any required planting, ~~he~~ the chief shall notify the operator by certified mail. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance ~~if he determines~~ after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the performance bond in the same manner as in the case of approval of reclamation other than planting

by the chief, and the treasurer of state shall proceed as in that case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall issue another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief shall thereupon proceed under division (C) of this section.

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

- (1) The location of the area and number of acres;
- (2) The permit number;
- (3) The remaining amount of performance bond on deposit to ensure reclamation of the area;
- (4) The type and date of any required planting of vegetative cover and the degree of success of growth;
- (5) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(10) or (11) of section 1514.02 of the Revised Code, as appropriate.

The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief finds that the reclamation meets the requirements of this chapter, rules adopted thereunder, any orders issued during the mining and reclamation, and the specifications of the plan for mining and reclaiming and decides to release any remaining performance bond on deposit to ensure reclamation of the area upon which reclamation is completed, within ten days of completing ~~his~~ the inspection and evaluation, ~~he~~ the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation other than planting, and the treasurer of state shall proceed as in that case.

If the chief does not approve the reclamation performed by the operator, ~~he~~ the chief shall notify the operator by certified mail within ninety days of the filing of the application for inspection or of the date when ~~he~~ the chief learns of the default. The notice shall be an order stating the reasons for

unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance ~~if he determines~~ after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation by the chief, and the treasurer of state shall proceed as in that case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall make another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief then shall proceed under division (C) of this section.

(C) Upon issuing an order under division (A) or (B) of this section declaring that the operator has failed to reclaim, the chief shall make a finding as to the number and location of the acres of land that the operator has failed to reclaim in the manner required by this chapter. The chief shall order the release of the performance bond in the amount of five hundred dollars per acre for those acres that ~~he~~ the chief finds to have been reclaimed in the manner required by this chapter. The release shall be ordered in the same manner as in the case of other approval of reclamation by the chief, and the treasurer of state shall proceed as in that case. If the operator has on deposit cash, an irrevocable letter of credit, or certificates of deposit to ensure reclamation of the area of the land affected, the chief at the same time shall issue an order declaring that the remaining cash, irrevocable letter of credit, or certificates of deposit is the property of the state and is available for use by the chief in performing reclamation of the area and shall proceed in accordance with section 1514.06 of the Revised Code.

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

If the surety chooses to perform, it shall arrange for work to begin within thirty days of the day on which it notifies the chief of its decision. If the surety completes the work as required by this chapter, the chief shall

issue an order to the surety releasing the surety from liability under the bond in the same manner as if the surety were an operator proceeding under this section. If, after the surety begins the work, the chief determines that the surety is not carrying the work forward with reasonable progress, or that it is improperly performing the work, or that it has abandoned the work or otherwise failed to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work and demanding payment of the amount due as required by this chapter.

If the surety chooses not to perform and so notifies the chief, does not respond to the chief's notice within ten days of receipt thereof, or fails to begin work within thirty days of the day it timely notifies the chief of its decision to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work and demanding payment of the amount due, as required by this chapter.

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

Sec. 1514.06. (A) There is hereby created in the state treasury the surface mining ~~reclamation~~ fund. All cash that becomes the property of the state pursuant to section 1514.05 of the Revised Code shall be deposited in the fund, and expenditures from the fund shall be made by the chief of the division of ~~mines and reclamation~~ mineral resources management only for the purpose of reclaiming areas of land affected by surface mining operations on which an operator has defaulted.

(B) Expenditures of moneys from the fund, except as otherwise provided by this section, shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor, as specified and provided in the contracts, for the prices stipulated therein. With the approval of the director of natural resources, the chief may reclaim the land in the same manner as ~~he~~ the chief required of the operator who defaulted. Each contract awarded by the chief shall be awarded to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened,

and published, at least once at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after so advertising for bids, no bids are received by the chief at the time and place fixed for receiving them, the chief may advertise again for bids, or, if ~~he~~ the chief considers the public interest will be best served, ~~he~~ the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published.

(C) With the approval of the director, the chief, without advertising for bids, may enter into a contract with the landowner, a surface mine operator or coal mine operator mining under a current, valid permit issued under this chapter or Chapter 1513. of the Revised Code, or a contractor hired by a surety to complete reclamation, to carry out reclamation on land affected by surface mining operations on which an operator has defaulted.

(D) With the approval of the director, the chief may carry out all or part of the reclamation work on land affected by surface mining operations on which the operator has defaulted using the employees and equipment of any division of the department of natural resources.

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

(F) Each contract entered into by the chief under this section shall provide only for the reclamation of land affected by the surface mining operation or operations of one operator and not reclaimed by the operator as required by this chapter. If there is money in the fund derived from the performance bond deposited with the chief by one operator to ensure the reclamation of two or more areas of land affected by the surface mining operation or operations of one operator and not reclaimed by ~~him~~ the operator as required by this chapter, the chief may award a single contract for the reclamation of all such areas of land.

(G) The cost of the reclamation work done under this section on each area of land affected by surface mining operations on which an operator has defaulted shall be paid out of the money in the fund derived from the performance bond that was deposited with the chief to ensure the reclamation of that area of land. If the amount of money is not sufficient to pay the cost of doing all of the reclamation work on the area of land that the

operator should have done, but failed to do, the chief may expend from the reclamation ~~supplemental~~ forfeiture fund created in section 1513.18 of the Revised Code or the surface mining ~~administration~~ fund created in this section ~~1514.11 of the Revised Code~~ the amount of money needed to complete reclamation to the standards required by this chapter. The operator is liable for that expense in addition to any other liabilities imposed by law. At the request of the chief, the attorney general shall bring an action against the operator for the amount of the expenditures from either fund. Moneys so recovered shall be deposited in the appropriate fund from which the expenditures were made.

(H) If any part of the money in the surface mining ~~reclamation~~ fund remains in the fund after the chief has caused the area of land to be reclaimed and has paid all the reclamation costs and expenses, or if any money remains because the area of land has been repermited under this chapter or reclaimed by a person other than the chief, the chief may expend the remaining money to complete other reclamation work performed under this section.

Sec. 1514.07. Each order of the chief of the division of ~~mines and reclamation~~ mineral resources management affecting the rights, duties, or privileges of an operator or ~~his~~ the operator's surety or of an applicant for a permit or an amendment to a permit or a plan shall be in writing and contain a finding by the chief of the facts upon which the order is based. Notice of the order shall be given by certified mail to each person whose rights, duties, or privileges are affected.

If the chief finds that an operator has violated any requirement of this chapter, failed to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve, or has otherwise failed to achieve the performance standards of division (A)(9) of section 1514.02 of the Revised Code, or caused damage to adjoining property, the chief may issue orders directing the operator to cease violation, perform such measures, achieve such standards, or prevent or abate off-site damage. The order shall identify the operation where the violation occurs, the specific requirement violated, measure not performed, standard not achieved, or off-site damage caused, and where practicable prescribe what action the operator may take to comply with the order. The chief shall fix and set forth in the order a reasonable date or time by which the operator shall comply, and the order shall state that the chief may revoke the operator's permit if the order is not complied with by such date or time. If upon such date or time the chief finds that the operator has not complied with the order, ~~he~~ the chief may issue an

order revoking the operator's permit.

Sec. 1514.08. The chief of the division of ~~mines and reclamation~~ mineral resources management may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code in order to prescribe procedures for submitting applications for permits, amendments to permits, and amendments to plans of mining and reclamation; filing annual reports and final reports; requesting inspection and approval of reclamation; paying permit and filing fees; and filing and obtaining the release of performance bonds deposited with the state. For the purpose of preventing damage to adjoining property or achieving one or more of the performance standards established in division (A)(9) of section 1514.02 of the Revised Code, the chief may establish classes of mining industries, based upon industrial categories, combinations of minerals produced, and geological conditions in which surface mining operations occur, and may prescribe different rules consistent with the performance standards for each class. For the purpose of apportioning the workload of the division ~~between~~ of mineral resources management among the quarters of the year, the rules may require that applications for permits and annual reports be filed in different quarters of the year, depending upon the county in which the operation is located.

Sec. 1514.10. No person shall:

(A) Engage in surface mining without a permit;

(B) Exceed the limits of a surface mining permit or amendment to a permit by mining land contiguous to an area of land affected under a permit or amendment, which contiguous land is not under permit or amendment;

(C) Purposely misrepresent or omit any material fact in an application for a surface mining permit or amendment, an annual or final report, or in any hearing or investigation conducted by the chief of the division of ~~mines and reclamation~~ mineral resources management or the reclamation commission;

(D) Fail to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve a performance standard in division (A)(9) of section 1514.02 of the Revised Code, or violate any other requirement of this chapter, a rule adopted thereunder, or an order of the chief ~~of reclamation~~.

Sec. 1514.11. ~~There is hereby created in the state treasury~~ In addition to the purposes authorized in section 1514.06 of the Revised Code, the chief of the division of mineral resources management may use moneys in the surface mining administration fund to be used by the chief of the division of ~~mines and reclamation~~ created under that section for the administration and enforcement of this chapter, for the reclamation of land affected by surface

mining under a permit issued under this chapter that the operator failed to reclaim and for which the performance bond filed by the operator is insufficient to complete the reclamation, and for the reclamation of land affected by surface mining that was abandoned and left unreclaimed and for which no permit was issued or bond filed under this chapter. ~~The chief shall expend not more than five hundred thousand dollars from the fund during any fiscal year for the reclamation of abandoned surface mines. The~~ For purposes of this section, the chief shall expend moneys in the fund in accordance with the procedures and requirements established in section 1514.06 of the Revised Code ~~for expenditures of moneys from the surface mining reclamation fund created in that section~~ and may enter into contracts and perform work in accordance with that section.

~~Permit fees and filing fees~~ Fees collected under sections 1514.02 and 1514.03 of the Revised Code, one-half of the moneys collected from the severance taxes levied under divisions (A)(3) and (4) of section 5749.02 of the Revised Code, and all of the moneys collected from the severance tax levied under division (A)(7) of section 5749.02 of the Revised Code shall be credited to the fund in accordance with those sections. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under section 1514.99 of the Revised Code shall be credited to the fund.

Sec. 1521.01. As used in sections 1521.01 to 1521.05 ~~and~~, 1521.13 to 1521.18, ~~and~~ 1521.20 to 1521.30 of the Revised Code:

(A) "Consumptive use," "diversion," "Lake Erie drainage basin," "other great lakes states and provinces," "water resources," and "waters of the state" have the same meanings as in section 1501.30 of the Revised Code.

(B) "Well" means any excavation, regardless of design or method of construction, created for any of the following purposes:

(1) Removing ground water from or recharging water into an aquifer, excluding subsurface drainage systems installed to enhance agricultural crop production or urban or suburban landscape management or to control seepage in dams, dikes, and levees;

(2) Determining the quantity, quality, level, or movement of ground water in or the stratigraphy of an aquifer, excluding borings for instrumentation in dams, dikes, levees, or highway embankments;

(3) Removing or exchanging heat from ground water, excluding horizontal trenches that are installed for water source heat pump systems.

(C) "Aquifer" means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive, store, or transmit water.

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

(E) "Ground water stress area" means a definable geographic area in which ground water quantity is being affected by human activity or natural forces to the extent that continuous availability of supply is jeopardized by withdrawals.

(F) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes the United States, the state, any political subdivision of the state, and any department, division, board, commission, agency, or instrumentality of the United States, the state, or a political subdivision of the state.

(G) "State agency" or "agency of the state" has the same meaning as "agency" in section 111.15 of the Revised Code.

(H) "Development" means any artificial change to improved or unimproved real estate, including the construction of buildings and other structures, any substantial improvement of a structure, and mining, dredging, filling, grading, paving, excavating, and drilling operations.

(I) "Floodplain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(J) "Floodplain management" means the implementation of an overall program of corrective and preventive measures for reducing flood damage, including the collection and dissemination of flood information, construction of flood control works, nonstructural flood damage reduction techniques, and adoption of rules, ordinances, or resolutions governing development in floodplains.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year floodplain" means that portion of a floodplain inundated by a one-hundred-year flood.

(M) "Structure" means a walled and roofed building, including, without limitation, gas or liquid storage tanks, mobile homes, and manufactured homes.

(N) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty per cent of the market value of the structure before the start of construction of the improvement. "Substantial improvement" includes repairs to structures that have incurred substantial damage regardless of the actual repair work performed. "Substantial improvement" does not include either of the following:

(1) Any project for the improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that

have been identified by the state or local code enforcement official having jurisdiction and that are the minimum necessary to ensure safe living conditions;

(2) Any alteration of an historic structure designated or listed pursuant to federal or state law, provided that the alteration will not preclude the structure's continued listing or designation as an historic structure.

(O) "Shore structure" includes, but is not limited to: beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of water; piers; docks; jetties; wharves; marinas; boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

(P) "Conservancy district" means a conservancy district established under Chapter 6101. of the Revised Code.

(Q) "Park board" means the board of park commissioners of a park district created under Chapter 1545. of the Revised Code.

(R) "Erosion control structure" means anything that is designed primarily to reduce or control erosion of the shore along or near lake erie, including, but not limited to, revetments, seawalls, bulkheads, certain breakwaters designated by the chief, and similar structures. "Erosion control structure" does not include wharves, piers, docks, marinas, boat ramps, and other similar structures.

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

(A) Assist in an advisory capacity any properly constituted watershed district, conservancy district, or soil and water conservation district or any county, municipal corporation, or other government agency of the state in the planning of works for ground water recharge, flood mitigation, floodplain management, flood control, flow capacity and stability of streams, rivers, and watercourses, or the establishment of water conservation practices, within the limits of the appropriations for those purposes;

(B) Have authority to conduct basic inventories of the water and related natural resources in each drainage basin in the state; to develop a plan on a watershed basis that will recognize the variety of uses to which water may be put and the need for its management for those uses; with the approval of the director of natural resources and the controlling board, to transfer appropriated or other funds, authorized for those inventories and plan, to any division of the department of natural resources or other state agencies for the purpose of developing pertinent data relating to the plan of water

management; and to accept and expend moneys contributed by any person for implementing the development of the plan;

(C) Have authority to make detailed investigations of all factors relating to floods, floodplain management, and flood control in the state with particular attention to those factors bearing upon the hydraulic and hydrologic characteristics of rivers, streams, and watercourses, recognizing the variety of uses to which water and watercourses may be put;

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

(E) Hold meetings or public hearings, whichever is considered appropriate by the chief, to assist in the resolution of conflicts between ground water users. Such meetings or hearings shall be called upon written request from boards of health of city or general health districts created by or under the authority of Chapter 3709. of the Revised Code or authorities having the duties of a board of health as authorized by section 3709.05 of the Revised Code, boards of county commissioners, boards of township trustees, legislative authorities of municipal corporations, or boards of directors of conservancy districts ~~organized under Chapter 6101. of the Revised Code~~ and may be called by the chief upon the request of any other person or at the chief's discretion. The chief shall collect and present at such meetings or hearings the available technical information relevant to the conflicts and to the ground water resource. The chief shall prepare a report, and may make recommendations, based upon the available technical data and the record of the meetings or hearings, about the use of the ground water resource. In making the report and any recommendations, the chief also may consider the factors listed in division (B) of section 1521.17 of the Revised Code. The technical information presented, the report prepared, and any recommendations made under this division shall be presumed to be prima-facie authentic and admissible as evidence in any court pursuant to Evidence Rule 902.

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

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

(H) Primarily with regard to water quantity and availability, be

authorized to cooperate with and negotiate for the state with any agency of the United States government, of this state, or of any other state pertaining to the water resources of the state;

(I) Provide engineering support for the coastal management program established under Chapter 1506. of the Revised Code.

Sec. ~~1507.02~~ 1521.20. The chief ~~engineer~~ of the ~~department~~ division of ~~natural resources~~ water shall act as the erosion agent of the state for the purpose of cooperating with the secretary of the army, acting through the chief of engineers of the United States army corps of engineers in the department of defense. The chief ~~engineer~~ shall cooperate with the secretary in carrying out, and may conduct, investigations and studies of conditions along the shorelines of Lake Erie and of the bays and projections therefrom, and of the islands therein, within the territorial waters of the state, with a view to devising and perfecting economical and effective methods and works for preventing, correcting, and ~~arresting~~ controlling shore erosion and damage therefrom and ~~preventing~~ controlling the inundation of improved property by the waters of Lake Erie, its bays, and associated inlets.

Sec. ~~1507.03~~ 1521.21. The chief ~~engineer~~ of the ~~department~~ division of ~~natural resources~~ water, in the discharge of ~~his~~ the chief's duties under sections ~~1507.04~~ 1507.20 to ~~1507.10~~ 1507.30 of the Revised Code, may call to ~~his~~ the chief's assistance, temporarily, any engineers or other employees in any state department, or in the Ohio state university or other educational institutions financed wholly or in part by the state, for the purpose of devising the most effective and economical methods of ~~arresting and preventing~~ controlling shore erosion and damage from it and controlling the inundation ~~along the shorelines of improved property by the waters~~ of Lake Erie and its ~~connecting~~ bays and associated inlets.

Such engineers and employees shall not receive any additional compensation over that which they receive from the departments or institutions by which they are employed, but they shall be reimbursed for their actual necessary expenses incurred while working under the direction of the chief ~~engineer~~ on erosion and inundation projects.

Sec. ~~1507.04~~ 1521.22. No person shall construct a beach, groin, or other structure to ~~arrest or~~ control erosion, wave action, or inundation along or near the Ohio shoreline of Lake Erie, including related islands, bays, and inlets, without first ~~submitting an application for~~ obtaining a construction shore structure permit, including from the chief of the division of water. The application for a shore structure permit shall include detailed plans and specifications prepared by a professional engineer registered under Chapter 4733. of the Revised Code, ~~to the chief engineer of the department of natural~~

~~resources~~ An applicant shall provide appropriate evidence of compliance with any applicable provisions of this chapter and Chapters 1505., and 1506., and 1521. of the Revised Code, as determined by the chief ~~engineer~~. ~~Whenever possible, the chief engineer shall consider an application for a permit from the United States army corps of engineers of the department of defense to be adequate as an application for a construction permit for the purposes of this section. A temporary shore structure permit may be issued by the chief or an authorized representative of the chief if it is determined necessary to safeguard life, health, or property.~~

Each application or reapplication for a permit under this section shall be accompanied by a non-refundable fee ~~of not more than five hundred dollars,~~ as the chief ~~engineer~~ shall prescribe by rule.

If the application is approved, the chief ~~engineer~~ shall issue a permit to the applicant authorizing construction of the project. If requested in writing by the applicant within thirty days of issuance of a notice of disapproval of the application, the chief ~~engineer~~ shall conduct an adjudication hearing under Chapter 119. of the Revised Code, except sections 119.12 and 119.121 of the Revised Code. After reviewing the record of the hearing, the chief ~~engineer~~ shall issue a final order approving the application, disapproving it, or approving it conditioned on the making of specified revisions in the plans and specifications.

The chief ~~engineer~~, by rule, shall limit the period during which a construction permit issued under this section is valid and shall establish reapplication requirements governing a construction permit that expires before construction is completed.

In accordance with Chapter 119. of the Revised Code, the chief ~~engineer~~ shall adopt, and may amend or rescind, such rules as are necessary for the administration, implementation, and enforcement of this section.

Sec. ~~1507.05~~ 1521.23. All moneys derived from the granting of permits and leases under section 1505.07 of the Revised Code for the removal of sand, gravel, stone, gas, oil, and other minerals and substances from and under the bed of Lake Erie and from applications for ~~construction shore structure~~ permits submitted under section ~~1507.04~~ 1521.22 of the Revised Code shall be paid into the state treasury to the credit of the permit and lease fund, which is hereby created. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under division (A) of section 1505.99 and division (C) of section ~~1507.99~~ 1521.99 of the Revised Code shall be paid into that fund. The fund shall be administered by the department of natural resources for the protection of Lake Erie shores and waters; investigation

and ~~prevention~~ control of erosion; the planning, development, and construction of facilities for recreational use of Lake Erie; implementation of section ~~1507.04~~ 1521.22 of the Revised Code; preparation of the state shore erosion plan under section ~~1507.10~~ 1521.29 of the Revised Code; and state administration of Lake Erie coastal erosion areas under sections 1506.06 and 1506.07 of the Revised Code.

Sec. ~~1507.06~~ 1521.24. The state, acting through the chief ~~engineer~~ of the ~~department~~ division of ~~natural resources~~ water, subject to section ~~1507.09~~ 1521.28 of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to ~~prevent, correct, and arrest~~ control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state.

The cost of such shore erosion projects that are for the benefit of public littoral property shall be prorated on the basis of two-thirds of the total cost to the state through appropriations made to the division of ~~engineering~~ water and one-third of the cost to the counties, townships, municipal corporations, park boards, conservancy districts, or other political subdivisions.

If a shore erosion emergency is declared by the governor, the state, acting through the chief ~~engineer~~, may spend whatever state funds are available to alleviate shore erosion, without participation by any political subdivision, regardless of whether the project will benefit public or private littoral property.

A board of county commissioners, acting for the county over which it has jurisdiction, may enter into and carry out agreements with the chief ~~engineer~~ for the construction and maintenance of projects to ~~prevent, correct, and arrest~~ control shore erosion. In providing the funds for the county's proportionate share of the cost of constructing and maintaining the projects referred to in this section, the board shall be governed by and may issue and refund bonds in accordance with Chapter 133. of the Revised Code.

A municipal corporation or a township, acting through the legislative authority or the board of township trustees, may enter into and carry out agreements with the chief ~~engineer~~ for the purpose of constructing and maintaining projects to ~~prevent, correct, and arrest~~ control shore erosion. In providing the funds for the municipal corporation's or township's

onate share of the cost of constructing and maintaining the projects referred to in this section, a municipal corporation or township may issue and refund bonds in accordance with Chapter 133. of the Revised Code. The contract shall be executed on behalf of the municipal corporation or township by the mayor, city manager, or other chief executive officer who has the authority to act for the municipal corporation or township.

Conservancy districts may enter into and carry out agreements with the chief ~~engineer~~, in accordance with the intent of this section, under the powers conferred upon conservancy districts under Chapter 6101. of the Revised Code.

Park boards may enter into and carry out agreements with the chief ~~engineer~~, in accordance with the intent of this section, and issue bonds for that purpose under the powers conferred upon park districts under Chapter 1545. of the Revised Code.

The chief ~~engineer~~ shall approve and supervise all projects that are to be constructed in accordance with this section. The chief ~~engineer~~ shall not proceed with the construction of any project until all funds that are to be paid by the county, township, municipal corporation, park board, or conservancy district, in accordance with the terms of the agreement entered into between the chief ~~engineer~~ and the county, township, municipal corporation, park board, or conservancy district, are in ~~his~~ the chief's possession and deposited in the shore erosion fund, which is hereby created in the state treasury. If the chief ~~engineer~~ finds it to be in the best interests of the state to construct projects as set forth in this section by the state itself, without the financial contribution of counties, townships, municipal corporations, park boards, or conservancy districts, the chief ~~engineer~~ may construct the projects.

In deciding whether to assist a county or municipal corporation in constructing and maintaining a project under this section, the state, acting through the chief ~~engineer~~, shall consider, among other factors, whether the county or municipal corporation has adopted or is in the process of adopting a Lake Erie coastal erosion area resolution or ordinance under division (D) of section 1506.07 of the Revised Code.

All projects constructed by the state in conformity with sections ~~1507.02~~ 1521.20 to ~~1507.09~~ 1521.28 of the Revised Code shall be constructed subject to sections 153.01 to 153.20 of the Revised Code, except that the state architect and engineer is not required to prepare the plans and specifications for those projects.

~~As used in this chapter:~~

(A) ~~"Conservancy district" means a conservancy district established~~

~~under Chapter 6101. of the Revised Code.~~

~~(B) "Park board" means the board of park commissioners of a park district created under Chapter 1545. of the Revised Code.~~

Sec. ~~1507.07~~ 1521.25. The chief engineer of the ~~department~~ division of ~~natural resources~~ water may enter into a contract with any county, township, municipal corporation, conservancy district, or park board that has an agreement with the state in accordance with section ~~1507.06~~ 1521.24 of the Revised Code for the construction of a shore erosion project. No contract shall be let until all money ~~which~~ that is to be paid by the political subdivision entering into the agreement has been deposited in the shore erosion fund created in section ~~1507.06~~ 1521.24 of the Revised Code, and no contract shall be valid until approved by the director of natural resources.

Sec. ~~1507.071~~ 1521.26. (A) A board of county commissioners may use a loan obtained under division (C) of this section to provide financial assistance to any person who owns real property in a coastal erosion area, as defined in section 1506.01 of the Revised Code, and who has received a permit under section ~~1507.04~~ 1521.22 of the Revised Code to construct an erosion control structure in that coastal erosion area. The board shall enter into an agreement with the person that complies with all of the following requirements:

(1) The agreement shall identify the person's real property for which the erosion control structure is being constructed and shall include a legal description of that property and a reference to the volume and page of the deed record in which the title of that person to that property is recorded.

(2) In accordance with rules adopted by the Ohio water development authority under division (V) of section 6121.04 of the Revised Code for the purposes of division (C) of this section and pursuant to an agreement between the board and the authority under that division, the board shall agree to cause payments to be made by the authority to the contractor hired by the person to construct an erosion control structure in amounts not to exceed the total amount specified in the agreement between the board and the person.

(3) The person shall agree to pay to the board, or to the authority as the assignee pursuant to division (C) of this section, the total amount of the payments plus administrative or other costs of the board or the authority at times, in installments, and bearing interest as specified in the agreement.

The agreement may contain additional provisions that the board determines necessary to safeguard the interests of the county or to comply with an agreement entered into under division (C) of this section.

(B) Upon entering into an agreement under division (A) of this section,

the board shall do all of the following:

(1) Cause the agreement to be recorded in the county deed records in the office of the county recorder of the county in which the real property is situated. Failure to record the agreement does not affect the validity of the agreement or the collection of any amounts due under the agreement.

(2) Establish by resolution an erosion control repayment fund into which shall be deposited all amounts collected under division (B)(3) of this section. Moneys in that fund shall be used by the board for the repayment of the loan and for administrative or other costs of the board or the authority as specified in an agreement entered into under division (C) of this section. If the amount of money in the fund is inadequate to repay the loan when due, the board of county commissioners, by resolution, may advance money from any other fund in order to repay the loan if that use of the money from the other fund is not in conflict with law. If the board so advances money in order to repay the loan, the board subsequently shall reimburse each fund from which the board advances money with moneys from the erosion control repayment fund.

(3) Bill and collect all amounts when due under the agreement entered into under division (A) of this section. The board shall certify amounts not paid when due to the county auditor, who shall enter the amounts on the real property tax list and duplicate against the property identified under division (A)(1) of this section. The amounts not paid when due shall be a lien on that property from the date on which the amounts are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(C) A board may apply to the authority for a loan for the purpose of entering into agreements under division (A) of this section. The loan shall be for an amount and on the terms established in an agreement between the board and the authority. The board may assign any agreements entered into under division (A) of this section to the authority in order to provide for the repayment of the loan and may pledge any lawfully available revenues to the repayment of the loan, provided that no moneys raised by taxation shall be obligated or pledged by the board for the repayment of the loan. Any agreement with the authority pursuant to this division is not subject to Chapter 133. of the Revised Code or any requirements or limitations established in that chapter.

(D) The authority, as assignee of any agreement pursuant to division (C) of this section, may enforce and compel the board and the county auditor by mandamus pursuant to Chapter 2731. of the Revised Code to comply with division (B) of this section in a timely manner.

(E) The construction of an erosion control structure by a contractor

hired by an individual homeowner, group of individual homeowners, or homeowners association that enters into an agreement with a board under division (A) of this section is not a public improvement, as defined in section 4115.03 of the Revised Code, and is not subject to competitive bidding or public bond laws.

Sec. ~~1507.08~~ 1521.27. The state, or any county, township, municipal corporation, conservancy district, or park board that has entered into a contract under section ~~1507.07~~ 1521.25 of the Revised Code, may acquire lands by gift or devise, purchase, or appropriation. In case of appropriation, the proceedings shall be instituted in the name of the state or the political subdivision and shall be conducted in the manner provided for the appropriation of private property by the state or the political subdivision insofar as those proceedings are applicable. Either the fee or any lesser interest may be acquired as the state or the political subdivision considers advisable.

Sec. ~~1507.09~~ 1521.28. Any action taken by the chief ~~engineer~~ of the ~~department~~ division of ~~natural resources~~ water under sections ~~1507.02~~ 1521.20 to ~~1507.09~~ 1521.30 of the Revised Code shall not be deemed in conflict with certain powers and duties conferred upon and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections 721.04 to 721.11 of the Revised Code.

Sec. ~~1507.10~~ 1521.29. The chief ~~engineer~~ of the ~~department~~ division of ~~natural resources~~ water, in cooperation with the division of geological survey, ~~shall~~ may prepare a plan for the ~~prevention~~ management of shore erosion in the state along Lake Erie, its bays, and associated inlets, revise the plan whenever it can be made more effective, and make the plan available for public inspection. In the preparation of the plan, the chief ~~engineer~~ shall may employ such existing plans as are available.

The chief ~~engineer~~ also ~~shall~~ may establish a program to provide technical assistance on shore erosion control measures to municipal corporations, counties, townships, conservancy districts, park boards, and shoreline property owners.

Sec. ~~1507.11~~ 1521.30. Upon application of any owner of real property damaged or destroyed by shore erosion, the county auditor of the county in which the real property is situated shall cause a reappraisal to be made and shall place the property on the tax list at its true value in money.

Whenever the county auditor finds that ninety per cent or more of the area of any littoral parcel of land appearing upon the tax duplicate has been eroded and lies within the natural boundaries of Lake Erie and that the

remainder of the parcel, if any, has no taxable value, ~~he~~ the auditor may certify that finding to the county board of revision. Upon consideration thereof, the board may authorize removal of the parcel from the tax duplicate and cancellation of all current and delinquent taxes, assessments, interest, and penalties charged against the parcel.

Sec. 1521.99. (A) Whoever violates division (C)(1) of section 1521.05 or division (E)(1) of section 1521.16 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 1521.06 or 1521.062 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

(C) Whoever violates sections 1521.20 to 1521.30 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

Sec. 1561.01. As used in this chapter and Chapters 1563., 1565., and 1567. of the Revised Code, and in other sections of the Revised Code relating to the mining law, unless other meaning is clearly apparent in the language and context:

(A) "Mine" means an underground or surface excavation or development with or without shafts, slopes, drifts, or tunnels for the extraction of coal, gypsum, asphalt, rock, or other materials containing the same, or for the extraction of natural gas or petroleum by means that are substantially similar to the underground extraction of coal, gypsum, asphalt, rock, or other materials containing the same, with hoisting or haulage equipment and appliances for the extraction of such materials; and embraces the land or property of the mining plant, the surface, and underground, that is used for or contributes to the mining properties, or concentration or handling of coal, gypsum, asphalt, rock, or other materials containing the same or of natural gas or petroleum.

(B) "Shaft" means a vertical opening through the strata ~~which~~ that is or may be used for ventilation, drainage, or hoisting ~~men~~ workers or material or both in connection with the mining of coal or other minerals or materials.

(C) "Slope" means an incline or opening used for the same purpose as a shaft.

(D) "Drift" means an opening through the strata on which opening grades are such to permit the coal or materials to be hauled by mules or mechanical traction power, and which opening may be used for ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal or other materials.

(E) "Excavations and workings" means the excavated portions of the

mine, those abandoned as well as the places actually being worked, underground workings, shafts, tunnels, and other ways in the course of being sunk or driven, slopes, tunnels, and other openings, and all such shafts, together with all roads, appliances, machinery, and material connected with the same below the surface.

(F) "Face" means the advancing breast of any working place.

(G) "Pillar" means a solid block of ore, coal, or other material, left unmined to support the overlying strata in a mine.

(H) "Rock dusting" means to distribute or apply fine rock dust on underground surfaces in coal mines to prevent, check, control, or extinguish coal dust explosions.

(I) "Rock dust barriers" means a quantity of dry rock dust placed in suitable containers so located in underground coal mines that the advanced wave of a coal dust explosion will automatically cause the rock dust to be thrown into suspension to extinguish or arrest the flames of an explosion.

(J) "Operator" means any firm, corporation, or individual operating any mine or part thereof.

(K) "Superintendent" means the person who ~~shall have~~ has, on behalf of the operator, immediate supervision of one or more mines.

(L) "Mine ~~foreman~~ foreperson" means the person whom the operator or superintendent places in charge of the inside or outside workings of the mine and of the persons employed therein or thereat.

(M) "~~Foreman~~ Foreperson" means the person designated to assist the mine ~~foreman~~ foreperson in the immediate supervision of a portion or the whole of a mine or of the persons employed therein.

(N) "Fire boss" means a person whom the mine ~~foreman~~ foreperson is required to employ under certain conditions designated in this chapter and Chapters 1563., 1565., and 1567. of the Revised Code, relative to explosive gases when the same are found to exist in a mine.

(O) "Shot firer" means a practical and experienced person whose duties ~~shall be~~ are to charge, set off, and discharge the shots under the direction of the mine ~~foreman~~ foreperson or ~~foreman~~ foreperson.

(P) "Deputy mine inspector" means a person appointed in the division of ~~mines and reclamation~~ mineral resources management to inspect mines to see that this chapter and Chapters 1563., 1565., and 1567. of the Revised Code are complied with.

(Q) "Permissible or approved" as applied in connection with explosive flame safety lamps, electric safety lamps, electric machinery, rescue apparatus, and other devices, appliances, machinery, and equipment means materials, apparatus, devices, appliances, machinery, and equipment

officially listed by the mine safety and health administration in the United States department of labor and approved as having met its requirements for the respective specified uses, or equivalent standards determined and established by the chief of the division of ~~mines and reclamation~~ mineral resources management.

(R) "Gas" means an inflammable gas, chiefly methane, ~~which~~ that when mixed in certain proportions with air is explosive.

(S) "Methane" is a hydrocarbon gas (CH₄) frequently encountered in coal mines.

(T) "Explosive mixture of methane and air" is a mixture of air and methane ~~which~~ that will explode in the presence of a flame or hot spark when the methane content is between five and fifteen per cent.

(U) "Electric system" means all apparatus and electric circuits receiving electric energy or that may receive electric energy from a common source. Where the source of power is under control of the mine, such source of power will be considered as a part of the electric system. If power is obtained from a central station not under control of such mine, "electric system" refers only to that part of the system ~~which~~ that is under control of such mine.

(V) "Electric circuit" means all conductors, including ground returns, furnishing energy to or receiving energy from electric apparatus.

(W) "Branch circuit" means all circuits connected to main circuits coming from generators or other main sources of supply.

(X) "Potential" and "voltage" are synonymous and mean electrical pressure.

(Y) "Potential of a circuit or voltage of a circuit, machine, or any piece of electrical apparatus" is the potential normally existing between the conductors of such circuit or the terminals of such machine or apparatus.

(Z) "Difference of potential" means the difference of electrical pressure existing between any two points of an electrical system, or between any point of such system and the earth, as determined by a voltmeter.

(AA) A ~~low~~ Low voltage supply" means the situation where the conditions of the supply of electricity are such that the difference in potential between any points of the circuit does not exceed four hundred fifty volts.

(BB) A ~~high~~ High voltage supply" means the situation where the conditions of the supply of electricity are such that the difference of potential between any two points in the circuit exceeds four hundred fifty volts.

(CC) "Trailing cable" means an electric power cable attached to a

mobile machine or unit.

(DD) "Grounding" means the connecting of any part of an electric system with the earth in such a manner that there is no difference of potential between such connected part and the earth.

(EE) "Mobile machinery or portable machinery" means machinery ~~which~~ that moves about under its own power, or is carried, pulled, or trammed from place to place.

(FF) "Semipermanent" machinery" means machinery ~~which~~ that is mounted on a form of truck ~~which~~ that permits it to be moved readily from place to place, but the function of which is to do its work in a semipermanent location.

(GG) "Permanent" machinery" means machinery ~~which~~ that is installed on a permanent foundation attached to the ground.

(HH) "Underground station" means any place underground where electrical machinery, transformers, or switchboards are permanently installed.

(II) "Electrical inspector" means a person appointed by the chief ~~of the division of mines and reclamation~~ to examine surface and underground electrical systems and equipment at mines for fire, shock, and explosion hazards.

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

(KK) "Prepared clay" means a clay ~~which~~ that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through the salt water in the well in which it is to be used, except as otherwise approved by the chief ~~of the division of mines and reclamation~~ in exceptional cases.

(LL) "Rock sediment" means the combined cuttings and residue from drilling sedimentary rocks and formations, commonly known as sand pumpings.

(MM) "Accessible travel route" means an unobstructed passageway not less than twenty-four inches wide with reflective materials at intervals so as to be visible to persons using the passageway.

(NN) "Longwall working face" means a working face in a coal mine in which work extracting coal from its natural deposit in the earth is performed during a mining cycle by longwall mining.

(OO) "Longwall working section" means all areas from and including the section transformer to and including the longwall working face.

(PP) "Longwall mining" means a system of mining designed for full pillar extraction that minimizes the possibility of outburst or squeezes and allows total caving of the main roof in the pillar area.

Sec. 1561.02. The division of ~~mines and reclamation~~ mineral resources management has jurisdiction over all mines and quarries located in the state, and shall exercise such supervision over them and their development and operation as is provided by law.

Sec. 1561.03. The chief of the division of ~~mines and reclamation~~ mineral resources management shall enforce and supervise the execution of all laws enacted for the health and safety of persons and the protection and conservation of property within, about, or in connection with mines, mining, and quarries, and for such purpose shall adopt, publish, and enforce necessary rules not inconsistent with the mining laws of this state.

Sec. 1561.04. The chief of the division of ~~mines and reclamation~~ mineral resources management shall annually make a report to the governor, which shall include:

(A) A summary of the activities and of the reports of the deputy mine inspectors;

(B) A statement of the condition and the operation of the mines of the state;

(C) A statement of the number of accidents in and about the mines, the manner in which they occurred, and any other data and facts bearing upon the prevention of accidents and the preservation of life, health, and property, and any suggestions relative to the better preservation of the life, health, and property of those engaged in the mining industry.

The records of the bureau of workers' compensation shall be available to the chief for information concerning such a report. ~~He~~ The chief shall send by mail to each coal operator in the state, to a duly designated representative of the miners at each mine, and to such other persons as ~~he~~ the chief deems proper, a copy of such report. ~~He~~ The chief may have as many copies of such report printed as are needed to make the distribution thereof as provided in this section.

The chief shall also prepare and publish for public distribution quarterly reports, including therein information relative to the items enumerated in this section that is pertinent or available at such times.

Sec. 1561.05. The laws relating to mines and mining and duties and functions of the division of ~~mines and reclamation~~ mineral resources management shall be administered by the chief of the division of ~~mines and reclamation~~ mineral resources management, and through and by deputy mine inspectors. If a vacancy occurs in the office of a deputy mine

inspector, it may be filled by the chief, who shall select a qualified person from the eligible list certified to ~~him~~ the chief by the mine examining board for deputy mine inspectors.

Sec. 1561.06. The chief of the division of ~~mines and reclamation~~ mineral resources management shall designate the townships in which mineable or quarryable coal or other mineral is or may be mined or quarried, which townships shall be considered coal or mineral bearing townships. ~~He~~ The chief shall divide the coal or other mineral bearing townships into such districts as ~~he~~ the chief deems best for inspection purposes, and ~~he~~ the chief may change such districts whenever, in ~~his~~ the chief's judgment, the best interests of the service require.

The chief shall designate as provided in this section as coal or mineral bearing townships those townships in which coal is being mined or in which coal is found in such thickness as to make the mining of such coal or mineral probable at some future time, and shall designate such township as a unit. As used in this chapter and Chapters 1563., 1565., and 1567. of the Revised Code, "coal or mineral bearing township" means a township ~~which~~ that has been so designated by the chief under this section.

The chief shall also designate the townships in which coal is being mined or in which coal is found in such thickness as to make the mining of such coal probable at some future time as "coal bearing townships" as such term is used in Chapter 1509. of the Revised Code. ~~The chief shall certify to the chief of the division of oil and gas the townships which he has so designated as coal bearing townships.~~

Sec. 1561.07. The mining laws of this state shall extend to and govern the operation ~~of~~ of clay mines and clay stripping pits in so far as such laws are applicable thereto. The chief of the division of ~~mines and reclamation~~ mineral resources management shall adopt, publish, and enforce specific rules particularly applicable to clay mining operations to safeguard life and property in the clay mining industry and to secure safe and sanitary working conditions in such clay mines and clay stripping pits.

Such rules adopted by the chief shall provide that:

(A) Distances between break-throughs in clay mines shall not exceed one hundred feet, unless permission in special cases is granted by the chief, after maps have been filed with ~~him~~ the chief showing the method of working and ventilating the same, if such distances would add to increased safety;

(B) When, in the opinion of the mine ~~foreman~~ foreperson or deputy mine inspector, line brattices or other approved methods of circulation are necessary to deliver sufficient air to the working face, they shall be provided

by the owner, operator, or lessee;.

(C) Not more than a two days' supply of explosives shall be stored in a clay mine at any one time, and not more than one hundred pounds of explosives shall be stored in any one place at any one time;.

(D) Charges of explosives shall be made up at least one hundred feet away from any storage place for explosives;.

(E) There shall be no less than two persons in each working place when shots are being lighted;.

(F) Misfired shots in clay mines shall be posted on the bulletin board or other conspicuous place available for examination by the workers when shots are fired by other than the loaders;.

(G) The use of electric blasting caps shall be encouraged as a safety measure.

The chief, in assigning deputy mine inspectors, shall designate inspectors who have had experience and are especially qualified in clay mining operations, to examine and inspect clay mining operations and enforce the law relating to such operations.

The mine examining board, in conducting examinations and issuing certificates for mine ~~foremen~~ forepersons, shall in its rules ~~and regulations~~ provide for the examination of applicants for certificates as mine ~~foremen~~ forepersons in a clay mine or clay stripping pits to test the applicant on experience and fitness on the problems and duties peculiar to the clay mining industry. An applicant for a certificate as a clay mine ~~foreman~~ foreperson shall have at least three years' experience in mining operations.

Sec. 1561.10. (A) There is hereby created in the division of ~~mines and reclamation~~ mineral resources management the mine examining board consisting of five members to be appointed by the governor with the advice and consent of the senate. Terms of office shall be for three years, commencing on the eleventh day of September and ending on the tenth day of September. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled by appointment by the governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or any other sufficient cause.

One of the appointees to the board shall be a person who, because of

previous vocation, employment, or affiliation, can be classed as a representative of the owner, operator, or lessee of a coal mine. Prior to making the appointment, the governor shall request the major trade association in this state that represents owners, operators, or lessees of coal mines to submit to the governor the names and qualifications of three nominees. The governor shall appoint one of the nominees to the board. Except as otherwise provided in this division, the nominees shall have not less than five years of practical experience in the coal mining industry in positions in which they developed competence in the topics of mine health ~~and safety~~ and safety. The major trade association shall represent a membership that produced a larger quantity of coal mined in this state than the membership of any other trade association in the year prior to the year in which the appointment is made.

One of the appointees shall be a person who, because of previous vocation, employment, or affiliation, can be classed as a representative of the owner, operator, or lessee of an aggregates mine. Prior to making the appointment, the governor shall request the major trade association in this state that represents owners, operators, or lessees of aggregates mines to submit to the governor the names and qualifications of three nominees. The governor shall appoint one of the nominees to the board. Except as otherwise provided in this division, the nominees shall have not less than five years of practical experience in the aggregates mining industry in positions in which they developed competence in the topics of mine health and safety. The major trade association shall represent a membership that produced a larger quantity of aggregates mined in this state than the membership of any other trade association in the year prior to the year in which the appointment is made.

One of the appointees shall be a person who, because of previous vocation, employment, or affiliation, can be classed as a representative of employees currently engaged in coal mining operations. Prior to making the appointment, the governor shall request the highest ranking officer in the major employee organization representing coal miners in this state to submit to the governor the names and qualifications of three nominees. The governor shall appoint one of the nominees to the board. Except as otherwise provided in this division, the nominees shall have not less than five years of practical experience in dealing with mine health and safety issues and at the time of the nomination shall be employed in positions that involve the protection of the health and safety of miners. The major employee organization representing coal miners shall represent a membership consisting of the largest number of coal miners in this state

mpared to other employee organizations in the year prior to the year in which the appointment is made.

One of the appointees shall be a person who, because of previous vocation, employment, or affiliation, can be classed as a representative of employees currently engaged in aggregates mining operations. Prior to making the appointment, the governor shall request the highest ranking officer in the major employee organization representing aggregates miners in this state to submit to the governor the names and qualifications of three nominees. The governor shall appoint one of the nominees to the board. Except as otherwise provided in this division, the nominees shall have not less than five years of practical experience in dealing with mine health and safety issues and at the time of the nomination shall be employed in ~~positions~~ positions that involve the protection of the health and safety of miners. The major employee organization representing aggregates miners shall represent a membership consisting of the largest number of aggregates miners in this state compared to other employee organizations in the year prior to the year in which the appointment is made.

One of the appointees shall be a person who can be classed as a representative of the public. Except as otherwise provided in this division, the appointee shall have not less than five years of technical, practical experience in either the field of mine health and safety or occupational health and safety, or both. For a period of three years prior to the appointment, the appointee shall not have been employed in the mining industry.

An appointee who has received a bachelor's degree in mining engineering or technology need not have at least five years of practical experience as otherwise provided in this division, but shall have a total of not less than three years of practical experience in the mining industry in a position that provided the person with practical knowledge of mine health and safety.

Not more than three of the members of the board shall belong to the same political party. The chief of the division of ~~mines and reclamation~~ mineral resources management or the chief's designee shall be ex officio secretary to the board.

(B) The board shall have full power to do both of the following:

(1) Adopt and enforce reasonable rules relative to the exercise of its powers and proper rules to govern its proceedings and to regulate the manner of appeals;

(2) Employ experts, advisors, and secretarial, clerical, stenographic, and other employees.

(C) Each member of the board shall receive a salary fixed pursuant to division (J) of section 124.15 of the Revised Code when actually performing official duties, and, in addition to a salary, each member shall be reimbursed for all actual and necessary travel and incidental expenses incurred in carrying out official duties.

(D) The board shall elect from its members a chairperson and vice-chairperson. A quorum of the board shall consist of not less than three members, and no action at any meeting shall be taken unless at least three votes are in accord. The secretary of the board shall keep a true and complete record of all the proceedings of the board. With the approval of the board, the secretary may employ clerical assistants. The board shall adopt all necessary rules and bylaws to govern its times and places of meetings, for organization and reorganization, for holding all examinations, and for governing all other matters requisite to the exercise of its powers, the performance of its duties, and the transaction of its business under this chapter and Chapters 1509., 1563., 1565., and 1567. of the Revised Code. The board shall adopt and have an official seal.

(E) Each member of the board shall complete the annual refresher training required for miners under 30 C.F.R. 48.8 (1997). In addition to the annual refresher training, each member shall complete twenty-four hours of continuing education during each member's three-year term of office on the topics of mining technology and laws governing mining health and safety.

Sec. 1561.13. The mine examining board shall conduct examinations for offices and positions in the division of ~~mines~~ mineral resources management, and for mine ~~foremen~~ forepersons, mine electricians, shot firers, surface mine blasters, and fire bosses, as follows:

(A) Division of ~~mines and reclamation~~ mineral resources management:

(1) Deputy mine inspectors of underground mines;

(2) Deputy mine inspectors of surface mines;

(3) Electrical inspectors;

(4) Superintendent of rescue stations;

(5) Assistant superintendents of rescue stations;

(6) Mine chemists at ~~a division of mines~~ laboratory if the chief of the division of mineral resources management chooses to operate a laboratory;

(7) Gas storage well inspector.

(B) Mine ~~foreman~~ forepersons:

(1) Mine ~~foreman~~ foreperson of gaseous mines;

(2) Mine ~~foreman~~ foreperson of nongaseous mines;

(3) Mine ~~foreman~~ foreperson of surface mines.

(C) ~~Foremen~~ forepersons:

- (1) ~~Foreman~~ Foreperson of gaseous mines;
 - (2) ~~Foreman~~ Foreperson of nongaseous mines;
 - (3) ~~Foreman~~ Foreperson of surface maintenance facilities at underground or surface mines;
 - (4) ~~Foreman~~ Foreperson of surface mines.
- (D) Fire bosses.
 - (E) Mine electricians.
 - (F) Surface mine blasters.
 - (G) Shot firers.

The board shall hold such meetings as are necessary for the proper discharge of its duties.

The board shall meet annually at the capitol, as prescribed by its rules, for the examination of candidates for appointment or promotion as deputy mine inspectors and such other positions and offices set forth in division (A) of this section as are necessary. Special examinations may be held whenever it becomes necessary to make appointments to any of those positions.

For the examination of persons seeking certificates of competency as mine ~~foremen~~ forepersons, ~~foremen~~ forepersons, mine electricians, shot firers, surface mine blasters, and fire bosses, the board shall hold meetings, quarterly or more often as required, at such times and places within the state as shall, in the judgment of the members, afford the best facilities to the greatest number of applicants. Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which examinations under this section are to be held.

The examinations provided for in this section shall be conducted under rules and conditions prescribed by the board. Such rules shall be made a part of the permanent record of the board, and such of them as relate to particular candidates shall, upon application of any candidate, be furnished to ~~him~~ the candidate by the board; they shall also be of uniform application to all candidates in the several groups.

Sec. 1561.26. (A) As used in this section, "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(B) The superintendent of rescue stations, with the approval of the chief of the division of ~~mines and reclamation~~ mineral resources management, shall, at each rescue station provided for in section 1561.25 of the Revised Code, train and employ rescue crews of six members each, one of whom shall hold a mine ~~foreman~~ foreperson or fire boss certificate and be designated captain, and train and employ any number of such rescue crews as ~~he~~ the superintendent believes necessary. One member of a rescue crew

shall be certified as an EMT-basic, EMT-I, or paramedic. Each member of a rescue crew shall devote the time specified by the chief each month for training purposes and shall be available at all times to assist in rescue work at explosions, mine fires, and other emergencies.

A captain of mine rescue crews shall receive for service as captain the sum of twenty-four dollars per month, and each member shall receive the sum of twenty dollars per month, all payable on requisition approved by the chief. When engaged in rescue work at explosions, mine fires, or other emergencies away from their station, the members of the rescue crews and captains of the same shall be paid the sum of six dollars per hour for work on the surface, which includes the time consumed by such members in traveling to and from the scene of such emergency when such scene is away from the station of such members, and the sum of seven dollars per hour for all work underground at such emergency, and in addition thereto, the necessary living expenses of such members when such emergency is away from their home station, all payable on requisition approved by the chief.

Each member of a mine rescue crew shall undergo an annual medical examination by a doctor designated by the chief. In designating such doctor, the chief shall choose one near to the station of the member of such rescue crews. Such doctor shall report ~~his~~ the doctor's findings to the chief and if, in the opinion of the chief, such report indicates that such member is physically unfit for further services, the chief shall relieve ~~him~~ the member from further duty. The fee charged by such doctor for such examination shall be paid in the same manner as fees are paid to doctors employed by the industrial commission for special medical examinations.

The chief may remove any member of a rescue crew for any reason. Such crews shall be subject to the orders of the chief, the superintendent, and the deputy mine inspectors when engaged in actual mine rescue work. Mine rescue crews shall, in case of death or injury when engaged in rescue work, wherever the same may occur, be paid compensation, or their dependents shall be paid death benefits, from the workers' compensation fund, in the same manner as other employees of the state.

(C) In addition to the training of rescue crews, each assistant superintendent of rescue stations, with the approval of the superintendent, shall provide for and conduct safety, first aid, and rescue classes at any mine or for any group of miners who make application for the conducting of such classes.

The superintendent shall prescribe and provide for a uniform schedule of conducting such safety and rescue classes as will provide a competent knowledge of modern safety and rescue methods in, at, and about mines.

Sec. 1561.27. ~~The~~ A division of ~~mines and reclamation~~ mineral resources management laboratory, equipped for making proper chemical tests of the air, gases, and coal and mine dust, together with research, experimental work, and other things, proper, necessary, or appurtenant to the inspection of mines, and quarries, and to the administration of this chapter and Chapters 1509., 1563., 1565., and 1567. of the Revised Code, shall be operated by, and under the direction and control of, the chief of the division of ~~mines and reclamation~~ mineral resources management. ~~He~~ The chief shall employ not more than three chemists, and such clerical help as conditions require. The necessary equipment and supplies to maintain such laboratory shall be supplied by the chief.

Sec. 1561.28. The chief of the division of ~~mines and reclamation~~ mineral resources management shall designate one of the chemists, provided for in section 1561.27 of the Revised Code, to be in charge of and supervise and direct the work of ~~the a~~ mine laboratory operated under that section. The chemists shall make proper chemical tests of samples of mine air, gases, and coal and mine dust, and keep a permanent record of the same showing the date, time, and place where taken, the results of the test and analysis, and any further data that is proper, necessary, and pertinent to the inspection of mines. They shall conduct such research and experimental work and tests as will provide for better working, health, and safety conditions in the mines and quarries, and will aid in the development and furtherance of such industries.

Sec. 1561.31. Each deputy mine inspector shall inspect each mine in the inspector's district, the owner, lessee, agent, or operator of which is an employer as defined in section 4123.01 of the Revised Code, or any other mine at which three or more persons work, at intervals not exceeding three months between inspections, and all other mines in the inspector's district as often as practical, noting particularly the location and condition of buildings, the condition of the boiler, machinery, workings of the mine, the traveling ways and haulageways, the circulation and condition of the air and drainage, and the condition of electrical circuits and appliances. The inspector shall make tests for poisonous, explosive, and noxious gases, and shall specifically order compliance with any section of this chapter and Chapters 1561., 1563., 1565., and 1567.; and sections 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code ~~which that~~ the inspector finds is being violated.

Upon completion of the inspection of a mine, the inspector shall fill out a report of the conditions found during inspections on a form provided by the chief of the division of ~~mines and reclamation~~ mineral resources

management, which form shall provide for statements as to whether the laws are being observed or violated, and if violated, the nature and extent thereof, the date of the inspection, the number of persons employed in and about the mine, whether or not a certificate of compliance issued pursuant to section 4123.35 of the Revised Code is posted and the date of expiration thereof, and matters, things, and practices that specifically are covered by law, order of the chief, or previous order of the inspector. The inspector shall make this report in quadruplicate or quintuplicate, and send the original to the chief, post a copy at the mine, give a copy to the mine superintendent, and retain a copy for the inspector's files. Where the miners of a mine have a mine safety committee, the inspector shall post one additional copy of the report of that mine at that mine for the use and possession of the committee. The report required by this section shall be known as the inspector's routine report.

If an inspector orders compliance with this chapter and Chapters 1561., 1563., 1565., and 1567.; and sections 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, and 1509.18 of the Revised Code, and is assured by the superintendent of the mine to which the order applies that the order will be complied with, the inspector shall revisit the mine within a reasonable period of time and ascertain whether or not the order has been complied with. The inspector shall report the inspector's findings to the chief on a form to be provided by the chief, and take action to enforce compliance.

Sec. 1561.32. The electrical inspectors shall examine surface and underground electrical installations at all mines for fire, shock, and explosion hazards, and for compliance with the electrical ~~regulations~~ requirements of this chapter and Chapters 1563., 1565., and 1567. of the Revised Code, at least once each year. In gaseous mines such examinations shall be made of all underground installations at least once each six months. A written report of each examination shall be made to the owner, lessee, or agent of the mine, and to the chief of the division of ~~mines and reclamation~~ mineral resources management, through the deputy mine inspector of the district in which the examination has been made. These inspection reports shall be handled in the same manner as are the reports of the deputy mine inspector.

No owner, lessee, agent, or operator of a mine shall ~~willfully~~ purposely refuse or neglect to comply with this section.

Sec. 1561.33. On or before each Monday, each deputy mine inspector shall file in the office of the chief of the division of ~~mines and reclamation~~ mineral resources management a record showing the number of mines in the district examined by ~~him~~ the deputy mine inspector during the preceding week, the number of persons employed in and about such mines, the date of

each examination, the condition of each mine examined, whether the laws relating to mines and mining are being observed or violated, and if violated, the nature and extent of such violations, the progress made in safeguarding the lives and protecting the health of the employees in and about the mines, and other facts of public interest concerning the condition of mines and the development and progress in mining.

Sec. 1561.34. If a deputy mine inspector finds danger of an imminent and extraordinary character in any mine ~~he~~, the deputy mine inspector shall immediately take steps to safeguard the employees, notify the superintendent, the mine ~~foreman~~ foreperson, or any other person in charge of employees at once of the condition ~~he~~ the deputy mine inspector has found, and require them to exercise their authority to remedy the situation; in all such instances, ~~he~~ the deputy mine inspector shall stop all workings in the particular section in which ~~he~~ the deputy mine inspector found the dangerous condition, or the entire mine if necessary, until the condition found is remedied. Before leaving the mine property, ~~he~~ the deputy mine inspector shall make a report in writing setting forth clearly the dangerous conditions of imminent and extraordinary character found, the steps taken by ~~him~~ the deputy mine inspector to safeguard the employees, and confirming the orders or instructions given to the superintendent, mine ~~foreman~~ foreperson, or other person in charge of employees. ~~He~~ The deputy mine inspector shall make this report in quadruplicate or quintuplicate, sending the original at once to the chief of the division of ~~mines and reclamation~~ mineral resources management, giving a copy to the mine superintendent, posting one on the bulletin board of the mine, and retaining a copy for ~~his~~ the deputy mine inspector's files. Where the miners have a mine safety committee, ~~he~~ the deputy mine inspector shall post one additional copy on the mine bulletin board for the use and possession of the committee. This report shall be known as ~~his~~ the deputy mine inspector's emergency report.

Sec. 1561.35. If the deputy mine inspector finds that any matter, thing, or practice connected with any mine and not prohibited specifically by law is dangerous or hazardous, or that from a rigid enforcement of this chapter and Chapters 1509., 1563., 1565., and 1567. of the Revised Code, the matter, thing, or practice would become dangerous and hazardous so as to tend to the bodily injury of any person, the deputy mine inspector forthwith shall give notice in writing to the owner, lessee, or agent of the mine of the particulars in which the deputy mine inspector considers the mine or any matter, thing, or practice connected therewith is dangerous or hazardous and recommend changes that the conditions require, and forthwith shall mail a

copy of the report and the deputy mine inspector's recommendations to the chief of the division of ~~mines and reclamation~~ mineral resources management. Upon receipt of the report and recommendations, the chief forthwith shall make a finding thereon and mail a copy to the owner, operator, lessee, or agent of the mine, and to the deputy mine inspector; a copy of the finding of the chief shall be posted upon the bulletin board of the mine. Where the miners have a mine safety committee, one additional copy shall be posted on the bulletin board for the use and possession of the committee.

The owner, operator, lessee, or agent of the mine, or the authorized representative of the workers of the mine, within ten days may appeal to the mine examining board for a review and redetermination of the finding of the chief in the matter in accordance with section 1561.53 of the Revised Code. A copy of the decision of the board shall be mailed as required by this section for the mailing of the finding by the chief on the deputy mine inspector's report.

Sec. 1561.351. A deputy mine inspector who makes a finding concerning a violation of this chapter or Chapter 1563., 1565., or 1567. or section 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, or 1509.18 of the Revised Code that involves mining safety shall notify the chief of the division of ~~mines and reclamation~~ mineral resources management of the finding. The chief shall review the inspector's finding, make a written determination regarding it, and provide a copy of the written determination to the owner, operator, lessee, or agent of the mine involved. The chief shall provide a copy of the written determination to any other interested party upon request.

A person, such as an owner, operator, lessee, or agent of the mine or the authorized representative of the workers of the mine, who has an interest that is or may be adversely affected by the chief's determination may appeal the determination, not later than ten days after receiving notice of the determination, to the mine examining board by filing a copy of the chief's written determination with the board. The board shall hear the appeal in accordance with section 1561.53 of the Revised Code.

Sec. 1561.36. Upon being notified by the owner, lessee, or agent of a mine, or by a deputy mine inspector, that a major accident, causing injury to persons or property, has occurred at a mine within ~~his~~ the jurisdiction of the chief of the division of mineral resources management, the chief ~~of the division of mines and reclamation~~ shall go, and may order one or more of the deputy mine inspectors to go, at once to such mine, inquire into the cause of the accident, and make a written report upon the condition of that

part of the mine wherein the accident occurred and the cause of the accident. ~~He~~ The chief shall file such report in ~~his~~ the chief's office, and mail a copy thereof to the general office of the owner, lessee, or agent of such mine.

Sec. 1561.37. When a deputy mine inspector receives notice of the occurrence of a fatal or serious accident occurring at any mine in ~~his~~ the ~~deputy mine inspector's~~ district, ~~he~~ the deputy mine inspector shall go immediately to such mine, to investigate fully into the cause of the accident, and shall make a report thereon to the chief of the division of ~~mines and reclamation~~ mineral resources management in writing. A copy of such report shall be mailed to the owner, operator, lessee, or agent of such mine. If the accident is of such a nature that the deputy mine inspector needs assistance, ~~he~~ the deputy mine inspector may request the chief to attend or to assign additional deputy mine inspectors to assist ~~him~~ the deputy mine inspector who requested assistance.

Sec. 1561.38. In case of controversy or disagreement between the deputy mine inspector and the owner, lessee, or agent of a mine, or persons working therein, or in case of emergency requiring counsel, the deputy mine inspector may call upon the chief of the division of ~~mines and reclamation~~ mineral resources management for such assistance and counsel as is necessary.

Sec. 1561.45. Fines collected by reason of prosecutions under this chapter and Chapters 1563., 1565., and 1567. of the Revised Code shall be paid to the chief of the division of ~~mines and reclamation~~ mineral resources management, and by ~~him~~ the chief paid into the state treasury to the credit of the mining regulation fund created in section 1561.48 of the Revised Code.

Sec. 1561.47. If upon inspection a deputy mine inspector or other authorized representative of the division of ~~mines and reclamation~~ mineral resources management finds any violation of law, or any other conditions that constitute an imminent and substantial threat to miners' health or safety, the chief of the division of ~~mines and reclamation~~ mineral resources management may issue, modify, or revoke reasonable orders requiring the operator to abate the violation or condition within a reasonable period of time. No operator shall violate or fail to comply with any order issued under this section.

Sec. 1561.48. All moneys collected under sections 1561.14, 1561.16, 1561.17, 1561.18, 1561.19, 1561.20, 1561.21, 1561.22, 1561.45, and 1561.46 of the Revised Code shall be paid into the state treasury to the credit of the mining regulation fund, which is hereby created. The department of natural resources shall use the moneys in the fund to pay the operating expenses of the division of ~~mines and reclamation~~ mineral

es management.

Sec. 1561.49. The chief of the division of ~~mines and reclamation~~ mineral resources management may designate not more than thirty deputy mine inspectors, at least one of whom shall be classified and appointed as electrical inspector provided for in division (B) of section 1561.12 of the Revised Code; one gas storage well inspector; one superintendent of rescue stations; three assistant superintendents of rescue stations; three chemists; and such clerks, stenographers, and other employees as are necessary for the administration of this chapter and Chapters 1561., 1563., 1565., 1567., and 1509. of the Revised Code.

Such officers, employees, and personnel shall be appointed and employed under such conditions and qualifications as set forth in such chapters.

Sec. 1561.50. When written charges of neglect of duty, incompetency, or malfeasance in office against any deputy mine inspector are made and filed with the chief of the division of ~~mines and reclamation~~ mineral resources management, signed by not less than fifteen employees, or an owner, lessee, or agent of a mine, the chief shall promptly investigate such charges and advise in writing the complainant whose name appears first in the charges, the result of such investigation.

If the mine employs less than fifteen ~~men~~ employees, such charges shall be filed and signed by not less than fifty per cent of the employees.

Sec. 1561.51. When written charges of neglect of duty, incompetency, or malfeasance in office against the deputy mine inspector are filed with the chief of the division of ~~mines and reclamation~~ mineral resources management, signed by not less than fifteen employees, or otherwise as provided in section 1561.50 of the Revised Code, or the owner, lessee, or agent of a mine, and the signers of the charges are dissatisfied with the result of the investigation made by the chief, they may appeal to the mine examining board by filing the same charges against the deputy mine inspector and a copy of the report of the investigation made by the chief in the matter with the board, and the board shall hear the appeal in accordance with section 1561.53 of the Revised Code. The board shall mail a copy of its decision to the complainant whose name appears first in the charges.

Sec. 1561.53. (A) As used in this section, "decision of the chief" includes a decision, disapproval of an application to drill a well, terms and conditions of a permit, or a suspension order issued by the chief of the division of ~~mines and reclamation~~ mineral resources management under section 1509.08 of the Revised Code; a finding of the chief made under section 1561.35 or 1563.13 of the Revised Code; a determination made by

he chief under section 1561.351 of the Revised Code; a report of an investigation made by the chief under section 1561.51 of the Revised Code; or disapproval of an application for a permit, renewal permit, or modification issued under section 6111.044 of the Revised Code.

(B)(1) Except as otherwise provided in division (B)(2) of this section, the mine examining board has exclusive original jurisdiction to hear and decide appeals made to the board under sections ~~1509.06~~, 1509.08, 1561.35, 1561.351, 1561.51, 1563.13, and 6111.044 of the Revised Code. An appeal made under those sections does not operate as a stay of any decision of ~~the~~ the chief.

(2) Notwithstanding any other provision of law to the contrary, from ~~the effective date of this section~~ November 24, 1999, until the date on which all members of the mine examining board have been appointed in accordance with the qualifications established in section 1561.10 of the Revised Code, as amended, both of the following apply:

(a) A person, such as an owner, operator, lessee, or agent of a mine or the authorized representative of the workers of a mine, who has an interest that is or may be adversely affected by a decision of the chief that involves mine health and safety may appeal it, not later than ten days after receiving notice of the decision, to the reclamation commission in accordance with section 1513.13 of the Revised Code by filing a copy of the chief's written decision with the commission.

(b) An owner, operator, lessee, or agent of a mine who appeals a decision of the chief that involves mine health and safety to the reclamation commission in accordance with division (B)(2)(a) of this section, upon filing the appeal, shall provide written notification of the appeal to the authorized representative of the affected workers of the mine involved. The authorized representative of the mine workers may intervene and participate as a party to the appeal by filing a written notice of intervention with the commission not later than ten days following receipt of notification of the appeal.

(C) The board shall provide written notice of the time and place of a hearing not less than five days prior to the hearing. The hearing shall be of record.

(D) The board shall conduct hearings and render decisions in a timely fashion and shall hear expedited appeals as required under section 1509.08 of the Revised Code.

Whenever the board conducts a hearing, it shall prepare a report setting forth its findings of fact and conclusions of law and shall mail a copy of the report by certified mail to the parties. A party, not later than fourteen days after receipt of the report, may serve and file written objections to the

board's report with the secretary of the board. Objections shall be specific and state with particularity the grounds for them. Upon consideration of the objections, the board may adopt, reject, or modify the report or hear additional evidence.

(E) The board shall affirm a decision of the chief unless the board determines that it is arbitrary, capricious, or otherwise inconsistent with law; in that case the board shall vacate the decision of the chief and may remand it to the chief for further proceedings that the board may direct.

(F) The chairperson of the board, under conditions that the chairperson prescribes, may grant temporary relief that the chairperson considers appropriate pending final determination of an appeal if all of the following conditions are met:

(1) All parties to the appeal have been notified and given an opportunity for a hearing to be held on the request for temporary relief.

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

(3) The relief will not adversely affect the health or safety of miners.

The chairperson shall issue a decision expeditiously and promptly provide written notification of the decision to all parties to the appeal.

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

The appeal shall be filed with the board not later than thirty days after the chairperson issues the decision on the request for temporary relief. The board shall issue a decision as expeditiously as possible.

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

Sec. 1561.54. For the purpose of participation in an adjudicatory hearing conducted under section 1561.53 of the Revised Code, the chief of the division of ~~mines and reclamation~~ mineral resources management or the mine examining board may require the attendance of witnesses and the production of books, records, and papers and may, and at the request of any party shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, papers, or other material relevant to the inquiry, directed to the sheriff of each county where the witnesses or materials are found, which subpoenas shall be served and returned in the same manner that subpoenas issued by courts of common

pleas are served and returned. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases.

In cases of disobedience or neglect of a subpoena served on a person or the refusal of a witness to testify on any matter regarding which the witness lawfully may be interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge of that court, on application of the chief or the board or any member of the board, shall compel obedience by attachment procedures for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in it.

A witness at any hearing shall testify under oath or affirmation, which the chief or any member of the board shall administer.

Sec. 1561.99. Whoever violates any section of this chapter or any order of the chief of the division of ~~mines and reclamation~~ mineral resources management is guilty of a minor misdemeanor.

Sec. 1563.04. The operator of each underground mine shall have a survey made whenever the workings of ~~said~~ the mine have extended four hundred feet in any direction from the point shown on the map by the last survey of such mine, but not ~~often~~ more often than once every six months, or whenever such mine is to be abandoned or shut down for a sufficient period of time to make it impossible to survey the working faces as prescribed by this section because of the caving of the roof. Such surveys shall be accurately plotted on the original map of the mine as prescribed ~~for~~ in section 1563.03 of the Revised Code. A copy of such map with the latest survey plotted thereon shall be kept at such mine, available for the use of the chief of the division of ~~mines and reclamation~~ mineral resources management, and the deputy mine inspectors, and available for inspection by the employees at all reasonable times, and a copy of the same shall be promptly forwarded to the chief, with the certificate of the engineer making same and of the superintendent or mine ~~foreman~~ foreperson in charge of the mine at the time of the survey, acknowledged before a notary public or other officer empowered to administer oaths, in the following form:

"I, the undersigned, hereby certify that this map is correct and shows all the information required by section 1563.03 of the Revised Code and covers the period ending

..... Engineer

Acknowledged before me a

..... thisday of.....

I, the undersigned, hereby certify that I am mine ~~foreman~~ foreperson at

the mine represented by this map and to the best of my knowledge and belief the same correctly represents the excavations of the mine for the period ending.....

..... Mine ~~Foreman~~ Foreperson

Acknowledged before me a
.....thisday of....."

The operator of a mine shall file, at least annually, a map of the same with the chief, so certified.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.05. Upon the refusal or neglect of the owner, lessee, or agent of the mine to make and file a map or any addition thereto, as required by sections 1563.03, 1563.04, and 1563.42 of the Revised Code, within sixty days after being directed to do so by the chief of the division of ~~mines and reclamation~~ mineral resources management, the chief may cause such map or addition thereto to be made in duplicate at the expense of such owner, lessee, or agent, the cost of which shall be recoverable against such owner, lessee, or agent in the name of the chief ~~of the division of mines and reclamation~~, in any court of competent jurisdiction in the county in which such mine is located, or in Franklin county.

Sec. 1563.06. For the purpose of making the examinations provided for in this chapter and Chapters 1509., 1561., 1565., and 1567. of the Revised Code, the chief of the division of ~~mines and reclamation~~ mineral resources management, and each deputy mine inspector, may enter any mine at a reasonable time, by day or by night, but in such manner as will not necessarily impede the working of the mine, and the owner, lessee, or agent thereof shall furnish the means necessary for such entry and examination.

Sec. 1563.11. (A) Unless a permit has been issued by the director of transportation, or the board of county commissioners, or the board of township trustees, or such other public authority that is charged by law with the maintenance of a public road, and the approval of the chief of the division of ~~mines and reclamation in the department of natural resources~~ mineral resources management has been obtained, no person, firm, or corporation, engaged in mining or quarrying any mineral, coal, stone, or clay, shall:

- (1) Extend any part of an open pit excavation closer than fifty feet of horizontal distance to any part of a public road;
- (2) Deposit mine refuse or removed overburden:
 - (a) Closer to a public road than a line parallel to the boundary line of such road and fifty feet of horizontal distance away from such road and at

the same elevation as the elevation of the crown of such road;

(b) Higher than a line beginning at a point fifty feet of horizontal distance away from such road and at the same elevation as the elevation of the crown of such road, and extending from such beginning point upward and away from such road at an angle of forty degrees from the horizontal plane.

Any person, firm, or corporation desiring such a permit shall apply in writing therefor to the proper public authority, and shall describe in such application the excavating or depositing of mine refuse or removed overburden ~~which that~~ it will do and for which it requests a permit. The applicant shall also furnish such public authority with such additional data and information concerning such work as such public authority may request and ~~which that~~ shall be relevant, in making the determination ~~which that~~ such public authority is required to make as to the amount of bond or other security the applicant shall be required to deposit before such a permit is issued to the applicant.

Upon receipt of such an application such public authority shall promptly consider what damage, if any, may be done to such public highway by the excavating or depositing of mine refuse or removed overburden for which the permit is requested, and estimate the reasonable cost of repairing such damage, if any should occur, and fix the amount of such estimate of cost as the amount of bond or other security ~~which that~~ the applicant shall deposit with such public authority upon issuance of the permit requested, to ensure payment of the cost of repairing any such damage ~~which that~~ might occur. Such public authority shall promptly notify the applicant of the amount of bond or other security it has so fixed.

Upon approval of the chief ~~of the division of mines and reclamation~~ and deposit with the public authority of a surety bond signed by the applicant as principal, and by a surety company authorized to transact business in this state as surety, or of cash or other security satisfactory to such public authority, in the amount fixed by such authority, and conditioned upon the payment to such public authority by applicant of the cost of repairing any damage to such public road occurring as a result of the excavating or depositing of mine refuse or removed overburden for which the permit was issued, the public authority shall issue to the applicant the permit for which the applicant applied.

If, at the end of three years after such excavation or deposit of mine refuse or removed overburden is made, the licensee shall have paid or caused to be paid all cost of repairing any damage to such public road occurring within such time as a result of such excavating or depositing for

which such permit was issued, or, if within such period of time no such damage to such shall have occurred, the bond or cash or other security deposited with the public authority upon the issuance of such permit, shall be released and returned to such applicant.

(B) Any person, firm, or corporation owning any land containing mineral, coal, stone, or clay, and over any portion of which any state, county, or township road or public highway passes, may drill, excavate, mine, or quarry through or under such road. Before ~~said~~ the work ~~shall be~~ is commenced, such person, firm, or corporation shall execute and deliver to the director of transportation in case of state roads, to the board of county commissioners in case of county roads, or to the board of township trustees in case of township roads, a bond, with good and sufficient surety in such amount as shall be considered by the director, the board of county commissioners, or the board of township trustees, sufficient to cover any damages that may accrue by excavating, mining, or quarrying through or under any such road, the same to be approved by such director, board of county commissioners, or board of township trustees. Such bond shall be conditioned that while crossing over or mining or quarrying under any such road, a safe and unobstructed passageway or road shall be kept open by such person, firm, or corporation for the public use, and as soon as practicable, such road shall be fully restored to its original safe and passable condition. When such crossing is made by excavation at a depth of more than thirty feet below the surface of such road, the person, firm, or corporation making the same shall be liable to the director, board of county commissioners, or board of township trustees for any damage that may accrue by such excavation, and shall be held to fully repair any such damage and to restore such road to its original safe and passable condition. The right to mine or quarry across or under public highways as provided in this section, shall accrue to the owner, lessee, or agent of the land upon or through which such highway passes.

As used in this section, "road" or "highway" means the entire right of way as well as the improved portion thereof, and includes bridges, viaducts, grade separations, appurtenances, and approaches on or to such road or highway.

Sec. 1563.111. No owner, lessee, or agent shall conduct ~~his~~ mining operations within twenty-five feet of any known well, or locate a mine opening within three hundred feet of any well ~~which~~ that produces oil or gas unless ~~he~~ the owner, lessee, or agent obtains permission in writing from ~~the division of mines and reclamation and the chief of the division of oil and gas mineral resources management~~.

Sec. 1563.12. Any person, firm, or corporation, beginning the opening of a mine, whether or not such person, firm, or corporation is the owner, lessee, or agent of the property upon which such mine is located, shall notify the chief of the division of ~~mines and reclamation~~ mineral resources management, and observe the following in the construction of such mine:

(A) If the opening is a slope or vertical shaft, no explosive used therein shall be fired by means of a squib or fuse after the same is extended more than twenty-five feet from the surface, and thereafter and until the slope or shaft reaches the seam and the entry or landing is extended beyond a break-through or other place driven at right angles thereto, no explosive shall be fired except by means of an electric battery operated from the surface after all persons are on the surface.

(B) A substantial structure to sustain sheave wheels or pulleys, ropes, and loads, shall be provided, and if the opening is a shaft, the same shall be placed at a height of not less than twenty-five feet above the tipping place.

(C) A landing platform shall be arranged in such manner that no material can fall into the shaft while the bucket is being emptied, and the shaft shall not be sunk to a depth of more than thirty feet without such structure.

(D) If the bucket used for hoisting material is to land on a truck, the track on which such truck is operated and the platform shall be so constructed that material cannot fall into the shaft.

(E) Rock and coal shall not be hoisted from a shaft or slope except in a bucket or cage attached to a rope by a safety hook, clevis, or other safe attachment, and the bucket or cage securely locked so that same cannot tip or empty while being hoisted.

(F) Such rope shall be fastened to the side of the drum, and not less than three coils of rope shall always remain on the drum.

(G) After the shaft reaches a depth of one hundred feet, the same shall be provided with guides and guide attachments, applied in such a manner as to prevent the bucket from swing while being lowered or hoisted, and such guides and guide attachments shall be maintained at a distance of not more than seventy-five feet from the bottom of the shaft.

(H) The sides of all shafts shall be properly secured for safety and no loose rock or material shall be allowed to remain on any timber in the shaft after each blast.

(I) All loose timber, tools, and materials shall be kept away from the top of the shaft to reduce the danger of the same falling down the shaft.

(J) Where explosive gas is encountered, the person in charge shall see that the shaft or slope is examined before each shift of ~~men enter~~ workers

enters to work, and before the ~~men~~ the workers descend after each blast.

(K) The slope, or shaft, shall be properly ventilated so that persons working therein will have the necessary air.

(L) An efficient brake shall be attached to each drum of an engine used in hoisting material and persons, and all machinery, ropes, and chains connected therewith shall be carefully examined once each shift.

(M) Not more than four persons shall be lowered or hoisted in or on a bucket at one time, and no person shall be permitted to ride on a loaded bucket.

(N) The bucket used in lowering or hoisting persons shall be equipped with proper safety devices, so that it cannot become detached from the rope or cable, and cannot tip or turn upside down while being so used.

The chief of the ~~division of mines and reclamation~~, and the deputy mine inspector, shall have jurisdiction over such mine when the shaft or slope reaches a depth of twenty-five feet, and such person, firm, or corporation shall comply with any order issued by either or both of them with respect to the safety of persons employed. Other than this section, this chapter and Chapters 1561., 1565., and 1567. of the Revised Code do not apply to the opening of a mine until such opening reaches the seam, and the entry or landing is extended beyond a break-through, or other place driven at right angles thereto.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.13. When a deputy mine inspector considers that the ways and means of egress in any underground mine from the interior working places to the surface are inadequate as a safe and ready means of escape in case of emergency, from danger of fire at any point, or any other cause that may result in the entombment of persons working in the mine, the deputy mine inspector shall give notice in writing to the owner, lessee, or agent of the mine of the particular in which the deputy mine inspector considers the conditions dangerous, recommending any changes that the conditions require, and forthwith shall mail a copy of the deputy mine inspector's recommendations to the chief of the division of ~~mines and reclamation~~ mineral resources management. Upon receipt of the recommendations, the chief forthwith shall make a finding concerning them and mail a copy to the operator of the mine and to the deputy mine inspector. A copy of the finding of the chief shall be posted upon the bulletin board at the time.

The operator of the mine, or the authorized representative of the workers of the mine, within ten days may appeal to the mine examining board for a review and redetermination of the finding of the chief in the

matter in accordance with section 1561.53 of the Revised Code. A copy of the decision of the board shall be mailed as required by this section for the mailing of the finding by the chief on the deputy mine inspector's report.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.17. From a point where the seam is reached in the opening of an underground mine, to a point not exceeding a distance of four hundred feet therefrom, break-throughs shall be made between mine entries, where there are no rooms worked, not more than one hundred feet apart, provided such entries are not advanced beyond the point where the break-through will be made until the break-through is complete. Break-throughs between entries, except as provided in this section, shall be made not exceeding sixty feet apart. Where there is a solid block on one side of the room, break-throughs shall be made between such room and the adjacent room not to exceed sixty feet apart; where there is a breast or group of rooms, a break-through shall be made on one side or the other of each room, except the room adjoining ~~said~~ the block not to exceed forty feet from the outside corner of the break-through to the nearest corner of the entrance to the room, and on the opposite side of the same room a break-through shall be made not to exceed eighty feet from the outside corner of the break-through to the nearest corner of the entrance to the room, and thereafter break-throughs shall be made not to exceed eighty feet apart on each side of the room. No working place, except those provided for within a distance of four hundred feet of the principal opening of a mine, shall be driven more than eighty feet in advance of a break-through or airway. The required air current shall be distributed to the working face of such entry or room. All break-throughs between entries, and when necessary between rooms, except the one nearest the working face, shall be closed and made airtight by brattice, trap doors, or other means, so that the current of air in circulation may sweep to the interior of the mine. Brattices between permanent inlet and outlet airways shall be constructed in a substantial manner of brick, masonry, concrete, or nonperishable material, provided that in hand-loading and nongaseous mines such brattices may be of wood. In mines generating firedamp, so as to be detected by a flame safety lamp, the air current shall be conducted by brattice, or other means, near enough to the working face to expel the firedamp, and prevent the accumulation of same. With the approval of the chief of the division of ~~mines and reclamation~~ mineral resources management, a greater distance than specified in this section may be allowed between break-throughs. Any operator of a mine desiring to allow a greater distance between break-throughs than specified in this section shall

file a written request to do so with the chief, together with a map of the mining and ventilating system for which approval and permission is are asked, attached thereto, and ~~said~~ the map shall become a part of the records in the office of the chief.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.20. For the protection of transportation ~~men~~ workers, track shall be laid to provide a minimum clearance of fourteen inches on the side of the entry opposite the trolley or feed wire at all haulage turnouts and crossovers between butt entries, on gathering passageways, on room entries, and chutes between room entries, except that where brake handles are on the side of mine cars, the clearance shall be provided on the wire side of such entries as have the wire on the same side as the brake handles. The clearance specified in this section shall be measured horizontally between the topside of the widest mine car and the rib. This section does not apply to entries having been driven prior to September 2, 1941, or at any mine or section of a mine, where, in the opinion of the division of ~~mines and reclamation~~ mineral resources management, the roof conditions are such as to require a width of entry not sufficient to provide the clearance set out in this section.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.24. In all mines generating methane in such quantities as to be considered a gaseous mine under section 1563.02 of the Revised Code, the mine ~~foreman~~ foreperson of such mine shall:

(A) Employ a sufficient number of competent ~~men~~ persons holding ~~foreman~~ foreperson of gaseous mines or fire boss certificates, except as provided in section 1565.02 of the Revised Code, to examine the working places whether they are in actual course of working or not, and the traveling ways and entrances to old workings with approved flame safety lamps, all of which shall be done not more than three hours prior to the time fixed for the employees to enter such mine;

(B) Have all old parts of the mine not in the actual course of working, but ~~which~~ that are open and safe to travel, examined not less than once each three days by a competent ~~man~~ person who holds a ~~foreman~~ foreperson of gaseous mines or a fire boss certificate;

(C) See that all parts of the mine not sealed off as provided in section 1563.41 of the Revised Code are kept free from standing gas, and upon the discovery of any standing gas, see that the entrance to the place where the gas is so discovered is fenced off and marked with a sign upon which is written the word "danger," and such sign shall so remain until such gas has

been removed;

(D) Have the mine examined on all idle days, holidays, and Sundays on which ~~men~~ employees are required to work therein;

(E) If more than three hours elapse between shifts, have the places in which the succeeding shift works examined by a competent ~~man~~ person who holds a ~~foreman~~ foreperson of gaseous mines or fire boss certificate;

(F) See that this chapter and Chapters 1509., 1561., 1565., and 1567. of the Revised Code, with regard to examination of working places, removal of standing gas, and fencing off of dangerous places, are complied with before the ~~men~~ employees employed by ~~him~~ the mine foreperson for this particular work are permitted to do any other work;

(G) Have a report made on the blackboard provided for in section 1567.06 of the Revised Code, which report shall show the condition of the mine as to the presence of gas and the place where such gas is present, if there is any, before ~~he~~ the mine foreperson permits the employees to enter the mine;

(H) Have reports of the duties and activities enumerated in this section signed by the person who makes such examination; ~~such.~~ The reports so signed shall be sent once each week to the deputy mine inspector of the district in which the mine is located on blanks furnished by the division of ~~mines and reclamation~~ mineral resources management for that purpose, and a copy of such report shall be kept on file at the mine;

(I) Have the fire boss record a report after each examination, in ink, in the fire boss' record book, which book shall show the time taken in making the examination and also clearly state the nature and location of any danger that was discovered in any room, entry, or other place in the mine, and, if any danger was discovered, the fire boss shall immediately report the location thereof to the mine ~~foreman~~ foreperson.

No person shall enter the mine until the fire bosses return to the mine office on the surface, or to a station located in the mine, where a record book as provided for in this section shall be kept and signed by the person making the examination, and report to the oncoming mine ~~foreman~~ foreperson that the mine is in safe condition for the ~~men~~ employees to enter. When a station is located in any mine, the fire bosses shall sign also the report entered in the record book in the mine office on the surface. The record books of the fire bosses shall at all times during working hours be accessible to the deputy mine inspector and the employees of the mine.

In every mine generating explosive gas in quantities sufficient to be detected by an approved flame safety lamp, when the working portions are one mile or more from the entrance to the mine or from the bottom of the

shaft or slope, a permanent station of suitable dimensions may be erected by the mine ~~foreman~~ foreperson, provided ~~that~~ the location is approved by the deputy mine inspector, for the use of the fire bosses, and a fireproof vault of ample strength shall be erected in such station of brick, stone, or concrete, in which the temporary record book of the fire bosses, as described in this section, shall be kept. No person, except a mine ~~foreman~~ foreperson of gaseous mines, and in case of necessity such other persons as are designated by ~~him~~ the mine foreperson, shall pass beyond the permanent station and danger signal until the mine has been examined by a fire boss, and the mine or certain portions thereof reported by ~~him~~ the fire boss to be safe.

This section does not prevent a mine ~~foreman~~ foreperson or ~~foreman~~ foreperson of gaseous mines from being qualified to act and acting in the capacity of fire boss. The record book shall be supplied by the division of ~~mines and reclamation~~ and purchased by the operator.

No mine ~~foreman~~ foreperson or person delegated by ~~him~~ the mine foreperson, or any operator of a mine, or other person, shall refuse or neglect to comply with this section.

Sec. 1563.26. All mines, except those mines or locations in a mine ~~which that~~ are too wet or too high in incombustible content to propagate an explosion, shall be rock dusted. The rock dusting shall be done with such regularity and frequency that all surfaces required to be rock dusted shall be kept in such condition that the incombustible content of the adhering and lodging dust is not less than sixty-five per cent. When methane is present in any ventilating current, such incombustible content shall be not less than sixty-five per cent plus one and four-tenths per cent for each one tenth of one per cent of methane so present.

The rock dust to be used shall be pulverized limestone or any other material containing less than five per cent combustible material. All dust ~~must shall~~ be so pulverized that it will all go through a sieve ~~which that~~ has twenty openings to the linear inch and at least fifty per cent of such dust shall pass through a sieve with two hundred openings to the linear inch. The rock dust shall not contain more than four per cent free silicon and silicon dioxide.

The rock dust shall be distributed on top, bottom, and sides of all haulageways, traveling ways, developing entries, and rooms to within forty feet of face. Back entries shall be rock dusted for at least one thousand feet out by the junction with the first active entry.

In coal mines where rock dusting is required, the superintendent shall see that a representative sample of dust is gathered at each sampling point from the roof, sides, and floor of all entries by a competent person once each

sixty days and tested to determine if any part of the mine requires redusting, and a record shall be kept in a book furnished by the division of ~~mines and reclamation~~ mineral resources management for that purpose. Such books shall be kept in the mine office. Such record shall show the location at which samples have been taken and the results of the analyses or tests. The distance between sampling points on haulageways and traveling ways shall not exceed two thousand feet, but in developing entries and in entries producing coal from rooms or pillars and their parallel entries the distance between sampling points shall not exceed five hundred feet.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.33. Each operator shall carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine and approved by the chief of the division of ~~mines and reclamation~~ mineral resources management shall be adopted and set out in printed form on or before January 1, 1977. The plan shall show the type of support and spacing approved by the chief. Such plan shall be reviewed periodically, at least every six months by the chief, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person may proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan and the absence of such support will not pose a hazard to the miners. A copy of the plan shall be furnished to the chief or ~~his~~ the chief's authorized representative and shall be available to the miners and their representatives.

No person shall refuse or neglect to comply with this section.

Sec. 1563.34. Each operator shall adopt an adequate program for improving roof control systems. This program shall include a roof control plan, provision for the training of miners, a history of all unintentional roof falls, and systematic evaluation of the effectiveness of the roof control system in use. Each operator shall adopt a roof control plan suitable to the roof conditions and the mining system for all underground roadways, travelways including escapeways, and working places of each mine. Roof control plans shall be filed with the chief of the division of ~~mines and reclamation~~ mineral resources management. The chief shall notify the operator in writing of the approval of a proposed roof control plan. If

revisions are required for approval, the changes required ~~will~~ shall be specified and the operator ~~will~~ shall be afforded an opportunity to discuss the revisions with the chief.

A roof control plan shall include the following information:

- (A) Name and address of the company;
- (B) Name and address of the mine;
- (C) Names and addresses of the responsible officials;
- (D) Area of the mine covered by the roof control plan;
- (E) A columnar section of the mine strata ~~which~~ that shall:

(1) Show the name and thickness of the coalbed and any persistent partings;

(2) Identify by type and show the thickness of each stratum (rock layer) up to and including the main roof over and for ten feet under the coalbed;

(3) Show the maximum cover over the mining area covered included in the roof control plan.

(F) A description of the sequence of mining and installation of supports including temporary supports. The description shall include:

(1) Drawings on eight and one-half by eleven inch paper or on paper folded to this size, showing the location of all roof, face, and rib supports for each method of mining employed at the mines. The scale shall be specified and not less than five feet to the inch nor more than twenty feet to the inch. A legend explaining all the symbols used shall also be included on the drawings.

(2) A list of all roof support materials employed in the roof control system including, where applicable, the name of the manufacturer and its designation for the item. Prior approval shall be obtained before making any changes in the materials listed.

No person shall refuse or neglect to comply with this section.

Sec. 1563.35. The chief of the division of ~~mines and reclamation~~ mineral resources management shall approve roof control plans on a mine-by-mine basis in accordance with the criteria or specifications set forth in this section. Additional measures may be required. Roof control plans ~~which~~ that do not conform to these criteria or specifications may be approved if the operator satisfies the chief that the resultant roof conditions will provide no less protection to the miners.

(A) The following criteria apply to full roof bolting plans. A full roof bolting plan is one in which roof bolts constitute the sole means of roof support at a face as part of the normal mining cycle.

(1) Roof bolt assemblies shall meet the following specifications:

(a) All components of the roof bolt assembly shall comply with the

American national standards institute, "specifications for roof bolting materials in coal mines."

(b) Roof bolts that provide support by creating a beam of laminated strata shall be of a length that assures adequate anchorage, but in no case may the length of the bolt be less than thirty inches.

(c) Roof bolts that provide support by suspending the immediate roof from a stronger overlying strata shall be of a length that permits anchoring at least twelve inches in the stronger strata.

(d) Bearing plates used directly against the mine roof shall be not less than six inches square or of equivalent area. In exceptional cases where the mine roof is firm and not susceptible to sloughing, bearing plates five inches square or of equivalent area may be used.

(e) When wooden material such as planks, header blocks, and crossbars are used between the bearing plate and the roof for additional bearing, the use shall be limited to short life openings, not to exceed three years, unless treated. Bearing plates used in conjunction with wooden materials shall be not less than four inches square or of equivalent area.

(f) When washers are used, the shape of such washers shall conform to the shape of roof bolt head and the shape of the bearing plate and such washers shall be of sufficient strength to withstand loads up to the yield point of the roof bolt.

(2) Full roof bolting plan installation practices shall meet the following criteria:

(a) Finishing bits shall be easily identifiable by sight or feel and the diameter ~~should~~ shall be within a tolerance of plus thirty thousandths of one inch minus zero of the ~~manufacturers~~ manufacturer's recommended hole diameter for the anchor used.

(b) Torque ranges specified in the roof control plan shall be capable of providing roof bolt loads to within plus or minus one thousand pounds of fifty per cent of either the yield point of the roof bolt being used or the anchorage capacity of the strata, whichever is less. In no case, however, ~~should~~ shall installed torques provide loads that exceed the yield point of the roof bolt being used or the anchorage capacity. ~~Relationship~~ Relationships for determining roof bolt load for torque applied are as follows:

Expansion	Pounds of load
type	
roof bolt	per foot-pound
(in	of torque
inches)	

Cone neck or

self-centering roof bolt	5/8	30
	3/4	30
Standard roof bolt without hard washer or lubricant	5/8	50
	3/4	40
Standard roof bolt with hard washer or lubricant	5/8	60
	3/4	60

(c) Each operator shall outline and describe roof bolt testing procedures to be followed in the roof control plan. The procedures to be followed ~~should~~ shall include:

(i) Providing and maintaining an approved, calibrated torque wrench on each roof bolting machine. An approved wrench shall be one that will indicate the actual torque on the roof bolt.

(ii) Designating a qualified person to spot-check torques on at least twenty-five per cent of the roof bolts immediately after the working place has been fully bolted. If the majority of the installed torques fall outside the recommended range, the remaining roof bolts in the working place shall be tested. If the majority of the torques still fall outside the recommended range, necessary adjustments in the equipment used for tightening the roof bolts shall be made immediately. If, after adjustments are made and required torques are not achieved, supplementary support such as additional roof bolts, longer bolts with adequate anchorage, posts, cribs, or crossbars shall be installed.

(iii) On a daily basis, spot-check torques on at least ten per cent of the roof bolts from the outby corner of the last open crosscut to the face and record the results. This record shall show the number of roof bolts tested, number of roof bolts below the recommended range, and the number of roof bolts above the recommended range. If results show that a majority of the roof bolts are not maintaining at least seventy per cent of the minimum torque required (fifty per cent if plates bear against wood), or have exceeded the maximum required torque by fifty per cent, supplementary support such

as additional roof bolts, longer roof bolts with adequate anchorage, posts, cribs, or crossbars shall be installed until a review of the adequacy of the roof control plan is made by an authorized representative of the chief.

(d) Devices shall be used to compensate for the angle when roof bolts are installed at angles greater than five per cent from the perpendicular to the roof line.

(3) The roof bolting pattern shall meet the following criteria:

(a) Roof bolt spacing either lengthwise or crosswise shall not exceed five feet.

(b) Roof bolts shall be installed as close as possible to, but not more than five feet from, the rib before a sidecut is started.

(c) Roof bolts shall be installed as close as possible to, but not more than five feet from, the face before starting conventional cutting or a continuous miner run.

(4) Openings shall not exceed twenty feet in width where roof bolting is the sole means of roof support.

(B) A conventional roof control plan is one in which installation of materials other than roof bolts, such as metal or wood posts, jacks, or cribs, in conjunction with wooden cap blocks (half headers), footers (sills), planks, or beams, are installed as the sole means of roof support at a face as part of the normal mining cycle. The following criteria apply to conventional roof control plans:

(1) Support materials shall meet the following specifications:

(a) Posts shall be of solid, straight-grain wood with the ends sawed square and free from defects ~~which~~ that would affect their strength.

(b) The diameter of round posts shall not be less than one inch for each fifteen inches of length, but in no case ~~should~~ shall the diameter be less than four inches; split posts shall have a cross-sectional area equal to that required for round posts to equivalent length.

(c) Wooden cap blocks and footers shall have flat paralleled sides and be not less than two inches thick, four inches wide, and twelve inches long.

(d) Wooden crossbars and planks shall be straight and of solid wood. Crossbars shall have a minimum cross-sectional area of twenty-four square inches and the minimum thickness shall be three inches. Planks shall have a minimum cross-sectional area of eight square inches and a minimum thickness of one inch.

(e) Cribbing material shall be of wood having parallel flat sides. In no case may the crib be less than thirty inches square.

(2) Conventional roof control plan installation practices shall meet the following criteria:

(a) No more than two wooden wedges ~~should~~ shall be used to install a post.

(b) Posts shall not be installed under roof susceptible to sloughing or under disturbed roof without a wooden cap block, plank, or crossbar between the post and the roof.

(c) Posts shall be installed tight and on solid footing.

(d) Blocks used for lagging between the roof and wooden crossbars, planks, or metal bars shall be spaced so that the load on the supports will be equally distributed.

(e) Cap blocks ~~should~~ shall be used between jacks and the roof.

(3) The support pattern shall meet the following criteria:

(a) Spacing of roadway roof supports shall not exceed five feet.

(b) Width of roadways shall not exceed fourteen feet on the straight and sixteen feet on the curves.

(c) Roof supports shall be installed to within five feet of the uncut face; however, the supports nearest the face may be removed to facilitate the operation of face equipment if equivalent temporary support is installed prior to removal.

(d) When an opening is no longer needed for storing supplies or for travel of equipment, the roof at the entrance of all such openings along travelways shall be supported by extending the post line across the opening.

(4) Openings shall not exceed twenty feet in width where the roof is supported solely by conventional means.

(C) The following criteria apply to combination roof control plans. For a plan where both roof bolts and conventional supports are used for roof control at the face, the criteria for a full roof bolting plan and a conventional roof control plan shall apply with the following modifications:

(1) Any place being driven over twenty feet in width shall be supported in compliance with a combination roof control plan.

(2) The roadway shall be limited to sixteen feet in width on both the straight and the curves to within ten feet of the uncut face.

(3) A row of posts shall be set for each five feet of space between the roadway posts and the ribs.

(4) Openings shall not exceed thirty feet in width.

(D) The following criteria apply to spot roof bolting plans. Spot roof bolting may be used only as a supplement to the approved roof control plan at random locations where adverse roof conditions are encountered. Where spot roof bolting is used, the criteria in divisions (A)(1) and (2) of this section shall apply. In addition, roof bolts shall be installed in accordance with roof conditions, but in no case ~~should~~ shall spacing exceed four feet

lengthwise and crosswise. Roof bolting ~~should~~ shall begin under safe roof and continue for the length of the adverse roof condition until safe roof is again encountered.

(E) The following criteria apply to pillar recovery plans. Any reduction in pillar size during second mining or intentional retreat mining shall be considered pillar recovery:

(1) Division (A), (B), or (C) of this section shall apply depending on whether the pillar recovery plan calls for conventional support or a combination of conventional support and roof bolting.

(2) During development, the size and shape of the pillars shall be dictated by the depth of cover, height of coal, and other conditions associated with the coal bed. The smallest dimension of the pillar may not be less than twenty feet.

(3) Pillar splits and lifts may not exceed twenty feet in width.

(4) A minimum of two rows of breaker posts or the equivalent shall be installed on not more than four foot centers across each opening leading into pillared areas and such posts ~~should~~ shall be installed before production is started. Such posts shall be installed near the breakline between the lift being started and the gob.

(5) A row of roadside-radius (turn) posts or the equivalent shall be installed on not more than four foot centers leading into pillar splits, including secondary splits in slabs, wings, or fenders.

(6) The width of the roadway leading from the solid pillars to a final stump (pushout) may not exceed fourteen feet. At least two rows of posts or their equivalent shall be set on each side of the roadway on not more than four foot centers. Only one open roadway leading to a final stump (pushout) may be permitted.

(7) Before full pillar recovery is begun in areas where roof bolts were used as the sole means of roof support and openings are more than sixteen feet wide, supplementary support shall be installed on either side on not more than four foot centers lengthwise, and the width of all roadways may not exceed sixteen feet. These supports shall be extended from the entrance to the split for at least one full pillar outby the pillar in which the split is being made.

(8) The following criteria shall apply to open end pillaring:

(a) At least two rows of breaker posts or their equivalent shall be installed between the lift being started and the gob on not more than four foot centers before the initial cut is made and shall be extended to within seven feet of the face. The width of the roadway may not exceed fourteen feet.

(b) If the roof in open end pillaring has a tendency to hang, falls shall be made, or cribs installed in addition to the breakline posts between the active lift and the hanging area. The cribs may be set not more than eight feet apart. Heavy duty hydraulic jacks set at centers close enough to give equivalent support may be substituted for cribs, if such jacks are removed remotely.

(F) The following criteria apply to special roof control plans. A special roof control plan shall be adopted and followed when support is installed on an intermittent basis, but only at predetermined locations, such as at intersections, or when equipment is especially designed to provide either natural or artificial support as the coal is mined. Special roof control plans also cover experimental installations using new devices, materials, or methods for roof support.

(1) The following criteria apply to mining methods using continuous miners with integral roof bolting equipment where roof bolts are the sole means of roof support.

(a) The distance between roof bolts shall not exceed eight feet crosswise, unless additional material such as wooden planks, wooden beams, or metal straps are installed in conjunction with the roof bolts. Roof bolts installed more than eight feet, but less than nine feet apart shall be supplemented with a wooden plank at least two inches thick by eight inches wide or its equivalent. Roof bolts installed more than nine feet, but less than ten feet apart shall be supplemented with a wooden plank at least three inches thick by eight inches wide or its equivalent. Roof bolts may not be installed more than ten feet apart.

(b) Work in intersections, pillar splits, or other such places may not be started until additional support has been installed where the roof is supported with only two roof bolts crosswise. Such support shall reduce bolt spacing to a maximum of five feet.

(c) The maximum opening width where the roof may be supported by only two roof bolts crosswise is sixteen feet.

(d) The distance between the last row of bolts and the face may not exceed the distance from the head of the machine to the integral roof bolting equipment before starting a continuous miner run.

(2) Before any new support materials, devices, or systems are used as a sole means of roof support, their effectiveness shall be demonstrated by experimental installations in areas approved by the chief.

(G) The following criteria apply to temporary supports:

(1) The following criteria apply to the installation of temporary supports in faces:

(a) In areas where permanent artificial support is required temporary support shall be used until such permanent support is installed.

(b) Only those persons engaged in installing temporary support may be allowed to proceed beyond the last permanent support until such temporary supports are installed.

(c) A minimum of two temporary supports shall be installed on not more than five foot centers and within five feet of the rib or face when work is being done between such support and the nearest rib or face. At least four temporary supports shall be installed on not more than five foot centers when work is being done in other areas of the face in by the last permanent support. No person may be permitted to proceed beyond temporary support in any direction unless such support is within five feet of the rib face or permanent support.

(2) During rehabilitation work such as rebolting, installing crossbars, or other permanent roof support, taking down loose roof, and cleaning up falls of roof, temporary roof supports shall be installed and the following criteria shall apply:

(a) Where rebolting work is ~~being~~ being done or crossbars are being installed, at least two rows of temporary supports on not more than five foot centers shall be installed across the place so that the work in progress is done between the installed temporary supports and permanent roof supports installed in sound roof. The distance between the permanent supports and the nearest temporary supports may not exceed five feet.

(b) Tools used to take down loose material shall be of a design that will enable ~~workmen~~ workers to perform their duties from a safe position without exposure to falling material. Where loose material is being taken down, a minimum of two temporary supports on centers of not more than five feet shall be set between the ~~workmen~~ workers and the material if such work cannot be done from an area supported by permanent roof supports.

(c) Where roof falls have occurred, a minimum of four temporary supports shall be set before starting any work in and around the affected area. These supports shall be located so as to provide the maximum protection for persons working in the area.

(H) Any operator who intends to recover roof supports shall include a detailed plan for such recovery in the roof control plan. The following criteria apply to recovery procedures:

(1) Recovery shall be done only under the direct supervision of a general mine ~~foreman~~ foreperson, mine ~~foreman~~ foreperson, or section ~~foreman~~ foreperson.

(2) Except where circumstances preclude such assignment, only

enced miners shall be assigned to such work.

(3) The person supervising recovery shall make a careful examination and evaluation of the roof and designate each support to be recovered.

(4) Supports may not be recovered in the following areas:

(a) Where roof fractures are present or there ~~are~~ are other indications of the roof being structurally weak;

(b) Where any second mining has been done;

(c) Where torque readings on roof bolts or visual observations of conventional support indicate excessive loading.

(5) Two rows of temporary supports on not more than four foot centers, lengthwise and crosswise, shall be set across the place, beginning not more than four feet in by the support being recovered. In addition, at least one temporary support shall be provided as close as practicable to the support being recovered.

(6) Temporary supports used may not be recovered unless recovery is done remotely from under roof where the permanent supports have not been disturbed and two rows of temporary support, set across the place on four foot centers, are maintained at all times between the ~~workmen~~ workers and the unsupported area.

(7) No one may be permitted to enter any area from which supports have been recovered.

(8) Entrances to the areas from which supports are being recovered shall be marked with danger signs placed at conspicuous locations. The danger signs ~~will~~ shall suffice as long as further support recovery work is being done in the area. If the recovery work is completed or suspended for three or more days, the areas shall be barricaded.

(I) No person shall refuse or neglect to comply with this section.

Sec. 1563.37. (A) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mines as the chief of the division of ~~mines and reclamation~~ mineral resources management may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the ~~workmen~~ workers when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(B) The operator shall have an adequate supply of roof support material

(including temporary supports) as specified in the approved roof control plan for the type of mining being conducted as close as practical to the working face, but not farther away than the first open crosscut outby the working face unless storing of such supplies in this area poses a hazard to the miner. In such cases supplies shall be stored at an alternate location approved by an authorized representative of the chief. Where mining equipment such as roof drilling machines or timbering machines are required to install the supports, such support material may be transported from place to place on the equipment. An adequate supply shall be defined as sufficient material including temporary supports, to support roof exposed by one complete cycle of mining. An additional supply of supplementary roof support materials, such as posts, jacks, crossbars, or different length roof bolts, shall be located within fifty feet of each working section in the event adverse roof conditions, such as water coming from the roof, slips, washouts, wants, or roof cracks, are encountered.

(C) When installation of roof bolts is permitted, such roof bolts shall be tested in accordance with the approved roof control plan.

(D) The criteria ~~which~~ that may be required in the roof control plan for testing installed roof bolts are set forth in divisions (A)(2)(c)(ii) and (iii) of section 1563.35 of the Revised Code.

(E) Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolts recovery is permitted, it may be conducted only in accordance with methods prescribed in the approved roof control plan, and it shall be conducted by experienced miners, but only where adequate temporary support is provided.

(F) To assure that miners are protected during roof bolt recovery work, the operator shall conform with criteria set forth in division (H) of section 1563.35 of the Revised Code.

(G) Where miners are exposed to danger from falls of roof, face, and ribs, the operator shall examine and test the roof, face, and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

(H) No person shall refuse or neglect to comply with this section.

Sec. 1563.40. The operator shall effectively close or fence all openings to mines abandoned after June 3, 1941, so that persons or animals cannot inadvertently enter therein.

Abandoned vertical shafts and other abandoned openings leading to

underground workings, which shafts and other openings are abandoned after August 26, 1949, shall be closed within ninety days after abandonment as follows:

(A) Vertical shafts shall be completely filled with earth or other noncombustible material, or the top of such shaft shall be covered with a substantial reinforced concrete slab, the design of which has been approved by the chief of the division of ~~mines and reclamation~~ mineral resources management.

(B) Other openings not potentially usable in later mining operations shall be closed with earth or masonry in a way ~~which~~ that may reasonably be expected to prevent unauthorized persons from entering the same.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.41. The operator of a mine, before sealing off any abandoned workings, shall obtain the approval of the deputy mine inspector and the chief of the division of ~~mines and reclamation~~ mineral resources management. The seals used in sealing off such workings, when approved by the chief, shall be constructed of not less than eighteen-inch concrete or masonry bulkheads effectively anchored to the ceiling, ribs, and floor, except where seals are used to seal abandoned individual panel or room entries, they shall be constructed of concrete or masonry bulkheads not less than six inches in thickness effectively anchored to the ceiling, ribs, and floor in a manner approved by the deputy mine inspector and the chief. All seals are to be bled or drained of gas in a manner approved by the deputy mine inspector and the chief.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.42. The operator of a mine, before the pillars are drawn previous to the abandonment of any part of the mine, shall have a correct map of such part of the mine made, showing its area and workings to the day of the abandonment and the pillars drawn previous to abandonment, and file such map within ninety days after the abandonment of such mine, in the office of the county recorder of the county where such mine is located, and with the chief of the division of ~~mines and reclamation~~ mineral resources management. Such map shall have attached the usual certificate of the mining engineer making it, and the mine ~~foreman~~ foreperson in charge of the underground workings of the mine, and such operator shall pay to the recorder for filing such map, a fee of five dollars.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.43. The operator of a mine shall give notice to the chief of the division of ~~mines and reclamation~~ mineral resources management when:

(A) A change occurs in the name of a mine, in the name of the operator thereof, or in the officers of an incorporated company owning or operating such mine;

(B) Work is commenced opening a new shaft, slope, or mine;

(C) A mine is abandoned, or the working thereof is discontinued;

(D) The working of a mine is commenced, after an abandonment or discontinuance thereof for a period of more than three months;

(E) The pillars of a mine are about to be removed or robbed;

(F) A squeeze, crush, or fire occurs, or a dangerous body of gas is found, or any cause or change occurs that may seem to affect the safety of persons employed therein.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1563.46. If the appliances of a mine for the safety of the persons working therein do not conform to this chapter and Chapters 1509., 1561., 1565., and 1567. of the Revised Code, or if the owner, lessee, or agent disregards the requirements of such chapters, on application by the chief of the division of ~~mines and reclamation~~ mineral resources management, in the name of the state, any court of competent jurisdiction may enjoin or restrain the owner, lessee, or agent from operating such mine, until it conforms to such chapters. Such remedy shall be cumulative, and shall not affect any other proceedings authorized against the owner, lessee, or agent for the matter complained of in the action. The attorney general shall represent the chief in all actions under this section.

Sec. 1565.05. The operator of a mine shall keep on file a copy of the certificate of each mine ~~foreman~~ foreperson, ~~foreman~~ foreperson, and fire boss in ~~his~~ the operator's employ or under ~~his~~ the operator's control. Such certificate shall be exhibited to the chief of the division of ~~mines and reclamation~~ mineral resources management, or any deputy mine inspector, upon ~~his~~ demand.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1565.06. (A) In emergencies arising at a mine because of accident, death, illness, or any other cause, an operator may appoint noncertificate ~~men~~ persons as ~~foremen~~ forepersons and fire bosses to act until certified ~~foremen~~ forepersons and fire bosses satisfactory to ~~him~~ the operator can be secured. Such appointee may not serve in such capacity for a period longer than six months or until such time thereafter as an examination is held for

such certified ~~men~~ persons under section 1561.13 of the Revised Code. The employer of such noncertificate ~~man~~ person shall, upon appointment of such noncertificate ~~man~~ person in this capacity, forward the name of such noncertificate ~~man~~ person to the chief of the division of ~~mines and reclamation~~ mineral resources management.

(B) An operator may appoint as a temporary ~~foreman~~ foreperson or fire boss a noncertificate person who is within six months of possessing the necessary actual practical experience to qualify to take the examination for certification for the position to which the person is temporarily appointed. Upon appointment of a noncertificate person, the operator shall forward the name, social security number, and brief summary of the person's actual practical experience to the mine examining board, and the board shall issue the person a temporary certificate for the position to which the person has been temporarily appointed. A temporary certificate issued under this division is valid for six months or until such time thereafter as an examination is held under section 1561.13 of the Revised Code for the position to which the person has been temporarily appointed.

(C) A person who possesses a valid certificate issued by another state for a position for which the mine examining board issues a certificate shall be eligible for a temporary certificate from the board upon presentation to the board of a copy of the certificate from that other state. A temporary certificate issued under this division shall be valid for six months.

No operator of a mine shall violate or fail to comply with this section.

Sec. 1565.07. The superintendent in charge of a mine shall direct the mine ~~foreman~~ foreperson in such manner as is necessary to secure compliance with this chapter and Chapters 1561., 1563., and 1567.; and sections 1509.18 and 1509.19 of the Revised Code. The superintendent may act as mine ~~foreman~~ foreperson, but if ~~he~~ the superintendent does so act regularly, ~~he~~ the superintendent shall obtain a certificate from the mine examining board in the same manner as the certification of mine ~~foremen~~ foreperson is obtained.

A person designated as a superintendent of an underground coal mine after January 1, 1977, shall, within six months after being so designated, demonstrate to the chief of the division of ~~mines and reclamation~~ mineral resources management that ~~he~~ the person has knowledge of the mining laws of this state governing the operation of underground coal mines either by presenting evidence that ~~he~~ the person has passed a mine ~~foreman~~ foreperson examination given by the mine examining board or an examination given by the chief concerning the laws of this state governing the operation of underground coal mines.

No person shall refuse or neglect to comply with this section.

Sec. 1565.08. If a person certified by the mine examining board ~~willfully~~ purposely violates the mining laws, ~~his~~ the person's certificate may be revoked after investigation and a hearing in accordance with ~~sections 119.01 to 119.13~~ Chapter 119, of the Revised Code, by the chief of the division of ~~mines and reclamation~~ mineral resources management, with the approval of the mine examining board.

No person whose license, certificate, or similar authority to perform any certifiable mining duties in another state is suspended or revoked by that state shall be certified for an equivalent mining certificate in this state during the period of the suspension or revocation in the other state.

Sec. 1565.11. The miners employed in a mine may appoint two of their number to act as a safety committee to inspect, not more often than once each month, the mine and the machinery connected therewith, and to measure the ventilating current. The operator may accompany such committee, or appoint two or more persons for that purpose. The operator shall afford every necessary facility for making such inspection and measurement, but the committee shall not interrupt or impede the work in the mine, at the time of such inspection and measurement. After such inspection and measurement, such committee shall forthwith make a report thereof to the chief of the division of ~~mines and reclamation~~ mineral resources management, on a blank furnished by ~~him~~ the chief.

No operator of a mine shall refuse or neglect to comply with this section, and no such person shall violate this section.

Sec. 1565.12. When a loss of life is occasioned by accident in any mine, the operator thereof shall forthwith give notice thereof to the chief of the division of ~~mines and reclamation~~ mineral resources management, and to the deputy mine inspector in charge of the district. Such notice shall be given by telephone or telegraph. The operator of such mine shall, within twenty-four hours after such accident causing loss of life, send a written report of the accident to the chief. Such written report shall specify the character and cause of ~~said~~ the accident, the names of the persons killed, and the nature of the injuries ~~which~~ that caused death. In the case of injury thereafter resulting in death, the operator shall send a written notice thereof to the chief, and to the deputy mine inspector of such district, at such time as such death comes to ~~his~~ the operator's knowledge.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1565.15. (A) As used in this section:

(1) "EMT-basic," "EMT-I," "paramedic," and "emergency medical

service organization" have the same meanings as in section 4765.01 of the Revised Code.

(2) "First aid provider" includes an EMT-basic, an EMT-I, a paramedic, or a supervisory employee at a surface coal mine who has satisfied the training requirements established in division (D)(1) of this section.

(B) The operator of an underground coal mine where twenty or more persons are employed on a shift, including all persons working at different locations at the mine within a ten-mile radius, shall provide at least one EMT-basic or EMT-I on duty at the underground coal mine whenever employees at the mine are actively engaged in the extraction, production, or preparation of coal. The operator shall provide EMTs-basic or EMTs-I on duty at the underground coal mine at times and in numbers sufficient to ensure that no miner works in a mine location that cannot be reached within a reasonable time by an EMT-basic or an EMT-I. EMTs-basic and EMTs-I shall be employed on their regular coal mining duties at locations convenient for quick response to emergencies in order to provide emergency medical services inside the underground coal mine and transportation of injured or sick employees to the entrance of the mine. The operator shall provide for the services of at least one emergency medical service organization to be available on call to reach the entrance of the underground coal mine within thirty minutes at any time that employees are engaged in the extraction, production, or preparation of coal in order to provide emergency medical services and transportation to a hospital.

The operator shall make available to EMTs-basic and EMTs-I all of the equipment for first aid and emergency medical services that is necessary for those personnel to function and to comply with the regulations pertaining to first aid and emergency medical services that are adopted under the "Federal Mine Safety and Health Act of 1977," 91 Stat. 1290, 30 U.S.C.A. 801, and amendments to it. The operator of the underground coal mine shall install telephone service or equivalent facilities that enable two-way voice communication between the EMTs-basic or EMTs-I in the mine and the emergency medical service organization outside the mine that provides emergency medical services on a regular basis.

(C) The operator of a surface coal mine shall provide at least one first aid provider on duty at the mine whenever employees at the mine are actively engaged in the extraction, production, or preparation of coal. The operator shall provide first aid providers on duty at the surface coal mine at times and in numbers sufficient to ensure that no miner works in a mine location that cannot be reached within a reasonable time by a first aid provider. First aid providers shall be employed on their regular coal mining

duties at locations convenient for quick response to emergencies in order to provide emergency medical services and transportation of injured or sick employees to the entrance of the surface coal mine. The operator shall provide for the services of at least one emergency medical service organization to be available on call to reach the entrance of the surface coal mine within thirty minutes at any time that employees are engaged in the extraction, production, or preparation of coal in order to provide emergency medical services and transportation to a hospital.

The operator shall make available to first aid providers all of the equipment for first aid and emergency medical services that is necessary for those personnel to function and to comply with the regulations pertaining to first aid and emergency medical services that are adopted under the "Federal Mine Safety and Health Act of 1977," 91 Stat. 1290, 30 U.S.C.A. 801, and amendments to it, including, without limitation, a portable oxygen cylinder with a medical regulator and oxygen delivery system.

(D)(1) A supervisory employee at a surface coal mine shall be considered to be a first aid provider for the purposes of this section if the employee has received from an instructor approved by the chief of the division of ~~mines and reclamation~~ mineral resources management ten hours of initial first aid training as a selected supervisory employee under 30 C.F.R. 77.1703 and receives five hours of refresher first aid training as a selected supervisory employee under 30 C.F.R. 77.1705 in each subsequent calendar year.

(2) Each miner employed at a surface coal mine who is not a first aid provider shall receive from an instructor approved by the chief three hours of initial first aid training and two hours of refresher first aid training in each subsequent calendar year.

(3) The training received in accordance with division (D) of this section shall consist of a course of instruction established in the manual issued by the mine safety and health administration in the ~~united states~~ United States department of labor entitled "~~First~~ first aid, ~~A Bureau~~ a bureau of ~~Mines Instruction Manual~~ mines instruction manual" or its successor or any other curriculum approved by the chief. The training shall be included in the hours of instruction provided to miners in accordance with training requirements established under 30 C.F.R. part 48, subpart ~~(b)~~(B), as amended, and 30 C.F.R. part 77, as amended.

(E) Each operator of a surface coal mine shall establish, keep current, and make available for inspection an emergency medical plan that includes the telephone numbers of the division of ~~mines and reclamation~~ mineral resources management and of an emergency medical services organization

the services of which are required to be retained under division (C) of this section. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that establish any additional information required to be included in an emergency medical plan.

(F) Each operator of an underground coal mine or surface coal mine shall provide or contract to obtain emergency medical services training or first aid training, as applicable, at the operator's expense, that is sufficient to train and maintain the certification of the number of employees necessary to comply with division (B) of this section and that is sufficient to train employees as required under division (D) of this section and to comply with division (C) of this section.

(G) The division may provide emergency medical services training for coal mine employees by operating an emergency medical services training program accredited under section 4765.17 of the Revised Code or by contracting with the operator of an emergency medical services training program accredited under that section to provide that training. The division may charge coal mine operators a uniform part of the unit cost per trainee.

(H) No coal mine operator shall violate or fail to comply with this section.

Sec. 1567.02. In the operation of mines, mine owners, lessees, and their agents may continue to use the type of appliance and machinery owned or operated in such mines on September 2, 1941, in the manner permitted by the statutes in force on June 3, 1941, and until the mine in which such appliances or machinery are located is exhausted or abandoned; in the use of such appliances or machinery, they shall comply with the rules of the chief of the division of ~~mines and reclamation~~ mineral resources management. In gaseous mines, as parts of such machinery or appliances become worn out and have to be replaced, the chief or the deputy mine inspector shall order that such replacement parts put the machinery or appliance in a condition or state, as far as practicable, to meet the requirements of the United States bureau of mines for permissible machinery or appliances; in case any piece of machinery or appliance is worn out and is not so connected with the use of other machinery and appliances as to make it necessary to replace such worn-out piece with the same type in order to continue the use of the connected appliances and machinery, the machinery or appliance purchased for such replacement shall be of a type made lawful under this chapter and Chapters 1561., 1563., and 1565. of the Revised Code, which in gaseous mines shall be of permissible or approved type. The chief, in making such rules, shall incorporate therein the statutes in force on June 3, 1941, governing the use of such appliances and machinery. If in ~~his~~ the chief's

opinion such statutes do not provide the required protection, additional rules to cover such use shall be made by ~~him~~ the chief or by the deputy mine inspector, with ~~his~~ the chief's approval. The deputy mine inspector and the electrical inspector shall, in their periodic inspection of the mines, report on the condition of all machinery and appliances to see that this section is being complied with.

Sec. 1567.08. The mine ~~foreman~~ foreperson shall each day enter plainly or have entered in ink, in a book provided for that purpose, a report of the condition of the mine, which report shall clearly state any danger that such mine ~~foreman~~ foreperson has observed during the day, or any danger reported to ~~him~~ the mine foreperson by ~~his~~ the mine foreperson's assistants, the fire bosses, or the shot firers when employed. The report shall also state whether or not there is a proper supply of material on hand for the safe working of the mine, and whether or not the requirements of the law are complied with. ~~He~~ The mine foreperson shall also, once each week, enter plainly or have entered in ink, in ~~said~~ the book, a true report of all air measurements required by this chapter and Chapters 1561., 1563., and 1565. of the Revised Code, designating the place, the area of each break-through and entry separately, the velocity of the air in each break-through and entry, and the number of ~~men~~ workers employed in each separate split of air, with the date when the measurements were taken. ~~Said~~ The book shall be kept in the mine office at the mine, for examination by the deputy mine inspector, and by any person working in the mine, in the presence of the mine ~~foreman~~ foreperson. The mine ~~foreman~~ foreperson shall each day personally sign and certify to all facts entered and recorded in such book.

The mine ~~foreman~~ foreperson shall each day read carefully and personally sign in ink, and certify to such facts, all reports entered in the record book of the fire bosses.

The record books shall be prescribed and supplied by the division of ~~mines and reclamation~~ mineral resources management and purchased by the operator.

No person shall refuse or neglect to comply with this section.

Sec. 1567.09. The operator of a mine shall provide and maintain the necessary artificial means of capacity and power capable of supplying the required ventilation, and shall maintain a sufficient volume of air, not less per minute than one hundred fifty cubic feet for each person measured at the point in the mine where distribution to the various working sections begins and distributed to the working faces so as to expel or dilute and render harmless, explosive, poisonous, and noxious gases. The air shall be measured at the last entry break-through in each working section to see that

a sufficient volume of air, not less than nine thousand cubic feet per minute, is being distributed at such points, provided that in gaseous mines the volume of air maintained for each person shall be not less than two hundred cubic feet per minute measured at the point in the mine where distribution to the various working sections begins.

No more than sixty-five ~~men~~ workers shall be permitted to work on one continuous current of air or split of air except with the written consent of the chief of the division of ~~mines and reclamation~~ mineral resources management, and in no case shall the number of ~~men~~ workers exceed ninety.

Air in which ~~men~~ workers work or travel in mines shall be improved when it contains less than nineteen and one-half per cent oxygen, or more than one-half of one per cent carbon dioxide, or is contaminated with noxious or poisonous gases. If the air immediately returning from a split that ventilates any group of active workings contains more than one per cent methane, as determined with a permissible flame safety lamp, by air analysis, or by other recognized means of accurate detection, the ventilation shall be improved. If the air immediately returning from such a split contains one and one-half per cent methane, the employees shall be withdrawn from the mine or the portion of the mine affected thereby, and all power shall be cut off from such mine or portion of the mine until such dangerous condition has been corrected. If the air immediately returning from such a split contains one and one-half per cent or more of methane, but not more than two per cent of methane, withdrawal of the employees from such mine or portion of the mine and shutting off all power from such mine or portion of the mine shall not be required if all of the following requirements are met:

(A) The volume of air provided and maintained in such split is equal to or in excess of eighteen thousand cubic feet of air per minute;

(B) Only permissible electric equipment is used;

(C) The air does not pass over trolley or other bare power wires;

(D) An official certified under this chapter and Chapters 1561., 1563., and 1565. of the Revised Code is continually testing the gas content of the air during the mining operations therein.

At working faces and other places where methane has accumulated and is likely to attain an explosive mixture, blasting shall not be done and the ~~men~~ workers shall be removed from such working faces or places until such condition has been corrected.

When the methane content of air in face operations exceeds one per cent at any point twelve or more inches from the roof, face, or rib, as determined

by a permissible methane detector, a permissible flame safety lamp, or analysis, such condition shall be corrected by improving the ventilation promptly. The electric face equipment at such point shall be turned off and not turned back on until the methane condition is corrected by improving the ventilation.

In gaseous mines, air that has passed through abandoned panel sections shall not be re-used to ventilate live workings. Mines that cannot comply with this requirement at once may continue to operate as at present for a reasonable length of time until future mine development and ventilation can be changed to permit compliance with this section.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.10. Every outside fan installed after September 2, 1941, at any coal mine shall be placed at least twenty feet from the side or mouth of the shaft entry or slope with which it is connected for ventilating purposes and shall be of fireproof construction. Explosion doors shall be provided in a direct line with the mine opening.

Upon the written order of the chief of the division of ~~mines and reclamation~~ mineral resources management, all main mine fans installed after September 2, 1941, shall be so arranged that the ventilating current can be quickly reversed. No fan shall be reversed while ~~men~~ workers are in the mine unless authority to do so is given, preferably in writing, by the mine ~~foreman~~ foreperson, superintendent, state inspector, or other responsible person. The fan shall be inspected at least daily.

Every main ventilating fan at nongaseous mines shall be kept in operation continuously day and night, unless operations are definitely suspended, except when written permission is given by the inspector to stop it. The permission, or a copy thereof, shall be posted by the mine ~~foreman~~ foreperson in a conspicuous place at the entrances of the mine, and shall state the particular hours the fan may be stopped. The inspector may withdraw or modify such permission at any time and in any manner ~~he~~ the inspector deems best. In all cases in which permission has been given by the inspector to stop the ventilating fan, the fan shall be started a sufficient length of time prior to the appointed time for any person working therein to enter, to clear the mine of explosive, poisonous, and noxious gases, and shall be kept in operation a sufficient length of time after the appointed time for such employees to leave their working places, for all persons to be out of the mine.

Every main ventilating fan at gaseous mines shall be kept in operation continuously day and night unless operations are definitely suspended.

ould it become necessary to stop the fan at any mine, gaseous or nongaseous, because of an accident to part of the machinery connected therewith, or by reason of any other unavoidable cause, the mine ~~foreman~~ foreperson or the ~~foreman~~ foreperson in charge shall, after first having provided for the safety of the persons employed in the mine, order the fans stopped for necessary repairs. Should the ventilating fans be stopped at any time for any reason at any gaseous mine for a period of time sufficient to cause a serious interruption of the ventilation, the source of electric power shall be forthwith disconnected from the mine, and the source of electric power shall not be reconnected with the mine until the fans have been started, and the mine has been examined by the mine ~~foreman~~ foreperson, ~~foreman~~ foreperson, or fire boss, and reported safe. A record of such examination shall be entered in the fire boss record book. The person in charge of the mine at the time of the examination is responsible for the execution of this latter provision.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.11. Booster and blower fans may be installed only with the approval of the chief of the division of ~~mines and reclamation~~ mineral resources management, following the submission by the owner, lessee, or agent of a definite plan of ventilation in which it is proposed to use such fans and the reason therefor.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.13. The mine ~~foreman~~ foreperson shall see that careful watch is kept over the ventilating apparatus and airways, and that the volume of the ventilating current is measured at least once each week at the inlet and outlet, at or near the face of all entries, and at that point in the mine where distribution to the various working sections begins. Such measurements shall be noted in duplicate on blanks furnished by the division of ~~mines and reclamation~~ mineral resources management. On the first day of each month, the mine ~~foreman~~ foreperson shall forward such blanks with ~~his~~ the mine foreperson's signature thereon to the deputy mine inspector in the district in which the mine is located, and such blanks shall be properly filled in with the actual measurements so taken as prescribed in this section. On all examinations ~~which~~ that the mine ~~foreman~~ foreperson makes of the old workings, ~~he~~ the mine foreperson shall mark on a conspicuous place with chalk ~~his~~ the mine foreperson's initials and the date of the month of such examination.

No person shall refuse or neglect to comply with this section.

Sec. 1567.17. Where direct current is used underground in mines, the following rules shall govern:

(A) In determining the voltage limit the difference in potential shall not exceed three hundred twenty-five volts measured by a meter at the nearest switchboard except with the written approval of the chief of the division of ~~mines and reclamation~~ mineral resources management.

(B) For the protection of circuits, a switch and circuit breaker shall be installed in the ungrounded side of the circuit, but may be omitted from the return side. Fuses may be substituted for circuit breakers transmitting twenty-five kilowatts or less. Each circuit leading in the underground workings of such mine shall be provided with a suitable ammeter. Additional switches shall be installed in the ungrounded side of all branch circuits.

(C) One side of grounded circuits shall be very efficiently insulated from the earth.

(D) All trolley and feed wires shall be placed on the opposite side of the track from refuge holes or necks of room. All lines except telephone, shot firing, and signal lines shall be on the same side as the trolley lines.

(E) All terminal ends of feed and trolley wires shall be guarded to prevent persons from inadvertently coming in contact with them.

(F) No locomotive shall be operated by means of a person holding and sliding upon, or frequently making contact with, the positive wire with any device attached to the cable as a substitute for a trolley, except to move a locomotive out of traffic because of a broken trolley pole or fixtures attached thereto. This does not prohibit the operation of a locomotive by means of a cable without the use of the trolley, if the connection with and disconnection from the positive wire is made when the locomotive is not in motion.

(G) Inside the mine the trolley wire shall be installed parallel to the gauge line of the rail and as far away as practical, and in no place closer than six inches from the gauge line, except where written permission is given by the chief. The trolley wire shall be securely supported on hangers efficiently insulated. Such hangers shall be placed at intervals of not exceeding thirty feet and at less intervals if it is necessary to prevent the sag between points of support exceeding three inches. Hangers installed after September 2, 1941, shall be of sufficient height to place the trolley wire within six inches of the roof or cross timbers at the point of trolley wire support, except where the trolley wire may be above the top of the normal seam or draw slate taken with the seam or six feet six inches from the top of the rail.

(H) In underground workings all feed wires shall be in places either

ve the trolley wire on the same hangers, between trolley wire and rib, or on the rib as close to the roof as practicable, and securely supported on hangers sufficiently insulated, not more than fifty feet apart. If feed wires are installed in entries ~~which~~ that are not equipped with trolleys, they are to be installed as close to the rib as practicable.

(I) Recharging stations for battery locomotives located inside a mine shall be adequately ventilated at all times. All charging panels shall be equipped with automatic overload circuit breakers and ammeters. All refuse or movable material of an inflammable nature shall be kept out of such stations.

(J) All trolley and positive feed wires crossing places where persons or animals are required to travel shall be safely guarded or protected from such persons or animals coming in contact with such wires, except where such wires are above the top of normal seam or draw slate taken with the seam, or six feet six inches from the top of the rail.

(K) No trolley wire shall be extended into or maintained in any room while being used as a working place; no trolley or feed wire shall be extended into any entry beyond the outside corner of the last break-through, except in case of systems of mining or equipment approved by the chief.

(L) When necessary to carry bare wires down shafts or slopes used as traveling ways, the wires ~~must~~ shall be thoroughly protected so that persons cannot inadvertently come in contact with them.

(M) When positive machine feed wires are extended into rooms, they shall be placed not nearer than four feet from the rail where the room is of sufficient width, and shall only be connected to the positive wire on the entry while in actual use. The wire used for making such connections shall be of sufficient length to reach across the entry, and when the same is disconnected, it shall be removed from the entry or be kept with the machine. No electric wires shall be extended into any room unless a one hundred fifty foot trailing cable will not reach the face of the room, and then not beyond the outside corner of the last break-through, except in the case of systems of mining and equipment approved by the chief. Means shall be provided by which machine runners may readily install the machine cable across the entry so as to render it free from ground, and so the cable will not come in contact with persons or animals required to travel such entry.

(N) Any track or rail that is used as a return circuit shall be properly bonded. When metallic ~~pipe-lines~~ pipelines parallel a rail or track used for return, the pipe may be bonded to the rail at both ends to avoid electrolysis, and if the ~~pipe-line~~ pipeline is of unusual length, intermediate bonds ~~should~~ shall be installed. No ~~pipe-line~~ pipeline or any part thereof shall be used

exclusively as the return. In a section of a mine where electric detonators or electric squibs are used, metallic ~~pipe-line~~ pipeline rails and return lines in that section shall be bonded together.

(O) All lighting circuits of a mine, whether underground or outside, shall be installed in such a manner that they will not be a fire hazard or will not endanger persons coming in contact therewith.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.18. When alternating current is used underground in ~~mine~~ mines, the following rules apply:

(A) On all low voltage circuits all wires shall be protected by a switch and an automatic overload circuit breaker on each wire of the circuit, except that fuses may be substituted for circuit breakers in the case of lighting circuits and in the case of power circuits transmitting twenty-five kilowatts or less. All wires shall be insulated with a standard insulation and shall be placed between trolley wire and rib or on the rib as close to the roof as practicable and securely supported upon hangers efficiently insulated. Additional switches shall be installed in all branch circuits. All points of connection shall be properly protected so that persons cannot inadvertently come in contact therewith. No voltage in excess of two hundred sixty volts measured at the nearest switchboard shall be used in mobile machinery except with the written approval of the chief of the division of ~~mines and reclamation~~ mineral resources management.

(B) When high voltage circuits are used, all wires shall be provided with a suitable ammeter and protected by an oil-break switch on each wire of the circuit, such switch to be equipped with an automatic overload trip. All wires shall be insulated with a standard insulation at least fifty per cent higher than the standard for the commercial rated voltage between conductors and ground and installed in conduit or be lead covered with an additional covering of steel armor wire or steel tape, and all wire shall be subject to carrying capacity according to the rules of the national board of fire underwriters. This cable may be installed either in or on the bottom or in the location prescribed for direct current feed lines, except no further insulation shall be required than specified in this section.

(C) No voltage in excess of eight thousand volts between conductor and ground may be used to operate semipermanent and permanent machinery except with the written approval of the chief. All installations shall be made in accordance with the accepted electrical standards and practices, especially with regard to protective switches, insulation materials, clearance danger signs, and gates. The location, ventilation, and protection against fire hazard

and personal injury shall be subject to the approval of the chief.

(D) The division of ~~mines and reclamation~~ mineral resources management shall accept standard electrical practices in regard to the underground electrical installations and operation of alternating current equipment, but may augment the same to provide additional safeguards. When exercising this authority, the division shall give due consideration to the safety experience in regard to similar installations and the similar operation thereof under similar conditions.

(E) The mine ~~foreman~~ foreperson shall have posted at the mine opening, and in all permanent substations therein, a copy of instructions as to the method of resuscitation of persons suffering from electric shock. All persons working about such stations, or with electric machines, shall familiarize themselves with such rules.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.19. At all stripping mines where alternating current is used to operate shovels or to convert alternating current to direct current, and where the machines used for this purpose are installed on the shovel or building attached thereto, or where armored cables are used to conduct the current from the main transmission line to ~~said~~ the shovel, all machines and armored cables so installed or used ~~must~~ shall be grounded in a manner approved by the chief of the division of ~~mines and reclamation~~ mineral resources management.

No owner, lessee, agent, or operator of a mine shall violate this section.

Sec. 1567.23. No employee, ~~workman~~ worker, or miner shall have in ~~his~~ the employee's, worker's, or miner's possession inside of an underground mine more than one twenty-five pound keg or box of blasting powder or other explosives. Every person who has powder or other explosives in an underground mine shall keep the same in a wooden box suitable to contain the original container of such explosive. Such box shall be kept at all times at least twenty-five feet from the track and electric wire, no two of such boxes shall be kept within twenty-five feet of each other, nor shall blasting powder and high explosives be kept in the same box, and in no case shall detonating caps be kept in a box with blasting powder or high explosives.

Where systems of mining are such that it is impracticable to comply with ~~the provisions of~~ the first paragraph of this section, ~~such provisions~~ those requirements may be modified in writing by the chief of the division of ~~mines and reclamation~~ mineral resources management, upon the request of the owner, lessee, or agent of such mine. No operator shall maintain or have a magazine for the storage of blasting powder or high explosives,

ncluding detonating caps, in the underground workings of any mine, except with the written permission of the chief.

No employee or operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.34. The owner, lessee, or agent of any mine shall not order or permit solid shooting in a mine unless ~~he~~ the owner, lessee, or agent has obtained written permission to do so from the chief of the division of ~~mines and reclamation~~ mineral resources management, who may issue such permit when in ~~his~~ the chief's judgment such solid shooting is necessary for the just and reasonably profitable operation of such mine.

No owner, lessee, agent, or operator of a mine shall violate this section.

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or gas engine shall be used in a mine, except for operating pumping machinery where electric, compressed air, or steam power is not available or cannot be transmitted to the pump, in which case the owner, lessee, or agent shall observe the following:

(A) Notice shall be given to the chief of the division of ~~mines and reclamation~~ mineral resources management, before installing, and the installation and operation shall be subject to the chief's approval.

(B) No wood or inflammable material shall be permitted within twenty-five feet of the engine.

(C) The supply tank from which the gasoline, naphtha, kerosene, or fuel oil is fed to the engine, shall be of metal, with a suitable screw cap opening, fitted with a gasket, so as to make the tank airtight and prevent the escape of gas into the atmosphere, and the tank kept free from leaks.

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed from a tank to the carburetor or mixer by metal tubes securely connected so as to reduce the possibility of leaks to a minimum.

(E) The exhaust from the engine shall be conducted by means of metal pipes into the return air current, so that the combustion fumes will not enter the workings of the mine where the ~~men~~ worker's are required to work, or be conducted in an upcast shaft or slope not used as a means of ingress or egress or through metal pipes to the surface.

(F) At no time shall more than five gallons of such gasoline, naphtha, kerosene, or fuel oil be taken into the mine, including that in the supply tank.

(G) No gasoline, naphtha, kerosene, or fuel oil shall be taken into the mine except in metallic cans, with a screw cap opening at the top, fitted with a suitable gasket.

(H) No package, can, or supply tank of an engine, containing gasoline,

naphtha, kerosene, or fuel oil, shall be opened until ready to make the transfer from the package or can to the supply tank, and in transferring, a funnel shall be used so as to avoid spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap on the supply tank shall be immediately closed.

(I) In no case shall the package, can, or supply tank be opened when an open light or other thing containing fire is within twenty-five feet of the same, provided that subject to the approval of the chief, the restrictions in the use of fuel oil in a mine shall not apply to mobile or portable machinery, if such mobile or portable machinery is used in a clay, limestone, shale, or any other mine not a coal mine.

No owner, lessee, agent, or operator of a mine shall violate this section.

Sec. 1567.39. The operator of an underground coal mine, at which locomotives are used for hauling coal, shall keep a light on the front end of the locomotive when it is in use. When the locomotive is run ahead of the trip, and the trip rider is not required to ride the rear car of the trip, a signal, light, or marker, approved by the deputy mine inspector, shall be carried on the rear end of the trip to indicate when the trip has passed. Cars shall not be pushed ahead of the locomotive where it can be avoided. When cars are run ahead of the locomotive, a light shall be carried on the front end of the trip, and the cars shall not be moved at a speed greater than four miles per hour. When rope haulage is used, an enclosed light shall be carried on the front end of each train so hauled.

A trip light, reflectors, or other devices approved by the chief of the division of ~~mines and reclamation~~ mineral resources management shall be used on the rear of trips pulled and on the front of trips pushed or lowered in slopes. However, trip lights or other approved devices need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads, during gathering operations at working faces, when trailing locomotives are used, or on trips pulled by animals. Cars on main haulage roads shall not be pushed, except where necessary to push cars from side tracks located near the working section to the producing entries and rooms, where necessary to clear switches and sidetracks, and on the approach to cages, slopes, and surface inclines. Warning lights or reflective signs or tapes shall be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

No person, other than the ~~motorman~~ locomotive operator and ~~brakeman~~ brakeperson, shall ride on a locomotive unless authorized by the mine ~~foreman~~ foreperson, and then only when safe riding facilities are provided.

Positive-acting stopblocks or derails shall be used where necessary to protect persons from danger of runaway haulage equipment. The operator of

all self-propelled equipment including off-track equipment shall give an audible warning wherever persons may be endangered by the movement of the equipment. Locomotives and personnel carriers shall not approach within three hundred feet of preceding haulage equipment, except trailing locomotives that are an integral part of the trip. A total of at least thirty-six inches of unobstructed side clearance (both sides combined) shall be provided for all rubber-tired haulage equipment where such equipment is used. Off-track haulage roadways shall be maintained as free as practicable from bottom irregularities, debris, and wet or muddy conditions that affect the control of the equipment. Operators of self-propelled equipment shall face in the direction of travel. Mechanical steering and control devices shall be maintained so as to provide positive control at all times. All self-propelled, rubber-tired haulage equipment shall be equipped with well maintained brakes, lights, and a warning device. On and after January 1, 1977, all tram control switches on rubber-tired equipment shall be designed to provide automatic return to the stop or off position when released.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.45. (A) When more than the lawful number of persons get on a cage or elevator to be lowered into a mine, or to be hoisted out of a mine, the person in charge of the lowering or hoisting of such persons shall order a sufficient number to get off such cage or elevator to comply with section 1567.49 of the Revised Code, and shall not lower or raise the cage until such order is complied with.

(B) Every hoist used to transport persons at a coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist-handling platform, cage, or other device used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device; with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device; and have a proper margin of safety. Cages, platforms, or other devices ~~which~~ that are used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the chief of the division of ~~mines and reclamation~~ mineral resources management that act quickly and effectively in an emergency, and such catches shall be tested at least once every two months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are transported into or out of a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer is necessary for automatically operated cages, platforms, or elevators. Brakes

on hoists used to transport persons shall be capable of stopping and holding the fully loaded platform, cage, or other device at any point in the shaft, slope, or incline.

(C) All hoisting equipment at a mine, including automatic elevators, safety catches, and other devices approved by the chief, shall be examined daily, and the examination shall include, but not be limited to, the following:

(1) A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points, such as near the attachments, where the rope rests on the sheaves and where the rope leaves the drum at both ends;

(2) An examination of the rope fastenings for defects;

(3) An examination of safety catches;

(4) An examination of the cage, platforms, elevators, or other devices for loose, missing, or defective parts;

(5) An examination of the head sheaves to check for broken flanges, defective bearings, rope alignment, and proper lubrication;

(6) An observation of the lining and all other equipment and appurtenances installed in the shaft.

A log or record of each daily examination of hoisting equipment shall be kept, listing each item examined. Each daily entry shall be signed by the person or persons making the examination. The reports of the examinations shall be read and countersigned by a responsible company official daily.

(D) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided, and shall be placed so that it is in clear view of the hoisting engineer and shall be checked daily to determine its accuracy. The American national standards institute "specifications for the use of wire ropes for mines," M11.1-1960, or the latest revision thereof, shall be used as a guide in the use, selection, installation, and maintenance of wire ropes used for hoisting. Alterations or changes in a hoist ~~which~~ that affect the rated capacity shall be made only with the approval of the chief.

(E) There shall be at least two effective methods approved by the chief of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube. One of the methods used to communicate between shaft stations and the hoist room shall give signals ~~which~~ that can be heard by the hoisting engineer at all times while ~~men~~ workers are underground. Signaling systems used for communication between shaft stations and the hoist room shall be tested daily. Other safeguards adequate, in the judgment of the chief or a deputy mine

inspector, to minimize hazards with respect to transportation of ~~men~~ workers and materials shall be provided. Divisions (E)(1), (2), and (3) of this section set forth the criteria by which the chief or a deputy mine inspector shall be guided in requiring other safeguards on a mine-by-mine basis. The chief or deputy mine inspector shall notify the operator in writing of any additional specific safeguard ~~he~~ the chief or deputy mine inspector requires and shall fix a time in which the operator shall comply. If the safeguard is not provided within the time fixed and if it is not maintained thereafter, a notice of violation shall be issued to the operator.

(1) Hoists and elevators used to transport materials shall be equipped with brakes capable of stopping and holding the fully loaded platform, cage, skip, car, or other device at any point in the shaft, slope, or incline.

(2) The clutch of a free-drum on a ~~man~~hoist worker hoist shall be provided with a locking mechanism or interlocked with the brake to prevent the accidental withdrawal of the clutch. The hoist rope attached to a cage, ~~man~~ worker car, or trip shall be equipped with two bridle chains or cables connected securely to the rope at least three feet above the attaching device and to the cross-piece of the cage, ~~man~~ worker car, or trip. The hoist rope shall have at least three full turns on the drum when extended to its maximum working length and shall make at least one full turn on the drum shaft or around the spoke of the drum in the case of a free drum, and be fastened securely. Cages used for hoisting ~~men~~ workers shall be constructed with the sides enclosed to a height of at least six feet and shall have gates, safety chains, or bars across the ends of the cage when ~~men~~ workers are being hoisted or lowered. Self-dumping cages, platforms, or other devices used for transportation of ~~men~~ workers shall have a locking device to prevent tilting when ~~men~~ workers are transported thereon. An attendant shall be on duty at the surface when ~~men~~ workers are being hoisted or lowered at the beginning and end of each operating shift. Precautions shall be taken to protect persons working in shaft sumps. ~~Workmen~~ Workers shall wear safety belts while doing work in or over shafts.

(3) The doors of automatic elevators shall be equipped with interlocking switches so arranged that the elevator car will be immovable while any door is opened or unlocked, and arranged so that such door or doors cannot be inadvertently opened when the elevator car is not at a landing. A "stop" switch shall be provided in the automatic elevator compartment that will permit the elevator to be stopped at any location in the shaft. A slack cable device shall be used where appropriate on automatic elevators ~~which~~ that will automatically shut off the power and apply the brakes in the event the elevator is obstructed while descending. Each automatic elevator shall be

provided with a telephone or other effective communication system by which aid or assistance can be obtained promptly.

No person shall refuse or neglect to comply with this section.

Sec. 1567.52. The management of any mine may, with the consent of the deputy mine inspector, add to the code of signals to increase its efficiency, or to promote the safety of the ~~men~~ workers in such mine, but whatever code is established and in use at any mine ~~must~~ shall be approved by the division of ~~mines and reclamation~~ mineral resources management, and conspicuously posted at the top, at the bottom, and in the engine room, for the information and instruction of all persons concerned.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.54. At each mine at which the only means of egress is by vertical shaft, the operator shall provide adequate fire protection to secure the safety of such shaft, and, when but one shaft is the only available means of egress, shall keep in attendance a competent person when persons are inside of such mine.

Each underground coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The chief of the division of ~~mines and reclamation~~ mineral resources management shall adopt and may amend or rescind rules establishing minimum requirements for the type, quality, and quantity of such equipment. The rules shall include the following minimum firefighting equipment at each underground coal mine, regardless of its size or condition, except where indicated: waterlines shall be capable of delivering fifty gallons of water a minute at a nozzle pressure of fifty pounds per square inch. A portable water car shall be of at least one thousand gallon capacity and shall have at least three hundred feet of fire hose with nozzles. A portable water car shall be capable of providing a flow through the hose of fifty gallons of water per minute at a nozzle pressure of fifty pounds per square inch. A portable chemical car shall carry enough chemicals to provide a fire extinguishing capacity equivalent to that of a portable water car. A portable foam-generating machine or device shall have facilities and equipment for supplying the machine with thirty gallons of water per minute at thirty pounds per square inch for a period of thirty-five minutes. A portable fire extinguisher shall be either a multipurpose dry chemical type containing a nominal weight of five pounds of dry powder and enough expellant to apply the powder or a foam-producing type containing at least two and one-half gallons of foam-producing liquids and enough expellant to supply the foam. Only fire extinguishers approved by the ~~Underwriters Laboratories~~ underwriters

~~laboratories, Incorporated~~ incorporated, or ~~Factory Mutual Research Corporation~~ factory mutual research corporation, carrying appropriate labels as to type and purpose, shall be used. After January 1, 1977, all new portable fire extinguishers acquired for use in a coal mine shall have a 2A 10 BC or higher rating.

Fire hose shall be lined with a ~~materiel~~ material having flame resistant qualities meeting requirements for hose in Bureau of Mines' Schedule 2G. The cover shall be polyester, or other material with flame-spread qualities and mildew resistance equal or superior to polyester. The bursting pressure shall be at least four times the water pressure at the valve to the hose inlet with the valve closed; the maximum water pressure in the hose nozzle shall not exceed one hundred pounds per square inch, gauge. However, fire hose installed for use in underground coal mines prior to December 30, 1970, shall be mildew-proof and have a bursting pressure at least four times the water pressure at the valve to the hose inlet with the valve closed, and the maximum water pressure in the hose nozzle with water flowing shall not exceed one hundred pounds per square inch, gauge.

Each working section of an underground coal mine producing three hundred tons or more per shift shall be provided with two portable fire extinguishers and two hundred forty pounds of rock dust in bags or other suitable containers; waterlines shall extend to each section loading point and be equipped with enough fire hose to reach each working face unless the section loading point is provided with two portable water cars, or two portable chemical cars, or one portable water or chemical car and either a portable foam-generating machine or a portable high-pressure rock-dusting machine fitted with at least two hundred fifty feet of hose and supplied with at least sixty sacks of rock dust.

Each working section of an underground coal mine producing less than three hundred tons of coal per shift shall be provided with two portable fire extinguishers, one hundred forty pounds of rock dust in bags or other suitable containers, and at least five hundred gallons of water and at least three pails of ten quart capacity. In lieu of the five hundred gallon water supply a ~~water line~~ waterline of sufficient hose to reach the working places, a portable water car of at least five hundred gallon capacity, or a portable, all-purpose dry powder chemical car of at least one hundred twenty-five pounds capacity may be provided.

In all underground coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with fire hose outlets with valves at three hundred foot intervals along each belt conveyor and at tailpieces. At least five hundred feet of fire hose with fittings suitable

for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry.

In underground coal mines producing three hundred tons of coal or more per shift, waterlines shall be installed parallel to all haulage tracks using mechanized equipment in the track or adjacent entry and shall extend to the loading point of each working section. Waterlines shall be equipped with outlet valves at intervals of not more than five hundred feet, and five hundred feet of fire hose with fittings suitable for connection with such waterlines shall be provided at strategic locations. Two portable water cars, readily available may be used in lieu of waterlines prescribed under this paragraph.

In underground coal mines producing less than three hundred tons of coal per shift, a tank of water of at least fifty-five gallon capacity with at least three pails of not less than ten-quart capacity, or not less than two hundred forty pounds of bagged rock dust shall be provided at five hundred foot intervals along all main and secondary haulage roads.

Each track or offtrack locomotive, self-propelled mantrip car, or personnel carrier shall be equipped with one portable fire extinguisher.

Two portable fire extinguishers or one extinguisher having at least ten pounds of dry powder or five gallons of foam-producing liquids shall be provided at each permanent electrical installation. One portable fire extinguisher and two hundred forty pounds of rock dust shall be provided at each temporary electrical installation.

One portable fire extinguisher or two hundred forty pounds of rock dust shall be provided at locations where welding, cutting, or soldering with arc or flame is being done.

At each wooden door through which power lines pass there shall be one portable fire extinguisher or two hundred forty pounds of rock dust within twenty-five feet of the door on the intake air side.

At each underground coal mine producing three hundred tons of coal or more per shift there shall be readily available the following materials at locations not exceeding two miles from each working section: one thousand board feet of brattice boards, two rolls of brattice cloth, two hand saws, twenty-five pounds of eightpenny nails, twenty-five pounds of ~~ten penny~~ tenpenny nails, twenty-five pounds of sixteenpenny nails, three claw hammers, twenty-five bags of wood fiber plaster or ten bags of cement or equivalent material for stoppings, and five tons of rock dust. These materials shall be available at each mine producing less than three hundred tons of

coal per shift, except that if the active working sections are located at a distance of two miles or less from the surface, the emergency materials for one or more mines may be stored at a central warehouse or building supply company, and such supply ~~must~~ shall be the equivalent of that required for all mines involved and within one hour's delivery time from each mine.

All fire fighting equipment shall be maintained in a usable and operative condition. Chemical extinguishers shall be examined every six months and the date of the examination shall be written on a permanent tag attached to the extinguisher.

The operator shall give each miner a self-rescue device that is adequate to protect the miner for one hour or longer and is approved by the chief. Such self-rescue devices shall be worn or carried on the person of each miner. However, where the wearing or carrying of self-rescue devices is hazardous to a miner, such devices shall be located at a distance no greater than twenty-five feet from the miner. Where a miner works on or around mobile equipment, self-rescue devices, if not carried by the miner, shall be placed in a readily accessible location on such equipment.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.55. The operator of any coal mine or the owner of land bearing natural coal deposits immediately upon learning of a fire in any coal seam upon ~~his~~ the operator's or owner's property shall report the fire to the chief of the division of ~~mines and reclamation~~ mineral resources management.

When a coal seam fire is reported to ~~said~~ the chief ~~he~~, the chief shall immediately investigate such fire. In the event of a fire in any outcrop of a coal seam or in an abandoned mine, the chief shall extinguish such fire, and ~~he~~ the chief may employ such persons and purchase such materials as are necessary to extinguish such fire. Persons so employed shall serve at the pleasure of the chief and their employment shall not be governed by civil service laws, rules, or regulations. Materials purchased for immediate use in extinguishing a fire shall be emergency purchases and shall be paid for out of state funds appropriated for such purpose upon vouchers issued by ~~said~~ the chief certifying to the emergency nature of the purchase, notwithstanding the fact that there has been no compliance with other laws governing the making of purchases by the state.

Whenever, after August 26, 1949, the surface of a natural deposit of coal is exposed by mining operations, the chief may order the owner, lessee, or agent of the mine at which such exposure occurs to cover such exposed surface with earth or other noncombustible material if, in the judgment of

the chief, such covering is necessary to prevent a fire in ~~said~~ the coal ~~which~~ that would endanger life or property. Such order shall be in writing and shall fix a reasonable time for compliance therewith. No operator of a mine shall refuse or neglect to comply with such order for a period of fifteen days after the expiration of the time fixed in such order for compliance therewith. Each period of fifteen days after the expiration of the time fixed in such order for compliance therewith, during which any such operator refuses or neglects to comply with such order, constitutes a separate offense.

Sec. 1567.57. Every operator of a mine shall install and maintain in efficient working condition a system of two-way communications approved by the chief of the division of ~~mines and reclamation~~ mineral resources management connecting the surface and each landing of main shafts and slopes between the surface and each working section of any coal mine that is more than one hundred feet from a portal.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.61. As used in this section, "emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

The operator at all mines and quarries shall keep first aid and emergency medical equipment in a dry and sanitary condition in accessible places.

Each operator shall report to the chief of the division of ~~mines and reclamation~~ mineral resources management, the name, title, and address of each emergency medical service organization with which arrangements have been made or otherwise provided. Each operator shall, within ten days after any change of the arrangements, report such changes to the chief. If such changes involve a substitution of persons, the operator shall report the name, title, and address of the person substituted together with the name and address of the emergency medical service organization with which such person is associated. Each operator shall, immediately after making such an arrangement or any change of such arrangement, post at appropriate places at the mine the names, titles, addresses, and telephone numbers of all persons or organizations currently available under such arrangements to provide medical assistance and transportation at the mine. The operator of an underground mine shall provide a vehicular mode of transportation that is equipped to handle stretchers to transport injured miners underground in a manner that minimizes shock. Such vehicle shall be accessible within the lesser of thirty minutes or the time needed to render first aid and medical attention, secure the injured person to a stretcher or broken-back board or

other device, and transport the injured person to the vehicle.

No operator of a mine shall refuse or neglect to comply with this section.

Sec. 1567.69. (A) On and after ~~the effective date of this section~~ July 20, 1984, no operator shall begin longwall mining in any coal mine until plans for the longwall mining have been filed with and approved by the chief of the division of ~~mines and reclamation~~ mineral resources management. All revisions to approved plans shall also be submitted for approval to the chief. The chief shall not approve any plan or revision unless it meets the requirements of this section and shall approve all plans and revisions that meet those requirements.

Approval of a plan or revision, or portion thereof, under comparable provisions of the "Federal Coal Mine Safety and Health Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, as amended or reenacted, or regulations ~~promulgated~~ adopted thereunder, shall be a sufficient basis for approval of the plan or revision, or portion thereof, by the chief unless the chief makes a specific written explanation and findings as to why the federally approved plan, revision, or portion thereof does not meet the requirements of the mining laws of this state and as to why a variance from the federally approved plan is reasonably necessary to meet the requirements of this state's mining laws.

The chief shall make a final decision on a plan or revision, including review of any additional information ~~he~~ the chief requests, no later than fourteen days after the operator's initial submission of the plan or revision. Approval of completed plans or revisions shall not be unreasonably withheld.

(B) Longwall mining plans submitted to the chief for approval shall include all of the following:

- (1) Company name;
- (2) Mine name;
- (3) Mine location;
- (4) Mine address;
- (5) Mine telephone number;
- (6) Name, title, and telephone number of the person submitting the plan;
- (7) Mine identification number;
- (8) Longwall mining roof control plan, which shall include a plan indicating the roof support to be used and the working procedures to be followed when a cavity is encountered over chocks or shields;
- (9) Ventilation plan, which shall include the complete section and face ventilation controls and bleeder systems;

- (10) Methane and dust control plan;
- (11) Any other information required by the chief.

(C) After the chief has approved plans submitted under this section, an operator shall not be required to obtain additional approvals for new longwall working sections if plans initially approved or revised are complied with.

(D) In coal mines where longwall working section operations are in progress prior to ~~the effective date of this section~~ July 20, 1984, no operator shall begin new longwall working sections until required plans for longwall mining have been filed with and approved by the chief.

Sec. 1567.70. An operator conducting longwall mining shall develop a plan for recovery of chocks and shields or other longwall roof support and shall not initiate recovery until the recovery plan is approved by the chief of the division of ~~mines and reclamation~~ mineral resources management. An operator shall also submit all revisions of an approved recovery plan for approval to the chief.

Approval of a plan or revision, or portion thereof, under comparable provisions of the "Federal Coal Mine Safety and Health Act of 1969," 83 Stat. 742, 30 U.S.C.A. 801, as amended or reenacted, or regulations ~~promulgated~~ adopted thereunder, shall be a sufficient basis for approval of the plan or revision, or portion thereof, by the chief unless the chief makes a specific written explanation and findings as to why the federally approved plan or revision, or portion thereof, does not meet the requirements of the mining laws of this state and as to why a variance from the federally approved plan, revision, or portion thereof is reasonably necessary to meet the requirements of this state's mining laws.

The chief shall make a final decision on a plan or revision, including review of any additional information ~~he~~ that the chief requests, no later than fourteen days after the operator's initial submission of the plan or revision. The chief shall not unreasonably withhold approvals of completed plans or revisions.

Sec. 1567.71. (A) An operator conducting longwall mining shall provide two-way communication facilities, approved by the chief of the division of ~~mines and reclamation~~ mineral resources management, at the headgate and tailgate and across each longwall working face that, during the production of coal, are a separate system from the mine communication facilities. Longwall working section communication facilities shall be located at points not more than one hundred feet apart across the longwall working face.

(B) An operator conducting longwall mining shall also provide two-way

communication facilities on each longwall working section. During production of coal, a designated person shall, as part of that person's other assigned duties, be available with the longwall working section communication and longwall working face communication facilities.

Sec. 1567.73. (A) The chief of the division of ~~mines and reclamation~~ mineral resources management or ~~his~~ the chief's representative shall require installation on a longwall working section of a federally approved methane monitor capable of giving warning automatically when the concentration of methane reaches a maximum percentage of not more than 1.0 volume per cent of methane. The sensing unit indicating the atmospheric conditions on the methane monitor shall be installed at a location specified in the approved plan or revision required by section 1567.69 of the Revised Code.

The operator shall ensure that the methane monitor is kept operative and properly maintained and tested weekly for functioning.

The operator of any mine in which longwall mining is performed shall establish and adopt a definite maintenance program designed to keep methane monitors operative, and a written description of the program shall be available for inspection by the division of ~~mines and reclamation~~ mineral resources management. At least once each month, the operator shall have the methane monitor checked for operating accuracy with a known methane air mixture and shall have the monitor calibrated as necessary. The operator shall keep a record of calibration tests in a book on the surface, which may be the same book used to comply with requirements established under regulations of the mine safety and health administration in the United ~~Sates~~ States department of labor.

If the methane monitor on a longwall working section malfunctions, the operator shall have the monitor repaired within twelve hours. During the period of time the methane monitor is inoperative, the operator shall not permit electric equipment to be operated for longer than ten minutes without an examination for methane gas, shall require that the examinations required in division (B) of this section be conducted on one-hour intervals, and shall require an air reading on the intake side of the longwall working face to be collected on one-hour intervals.

If parts are unavailable to correct the malfunction of the methane monitor or the malfunction cannot be repaired within twelve hours, the operator shall immediately notify the division of ~~mines and reclamation~~, which shall evaluate the circumstances and may allow continued operation under the procedures of the preceding paragraph if the operator is proceeding with good faith efforts to correct the malfunction.

If a malfunction of the methane monitor occurs on a longwall working

section, the supervisor on duty shall indicate in ~~his~~ the supervisor's own shift examination report, in the fire boss report books, the date and time the methane monitor malfunctioned.

(B) A certified person designated by the mine ~~foreman~~ foreperson to supervise a longwall working section shall examine the longwall working face for hazards as a part of the pre-shift and on-shift examinations for each coal producing shift and more often if necessary for safety or required by division (A) of this section. The examination shall include a test for methane gas and oxygen deficiency. The methane and oxygen deficiency examinations shall be made at reasonable intervals along the coal face between the headgate and tailgate. The person's initials, date, and time shall be recorded at the headgate and tailgate. If one per cent or more of methane gas is detected along the coal face, the electrical equipment shall be immediately de-energized and the electrical power circuit then disconnected from the power supply until a certified person pronounces the place safe.

Sec. 1567.74. (A) No person shall cross the longwall working face conveyor while it is in operation unless a safe crossover is provided.

(B) The operator shall provide telephone pager communications or other means of providing an effective warning signal in a longwall working section. Prior to starting a longwall working face conveyor, the person who is going to activate the conveyor shall sound the telephone pager communications or other effective warning signal to alert all persons across the longwall working face.

(C) No person shall ride the longwall working face conveyor. However, an operator may submit a plan to the chief of the division of ~~mines and reclamation~~ mineral resources management, as part of the plan required by section 1567.69 of the Revised Code or later, for approval for the removal of injured persons on the longwall working face conveyor if it is necessary to transport injured persons on a stretcher or backboard.

(D) On and after ~~the effective date of this section~~ July 20, 1984, an operator shall equip all newly installed face roof support units with adjacent unit controls unless the units have a wide single canopy over each unit that protects the ~~workman~~ workers from falling material when operating unit controls from within the support of the shield unit being removed.

(E) On and after ~~the effective date of this section~~ July 20, 1984, all newly installed face roof support units shall be equipped with an outlet to facilitate measurement of the interior prop pressure and an outlet to facilitate measurement of the yield pressure. Any yield valves of face roof support units that do not maintain at least eighty-five per cent of the yield pressure specified in the approved roof control plan shall be promptly repaired or

placed. The valves of face roof support units shall be tested at least annually, and a legible record of the date of the test, the person performing the test, and the valves repaired or replaced shall be kept in an appropriate mine record.

Sec. 1567.78. An operator shall maintain an accessible travel route at all times off the tailgate end of the longwall working face unless the operator develops and the chief of the division of ~~mines and reclamation~~ mineral resources management approves a plan to continue operation of the longwall working section in the event the tailgate route becomes impassable. Such a plan shall include necessary provisions to be taken to provide additional protective devices for longwall working section personnel.

When the tailgate travel route becomes impassable, the operator shall cease the longwall mining operation immediately, familiarize all persons working on the longwall working section with the procedures to follow for escape from the section, and implement immediately the plan approved by the division of ~~mines and reclamation~~ mineral resources management before recommencing mining.

The operator shall immediately notify the division when the accessible travel route becomes impassable and the approved plan has been implemented.

The division's representative shall immediately, upon notification, establish a scheduled meeting with the operator and representatives of the miners at the mine.

Sec. 1571.01. As used in this chapter, unless other meaning is clearly indicated in the context:

(A) "Gas storage reservoir" or "storage reservoir" or "reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata, any part of which or of the protective area of which, is within a coal bearing township, into which gas is or may be injected for the purpose of storing it therein and removing it therefrom, or for the purpose of testing whether such stratum is suitable for such storage purposes.

(B) "Gas" means any natural, manufactured, or by-product gas or any mixture thereof.

(C) "Reservoir operator" or "operator," when used in referring to the operator of a gas storage reservoir, means a person who is engaged in the work of preparing to inject, or who injects gas into, or who stores gas in, or who removes gas from, a gas storage reservoir, and who owns the right to do so.

(D)(1) "Boundary," when used in referring to the boundary of a gas storage reservoir, means the boundary of such reservoir as shown on the

map or maps thereof on file in the division of ~~mines and reclamation~~ mineral resources management as required by this chapter.

(2) "Boundary," when used in referring to the boundary of a reservoir protective area, means the boundary of such reservoir protective area as shown on the map or maps thereof on file in the division as required by this chapter.

(E) "Reservoir protective area" or "reservoir's protective area" means the area of land outside of the boundary of a gas storage reservoir shown as such on the map or maps thereof on file in the division as required by this chapter. The area of land shown on such map or maps as such reservoir protective area shall be outside of the boundary of such reservoir, and shall encircle such reservoir and touch all parts of the boundary of such reservoir, and no part of the outside boundary of such protective area shall be less than two thousand nor more than five thousand linear feet distant from the boundary of such reservoir.

(F) "Coal bearing township" means a township designated as a coal bearing township by the chief of the division of ~~mines and reclamation~~ mineral resources management as required by section 1561.06 of the Revised Code.

~~(G) "Division of mines and reclamation" or "division," when used in referring to the division of mines and reclamation, means the division of mines and reclamation of the state of Ohio.~~

~~(H)~~ "Coal mine" means the underground excavations of a mine ~~which~~ that are being used or are usable or are being developed for use in connection with the extraction of coal from its natural deposit in the earth. "Underground excavations," when used in referring to the underground excavations of a coal mine, includes the abandoned underground excavations of such mine. It also includes the underground excavations of an abandoned coal mine if such abandoned mine is connected with underground excavations of a coal mine. "Coal mine" does not mean or include:

(1) A mine in which coal is extracted from its natural deposit in the earth by strip or open pit mining methods or by other methods by which individuals are not required to go underground in connection with the extraction of coal from its natural deposit in the earth;

(2) A mine in which not more than fourteen individuals are regularly employed underground.

~~(H)~~(H) "Operator," when used in referring to the operator of a coal mine, means a person who engages in the work of developing such mine for use in extracting coal from its natural deposit in the earth, or who so uses such

mine, and who owns the right to do so.

~~(J)~~(I) "Boundary," when used in referring to the boundary of a coal mine, means the boundary of the underground excavations of such mine as shown on the maps of such mine on file in the division ~~of mines and reclamation~~ as required by sections 1563.03 to 1563.05; and ~~section~~ 1571.03 of the Revised Code.

~~(K)~~(J) "Mine protective area" or "mine's protective area" means the area of land ~~which~~ that the operator of a coal mine designates and shows as such on the map or maps of such coal mine filed with the division as required by sections 1563.03 to 1563.05; and ~~section~~ 1571.03 of the Revised Code. Such area of land shall be outside of the boundary of such coal mine, but some part of the boundary of such area of land shall abut upon a part of the boundary of such coal mine. Such area of land shall be comprised of such tracts of land in which such coal mine operator owns the right to extract coal therefrom by underground mining methods and in which underground excavations of such coal mine are likely to be made within the ensuing year for use in connection with the extraction of coal therefrom.

~~(L)~~(K) "Pillar" means a solid block of coal or other material left unmined to support the overlying strata in a coal mine, or to protect a well.

~~(M)~~(L) "Retreat mining" means the removal of pillars and ribs and stumps and other coal remaining in a section of a coal mine after the development mining has been completed in such section.

~~(N)~~(M) "Linear feet," when used to indicate distance between two points ~~which~~ that are not in the same plane, means the length in feet of the shortest horizontal line ~~which~~ that connects two lines projected vertically upward or downward from ~~said~~ the two points.

~~(O)~~(N) "Map" means a graphic representation of the location and size of the existing or proposed items it is made to represent, accurately drawn according to a given scale.

~~(P)~~(O) "Well" means any hole, drilled or bored, or being drilled or bored, into the earth, whether for the purpose of, or whether used for:

(1) Producing or extracting any gas or liquid mineral, or natural or artificial brines, or oil field waters;

(2) Injecting gas into or removing gas from an underground gas storage reservoir;

(3) Introducing water or other liquid pressure into an oil bearing sand to recover oil contained in such sand; provided, that "well" does not mean a hole drilled or bored, or being drilled or bored, into the earth, whether for the purpose of, or whether used for, producing or extracting potable water to be used as such.

~~(Q)~~(P) "Testing" means injecting gas into, or storing gas in or removing gas from, a gas storage reservoir for the sole purpose of determining whether such reservoir is suitable for use as a gas storage reservoir.

~~(R)~~(Q) "Casing" means a string or strings of pipe commonly placed in a well.

~~(S)~~(R) "Inactivate" means to shut off temporarily all flow of gas from a well at a point below the horizon of the coal mine ~~which~~ that might be affected by such flow of gas, by means of a plug or other suitable device or by injecting water, bentonite, or some other equally nonporous material into the well, or any other method approved by the ~~oil and gas well~~ mineral resources inspector.

~~(T)~~(S) "Gas storage well inspector" means the gas storage well inspector in the division.

~~(U)~~(T) The verb "open" or the noun "opening," when used in clauses relating to the time when a coal mine operator intends to open a new coal mine, or the time when a new coal mine is opened, or the time of the opening of a new coal mine, or when used in other similar clauses to convey like meanings, means that time and condition in the initial development of a new coal mine when the second opening required by section 1563.14 of the Revised Code is completed in such mine.

Sec. 1571.02. (A) Any reservoir operator who, on September 9, 1957, is injecting gas into, storing gas in, or removing gas from a reservoir shall within sixty days after such date file with the division of ~~mines and reclamation~~ mineral resources management a map thereof as described in division (C) of this section; provided that, if a reservoir operator is, on September 9, 1957, injecting gas into or storing gas in a reservoir solely for testing, ~~he~~ the reservoir operator shall at once file such map with the division of ~~mines and reclamation~~.

(B) If the injection of gas into or storage of gas in a gas storage reservoir is begun after September 9, 1957, the operator of such reservoir shall file with the division of ~~mines and reclamation and the division of oil and gas of the department of natural resources~~ identical maps a map thereof as described in division (C) of this section, on the same day and not less than three months prior to beginning such injection or storage.

(C) Each map filed with the division of ~~mines and reclamation and the division of oil and gas~~ pursuant to this section shall be prepared by a registered surveyor, registered engineer, or competent geologist. It shall show both of the following:

(1) The location of the boundary of such reservoir and the boundary of such reservoir's protective area, and the known fixed monuments, corner

stones, or other permanent markers in such boundary lines;

(2) The boundary lines of the counties, townships, and sections or lots, ~~which that~~ are within the limits of such map, and the name of each such county and township and the number of each such section or lot clearly indicated thereon. The legend of the map shall indicate the stratum or strata in which the gas storage reservoir is located.

The location of the boundary of the gas storage reservoir as shown on the map shall be defined by the location of those wells around the periphery of such reservoir ~~which that~~ had no gas production when drilled into the storage stratum of such reservoir, provided that, if the operator of such reservoir, upon taking into consideration the number and nature of such wells, the geological and production knowledge of the storage stratum, its character, permeability, and distribution, and operating experience, determines that the location of the boundary of such reservoir should be differently defined, ~~he~~ the reservoir operator may, on such map, show the boundary of such reservoir to be located at a location different than the location defined by the location of those wells around the periphery of such reservoir ~~which that~~ had no gas production when drilled into ~~said~~ the storage stratum.

Whenever the operator of a gas storage reservoir determines that the location of the boundary of such reservoir as shown on the most recent ~~maps~~ map thereof on file in the division of ~~mines and reclamation and the division of oil and gas~~ pursuant to this section is incorrect, ~~he~~ the reservoir operator shall file with ~~each~~ the division ~~identical an~~ an amended ~~maps~~ map showing the boundary of such reservoir to be located at the location ~~which he~~ that the reservoir operator then considers to be correct.

(D) Each operator of a gas storage reservoir who files with the division of ~~mines and reclamation and the division of oil and gas~~ a map as required by this section shall, at the end of each six-month period following the date of such filing, file with ~~each~~ the division ~~identical an~~ an amended ~~maps~~ map showing changes, if any, in the boundary line of such reservoir or of such reservoir's protective area, ~~which that~~ have occurred in the six-month period. Nothing in this division shall be construed to require such a reservoir operator to file an amended map at the end of any such six-month period if no such boundary changes have occurred in such period.

An operator of a gas storage reservoir who is required by this section to file an amended ~~maps~~ map with the division of ~~mines and reclamation and division of oil and gas~~ shall not be required to so file such an amended ~~maps~~ map after such time when ~~he~~ the reservoir operator files with ~~each~~ the division ~~maps~~ a map pertaining to such reservoir, as provided in section

1571.04 of the Revised Code.

~~(E) A reservoir operator shall file with the division of oil and gas, within sixty days after March 17, 1989, a map identical to any map then on file with the division of mines and reclamation.~~

~~(F) The division of oil and gas shall keep all maps filed with it pursuant to this section and section 1571.04 of the Revised Code in a safe place and shall not allow the maps to be open to public inspection or be removed from its office. The division shall not furnish copies of the maps to any person and shall maintain the confidentiality of the maps, except to the extent the chief of the division determines to be reasonably necessary to explain denial of a request for expedited review of a permit application under section 1509.06 of the Revised Code.~~

Sec. 1571.03. (A) Every operator of a coal mine who is required by sections 1563.03 to 1563.05 of the Revised Code, to file maps of such mine, shall cause to be shown on each of such maps, in addition to the boundary lines of each tract under which excavations are likely to be made during the ensuing year, as referred to in section 1563.03 of the Revised Code:

(1) The boundary of such coal mine in accordance with the meaning of the term "boundary" when used in referring to the boundary of a coal mine, and the term "coal mine" as those terms are defined in section 1571.01 of the Revised Code;

(2) The boundary of the mine protective area of such mine. ~~The provisions of this~~

~~This~~ division ~~of this section~~ shall not be construed to amend or repeal any provisions of sections 1563.03 to 1563.05 of the Revised Code, either by implication or otherwise.

~~The provisions of this~~ This division ~~are~~ is intended only to add to existing statutory requirements pertaining to the filing of coal mine maps with the division of ~~mines and reclamation~~ mineral resources management, the requirements established in this division ~~contained~~.

(B) Every operator of a coal mine who believes that any part of the boundary of such mine is within two thousand linear feet of a well ~~which~~ that is drilled through the horizon of such coal mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall at once send notice to that effect by registered mail to the operator of such reservoir and to the division.

(C) Every operator of a coal mine who expects that any part of the boundary of such mine will, on a date after September 9, 1957, be extended beyond its location on such date to a point within two thousand linear feet of a well ~~which~~ that is drilled through the horizon of such mine and into or

through the stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall send at least nine months' notice of such date and of the location of such well by registered mail to the operator of such reservoir and to the division. If at the end of three years after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir as the date upon which part of the boundary of such coal mine is expected to be extended to a point within two thousand linear feet of such well, no part of such coal mine is so extended, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as ~~he~~ the reservoir operator is required to do in such cases as provided in section 1571.05 of the Revised Code. Such mine operator shall in no event be liable to such reservoir operator:

(1) For expenses of plugging or reconditioning such well incurred prior to receipt by such reservoir operator from such mine operator of a notice as provided for in this division;

(2) For any expenses of plugging or reconditioning such well if any part of the work of plugging or reconditioning was commenced prior to receipt by such reservoir operator from such mine operator of a notice as provided for in this division.

(D) If a person intends to open a new coal mine after September 9, 1957, and if at the time of its opening any part of the boundary of such mine will be within two thousand linear feet of a well ~~which~~ that is drilled through the horizon of such mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, such person shall send by registered mail to the operator of such storage reservoir and to the division at least nine months' notice of the date upon which ~~he~~ the person intends to open such mine, and of the location of such well. If at the end of nine months after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir and to the division, as the date upon which such coal mine operator intends to open such new mine, such new mine is not opened, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as ~~he~~ the reservoir operator is required to do in such cases as provided in section 1571.05 of the Revised Code; ~~provided:~~

(1) That such mine operator may, prior to the end of nine months after the date stated in such mine operator's notice to such reservoir operator and the division as the date upon which ~~he~~ the mine operator intended to open

such new mine, notify such reservoir operator and the division in writing by registered mail, that the opening of such new mine will be delayed beyond the end of such nine-month period of time, and that ~~he~~ the mine operator requests that a conference be held as provided in section 1571.10 of the Revised Code for the purpose of endeavoring to reach an agreement establishing a date subsequent to the end of such nine-month period of time, on or before which such mine operator may open such new mine without being liable to pay such reservoir operator expenses incurred by such reservoir operator in plugging or reconditioning such well as in this division provided;

(2) That if such mine operator sends to such reservoir operator and to the division a notice and request for a conference as ~~in this sentence~~ provided in division (D)(1) of this section, such mine operator shall not be liable to pay such reservoir operator for expenses incurred by such reservoir operator in plugging and reconditioning such well, unless such mine operator fails to open such new mine within the period of time fixed by an approved agreement reached in such conference, or fixed by an order by the chief of the division of mineral resources management upon a hearing held in the matter in the event of failure to reach an approved agreement in the conference;

(3) That such mine operator shall in no event be liable to such reservoir operator:

(a) For expense of plugging or reconditioning such well incurred prior to the receipt by such reservoir operator from such mine operator of the notice of the date upon which such mine operator intends to open such new mine;

(b) For any expense of plugging or reconditioning such well if any part of the work of plugging or reconditioning was commenced prior to receipt by such reservoir operator from such mine operator of such notice.

Sec. 1571.04. (A) Upon the filing of each map or amended map with the division of ~~mines and reclamation~~ mineral resources management by operators of gas storage reservoirs as required by this chapter, and each coal mine map as required by sections 1563.03 to 1563.05 and division (A) of section 1571.03 of the Revised Code, the gas storage well inspector shall cause an examination to be made of all maps on file in the division as ~~he~~ the gas storage well inspector may deem necessary to ascertain whether any part of a reservoir protective area as shown on any such map is within ten thousand linear feet of any part of the boundary of a coal mine as shown on any such map. If, upon making that examination, the gas storage well inspector finds that any part of such a reservoir protective area is within ten

thousand linear feet of any part of the boundary of such a coal mine, ~~he~~ the gas storage well inspector shall promptly send by registered mail notice to that effect to the operator of the reservoir and to the operator of the coal mine.

(B) Within sixty days after receipt by an operator of a gas storage reservoir of a notice from the gas storage well inspector under division (A) of this section, such operator shall file on the same day with ~~both~~ the ~~division of mines and reclamation and the division of oil and gas of the department of natural resources identical maps~~ a map prepared by a registered surveyor, registered engineer, or competent geologist, which shall ~~include~~ do all of the following:

(1) Indicate the stratum or strata in which such gas storage reservoir is located;

(2) Show the location of the boundary of the reservoir and the boundary of its protective area, and the known fixed monuments, corner stones, or other permanent markers in such boundary lines;

(3) Show the boundary lines of the counties, townships, and sections or lots, ~~which~~ that are within the limits of such maps, and the name of each such county and township and the number of each such section or lot clearly indicated thereon;

(4) Show the location of all oil or gas wells known to the operator of such reservoir ~~which~~ that have been drilled within the boundary of the reservoir or within its protective area, and indicate which of such wells, if any, have been or are to be plugged or reconditioned for use in the operation of such reservoir.

The location of the boundary of the gas storage reservoir as shown on the maps shall be defined by the location of those wells around the periphery of the reservoir that had no gas production when drilled into the storage stratum of the reservoir, provided that, if the operator of the reservoir, upon taking into consideration the number and nature of such wells, the geological and production knowledge of the storage stratum, its character, permeability, and distribution, and operating experience, determines that the location of the boundary of the reservoir should be differently defined, ~~he~~ the reservoir operator may, on the maps, show the boundary of the reservoir to be located at a location different ~~than~~ from the location defined by the location of those wells around the periphery of the reservoir that had no gas production when drilled into the storage stratum.

(C) Any coal mine operator who receives from the gas storage well inspector a copy of a map as provided by division (E) of this section may request the gas storage well inspector to furnish ~~him~~ the coal mine operator

with:

- (1) The name of the original operator of any well shown on such map;
- (2) The date drilling of such well was completed;
- (3) The total depth of such well;
- (4) The depth at which oil or gas was encountered in such well if it was productive of oil or gas;
- (5) The initial rock pressure of such well;
- (6) A copy of the log of the driller of such well or other similar data;
- (7) The location of such well in respect to the property lines of the tract of land on which it is located;
- (8) A statement as to whether the well is inactive or active:
 - (a) If inactive, the date of plugging and other pertinent data;
 - (b) If active, whether it is being used for test purposes or storage purposes;
- (9) A statement of the maximum injection pressure contemplated by the operator of the reservoir shown on such map.

Upon receipt of such a request, the gas storage well inspector shall promptly furnish the coal mine operator the information requested. If the information is not ascertainable from the files in the division ~~of mines and reclamation~~, the gas storage well inspector shall request the reservoir operator to furnish the division ~~of mines and reclamation~~ with such information to the extent that ~~he~~ the reservoir operator has knowledge thereof. Upon receipt of such a request, the reservoir operator shall promptly furnish such information to the division ~~of mines and reclamation~~. Thereupon the gas storage well inspector shall promptly transmit such information to the mine operator who requested it.

Whenever the operator of a gas storage reservoir determines that the location of the boundary of the reservoir as shown on the most recent ~~maps~~ map thereof on file in the division ~~of mines and reclamation and the division of oil and gas~~ pursuant to this section is incorrect, ~~he~~ the reservoir operator shall file with ~~each~~ the division ~~identical~~ an amended ~~maps~~ map showing the boundary of the reservoir to be located at the location ~~which he~~ that the reservoir operator then considers to be correct.

(D) Each operator of a gas storage reservoir who files a map with the division ~~of mines and reclamation and the division of oil and gas~~ as required by this section shall, at the end of each six-month period following the date of such filing, file with ~~each~~ the division ~~identical~~ an amended ~~maps~~ map showing changes in the boundary line of the reservoir or of the reservoir's protective area that have occurred in the six-month period, and further showing or describing any other occurrences within that six-month

period that cause the most recent ~~maps map~~ on file and pertaining to the reservoir to no longer be correct. Nothing in this division shall be construed to require such a reservoir operator to file an amended map at the end of any such six-month period if no boundary changes or other occurrences have occurred in that period. The operator of the reservoir shall also file with the ~~division of mines and reclamation and the division of oil and gas~~, subsequent to the filing of ~~maps a map~~ as provided for in division (B) of this section, a statement whenever changing the maximum injection pressure is contemplated, stating for each affected well within the boundary of the reservoir or its protective area, the amount of change of injection pressure contemplated. The location or drilling of new wells or the abandonment or reconditioning of wells shall not be considered to be occurrences requiring the filing of an amended map or statement.

(E) Promptly upon the filing with the ~~division of mines and reclamation~~ of a map or an amended map pertaining to a gas storage reservoir under this section, the gas storage well inspector shall send by registered mail to the operator of the coal mine a part of the boundary of which is within ten thousand linear feet of any part of the boundary of the reservoir or of the outside boundary of the reservoir's protective area, notice of the filing together with a copy of the map.

(F) When the operator of a gas storage reservoir files with the ~~division of mines and reclamation and the division of oil and gas~~ ~~maps a map~~ or ~~an~~ amended ~~maps map~~ under this section, ~~he~~ the reservoir operator shall file as many copies of the ~~maps map~~ as ~~each~~ the division may require for its files and as are needed for sending a copy to each coal mine operator under division (E) of this section.

~~(G) A reservoir operator shall file with the division of oil and gas, within sixty days after March 17, 1989, a map identical to any map then on file with the division of mines and reclamation.~~

Sec. 1571.05. (A) Whenever any part of a gas storage reservoir or any part of its protective area underlies any part of a coal mine, or is, or within nine months is expected or intended to be, within two thousand linear feet of the boundary of a coal mine ~~which~~ that is operating in a coal seam any part of which extends over any part of ~~said~~ the storage reservoir or its protective area, the operator of such reservoir, if ~~he~~ the reservoir operator or some other reservoir operator has not theretofore done so, shall:

(1) Use every known method ~~which~~ that is reasonable under the circumstance for discovering and locating all wells drilled within the area of such reservoir or its protective area ~~which~~ that underlie any part of such coal mine or its protective area;

(2) Plug or recondition all known wells drilled within the area of such reservoir or its protective area ~~which~~ that underlie any part of such coal mine.

(B) Whenever an operator of a gas storage reservoir is notified by the operator of a coal mine, as provided in division (B) of section 1571.03 of the Revised Code, that such coal mine operator believes that part of the boundary of such mine is within two thousand linear feet of a well ~~which~~ that is drilled through the horizon of such coal mine and into or through the storage stratum or strata of such reservoir within the boundary of such reservoir or within its protective area, such reservoir operator shall plug or recondition such well as in this section prescribed, unless it is agreed in a conference or is ordered by the chief of the division of ~~mines and reclamation~~ mineral resources management after a hearing, as provided in section 1571.10 of the Revised Code, that the well referred to in the notice is not such a well as is described in division (B) of section 1571.03 of the Revised Code.

Whenever an operator of a gas storage reservoir is notified by the operator of a coal mine as provided in division (C) or (D) of section 1571.03 of the Revised Code, that part of the boundary of such mine is, or within nine months is intended or expected to be, within two thousand linear feet of a well ~~which~~ that is drilled through the horizon of such mine and into or through the storage stratum or strata of such reservoir within the boundary of such reservoir or within its protective area, such reservoir operator shall plug or recondition such well as in this section prescribed.

Whenever the operator of a coal mine considers that the use of a well such as in this section described, if used for injecting gas into, or storing gas in, or removing gas from, a gas storage reservoir, would be hazardous to the safety of persons or property on or in the vicinity of the premises of such coal mine or such reservoir or well, ~~he~~ the coal mine operator may file with the division of ~~mines and reclamation~~ objections to the use of such well for such purposes, and a request that a conference be held as provided in section 1571.10 of the Revised Code, to discuss and endeavor to resolve by mutual agreement whether or not such well shall or shall not be used for such purposes, and whether or not such well shall be reconditioned, inactivated, or plugged. Such request shall set forth the mine operator's reasons for such objections. If no approved agreement is reached in such conference, the gas storage well inspector shall within ten days after the termination of such conference, file with the chief a request that ~~he~~ the chief hear and determine the matters considered at the conference as provided in section 1571.10 of the Revised Code. Upon conclusion of the hearing, the chief shall find and

determine whether or not the safety of persons or of the property on or in the vicinity of the premises of such coal mine, or such reservoir, or such well requires that such well be reconditioned, inactivated, or plugged, and shall make an order consistent with such determination, provided that the chief shall not order a well plugged unless ~~he~~ the chief first finds that there is underground leakage of gas therefrom.

The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator as provided in division (B) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed within such time as the gas storage well inspector may fix in the case of each such well. The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator as provided in division (C) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed by the time such well, by reason of the extension of the boundary of such coal mine, is within two thousand linear feet of any part of the boundary of such mine. The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator, as provided in division (D) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed by the time such well by reason of the opening of such new mine, is within two thousand linear feet of any part of the boundary of such new mine. A reservoir operator who is required to complete the plugging or reconditioning of a well within a period of time fixed as in this ~~paragraph~~ division prescribed, may prior to the end of such period of time, notify the division and the mine operator from whom ~~he~~ the reservoir operator received a notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in writing by registered mail, that the completion of the plugging or reconditioning of the well referred to in such notice will be delayed beyond the end of the period of time fixed therefor as in this section provided, and that ~~he~~ the reservoir operator requests that a conference be held for the purpose of endeavoring to reach an agreement establishing a date subsequent to the end of such period of time, on or before which such reservoir operator may complete such plugging or reconditioning without incurring any penalties for failure to do so as provided in this chapter. If such a reservoir operator sends to such a mine operator and to the division a notice and request for a conference as in this ~~paragraph~~ division provided, such reservoir operator shall not incur any penalties for failure to complete the plugging or reconditioning of such well within the period of time fixed as in this ~~paragraph~~ division prescribed, unless such reservoir operator fails to complete the plugging or

conditioning of such well within the period of time fixed by an approved agreement reached in such conference, or fixed by an order by the chief upon a hearing held in the matter in the event of failure to reach an approved agreement in the conference.

Whenever, in compliance with this division, a well is to be plugged by a reservoir operator, such operator shall give to the division notice thereof, as many days in advance as will be necessary for the gas storage well inspector or a deputy mine inspector to be present at such plugging. Such notification shall be made on blanks furnished by the division and shall show the following information:

- (1) Name and address of the applicant;
- (2) The location of the well identified by section or lot number, city or village, and township and county;
- (3) The well name and number of each well to be plugged.

(C) The operator shall give written notice at the same time to the owner of the land upon which the well is located, the owners or agents of the adjoining land, and adjoining well owners or agents of ~~his~~ the operator's intention to abandon the well, and of the time when ~~he~~ the operator will be prepared to commence plugging and filling the same. In addition to giving such notices, such reservoir operator shall also at the same time send a copy of such notice by registered mail to the coal mine operator, if any, who sent to ~~said~~ the reservoir operator the notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in order that such coal mine operator or ~~his~~ the coal mine operator's designated representative ~~whom he may designate as such~~, may attend and observe the manner in which such plugging of such well is done.

If ~~said~~ the reservoir operator plugs such well without an inspector from the division being present to supervise the plugging, ~~said~~ the reservoir operator shall send to the division and to the coal mine operator a copy of the report of the plugging of such well, including in such report:

- (1) The date of abandonment;
- (2) The name of the owner or operator of such well at the time of abandonment and ~~his~~ the well owner's or operator's post office address;
- (3) The location of such well as to township and county and the name of the owner of the surface upon which such well is drilled, with the address thereof;
- (4) The date of the permit to drill;
- (5) The date when drilled;
- (6) Whether such well has been mapped;
- (7) The depth of the well;

(8) The depth of the top of the sand to which the well was drilled;

(9) The depth of each seam of coal drilled through;

(10) A detailed report as to how such well was plugged, giving in particular the manner in which the coal and various sands were plugged, and the date of the plugging of such well, including therein the names of those who witnessed the plugging of the well.

Such report shall be signed by the operator or ~~his~~ the operator's agent who plugged such well and verified by the oath of the party so signing. For the purposes of this section, a deputy mine inspector may take acknowledgements and administer oaths to the parties signing such report.

Whenever, in compliance with this division, a well is to be reconditioned by a reservoir operator, such operator shall give to the division notice thereof as many days before such reconditioning is begun as will be necessary for the gas storage well inspector, or a deputy mine inspector, to be present at such reconditioning. No well shall be reconditioned if an inspector of the division is not present unless permission to do so has been granted by the chief. The reservoir operator, at the time of giving notice to the division as in this section required, also shall send a copy of such notice by registered mail to the coal mine operator, if any, who sent to the reservoir operator the notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in order that such coal mine operator or ~~his~~ the coal mine operator's designated representative ~~whom he may designate as such~~, may attend and observe the manner in which such reconditioning of such well is done.

If ~~said~~ the reservoir operator reconditions such well when no inspector of the division is present to supervise the reconditioning, the reservoir operator shall make written report to the division describing the manner in which such reconditioning was done, and shall send to the coal mine operator a copy of such report by registered mail.

(D) Wells ~~which~~ that are required by this section to be plugged shall be plugged in the manner specified in sections 1509.13 to 1509.19 of the Revised Code, and the operator shall give the notifications and reports required by divisions (B) and (C) of this section. No such well shall be plugged or abandoned without the written approval of the division, and no such well shall be mudded, plugged, or abandoned without the gas storage well inspector or a deputy mine inspector present unless written permission has been granted by the chief ~~of the division~~ or the gas storage well inspector. ~~For the purposes of this section, the chief of the division of mines and reclamation has the authority given the chief of the division of oil and gas in sections 1509.15 and 1509.17 of the Revised Code.~~ If such a well has

been plugged prior to the time plugging thereof is required by this section, and, on the basis of the data, information, and other evidence available it is determined that such plugging was done in the manner required by this section, or was done in accordance with statutes prescribing the manner of plugging wells in effect at the time such plugging was done, and that there is no evidence of leakage of gas from such well either at or below the surface, and that such plugging is sufficiently effective to prevent the leakage of gas from such well, the obligations imposed upon such reservoir operator by this section as to plugging ~~said~~ the well, shall be considered fully satisfied. The operator of a coal mine any part of the boundary of which is, or within nine months is expected or intended to be, within two thousand linear feet of such well, may at any time raise a question as to whether the plugging of such well is sufficiently effective to prevent the leakage of gas therefrom, and the issue so made shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(E) Wells ~~which~~ that are to be reconditioned as required by this section shall be, or shall be made to be:

(1) Cased in accordance with ~~the provisions of~~ the statutes of ~~Ohio~~ this state in effect at the time such wells were drilled, with such casing being, or made to be, sufficiently effective in that there is no evidence of any leakage of gas therefrom;

(2) Equipped with a producing string and well head composed of new pipe, or pipe as good as new, and fittings designed to operate with safety and to contain the stored gas at maximum pressures contemplated.

When a well ~~which~~ that is to be reconditioned as required by this section, has been reconditioned for use in the operation of such reservoir prior to the time prescribed in this section, and on the basis of the data, information, and other evidence available it is determined that at the time such well was so reconditioned the requirements prescribed in this division were met, and that there is no evidence of underground leakage of gas from such well, and that such reconditioning is sufficiently effective to prevent underground leakage from ~~said~~ the well, the obligations imposed upon such reservoir operator by this section as to reconditioning such well shall be considered fully satisfied. Any operator of a coal mine any part of the boundary of which is, or within nine months is expected or intended to be, within two thousand linear feet of such well, may at any time raise a question as to whether the reconditioning of such well is sufficiently effective to prevent underground leakage of gas therefrom, and the issue so made shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

If the gas storage well inspector at any time finds that a well ~~which that~~ is drilled through the horizon of a coal mine and into or through the storage stratum or strata of a reservoir within the boundary of such reservoir or within its protective area, is located within the boundary of such coal mine or within two thousand linear feet of such mine boundary, and was drilled prior to the time ~~Ohio the~~ statutes of this state required that wells be cased, and that such well fails to meet the casing and equipping requirements prescribed in this division ~~of this section~~, the gas storage well inspector shall promptly notify the operator of such reservoir thereof in writing, and such reservoir operator upon receipt of such notice, shall promptly recondition such well in the manner prescribed in this division for reconditioning wells, unless, in a conference or hearing as provided in section 1571.10 of the Revised Code, a different course of action is agreed upon or ordered.

(F)(1) When a well within the boundary of a gas storage reservoir or within such reservoir's protective area penetrates the storage stratum or strata of such reservoir, but does not penetrate the coal seam within the boundary of a coal mine, the gas storage well inspector may, upon application of the operator of such storage reservoir, exempt such well from the requirements of this section. Either party affected by such action of the gas storage well inspector may request a conference and hearing with respect to such exemption.

(2) When a well located within the boundary of a storage reservoir or a reservoir's protective area is a producing well in a stratum above or below the storage stratum, the obligations imposed by this section shall not begin until such well ceases to be a producing well.

(G) When retreat mining reaches a point in a coal mine when the operator of such mine expects that within ninety days retreat work will be at the location of a pillar surrounding an active storage reservoir well, the operator of such mine shall promptly send by registered mail notice to that effect to the operator of such reservoir. Thereupon the operators may by agreement determine whether it is necessary or advisable to temporarily inactivate the well. If inactivated, the well shall not be reactivated until a reasonable period of time has elapsed, such period of time to be determined by agreement by the operators. In the event that the parties cannot agree upon either of the foregoing matters, such question shall be submitted to the gas storage well inspector for a conference in accordance with section 1571.10 of the Revised Code.

(H)(1) The provisions of this section that require the plugging or reconditioning of wells shall not apply to such wells as are used to inject gas into, store gas in, or remove gas from, a gas storage reservoir when the sole

purpose of such injection, storage, or removal, is "testing." The operator of a gas storage reservoir who injects gas into, stores gas in, or removes gas from, a reservoir for the sole purpose of testing, shall be subject to all other provisions of this chapter that are applicable to operators of reservoirs.

(2) If the injection of gas into, or storage of gas in, a gas storage reservoir any part of which, or of the protective area of which, is within the boundary of a coal mine, is begun after September 9, 1957, and if such injection or storage of gas is for the sole purpose of testing, the operator of such reservoir shall send by registered mail to the operator of such coal mine and to the division at least sixty days' notice of the date upon which such testing will be begun.

If at any time within the period of time during which testing of a reservoir is in progress, any part of such reservoir or of its protective area comes within any part of the boundary of a coal mine, the operator of such reservoir shall promptly send notice to that effect by registered mail to the operator of such mine and to the division.

(3) Any coal mine operator who receives a notice as provided for in ~~this~~ division (H)(2) of this section, may within thirty days of the receipt thereof, file with the division objections to such testing. The gas storage well inspector also may, within the time within which a coal mine operator may file such objection, place in the files of the division objections to such testing. The reservoir operator shall comply throughout the period of the testing operations with all conditions and requirements agreed upon and approved in the conference on such objections conducted as provided in section 1571.10 of the Revised Code, or in an order made by the chief following a hearing in the matter as provided in section 1571.10 of the Revised Code. If in complying with such agreement or order either the reservoir operator or the coal mine operator encounters or discovers conditions ~~which that~~ were not known to exist at the time of such conference or hearing and ~~which that~~ materially affect such agreement or order, or the ability of the reservoir operator to comply therewith, either operator may apply for a rehearing or modification of ~~said~~ the order.

(I) In addition to complying with all other provisions of this chapter and any lawful orders issued thereunder, the operator of each gas storage reservoir shall keep all wells drilled into or through the storage stratum or strata within the boundary of ~~his~~ the operator's reservoir or within ~~his~~ the reservoir's protective area in such condition, and operate the same in such manner, as to prevent the escape of gas therefrom into any coal mine, and shall operate and maintain such storage reservoir and its facilities in such manner and at such pressures as will prevent gas from escaping from such

reservoir or its facilities into any coal mine.

Sec. 1571.06. (A) Distances between boundaries of gas storage reservoirs, reservoir protective areas, coal mines, coal mine protective areas, and wells, as shown on the most recent maps of storage reservoirs and of coal mines filed with the division of ~~mines and reclamation~~ mineral resources management as required by this chapter and sections 1563.03 to 1563.05 of the Revised Code, may be accepted and relied upon as being accurate and correct, by operators of coal mines and operators of reservoirs. Data, statements, and reports filed with the division as required by this chapter and sections 1563.03 to 1563.05 of the Revised Code may be likewise accepted and relied upon. However, the gas storage well inspector or any reservoir operator or coal mine operator, or any other person having a direct interest in the matter, may at any time question the accuracy or correctness of any map, data, statement, or report so filed, with the division by notifying the division thereof in writing. Such notice shall state the reasons why the question is raised. When any such notice is so filed, the gas storage well inspector shall proceed promptly to hold a conference on the question thus raised, as provided in section 1571.10 of the Revised Code.

(B) If, in any proceeding under this chapter, the accuracy or correctness of any map, data, statement, or report, filed by any person pursuant to the requirements of this chapter is in question, the person so filing the same shall have the burden of proving the accuracy or correctness thereof.

(C) The operator of a gas storage reservoir shall, at all reasonable times, be permitted to inspect the premises and facilities of any coal mine any part of the boundary of which is within any part of the boundary of such gas storage reservoir or within its protective area, and the operator of a coal mine shall, at all reasonable times, be permitted to inspect the premises and facilities of any gas storage reservoir any part of the boundary of which or any part of the protective area of which is within the boundary of such coal mine. In the event that either such reservoir operator or such coal mine operator denies permission to make any such inspection, the chief of the division of ~~mines and reclamation~~ mineral resources management on ~~his~~ the chief's own motion, or on an application by the operator desiring to make such inspection, upon a hearing thereon if requested by either operator, after reasonable notice of such hearing, may make an order providing for such inspection.

Sec. 1571.08. (A) Whenever in this chapter, the method or material to be used in discharging any obligations imposed by this chapter is specified, an alternative method or material may be used if approved by the gas storage well inspector or the chief of the division of ~~mines and reclamation~~

mineral resources management. A person desiring to use such alternative method or material shall file with the division of ~~mines and reclamation~~ mineral resources management an application for permission to do so. Such application shall describe such alternative method or material in reasonable detail. The gas storage well inspector shall promptly send by registered mail notice of the filing of such application to any coal mine operator or reservoir operator whose mine or reservoir may be directly affected thereby. Any such coal mine operator or reservoir operator may within ten days following receipt of such notice, file with the division objections to such application. The gas storage well inspector may also file with the division an objection to such application at any time during which coal mine operators or reservoir operators are permitted to file objections. If no objections are filed within ~~said~~ the ten-day period of time, the gas storage well inspector shall thereupon issue a permit approving the use of such alternative method or material. If any such objections are filed by any coal mine operator or reservoir operator, or by the gas storage well inspector, the question as to whether or not the use of such alternative method or material, or a modification thereof is approved, shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(B) Whenever in this chapter, provision is made for the filing of objections with the division, such objections shall be in writing and shall state as definitely as is reasonably possible the reasons for such objections. Upon the filing of any such objection the gas storage well inspector shall promptly fix the time and place for holding a conference for the purpose of discussing and endeavoring to resolve by mutual agreement the issue raised by such objection. The gas storage well inspector shall send written notice thereof by registered mail to each person having a direct interest therein. Thereupon the issue made by such objection shall be determined by a conference or hearing in accordance with the procedures for conferences and hearings as provided in section 1571.10 of the Revised Code.

Sec. 1571.09. (A) The chief of the division of ~~mines and reclamation~~ mineral resources management or any officer or employee of the division thereunto duly authorized by the chief may investigate, inspect, or examine records and facilities of any coal mine operator or reservoir operator, for the purpose of determining the accuracy or correctness of any map, data, statement, report, or other item or article, filed with or otherwise received by the division pursuant to this chapter. When a material question is raised by any reservoir operator or coal mine operator as to the accuracy or correctness of any such map, data, statement, report, or other item or article, which may directly affect ~~him~~ the reservoir operator or coal mine operator,

the matter shall be determined by a conference or hearing as provided in section 1571.10 of the Revised Code.

(B) The division of ~~mines and reclamation~~ mineral resources management shall keep all maps, data, statements, reports, well logs, notices, or other items or articles filed with or otherwise received by it pursuant to ~~the provisions of~~ this chapter in a safe place and conveniently accessible to persons entitled to examine them. It shall maintain indexes of all such items and articles so that any of them may be promptly located. None of such items or articles shall be open to public inspection, but: (1) any of such items or articles pertaining to a mine may be examined by: the operator, owner, lessee, or agent of such mine; persons financially interested in such mine; owners of land adjoining such mine; the operator, owner, lessee, or agent of a mine adjoining such mine; authorized representatives of the persons employed to work in such mine; the operator of a gas storage reservoir any part of the boundary of which or of the boundary of its protective area is within ten thousand linear feet of the boundary of such mine, or the agent of such reservoir operator thereunto authorized by such reservoir operator; or any employee of the division of geological survey ~~of~~ in the state department of Ohio natural resources thereunto duly authorized by the chief of ~~said that~~ said that division; and (2) any of such items or articles pertaining to a gas storage reservoir may be examined by: the operator of such reservoir; the operator of a coal mine any part of the boundary of which is within ten thousand linear feet of the boundary of a gas storage reservoir or of the boundary of its protective area, or the agent of such mine operator thereunto authorized by such mine operator, or the authorized representatives of the persons employed to work in such mine; or any employee of the division of geological survey ~~of the state of Ohio~~ thereunto duly authorized by the chief of ~~said that~~ said that division. The division of ~~mines and reclamation~~ mineral resources management shall not permit any of such items or articles to be removed from its office, and it shall not furnish copies of any such items or articles to any person other than as provided in this chapter.

The division shall keep a docket of all proceedings arising under this chapter, in which shall be entered the dates of any notice received or issued, the names of all persons to whom it sends a notice, and the address of each, the dates of conferences and hearings, and all findings, determinations, decisions, rulings, and orders, or other actions by the division.

(C) Whenever any provision of this chapter requires the division to give notice to the operator of a coal mine of any proceeding to be held pursuant to ~~any provision of said sections~~ this chapter, the division shall

aneously give a copy of such notice to the authorized representatives of the persons employed to work in such mine.

Sec. 1571.10. (A) The gas storage well inspector or any person having a direct interest in the administration of this chapter may at any time file with the division of ~~mines and reclamation~~ mineral resources management a written request that a conference be held for the purpose of discussing and endeavoring to resolve by mutual agreement any question or issue relating to the administration of ~~said sections~~ this chapter, or to compliance with ~~their~~ its provisions, or to any violation thereof. Such request shall describe the matter concerning which the conference is requested. Thereupon the gas storage well inspector shall promptly fix the time and place for the holding of such conference and shall send written notice thereof to each person having a direct interest therein. At such conference the gas storage well inspector or a representative of the division designated by ~~him~~ the gas storage well inspector shall be in attendance, and shall preside at the conference, and ~~he~~ the gas storage well inspector or designated representative may make such recommendations as ~~he~~ the gas storage well inspector or designated representative deems proper. Any agreement reached at such conference shall be consistent with the requirements of this chapter and, if approved by the gas storage well inspector, it shall be reduced to writing and shall be effective. Any such agreement approved by the gas storage well inspector shall be kept on file in the division and a copy thereof shall be furnished to each of the persons having a direct interest therein. The conference shall be deemed terminated as of the date an approved agreement is reached or when any person having a direct interest therein refuses to confer thereafter. Such a conference shall be held in all cases prior to the holding of a hearing as provided in this section.

(B) Within ten days after the termination of a conference at which no approved agreement is reached, any person who participated in such conference and who has a direct interest in the subject matter thereof, or the gas storage well inspector, may file with the chief of the division of ~~mines and reclamation~~ mineral resources management a request that ~~he~~ the chief hear and determine the matter or matters, or any part thereof considered at the conference. Thereupon the chief shall promptly fix the time and place for the holding of such hearing and shall send written notice thereof to each person having a direct interest therein. The form of the request for such hearing and the conduct of the hearing shall be in accordance with ~~regulations which~~ rules that the chief adopts ~~and promulgates as provided in~~ division (C) of this under section 1571.11 of the Revised Code Consistent with the requirement for reasonable notice each such hearing shall be held

promptly after the filing of the request therefor. Any person having a direct interest in the matter to be heard shall be entitled to appear and be heard in person or by attorney. The division may present at such hearing any evidence ~~which that~~ is material to the matter being heard and ~~which that~~ has come to the division's attention in any investigation or inspection made pursuant to ~~provisions of~~ this chapter.

(C) For the purpose of conducting such a hearing the chief may require the attendance of witnesses and the production of books, records, and papers, and ~~he the chief~~ may, and at the request of any person having a direct interest in the matter being heard, ~~he the chief~~ shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the ~~sheriff~~ sheriffs of the counties where such witnesses are found, which subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. Such fee and mileage expenses shall be paid in advance by the persons at whose request they are incurred, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which ~~he the witness~~ may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the chief, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and the chief may administer oaths or affirmations to persons who so testify.

(D) With the consent of the chief, the testimony of any witness may be taken by deposition at the instance of a party to any hearing before the chief at any time after hearing has been formally commenced. The chief may, of ~~his the chief's~~ own motion, order testimony to be taken by deposition at any stage in any hearing, proceeding, or investigation pending before ~~him the~~ chief. Such deposition shall be taken in the manner prescribed by the laws of ~~Ohio this state~~ for taking depositions in civil cases in courts of record.

(E) After the conclusion of a hearing the chief shall make a determination and finding of facts. Every adjudication, determination, or finding by the chief shall be made by written order and shall contain a written finding by the chief of the facts upon which the adjudication, determination, or finding is based. Notice of the making of such order shall

be given to the persons whose rights, duties, or privileges are affected thereby, by sending a certified copy thereof by registered mail to each of such persons.

Adjudications, determinations, findings, and orders made by the chief shall not be governed by, or be subject to, ~~sections 119.01 to 119.13~~ Chapter 119, of the Revised Code.

Sec. 1571.11. The chief of the division of ~~mines and reclamation~~ mineral resources management shall adopt ~~regulations~~ rules governing administrative procedures to be followed in the administration of this chapter, which shall be of general application in all matters and to all persons affected by this chapter.

No ~~regulation~~ rule adopted by ~~said the~~ chief pursuant to this section shall be effective until the tenth day after ~~it has been promulgated by the filing of~~ a certified copy thereof has been filed in the office of the secretary of state.

All ~~regulations~~ rules filed in the office of the secretary of state pursuant to this section shall be recorded by the secretary of state under a heading entitled "Regulations relating to the storage of gas in underground gas storage reservoirs"; and shall be numbered consecutively under such heading and shall bear the date of filing. Such ~~regulations~~ rules shall be public records open to public inspection.

No ~~regulation~~ rule filed in the office of the secretary of state pursuant to this section shall be amended except by a ~~regulation which~~ rule that contains the entire ~~regulation~~ rule as amended and ~~which that~~ repeals the ~~regulation~~ rule amended. Each ~~regulation which~~ rule that amends a ~~regulation~~ rule shall bear the same consecutive ~~regulation~~ rule number as the number of the ~~regulation which~~ rule that it amends, and it shall bear the date of filing.

No ~~regulation~~ rule filed in the office of the secretary of state pursuant to this section shall be repealed except by a ~~regulation~~ rule. Each ~~regulation which~~ rule that repeals a ~~regulation~~ rule shall bear the same consecutive ~~regulation~~ rule number as the number of the ~~regulation which~~ rule that it repeals, and it shall bear the date of filing.

The authority and the duty of the chief to adopt ~~and promulgate~~ regulations rules as provided in this section shall not be governed by, or be subject to ~~sections 119.01 to 119.13~~ Chapter 119, of the Revised Code.

The chief shall have available at all times copies of all ~~regulations~~ rules adopted ~~and promulgated~~ pursuant to this section, and shall furnish same free of charge to any person requesting same.

Sec. 1571.14. Any person claiming to be aggrieved or adversely affected by an order of the chief of the division of ~~mines and reclamation~~

mineral resources management made as provided in section 1571.10 or 1571.16 of the Revised Code may appeal to the director of natural resources for an order vacating or modifying such order. Upon receipt of the appeal, the director shall appoint an individual who has knowledge of the laws and rules regarding the underground storage of gas and who shall act as a hearing officer in accordance with Chapter 119. of the Revised Code in hearing the appeal.

The person appealing to the director shall be known as appellant and the chief shall be known as appellee. The appellant and the appellee shall be deemed parties to the appeal.

The appeal shall be in writing and shall set forth the order complained of and the grounds upon which the appeal is based. The appeal shall be filed with the director within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of, as required by section 1571.10 of the Revised Code. Notice of the filing of such appeal shall be delivered by appellant to the chief within three days after the appeal is filed with the director.

Within seven days after receipt of the notice of appeal the chief shall prepare and certify to the director at the expense of appellant a complete transcript of the proceedings out of which the appeal arises, including a ~~transcript~~ transcript of the testimony submitted to the chief.

Upon the filing of the appeal the director shall fix the time and place at which the hearing on the appeal will be held, and shall give appellant and the chief at least ten days' written notice thereof by mail. The director may postpone or continue any hearing upon ~~his~~ the director's own motion or upon application of appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the director may suspend or stay such execution pending determination of the appeal upon such terms as ~~he~~ the director deems proper.

The hearing officer appointed by the director shall hear the appeal de novo, and either party to the appeal may submit such evidence as the hearing officer deems admissible.

For the purpose of conducting a hearing on an appeal, the hearing officer may require the attendance of witnesses and the production of books, records, and papers, and may, and at the request of any party shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the ~~sheriff~~ sheriffs of the counties where such witnesses are found, which subpoenas shall be served

and returned in the same manner as subpoenas in criminal cases are served and returned. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. Such fee and mileage expenses incurred at the request of appellant shall be paid in advance by appellant, and the remainder of such expenses shall be paid out of funds appropriated for the expenses of the division of ~~mines and reclamation~~ mineral resources management.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which ~~he~~ the witness may be lawfully interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the director, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Witnesses at such hearings shall testify under oath, and the hearing officer may administer oaths or affirmations to persons who so testify.

At the request of any party to the appeal, a stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter at the expense of the party making the request therefor. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The hearing officer shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the ruling of the hearing officer thereon, and if the hearing officer refuses to admit evidence, the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

If upon completion of the hearing the hearing officer finds that the order appealed from was lawful and reasonable, ~~he~~ the hearing officer shall make a written order affirming the order appealed from. If the hearing officer finds that such order was unreasonable or unlawful, ~~he~~ the hearing officer shall make a written order vacating the order appealed from and making the order ~~which~~ that it finds the chief should have made. Every order made by the hearing officer shall contain a written finding by ~~him~~ the hearing officer of the facts upon which the order is based. Notice of the making of such order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by registered mail.

Sec. 1571.16. (A) The gas storage well inspector or any person having a direct interest in the subject matter of this chapter may file with the division of ~~mines and reclamation~~ mineral resources management a complaint in writing stating that a person is violating, or is about to violate, a provision or

provisions of ~~those sections~~ this chapter, or has done, or is about to do, an act, matter, or thing therein prohibited or declared to be unlawful, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform a duty enjoined upon ~~him~~ the person by this chapter. Upon the filing of such a complaint, the chief of the division of ~~mines and reclamation~~ mineral resources management shall promptly fix the time for the holding of a hearing on such complaint and shall send by registered mail to the person so complained of, a copy of such complaint together with at least five days' notice of the time and place at which such hearing will be held. Such notice of such hearing shall also be given to all persons having a direct interest in the matters complained of in such complaint. Such hearing shall be conducted in the same manner, and the chief and persons having a direct interest in the matter being heard, shall have the same powers, rights, and duties as provided in divisions (B), (C), (D), and (E) of section 1571.10 of the Revised Code, in connection with hearings by the chief; provided that if after conclusion of the hearing the chief finds that the charges against the person complained of, as stated in such complaint, have not been sustained by a preponderance of evidence, ~~he~~ the chief shall make an order dismissing the complaint, and if the chief finds that the charges have been so sustained, ~~he~~ the chief shall by appropriate order require compliance with those ~~sections~~ provisions.

(B) Whenever the chief is of the opinion that any person is violating, or is about to violate, any provision of this chapter, or has done, or is about to do, any act, matter, or thing therein prohibited or declared to be unlawful, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform any duty enjoined upon ~~him~~ the person by this chapter, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to obey any lawful requirement or order made by the chief, or any final judgment, order, or decree made by any court pursuant to this chapter, then and in every such case, the chief may institute in a court of competent jurisdiction of the county or counties wherein the operation is situated, an action to enjoin or restrain such violations or to enforce obedience with law or the orders of the chief. No injunction bond shall be required to be filed in any such proceeding. Such persons or corporations as the court may deem necessary or proper to be joined as parties in order to make its judgment, order, or writ effective may be joined as parties. An appeal may be taken as in other civil actions.

(C) In addition to the other remedies as provided in divisions (A) and (B) of this section, any reservoir operator or coal mine operator affected by this chapter may proceed by injunction or other appropriate remedy to

restrain violations or threatened violations of this chapter or of orders of the chief, or of the hearing officer appointed under section 1571.14 of the Revised Code, or the judgments, orders, or decrees of any court or to enforce obedience therewith.

(D) Each remedy prescribed in divisions (A), (B), and (C) of this section is deemed concurrent or contemporaneous with each other remedy prescribed therein, and the existence or exercise of any one such remedy shall not prevent the exercise of any other such remedy.

(E) The provisions of this chapter providing for conferences, hearings by the chief, appeals to the hearing officer from orders of the chief, and appeals to the court of common pleas from orders of the hearing officer, and the remedies prescribed in divisions (A), (B), (C), and (D) of this section, do not constitute the exclusive procedure ~~which that~~ a person, who deems ~~his~~ the person's rights to be unlawfully affected by any official action taken thereunder, must pursue in order to protect and preserve such rights, nor does this chapter constitute a procedure ~~which that~~ such a person must pursue before ~~he~~ the person may lawfully proceed by other actions, legal or equitable, to protect and preserve such rights.

Sec. 1571.99. Any person who ~~shall willfully violate~~ purposely violates any order of the chief of the division of ~~mines and reclamation~~ mineral resources management, of a hearing officer appointed by the director of natural resources under section 1571.14 of the Revised Code, or of the director, made pursuant to this chapter shall be punished by a fine not exceeding two thousand dollars, or imprisoned in jail for a period not exceeding twelve months, or both, in the discretion of the court.

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer and shall be:

- (1) Seven cents per ton of coal;
- (2) Four cents per ton of salt;
- (3) Two cents per ton of limestone or dolomite;
- (4) Two cents per ton of sand and gravel;
- (5) Ten cents per barrel of oil;
- (6) Two and one-half cents per thousand cubic feet of natural gas;
- (7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite.

(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 reclamation ~~supplemental~~ forfeiture 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~~ at any time during a fiscal year, the chief of the division of ~~mines and reclamation~~ mineral resources management 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 remainder of 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 reclamation ~~supplemental~~ forfeiture fund.

Fifteen per cent of the moneys received by the treasurer of state from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund and the remainder shall be credited to the unreclaimed lands fund.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining ~~administration~~ fund created in section ~~1514.11~~ 1514.06 of the Revised Code.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining ~~administration~~ fund.

(C) For the purpose of paying the state's expenses for reclaiming mined lands that the operator failed to reclaim under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code, or under a surface

mining permit issued under Chapter 1514. of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (D) of this section. The tax shall be imposed at the rate of one cent per ton of coal. Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation ~~supplemental~~ forfeiture fund created in ~~division (B)~~ of section 1513.18 of the Revised Code.

(D) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim in accordance with Chapter 1513. of the Revised Code under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981, for which the operator's bond is not sufficient to pay the state's expense for reclamation and paying the expenses for administering the state's coal mining and reclamation regulatory program, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (C) of this section. The tax shall be imposed at the rate of one cent per ton of coal as prescribed in this division. Moneys received by the treasurer of state from the tax levied by this division shall be credited to the reclamation ~~supplemental~~ forfeiture fund created in ~~division (B)~~ of section 1513.18 of the Revised Code.

When, at the close of any fiscal year, the chief finds that the balance of the reclamation ~~supplemental~~ forfeiture fund, plus estimated transfers to it from the coal mining and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by this division for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of such lands, the purposes for which the tax under this division is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax shall cease to be imposed after the last day of that calendar year.

(E) On the day fixed for the payment of the severance taxes required to be paid by this section, the taxes with any penalties or interest on them shall become a lien on all property of the taxpayer in this state whether the property is employed by the taxpayer in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of creditors or stockholders. The lien shall continue until the taxes and any penalties or

interest thereon are paid.

Upon failure of the taxpayer to pay a tax on the day fixed for payment, the tax commissioner may file, for which no filing fee shall be charged, in the office of the county recorder in each county in this state in which the taxpayer owns or has a beneficial interest in real estate, notice of the lien containing a brief description of the real estate. The lien shall not be valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time the notice is filed in the county in which the real estate that is the subject of the mortgage, purchase, or judgment lien is located. The notice shall be recorded in a book kept by the recorder called the "severance tax lien record" and indexed under the name of the taxpayer charged with the tax. When the tax has been paid, the tax commissioner shall furnish to the taxpayer an acknowledgement of payment, which the taxpayer may record with the recorder of each county in which notice of the lien has been filed.

Sec. 6111.044. Upon receipt of an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit, the director of environmental protection shall determine whether the application is complete and demonstrates that the activities for which the permit, renewal permit, or modification is requested will comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it. If the application demonstrates that the proposed activities will not comply or will pose an unreasonable risk of inducing seismic activity, inducing geologic fracturing, or contamination of an underground source of drinking water, the director shall deny the application. If the application does not make the required demonstrations, the director shall return it to the applicant with an indication of those matters about which a required demonstration was not made. If the director determines that the application makes the required demonstrations, the director shall transmit copies of the application and all of the accompanying maps, data, samples, and information to the chief of the division of ~~oil and gas~~ mineral resources management, the chief of the division of geological survey, and the chief of the division of water; ~~and, if the well is or is to be located in a coal-bearing township, the chief of the division of mines and reclamation~~ in the department of natural resources.

The chief of the division of geological survey shall comment upon the application if the chief determines that the proposed well or injection will

present an unreasonable risk of loss or damage to valuable mineral resources. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the geological factors upon which the comments are based, including fractures, faults, earthquake potential, and the porosity and permeability of the injection zone and confining zone, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation of geologic factors and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of ~~oil and gas~~ mineral resources management shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk that waste or contamination of recoverable oil or gas in the earth will occur. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the oil or gas reserves that, in the best professional judgment of the chief, are recoverable and will be adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of water shall assist the director in determining whether all underground sources of drinking water in the area of review of the proposed well or injection have been identified and correctly delineated in the application. If the application fails to identify or correctly delineate an underground source of drinking water, the chief shall provide written notice of that fact to the director.

The chief of the division of ~~mines and reclamation~~ mineral resources management also shall review the application as follows:

If the application concerns the drilling or conversion of a well or the injection into a well that is not or is not to be located within five thousand feet of the excavation and workings of a mine, the chief of the division of ~~mines and reclamation~~ mineral resources management shall note upon the application that it has been examined by the division of ~~mines and reclamation~~ mineral resources management, retain a copy of the application

and map, and immediately return a copy of the application to the director.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet, but more than five hundred feet from the surface excavations and workings of a mine, the chief of the division of ~~mines and reclamation~~ mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. The chief of the division of ~~mines and reclamation~~ mineral resources management shall note on the application that the notice has been sent to the owner or lessee of the mine, retain a copy of the application and map, and immediately return a copy of the application to the director with the chief's notation on it.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet of the underground excavations and workings of a mine or within five hundred feet of the surface excavations and workings of a mine, the chief of the division of ~~mines and reclamation~~ mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. If the owner or lessee objects to the application, the owner or lessee shall notify the chief of the division of ~~mines and reclamation~~ mineral resources management of the objection, giving the reasons, within six days after the receipt of the notice. If the chief of the division of ~~mines and reclamation~~ mineral resources management receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief of the division of ~~mines and reclamation~~ mineral resources management the objections offered by the owner or lessee are not sufficiently well-founded, the chief shall retain a copy of the application and map and return a copy of the application to the director with any applicable notes concerning it.

If the chief of the division of ~~mines and reclamation~~ mineral resources management receives an objection from the owner or lessee of the mine as to the application, within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well-founded, the chief shall disapprove the application and immediately return it to the director together with the chief's reasons for the disapproval. The director promptly shall notify the applicant for the permit, renewal permit, or modification of the disapproval. The applicant may appeal the disapproval

of the application by the chief of the division of ~~mines and reclamation~~ mineral resources management to the mine examining board created under section 1561.10 of the Revised Code, and the board shall hear the appeal in accordance with section 1561.53 of the Revised Code. The appeal shall be filed within thirty days from the date the applicant receives notice of the disapproval. No comments concerning or disapproval of an application shall be delayed by the chief of the division of ~~mines and reclamation~~ mineral resources management for more than fifteen days from the date of sending of notice to the mine owner or lessee as required by this section.

The director shall not approve an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit for a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or flammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of ~~mines and reclamation~~ mineral resources management determines that life or property will not be endangered by drilling and operating the well in that location.

Upon review by the chief of the division of ~~oil and gas~~ mineral resources management, the chief of the division of geological survey, and the chief of the division of water, and if the chief of the division of ~~mines and reclamation~~ mineral resources management has not disapproved the application, the director shall issue a permit, renewal permit, or modification with any terms and conditions that may be necessary to comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations adopted under it; and this chapter and the rules adopted under it. The director shall not issue a permit, renewal permit, or modification to an applicant if the applicant or persons associated with the applicant have engaged in or are engaging in a substantial violation of this chapter that is endangering or may endanger human health or the environment or if, in the case of an applicant for an injection well drilling permit, the applicant, at the time of applying for the permit, did not hold an injection well operating permit or renewal of an injection well drilling permit and failed to demonstrate sufficient expertise and competency to operate the well in compliance with the applicable provisions of this chapter.

If the director receives a disapproval from the chief of the division of

~~mines and reclamation~~ mineral resources management regarding an application for an injection well drilling or operating permit, renewal permit, or modification, if required, the director shall issue an order denying the application.

The director need not issue a proposed action under section 3745.07 of the Revised Code or hold an adjudication hearing under that section and Chapter 119. of the Revised Code before issuing or denying a permit, renewal permit, or modification of a permit or renewal permit. Before issuing or renewing a permit to drill or operate a class I injection well or a modification of it, the director shall propose the permit, renewal permit, or modification in draft form and shall hold a public hearing to receive public comment on the draft permit, renewal permit, or modification. At least fifteen days before the public hearing on a draft permit, renewal permit, or modification, the director shall publish notice of the date, time, and location of the public hearing in at least one newspaper of general circulation serving the area where the well is or is to be located. The proposing of such a draft permit, renewal permit, or modification does not constitute the issuance of a proposed action under section 3745.07 of the Revised Code, and the holding of the public hearing on such a draft permit, renewal permit, or modification does not constitute the holding of an adjudication hearing under that section and Chapter 119. of the Revised Code. Appeals of orders other than orders of the chief of the division of ~~mines and reclamation~~ mineral resources management shall be taken under sections 3745.04 to 3745.08 of the Revised Code.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease after determining that those activities are occurring in violation of law, rule, order, or term or condition of the permit. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing and shall remain suspended until the violation is corrected and the order of suspension is lifted. If a violation is the second within a one-year period, the director, after a hearing, may revoke the permit.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease if the director has reasonable cause to believe that the permit would not have been issued if the information available at the time of suspension had been available at the time a determination was made by one of the agencies acting under authority of this section. Upon service

of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing, but a permit may not be suspended for that reason without prior hearing unless immediate suspension is necessary to prevent waste or contamination of oil or gas, comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it, or prevent damage to valuable mineral resources, prevent contamination of an underground source of drinking water, or prevent danger to human life or health. If after a hearing the director determines that the permit would not have been issued if the information available at the time of the hearing had been available at the time a determination was made by one of the agencies acting under authority of this section, the director shall revoke the permit.

When a permit has been revoked, the permit holder or other person responsible for it immediately shall plug the well in the manner required by the director.

The director may issue orders to prevent or require cessation of violations of this section, section 6111.043, 6111.045, 6111.046, or 6111.047 of the Revised Code, rules adopted under any of those sections, and terms or conditions of permits issued under any of them. The orders may require the elimination of conditions caused by the violation.

Sec. 6121.04. The Ohio water development authority may do any or all of the following:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(B) Adopt an official seal;

(C) Maintain a principal office and suboffices at places within the state that it designates;

(D) Sue and plead in its own name and be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located or in the court of common pleas of the county in which the cause of action arose, provided that the county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the

principal office with the person in charge thereof or with the secretary-treasurer of the authority.

(E) Make loans and grants to governmental agencies for the acquisition or construction of water development projects by any such governmental agency and adopt rules and procedures for making such loans and grants;

(F) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, or lease or rent to, or contract for operation by, a governmental agency or person, water development projects, and establish rules for the use of those projects;

(G) Make available the use or services of any water development project to one or more persons, one or more governmental agencies, or any combination thereof;

(H) Issue water development revenue bonds and notes and water development revenue refunding bonds of the state, payable solely from revenues as provided in section 6121.06 of the Revised Code, unless the bonds are refunded by refunding bonds, for the purpose of paying any part of the cost of one or more water development projects or parts thereof;

(I) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

(J) Acquire, in the name of the state, by purchase or otherwise, on terms and in the manner that it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6121.18 of the Revised Code, public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests that it considers necessary for carrying out this chapter, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or governmental agency, and compensation shall be paid for public or private lands so taken, except that a government-owned waste water facility may be appropriated in accordance with section 6121.041 of the Revised Code;

(K) Adopt rules to protect augmented flow in waters of the state, to the extent augmented by a water development project, from depletion so it will be available for beneficial use, and to provide standards for the withdrawal from waters of the state of the augmented flow created by a water development project that is not returned to the waters of the state so augmented and to establish reasonable charges therefor if considered necessary by the authority;

(L) Make and enter into all contracts and agreements and execute all

instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter in accordance with the following requirements:

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than ten thousand dollars, the authority shall make a written contract with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisement for not less than two consecutive weeks in a newspaper of general circulation in Franklin county, and in other publications that the authority determines, which shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids, provided that a contract or lease for the operation of a water development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a water development project pursuant to section 6121.13 of the Revised Code or any contract for the construction of a water development project that is to be leased by the authority to, and operated by, persons who are not governmental agencies and the cost of the project is to be amortized exclusively from rentals or other charges paid to the authority by persons who are not governmental agencies is not subject to the foregoing requirements and the authority may enter into such a contract or lease or such an agreement pursuant to negotiation and upon terms and conditions and for the period that it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of the project.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and shall meet the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract except as provided in division (L)(2) of this section shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted, a contract will be entered into and the performance thereof secured.

(4) The authority may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the authority, shall be required of every contractor awarded a contract except as provided in division (L)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the

contract.

(M) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and other consultants and independent contractors that are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of water development revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for that purpose by the general assembly.

(N) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any water development project or for research and development with respect to waste water or water management facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

(O) Engage in research and development with respect to waste water or water management facilities;

(P) Purchase fire and extended coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its water development revenue bonds or in any trust agreement securing the same;

(Q) Charge, alter, and collect rentals and other charges for the use or services of any water development project as provided in section 6121.13 of the Revised Code;

(R) Provide coverage for its employees under sections 145.01 to 145.58 and Chapters 4123. and 4141. of the Revised Code;

(S) Assist in the implementation and administration of the drinking water assistance fund and program created in section 6109.22 of the Revised Code and the water pollution control loan fund and program created in section 6111.036 of the Revised Code, including, without limitation, performing or providing fiscal management for the funds and investing and disbursing moneys in the funds, and enter into all necessary and appropriate agreements with the director of environmental protection for those purposes;

(T) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the water pollution control loan fund created in section

6111.036 of the Revised Code, including moneys to meet the requirement for providing matching moneys under division (D) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6111.036 of the Revised Code.

(U) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the drinking water assistance fund created in section 6109.22 of the Revised Code, including moneys to meet the requirement for providing matching moneys under divisions (B) and (F) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6109.22 of the Revised Code.

(V) Make loans to and enter into agreements with boards of county commissioners for the purposes of section ~~1507.071~~ 1521.26 of the Revised Code and adopt rules establishing requirements and procedures for making the loans and entering into the agreements;

(W) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

SECTION 2. That existing sections 121.04, 124.24, 127.16, 317.08, 1501.01, 1501.022, 1505.10, 1507.02, 1507.03, 1507.04, 1507.05, 1507.06, 1507.07, 1507.071, 1507.08, 1507.09, 1507.10, 1507.11, 1509.01, 1509.02, 1509.03, 1509.04, 1509.05, 1509.06, 1509.061, 1509.07, 1509.071, 1509.072, 1509.08, 1509.09, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, 1509.18, 1509.21, 1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23, 1509.24, 1509.25, 1509.26, 1509.27, 1509.28, 1509.29, 1509.31, 1509.32, 1509.33, 1509.36, 1509.38, 1509.39, 1509.40, 1510.01, 1510.08, 1513.01, 1513.02, 1513.03, 1513.07, 1513.072, 1513.073, 1513.08, 1513.09, 1513.11, 1513.13, 1513.15, 1513.16, 1513.161, 1513.17, 1513.18, 1513.181, 1513.20, 1513.21, 1513.22, 1513.23, 1513.24, 1513.25, 1513.26, 1513.27, 1513.28, 1513.29, 1513.30, 1513.31, 1513.32, 1513.33, 1513.34, 1513.35, 1513.36, 1513.37, 1513.39, 1513.40, 1513.41, 1514.02, 1514.021, 1514.03, 1514.04, 1514.05, 1514.06, 1514.07, 1514.08, 1514.10, 1514.11, 1521.01, 1521.03, 1521.99, 1561.01,

1561.02, 1561.03, 1561.04, 1561.05, 1561.06, 1561.07, 1561.10, 1561.13, 1561.26, 1561.27, 1561.28, 1561.31, 1561.32, 1561.33, 1561.34, 1561.35, 1561.351, 1561.36, 1561.37, 1561.38, 1561.45, 1561.47, 1561.48, 1561.49, 1561.50, 1561.51, 1561.53, 1561.54, 1561.99, 1563.04, 1563.05, 1563.06, 1563.11, 1563.111, 1563.12, 1563.13, 1563.17, 1563.20, 1563.24, 1563.26, 1563.33, 1563.34, 1563.35, 1563.37, 1563.40, 1563.41, 1563.42, 1563.43, 1563.46, 1565.05, 1565.06, 1565.07, 1565.08, 1565.11, 1565.12, 1565.15, 1567.02, 1567.08, 1567.09, 1567.10, 1567.11, 1567.13, 1567.17, 1567.18, 1567.19, 1567.23, 1567.34, 1567.35, 1567.39, 1567.45, 1567.52, 1567.54, 1567.55, 1567.57, 1567.61, 1567.69, 1567.70, 1567.71, 1567.73, 1567.74, 1567.78, 1571.01, 1571.02, 1571.03, 1571.04, 1571.05, 1571.06, 1571.08, 1571.09, 1571.10, 1571.11, 1571.14, 1571.16, 1571.99, 5749.02, 6111.044, and 6121.04 and section 1507.99 of the Revised Code are hereby repealed.

SECTION 3. That Section 72 of Am. Sub. H.B. 283 of the 123rd General Assembly be amended to read as follows:

" Sec. 72. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF 725-401	Wildlife - GRF Central Support	\$	1,221,229	\$	1,268,315
GRF 725-404	Fountain Square Rental Payments - OBA	\$	1,087,000	\$	1,093,000
GRF 725-408	Reclamation and Mining	\$	2,406,020	\$	2,408,999
GRF 725-412	Reclamation Commission	\$	66,475	\$	68,165
GRF 725-413	OPFC Rental Payments	\$	15,660,000	\$	12,750,000
GRF 725-415	Mine Examining Board	\$	121,083	\$	123,963
GRF 725-423	Stream and Ground Water Gauging	\$	422,863	\$	459,387
GRF 725-425	Wildlife License Reimbursement	\$	1,000,000	\$	1,000,000
GRF 725-456	Canal Lands	\$	414,783	\$	423,203
GRF 725-502	Soil and Water Districts	\$	11,414,494	\$	12,140,831
GRF 725-507	Conservation Reserve Enhancement Program	\$	2,000,000	\$	2,000,000
			<u>1,900,400</u>		<u>1,920,400</u>
GRF 727-321	Division of Forestry	\$	10,203,524	\$	10,081,427
GRF 728-321	Division of Geological Survey	\$	2,164,135	\$	2,270,778
GRF 729-321	Computer Information Services & Communications	\$	1,172,567	\$	1,214,464
GRF 730-321	Division of Parks and Recreation	\$	35,255,224	\$	34,951,655
GRF 733-321	Division of Water	\$	3,944,652	\$	3,998,080
GRF 734-321	Division of Oil and Gas	\$	725,366	\$	1,614,957
					<u>0</u>

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GRF 736-321	Division of Chief Engineer	\$	4,371,204	\$	3,773,672
GRF 737-321	Division of Soil and Water	\$	4,092,866	\$	4,382,166
			<u>4,192,466</u>		<u>4,461,766</u>
GRF 738-321	Office of Real Estate and Land Management	\$	3,099,898	\$	2,650,457
GRF 741-321	Division of Natural Areas	\$	3,415,305	\$	3,396,390
GRF 743-321	Division of Civilian Conservation	\$	5,100,636	\$	5,225,382
<u>GRF 744-321</u>	<u>Division of Mineral Resources Management</u>	\$	<u>0</u>	\$	<u>4,216,084</u>
TOTAL GRF	General Revenue Fund	\$	109,359,324	\$	107,295,291
General Services Fund Group					
155 725-601	Departmental Projects	\$	1,491,770	\$	1,468,051
157 725-651	Central Support Indirect	\$	7,302,432	\$	7,273,923
158 725-604	Natural Resources Publication Center Intrastate	\$	79,170	\$	80,154
161 725-635	Parks Facilities Maintenance	\$	2,666,395	\$	2,737,935
162 725-625	CCC Operations	\$	2,261,993	\$	2,156,861
204 725-687	Information Services	\$	2,217,392	\$	2,145,631
206 725-689	REALM Support Services	\$	447,811	\$	473,152
207 725-690	Real Estate	\$	53,924	\$	55,320
4D5 725-618	Recycled Materials	\$	103,429	\$	106,272
4S9 725-622	NatureWorks Personnel	\$	687,136	\$	690,700
4X8 725-662	Water Planning Council	\$	262,900	\$	269,700
430 725-671	Canal Lands	\$	1,029,302	\$	998,044
5F9 725-663	Flood Reimbursement	\$	99,109	\$	0
508 725-684	Natural Resources Publication Center Interstate	\$	393,166	\$	361,877
510 725-631	Maintenance - state-owned residences	\$	230,669	\$	220,771
516 725-620	Water Management	\$	2,407,372	\$	2,404,055
519 725-623	Burr Oak Water Plant	\$	1,149,523	\$	1,750,680
635 725-664	Fountain Square Facilities Management	\$	2,595,957	\$	2,699,355
697 725-670	Submerged Lands	\$	547,762	\$	567,920
TOTAL GSF	General Services Fund Group	\$	26,027,212	\$	26,460,401
Federal Special Revenue Fund Group					
3B3 725-640	Federal Forest Pass-Thru	\$	55,000	\$	55,000
3B4 725-641	Federal Flood Pass-Thru	\$	185,000	\$	190,000
3B5 725-645	Federal Abandoned Mine Lands	\$	7,418,833	\$	7,630,403
3B6 725-653	Federal Land and Water Conservation	\$	130,000	\$	120,000
3B7 725-654	Reclamation-Regulatory	\$	2,214,846	\$	2,265,932
3P0 725-630	Natural Areas and Preserves-Federal	\$	262,400	\$	185,000
3P1 725-632	Geological Survey-Federal	\$	350,000	\$	350,000
3P2 725-642	Oil and Gas-Federal	\$	223,700	\$	111,850
3P3 725-650	Real Estate and Land Management-Federal	\$	2,857,755	\$	3,185,120
3P4 725-660	Water-Federal	\$	180,000	\$	180,000
3R5 725-673	Acid Mine Drainage	\$	600,000	\$	600,000

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		Abatement/Treatment			
328	725-603	Forestry Federal	\$	1,017,600	\$ 1,017,600
332	725-669	Federal Mine Safety Grant	\$	133,095	\$ 137,056
TOTAL FED Federal Special Revenue					
Fund Group			\$	15,628,229	\$ 16,027,961
State Special Revenue Fund Group					
4B8	725-617	Forestry Development	\$	25,000	\$ 25,000
4J2	725-628	Injection Well Review	\$	68,428	\$ 54,440
4M7	725-631	Wildfire Suppression	\$	100,000	\$ 100,000
4U6	725-668	Scenic Rivers Protection	\$	261,307	\$ 268,431
5B3	725-674	Mining Regulation	\$	49,757	\$ 49,805
509	725-602	State Forest	\$	1,520,379	\$ 1,440,326
511	725-646	Ohio Geologic Mapping	\$	839,340	\$ 763,717
512	725-605	State Parks Operations	\$	27,150,223	\$ 27,048,732
514	725-606	Lake Erie Shoreline	\$	828,311	\$ 729,492
518	725-643	Oil and Gas Permit Fees	\$	3,118,829	\$ 2,378,496
518	725-677	Oil and Gas Well Plugging	\$	800,000	\$ 800,000
521	725-627	Off-Road Vehicle Trails	\$	62,036	\$ 63,790
522	725-656	Natural Areas Checkoff Funds	\$	745,301	\$ 766,169
525	725-608	Reclamation Forfeiture	\$	597,082	\$ 597,664
					<u>0</u>
526	725-610	Strip Mining Administration Fees	\$	1,956,599	\$ 2,006,000
					<u>2,356,000</u>
527	725-637	Surface Mining Administration	\$	1,964,078	\$ 2,016,050
					<u>2,107,001</u>
529	725-639	Unreclaimed Land Fund	\$	1,335,879	\$ 1,349,327
530	725-647	Surface Mining Reclamation	\$	76,725	\$ 78,951
					<u>0</u>
531	725-648	Reclamation Supplemental Forfeiture	\$	1,352,208	\$ 1,389,401
					<u>1,987,065</u>
532	725-644	Litter Control and Recycling	\$	10,965,210	\$ 11,264,587
615	725-661	Dam Safety	\$	136,633	\$ 139,237
TOTAL SSR State Special Revenue					
Fund Group			\$	53,953,325	\$ <u>53,329,615</u>
					<u>53,691,615</u>
Wildlife Fund Group					
015	725-509	Fish/Wildlife Subsidy	\$	154,199	\$ 158,517
015	740-321	Division of Wildlife Conservation	\$	40,345,888	\$ 41,400,117
81A	725-612	Wildlife Education	\$	1,496,360	\$ 1,537,063
815	725-636	Cooperative Management Projects	\$	148,850	\$ 153,166
816	725-649	Wetlands Habitat	\$	897,663	\$ 922,997
817	725-655	Wildlife Conservation Checkoff Fund	\$	1,301,143	\$ 1,327,577
818	725-629	Cooperative Fisheries Research	\$	918,004	\$ 943,708
819	725-685	Ohio River Management	\$	119,302	\$ 122,748
TOTAL WLF Wildlife Fund Group			\$	45,381,409	\$ 46,565,893
Waterways Safety Fund Group					

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086	725-414	Waterways Improvement	\$	3,091,402	\$	3,091,035
086	725-416	Natural Areas Marine Patrol	\$	25,000	\$	25,000
086	725-417	Parks Marine Patrol	\$	25,000	\$	25,000
086	725-418	Buoy Placement	\$	39,298	\$	40,267
086	725-501	Waterway Safety Grants	\$	128,024	\$	131,609
086	725-506	Watercraft Marine Patrol	\$	359,800	\$	369,875
086	725-513	Watercraft Educational Grants	\$	128,500	\$	132,098
086	739-321	Division of Watercraft	\$	14,865,111	\$	15,142,223
880	725-614	Cooperative Boat Harbor Projects	\$	108,637	\$	111,679
TOTAL WSF Waterways Safety Fund Group			\$	18,770,772	\$	19,068,786
Holding Account Redistribution Fund Group						
R17	725-659	Performance Cash Bond Refunds	\$	265,000	\$	265,500
R29	725-607	Reclamation Fee Refund	\$	350,000	\$	350,000 0
R30	725-638	Surface Mining Reclamation Fees	\$	12,000	\$	12,000 0
R43	725-624	Forestry	\$	1,750,000	\$	1,750,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,377,000	\$	2,377,500 <u>2,015,500</u>
Accrued Leave Liability Fund Group						
4M8	725-675	FOP Contract	\$	17,551	\$	17,990
TOTAL ALF Accrued Leave Liability Fund Group			\$	17,551	\$	17,990
TOTAL ALL BUDGET FUND GROUPS			\$	271,514,822	\$	271,143,437"

SECTION 4. That existing Section 72 of Am. Sub. H.B. 283 of the 123rd General Assembly is hereby repealed.

SECTION 5.

Division of Mineral Resources Management Fund Consolidations

On July 1, 2000, or as soon thereafter as possible, the Director of Budget and Management shall transfer to appropriation item 744-321, division of Mineral Resources Management, any amounts that accrue as of June 30, 2000, from appropriation items 725-408, Reclamation and Mining, and 734-321, Division of Oil and Gas. The Director of Budget and Management shall cancel any remaining outstanding encumbrances against appropriation items 725-408 and 734-321, and reestablish them against appropriation item 744-321, Division of Mineral Resources Management.

On July 1, 2000, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balances of the Reclamation Forfeiture Fund (Fund 525) and the Reclamation Supplemental Forfeiture

Fund (Fund 531) as of June 30, 2000, and any amounts that accrue to those funds after that date, to the Reclamation Forfeiture Fund (Fund 531). The Director shall cancel any remaining outstanding encumbrances against appropriation items 725-608, Reclamation Forfeiture, and 725-648, Reclamation Supplemental Forfeiture, and reestablish them against appropriation number 725-648, Reclamation Forfeiture.

On July 1, 2000, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balances of the Surface Mining Reclamation Fund (Fund 530) and the Surface Mining Administration Fund (Fund 527) as of June 30, 2000, and any amounts that accrue to those funds after that date, to the Surface Mining Fund (Fund 527). The Director shall cancel any remaining outstanding encumbrances against appropriation items 725-647, Surface Mining Reclamation, and 725-637, Surface Mining Administration, and reestablish them against appropriation item 725-637, Surface Mining.

On July 1, 2000, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balances of the Reclamation Fee Refund Fund (Fund R29) to the Coal Mining Administration and Reclamation Reserve Fund (Fund 526).

On July 1, 2000, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balances of the Surface Mining Reclamation Fund (Fund R30) to the Surface Mining Fund (Fund 527).

SECTION 6. On the effective date of this section, all of the staff, records, files, and effects of the Division of Engineering in the Department of Natural Resources pertaining to the functions, powers, duties, and obligations of that Division under former sections 1507.02, 1507.03, 1507.04, 1507.05, 1507.06, 1507.07, 1507.071, 1507.08, 1507.09, 1507.10, 1507.11, and 1507.99 of the Revised Code shall be transferred and assigned to the Division of Water in the Department of Natural Resources for the purposes of sections 1521.20 to 1521.30 and 1521.99 of the Revised Code, as amended by this act. The Division of Water also shall assume custody and control of funds and other assets in the possession of the Division of Engineering that are appropriate and necessary to carry out the transferred functions, powers, duties, and obligations.

Any business or other matter undertaken or commenced by the Division of Engineering pertaining to or connected with the functions, powers, duties, and obligations hereby transferred or assigned and pending on the effective date of this act shall be conducted and completed by the Division of Water

in the same manner and under the same terms and conditions and with the same effect as if conducted by the Division of Engineering.

All powers of the Chief Engineer of the Division of Engineering transferred by this act shall be performed by the Chief of the Division of Water.

All criteria, acts, determinations, certifications, and decisions of the Division of Engineering pertaining to the functions transferred and assigned to the Division of Water at the time of the transfer and assignment shall continue in force as criteria, acts, determinations, certifications, and decisions of the Division of Water until duly modified or terminated by that Division.

Wherever the functions, powers, duties, and obligations of the Division of Engineering that are transferred and assigned by this act to the Division of Water are referred to or designated in any law, contract, or other document pertaining to those functions, powers, duties, and obligations, the reference or designation shall be deemed to refer to the Division of Water.

No existing right or remedy of any person shall be lost, impaired, or affected by reason of this act, except insofar as the rights and remedies shall be administered by the Division of Water instead of the Division of Engineering.

No action or proceeding pending on the effective date of this act brought by the Division of Engineering pertaining to the functions, powers, duties, and obligations that are transferred by this act shall be affected by any provision of this act, but may be prosecuted or defended in the name of the Division of Water. In all such actions and proceedings, the Division of Water, upon application to the court, shall be substituted as a party.

SECTION 7. Section 127.16 of the Revised Code is amended by this act and also by Am. Sub. H.B. 470 of the 123rd General Assembly (effective July 1, 2000). The amendments of Am. Sub. H.B. 470 are included in this act in lower case to confirm the intention to retain them, but are not intended to be effective until July 1, 2000.

SECTION 8. Section 121.04 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 215 and Am. Sub. S.B. 87 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. Section 1501.01 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 19 and Am. Sub. H.B. 283 of the 123rd General Assembly,

with the new language of neither of the acts shown in capital letters. Section 1513.17 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 2 and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 1561.26 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 162 and Am. Sub. S.B. 150 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 6121.04 of the Revised Code is presented in this act as a composite of the section as amended by both Sub H.B. 19 and Am S.B. 43 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such are the resulting versions in effect prior to the effective date of this act.

SECTION 9. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the merger of the Division of Oil and Gas with the Division of Mines and Reclamation is needed during the current fiscal year in order to facilitate efficiency in the operation of the Department of Natural Resources. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 601

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____