

I_134_1554-5

**134th General Assembly
Regular Session
2021-2022**

Sub. S. B. No. 279

A BILL

To amend sections 127.15, 173.03, 753.19, 1121.38, 1
1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 2
1571.05, 1571.08, 1571.10, 1571.14, 1571.15, 3
1571.16, 1707.02, 1707.04, 1707.042, 1707.091, 4
1707.11, 1707.43, 1733.16, 2941.401, 3111.23, 5
3301.05, 3302.04, 3310.521, 3313.41, 3313.818, 6
3314.21, 3319.081, 3319.11, 3319.16, 3319.291, 7
3319.311, 3321.13, 3321.21, 3704.03, 3734.02, 8
3734.021, 3734.575, 3746.09, 3752.11, 3772.031, 9
3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 10
3781.08, 3781.11, 3781.25, 3781.29, 3781.342, 11
3904.08, 4121.19, 4123.512, 4123.52, 4125.03, 12
4141.09, 4141.47, 4167.10, 4301.17, 4301.30, 13
4303.24, 4507.081, 4508.021, 4509.101, 4510.03, 14
4510.41, 4735.13, 4735.14, 5107.161, 5120.14, 15
5165.193, 5165.86, 5166.303, 5168.08, 5168.22, 16
5168.23, 5525.01, 5703.37, 5709.83, 5736.041, 17
and 5751.40; to enact sections 1509.031 and 18
3745.019; and to repeal section 5123.195 of the 19
Revised Code to modify the law governing data 20
storage and notifications issued by state 21
agencies. 22



fk6hldvhhgxuzcfqsyqnf

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

Section 1. That sections 127.15, 173.03, 753.19, 1121.38, 23
1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 1571.05, 1571.08, 24
1571.10, 1571.14, 1571.15, 1571.16, 1707.02, 1707.04, 1707.042, 25
1707.091, 1707.11, 1707.43, 1733.16, 2941.401, 3111.23, 3301.05, 26
3302.04, 3310.521, 3313.41, 3313.818, 3314.21, 3319.081, 27
3319.11, 3319.16, 3319.291, 3319.311, 3321.13, 3321.21, 3704.03, 28
3734.02, 3734.021, 3734.575, 3746.09, 3752.11, 3772.031, 29
3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 3781.08, 3781.11, 30
3781.25, 3781.29, 3781.342, 3904.08, 4121.19, 4123.512, 4123.52, 31
4125.03, 4141.09, 4141.47, 4167.10, 4301.17, 4301.30, 4303.24, 32
4507.081, 4508.021, 4509.101, 4510.03, 4510.41, 4735.13, 33
4735.14, 5107.161, 5120.14, 5165.193, 5165.86, 5166.303, 34
5168.08, 5168.22, 5168.23, 5525.01, 5703.37, 5709.83, 5736.041, 35
and 5751.40 be amended and sections 1509.031 and 3745.019 of the 36
Revised Code be enacted to read as follows: 37

Sec. 127.15. The controlling board may authorize any state 38
agency for which an appropriation is made, in any act making 39
appropriations for capital improvements, to expend the moneys 40
appropriated otherwise than in accordance with the items set 41
forth, and for such purpose may authorize transfers among items 42
or create new items and authorize transfers thereto, provided 43
that prior to such transfers the agency seeking the same shall 44
notify by mail or electronic mail the elected representatives to 45
the general assembly from the counties affected by such 46
transfers, stating the time and place of the hearing on the 47
proposed transfers thereto. Such transfers among items shall not 48
alter in total the appropriation to any state agency except as 49
otherwise provided by the general assembly. The board may not 50

authorize the transfer of a capital appropriation item of any 51
state agency for use by such agency for operating expenses, 52
except as otherwise provided by the general assembly. 53

Sec. 173.03. (A) There is hereby created the Ohio advisory 54
council for the aging, which shall consist of twelve members to 55
be appointed by the governor with the advice and consent of the 56
senate. Two ex officio members of the council shall be members 57
of the house of representatives appointed by the speaker of the 58
house of representatives and shall be members of two different 59
political parties. Two ex officio members of the council shall 60
be members of the senate appointed by the president of the 61
senate and shall be members of two different political parties. 62
The medicaid director and directors of mental health and 63
addiction services, developmental disabilities, health, and job 64
and family services, or their designees, shall serve as ex 65
officio members of the council. The council shall carry out its 66
role as defined under the "Older Americans Act of 1965," 79 67
Stat. 219, 42 U.S.C. 3001, as amended. 68

At the first meeting of the council, and annually 69
thereafter, the members shall select one of their members to 70
serve as chairperson and one of their members to serve as vice- 71
chairperson. The council may form a quorum and take votes at 72
meetings conducted by interactive electronic medium if 73
provisions are made for public attendance through the 74
interactive electronic meeting. 75

(B) Members of the council shall be appointed for a term 76
of three years, except that for the first appointment members of 77
the Ohio commission on aging who were serving on the commission 78
immediately prior to July 26, 1984, shall become members of the 79
council for the remainder of their unexpired terms. Thereafter, 80

appointment to the council shall be for a three-year term by the 81
governor. Each member shall hold office from the date of 82
appointment until the end of the term for which the member was 83
appointed. Any member appointed to fill a vacancy occurring 84
prior to the expiration of the term for which the member's 85
predecessor was appointed shall hold office for the remainder of 86
the term. No member shall continue in office subsequent to the 87
expiration date of the member's term unless reappointed under 88
the provisions of this section, and no member shall serve more 89
than three consecutive terms on the council. 90

(C) Membership of the council shall represent all areas of 91
Ohio and shall be as follows: 92

(1) A majority of members of the council shall have 93
attained the age of fifty and have a knowledge of and continuing 94
interest in the affairs and welfare of the older citizens of 95
Ohio. The fields of business, labor, health, law, and human 96
services shall be represented in the membership. 97

(2) No more than seven members shall be of the same 98
political party. 99

(D) Any member of the council may be removed from office 100
by the governor for neglect of duty, misconduct, or malfeasance 101
in office after being informed in writing of the charges and 102
afforded an opportunity for a hearing. Two consecutive unexcused 103
absences from regularly scheduled meetings constitute neglect of 104
duty. 105

(E) The director of aging may reimburse a member for 106
actual and necessary traveling and other expenses incurred in 107
the discharge of official duties. But reimbursement shall be 108
made in the manner and at rates that do not exceed those 109

prescribed by the director of budget and management for any 110
officer, member, or employee of, or consultant to, any state 111
agency. 112

(F) Council members are not limited as to the number of 113
terms they may serve. 114

(G) (1) The department of aging may award grants to or 115
enter into contracts with a member of the advisory council or an 116
entity that the member represents if any of the following apply: 117

(a) The department determines that the member or the 118
entity the member represents is capable of providing the goods 119
or services specified under the terms of the grant or contract. 120

(b) The member has not taken part in any discussion or 121
vote of the council related to whether the council should 122
recommend that the department of aging award the grant to or 123
enter into the contract with the member of the advisory council 124
or the entity that the member represents. 125

(2) A member of the advisory council is not in violation 126
of Chapter 102. or section 2921.42 of the Revised Code with 127
regard to receiving a grant or entering into a contract under 128
this section if the conditions of division (G) (1) (a) and (b) of 129
this section have been met. 130

Sec. 753.19. (A) If a person who was convicted of or 131
pleaded guilty to an offense or was indicted or otherwise 132
charged with the commission of an offense escapes from a jail or 133
workhouse of a municipal corporation or otherwise escapes from 134
the custody of a municipal corporation, the chief of police or 135
other chief law enforcement officer of that municipal 136
corporation immediately after the escape shall report the 137
escape, by telephone and in writing, to all local law 138

enforcement agencies with jurisdiction over the place where the 139
person escaped from custody, to the state highway patrol, to the 140
department of rehabilitation and correction if the escaped 141
person is a prisoner under the custody of the department who is 142
in the jail or workhouse, to the prosecuting attorney of the 143
county, and to a newspaper of general circulation in the 144
municipal corporation in a newspaper of general circulation in 145
each county in which part of the municipal corporation is 146
located. -The written notice may be by ~~either~~ facsimile 147
transmission, electronic mail, or mail. A failure to comply with 148
this requirement is a violation of section 2921.22 of the 149
Revised Code. 150

(B) Upon the apprehension of the escaped person, the chief 151
law enforcement officer shall give notice of the apprehension of 152
the escaped person by telephone and in writing to the persons 153
notified under division (A) of this section. 154

Sec. 1121.38. (A) (1) An administrative hearing provided 155
for in section 1121.32, 1121.33, 1121.35, or 1121.41 of the 156
Revised Code shall be held in the county in which the principal 157
place of business of the bank or trust company or residence of 158
the regulated person is located, unless the bank, trust company, 159
or regulated person requesting the hearing consents to another 160
place. Within ninety days after the hearing, the superintendent 161
of financial institutions shall render a decision, which shall 162
include findings of fact upon which the decision is predicated, 163
and shall issue and serve on the bank, trust company, or 164
regulated person the decision and an order consistent with the 165
decision. Judicial review of the order is exclusively as 166
provided in division (B) of this section. Unless a notice of 167
appeal is filed in a court of common pleas within thirty days 168
after service of the superintendent's order as provided in 169

division (B) of this section, and until the record of the 170
administrative hearing has been filed, the superintendent may, 171
at anytime, upon the notice and in the manner the superintendent 172
considers proper, modify, terminate, or set aside the 173
superintendent's order. After filing the record, the 174
superintendent may modify, terminate, or set aside the 175
superintendent's order with permission of the court. 176

(a) A hearing provided for in section 1121.32, 1121.35, or 177
1121.41 of the Revised Code shall be confidential, unless the 178
superintendent determines that holding an open hearing would be 179
in the public interest. Within twenty days after service of the 180
notice of a hearing, a respondent may file a written request for 181
a public hearing with the superintendent. A respondent's failure 182
to file such a request constitutes a waiver of any objections to 183
a confidential hearing. 184

(b) A hearing provided for in section 1121.33 of the 185
Revised Code shall be an open hearing. Within twenty days after 186
service of the notice of a hearing, a respondent may file a 187
written request for a confidential hearing with the 188
superintendent. If such a request is received by the 189
superintendent, the hearing shall be confidential unless the 190
superintendent determines that holding an open hearing would be 191
in the public interest. 192

(2) In the course of, or in connection with, an 193
administrative hearing governed by this section, the 194
superintendent, or a person designated by the superintendent to 195
conduct the hearing, may administer oaths and affirmations, take 196
or cause depositions to be taken, and issue, revoke, quash, or 197
modify subpoenas and subpoenas duces tecum. At any 198
administrative hearing required by section 1121.32, 1121.33, 199

1121.35, or 1121.41 of the Revised Code, the record of which may 200
be the basis of an appeal to court, a stenographic record of the 201
testimony and other evidence submitted shall be taken at the 202
expense of the division of financial institutions. The record 203
shall include all of the testimony and other evidence, and any 204
rulings on the admissibility thereof, presented at the hearing. 205
The superintendent may adopt rules regarding these hearings. The 206
attendance of witnesses and the production of documents provided 207
for in this section may be required from any place within or 208
outside the state. A party to a hearing governed by this section 209
may apply to the court of common pleas of Franklin county, or 210
the court of common pleas of the county in which the hearing is 211
being conducted or the witness resides or carries on business, 212
for enforcement of a subpoena or subpoena duces tecum issued 213
pursuant to this section, and the courts have jurisdiction and 214
power to order and require compliance with the subpoena. 215
Witnesses subpoenaed under this section shall be paid the fees 216
and mileage provided for under section 119.094 of the Revised 217
Code. 218

As used in this division, "stenographic record" means a 219
record provided by stenographic means or by the use of audio 220
electronic recording devices, as the division of financial 221
institutions determines. 222

(B) (1) A bank, trust company, or regulated person against 223
whom the superintendent issues an order upon the record of a 224
hearing under the authority of section 1121.32, 1121.33, 225
1121.35, or 1121.41 of the Revised Code may obtain a review of 226
the order by filing a notice of appeal in the court of common 227
pleas in the county in which the principal place of business of 228
the bank, trust company, or regulated person, or residence of 229
the regulated person, is located, or in the court of common 230

pleas of Franklin county, within thirty days after the date of 231
service of the superintendent's order. The clerk of the court 232
shall promptly transmit a copy of the notice of appeal to the 233
superintendent. Within thirty days after receiving the notice of 234
appeal, the superintendent shall file a certified copy of the 235
record of the administrative hearing with the clerk of the 236
court. In the event of a private hearing, the record of the 237
administrative hearing shall be filed under seal with the clerk 238
of the court. Upon the filing of the notice of appeal, the court 239
has jurisdiction, which upon the filing of the record of the 240
administrative hearing is exclusive, to affirm, modify, 241
terminate, or set aside, in whole or in part, the 242
superintendent's order. 243

(2) The commencement of proceedings for judicial review 244
pursuant to division (B) of this section does not, unless 245
specifically ordered by the court, operate as a stay of any 246
order issued by the superintendent. If it appears to the court 247
an unusual hardship to the appellant bank, trust company, or 248
regulated person will result from the execution of the 249
superintendent's order pending determination of the appeal, and 250
the interests of depositors and the public will not be 251
threatened by a stay of the order, the court may grant a stay 252
and fix its terms. 253

(C) The superintendent may, in the sole discretion of the 254
superintendent, apply to the court of common pleas of the county 255
in which the principal place of business of the bank, trust 256
company, or regulated person, or residence of the regulated 257
person, is located, or the court of common pleas of Franklin 258
county, for the enforcement of an effective and outstanding 259
superintendent's order issued under section 1121.32, 1121.33, 260
1121.34, 1121.35, or 1121.41 of the Revised Code, and the court 261

has jurisdiction and power to order and require compliance with 262
the superintendent's order. In an action by the superintendent 263
pursuant to this division to enforce an order assessing a civil 264
penalty issued under section 1121.35 of the Revised Code, the 265
validity and appropriateness of the civil penalty is not subject 266
to review. 267

(D) No court has jurisdiction to affect, by injunction or 268
otherwise, the issuance or enforcement of an order issued under 269
section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the 270
Revised Code or to review, modify, suspend, terminate, or set 271
aside an order issued under section 1121.32, 1121.33, 1121.34, 272
1121.35, or 1121.41 of the Revised Code, except as provided in 273
this section, in division (G) of section 1121.32 of the Revised 274
Code for an order issued pursuant to division (C) (3) or (4) of 275
section 1121.32 of the Revised Code, or in division (A) (3) of 276
section 1121.34 of the Revised Code for an order issued pursuant 277
to division (A) (1) of section 1121.34 of the Revised Code. 278

(E) Nothing in this section or in any other section of the 279
Revised Code or rules implementing this or any other section of 280
the Revised Code shall prohibit or limit the superintendent from 281
doing any of the following: 282

(1) Issuing orders pursuant to section 1121.32, 1121.33, 283
1121.34, 1121.35, or 1121.41 of the Revised Code; 284

(2) Individually or contemporaneously taking any other 285
action provided by law or rule with respect to a bank, trust 286
company, or regulated person; 287

(3) Taking any action provided by law or rule with respect 288
to a bank, trust company, or regulated person, whether alone or 289
in conjunction with another regulatory agency or authority. 290

Sec. 1509.031. (A) Notwithstanding any other provision of 291
law to the contrary and other than a statement of production, 292
the chief of the division of oil and gas resources management 293
may require the electronic submission of any application, 294
report, test result, fee, or document that is required to be 295
submitted under this chapter. The chief shall require the 296
submission of statements of production to be made electronically 297
regardless of well type and the number of wells owned. 298

(B) For good cause, a person may request to be excluded 299
from any requirement to make an electronic submission under 300
division (A) of this section other than the requirement to 301
submit a statement of production electronically. The chief shall 302
establish the procedure and form by which a person may request 303
such exclusion. 304

Sec. 1509.06. (A) An application for a permit to drill a 305
new well, drill an existing well deeper, reopen a well, convert 306
a well to any use other than its original purpose, or plug back 307
a well to a different source of supply, including associated 308
production operations, shall be filed with the chief of the 309
division of oil and gas resources management upon such form as 310
the chief prescribes and shall contain each of the following 311
that is applicable: 312

(1) The name and address of the owner and, if a 313
corporation, the name and address of the statutory agent; 314

(2) The signature of the owner or the owner's authorized 315
agent. When an authorized agent signs an application, it shall 316
be accompanied by a certified copy of the appointment as such 317
agent. 318

(3) The names and addresses of all persons holding the 319

royalty interest in the tract upon which the well is located or 320
is to be drilled or within a proposed drilling unit; 321

(4) The location of the tract or drilling unit on which 322
the well is located or is to be drilled identified by section or 323
lot number, city, village, township, and county; 324

(5) Designation of the well by name and number; 325

(6) (a) The geological formation to be tested or used and 326
the proposed total depth of the well; 327

(b) If the well is for the injection of a liquid, identity 328
of the geological formation to be used as the injection zone and 329
the composition of the liquid to be injected. 330

(7) The type of drilling equipment to be used; 331

(8) (a) An identification, to the best of the owner's 332
knowledge, of each proposed source of ground water and surface 333
water that will be used in the production operations of the 334
well. The identification of each proposed source of water shall 335
indicate if the water will be withdrawn from the Lake Erie 336
watershed or the Ohio river watershed. In addition, the owner 337
shall provide, to the best of the owner's knowledge, the 338
proposed estimated rate and volume of the water withdrawal for 339
the production operations. If recycled water will be used in the 340
production operations, the owner shall provide the estimated 341
volume of recycled water to be used. The owner shall submit to 342
the chief an update of any of the information that is required 343
by division (A) (8) (a) of this section if any of that information 344
changes before the chief issues a permit for the application. 345

(b) Except as provided in division (A) (8) (c) of this 346
section, for an application for a permit to drill a new well 347
within an urbanized area, the results of sampling of water wells 348

within three hundred feet of the proposed well prior to 349
commencement of drilling. In addition, the owner shall include a 350
list that identifies the location of each water well where the 351
owner of the property on which the water well is located denied 352
the owner access to sample the water well. The sampling shall be 353
conducted in accordance with the guidelines established in "Best 354
Management Practices For Pre-drilling Water Sampling" in effect 355
at the time that the application is submitted. The division 356
shall furnish those guidelines upon request and shall make them 357
available on the division's web site. If the chief determines 358
that conditions at the proposed well site warrant a revision, 359
the chief may revise the distance established in this division 360
for purposes of pre-drilling water sampling. 361

(c) For an application for a permit to drill a new 362
horizontal well, the results of sampling of water wells within 363
one thousand five hundred feet of the proposed horizontal 364
wellhead prior to commencement of drilling. In addition, the 365
owner shall include a list that identifies the location of each 366
water well where the owner of the property on which the water 367
well is located denied the owner access to sample the water 368
well. The sampling shall be conducted in accordance with the 369
guidelines established in "Best Management Practices For Pre- 370
drilling Water Sampling" in effect at the time that the 371
application is submitted. The division shall furnish those 372
guidelines upon request and shall make them available on the 373
division's web site. If the chief determines that conditions at 374
the proposed well site warrant a revision, the chief may revise 375
the distance established in this division for purposes of pre- 376
drilling water sampling. 377

(9) For an application for a permit to drill a new well 378
within an urbanized area, a sworn statement that the applicant 379

has provided notice by regular mail of the application to the 380
owner of each parcel of real property that is located within 381
five hundred feet of the surface location of the well and to the 382
executive authority of the municipal corporation or the board of 383
township trustees of the township, as applicable, in which the 384
well is to be located. In addition, the notice shall contain a 385
statement that informs an owner of real property who is required 386
to receive the notice under division (A) (9) of this section that 387
within five days of receipt of the notice, the owner is required 388
to provide notice under section 1509.60 of the Revised Code to 389
each residence in an occupied dwelling that is located on the 390
owner's parcel of real property. The notice shall contain a 391
statement that an application has been filed with the division 392
of oil and gas resources management, identify the name of the 393
applicant and the proposed well location, include the name and 394
address of the division, and contain a statement that comments 395
regarding the application may be sent to the division. The 396
notice may be provided by hand delivery or regular mail. The 397
identity of the owners of parcels of real property shall be 398
determined using the tax records of the municipal corporation or 399
county in which a parcel of real property is located as of the 400
date of the notice. 401

(10) A plan for restoration of the land surface disturbed 402
by drilling operations. The plan shall provide for compliance 403
with the restoration requirements of division (A) of section 404
1509.072 of the Revised Code and any rules adopted by the chief 405
pertaining to that restoration. 406

(11) (a) A description by name or number of the county, 407
township, and municipal corporation roads, streets, and highways 408
that the applicant anticipates will be used for access to and 409
egress from the well site; 410

(b) For an application for a permit for a horizontal well, 411
a copy of an agreement concerning maintenance and safe use of 412
the roads, streets, and highways described in division (A) (11) 413
(a) of this section entered into on reasonable terms with the 414
public official that has the legal authority to enter into such 415
maintenance and use agreements for each county, township, and 416
municipal corporation, as applicable, in which any such road, 417
street, or highway is located or an affidavit on a form 418
prescribed by the chief attesting that the owner attempted in 419
good faith to enter into an agreement under division (A) (11) (b) 420
of this section with the applicable public official of each such 421
county, township, or municipal corporation, but that no 422
agreement was executed. 423

(12) Such other relevant information as the chief 424
prescribes by rule. 425

Each application shall be accompanied by a map, on a scale 426
not smaller than four hundred feet to the inch, prepared by an 427
Ohio registered surveyor, showing the location of the well and 428
containing such other data as may be prescribed by the chief. If 429
the well is or is to be located within the excavations and 430
workings of a mine, the map also shall include the location of 431
the mine, the name of the mine, and the name of the person 432
operating the mine. 433

(B) The chief shall cause a copy of the weekly circular 434
prepared by the division to be provided to the county engineer 435
of each county that contains active or proposed drilling 436
activity. The weekly circular shall contain, in the manner 437
prescribed by the chief, the names of all applicants for 438
permits, the location of each well or proposed well, the 439
information required by division (A) (11) of this section, and 440

any additional information the chief prescribes. In addition, 441
the chief promptly shall transfer an electronic copy ~~or~~ 442
~~facsimile~~, or if ~~those methods are~~ that method is not available 443
to a municipal corporation or township, a copy via regular mail, 444
of a drilling permit application to the clerk of the legislative 445
authority of the municipal corporation or to the clerk of the 446
township in which the well or proposed well is or is to be 447
located if the legislative authority of the municipal 448
corporation or the board of township trustees has asked to 449
receive copies of such applications and the appropriate clerk 450
has provided the chief an accurate, current electronic mailing 451
~~address or facsimile number, as applicable.~~ 452

(C) (1) Except as provided in division (C) (2) of this 453
section, the chief shall not issue a permit for at least ten 454
days after the date of filing of the application for the permit 455
unless, upon reasonable cause shown, the chief waives that 456
period or a request for expedited review is filed under this 457
section. However, the chief shall issue a permit within twenty- 458
one days of the filing of the application unless the chief 459
denies the application by order. 460

(2) If the location of a well or proposed well will be or 461
is within an urbanized area, the chief shall not issue a permit 462
for at least eighteen days after the date of filing of the 463
application for the permit unless, upon reasonable cause shown, 464
the chief waives that period or the chief at the chief's 465
discretion grants a request for an expedited review. However, 466
the chief shall issue a permit for a well or proposed well 467
within an urbanized area within thirty days of the filing of the 468
application unless the chief denies the application by order. 469

(D) An applicant may file a request with the chief for 470

expedited review of a permit application if the well is not or 471
is not to be located in a gas storage reservoir or reservoir 472
protective area, as "reservoir protective area" is defined in 473
section 1571.01 of the Revised Code. If the well is or is to be 474
located in a coal bearing township, the application shall be 475
accompanied by the affidavit of the landowner prescribed in 476
section 1509.08 of the Revised Code. 477

In addition to a complete application for a permit that 478
meets the requirements of this section and the permit fee 479
prescribed by this section, a request for expedited review shall 480
be accompanied by a separate nonrefundable filing fee of two 481
hundred fifty dollars. Upon the filing of a request for 482
expedited review, the chief shall cause the county engineer of 483
the county in which the well is or is to be located to be 484
notified of the filing of the permit application and the request 485
for expedited review by telephone or other means that in the 486
judgment of the chief will provide timely notice of the 487
application and request. The chief shall issue a permit within 488
seven days of the filing of the request unless the chief denies 489
the application by order. Notwithstanding the provisions of this 490
section governing expedited review of permit applications, the 491
chief may refuse to accept requests for expedited review if, in 492
the chief's judgment, the acceptance of the requests would 493
prevent the issuance, within twenty-one days of their filing, of 494
permits for which applications are pending. 495

(E) A well shall be drilled and operated in accordance 496
with the plans, sworn statements, and other information 497
submitted in the approved application. 498

(F) The chief shall issue an order denying a permit if the 499
chief finds that there is a substantial risk that the operation 500

will result in violations of this chapter or rules adopted under 501
it that will present an imminent danger to public health or 502
safety or damage to the environment, provided that where the 503
chief finds that terms or conditions to the permit can 504
reasonably be expected to prevent such violations, the chief 505
shall issue the permit subject to those terms or conditions, 506
including, if applicable, terms and conditions regarding 507
subjects identified in rules adopted under section 1509.03 of 508
the Revised Code. The issuance of a permit shall not be 509
considered an order of the chief. 510

The chief shall post notice of each permit that has been 511
approved under this section on the division's web site not later 512
than two business days after the application for a permit has 513
been approved. 514

(G) Each application for a permit required by section 515
1509.05 of the Revised Code, except an application for a well 516
drilled or reopened for purposes of section 1509.22 of the 517
Revised Code, also shall be accompanied by a nonrefundable fee 518
as follows: 519

(1) Five hundred dollars for a permit to conduct 520
activities in a township with a population of fewer than ten 521
thousand; 522

(2) Seven hundred fifty dollars for a permit to conduct 523
activities in a township with a population of ten thousand or 524
more, but fewer than fifteen thousand; 525

(3) One thousand dollars for a permit to conduct 526
activities in either of the following: 527

(a) A township with a population of fifteen thousand or 528
more; 529

(b) A municipal corporation regardless of population. 530

(4) If the application is for a permit that requires 531
mandatory pooling, an additional five thousand dollars. 532

For purposes of calculating fee amounts, populations shall 533
be determined using the most recent federal decennial census. 534

Each application for the revision or reissuance of a 535
permit shall be accompanied by a nonrefundable fee of two 536
hundred fifty dollars. 537

(H) (1) Prior to the commencement of well pad construction 538
and prior to the issuance of a permit to drill a proposed 539
horizontal well or a proposed well that is to be located in an 540
urbanized area, the division shall conduct a site review to 541
identify and evaluate any site-specific terms and conditions 542
that may be attached to the permit. At the site review, a 543
representative of the division shall consider fencing, 544
screening, and landscaping requirements, if any, for similar 545
structures in the community in which the well is proposed to be 546
located. The terms and conditions that are attached to the 547
permit shall include the establishment of fencing, screening, 548
and landscaping requirements for the surface facilities of the 549
proposed well, including a tank battery of the well. 550

(2) Prior to the issuance of a permit to drill a proposed 551
well, the division shall conduct a review to identify and 552
evaluate any site-specific terms and conditions that may be 553
attached to the permit if the proposed well will be located in a 554
one-hundred-year floodplain or within the five-year time of 555
travel associated with a public drinking water supply. 556

(I) A permit shall be issued by the chief in accordance 557
with this chapter. A permit issued under this section for a well 558

that is or is to be located in an urbanized area shall be valid 559
for twelve months, and all other permits issued under this 560
section shall be valid for twenty-four months. 561

(J) An applicant or a permittee, as applicable, shall 562
submit to the chief an update of the information that is 563
required under division (A) (8) (a) of this section if any of that 564
information changes prior to commencement of production 565
operations. 566

(K) A permittee or a permittee's authorized representative 567
shall notify an inspector from the division at least twenty-four 568
hours, or another time period agreed to by the chief's 569
authorized representative, prior to the commencement of well pad 570
construction and of drilling, reopening, converting, well 571
stimulation, or plugback operations. 572

Sec. 1513.071. (A) Simultaneously with the filing of an 573
application for a permit or significant revision of an existing 574
permit under section 1513.07 of the Revised Code, the applicant 575
shall submit to the chief of the division of mineral resources 576
management a copy of the applicant's advertisement of the 577
ownership, precise location, and boundaries of the land to be 578
affected. At the time of submission, the advertisement shall be 579
placed by the applicant in a newspaper of general circulation in 580
the locality of the proposed coal mine at least once a week for 581
four consecutive weeks. The chief shall notify, in each county 582
or part of a county in which a proposed area to be permitted is 583
located, the board of county commissioners, the board of 584
township trustees, the legislative authorities of municipal 585
corporations, private water companies, regional councils of 586
governments, and the boards of directors of conservancy 587
districts informing them of the operator's intention to conduct 588

a coal mining operation on a particularly described tract of 589
land and indicating the permit application number and where a 590
copy of the proposed mining and reclamation plan may be 591
inspected. The chief shall also notify the planning commissions 592
with jurisdiction over all or part of the area to be permitted. 593
These agencies, authorities, or companies may submit written 594
comments on the application with respect to the effects of the 595
proposed operation on the environment that are within their area 596
of responsibility in quadruplicate to the chief within thirty 597
days after notification by the chief of receipt of the 598
application. The chief shall immediately transmit these comments 599
to the applicant and make them available to the public at the 600
same locations at which the mining application is available for 601
inspection. 602

(B) A person having an interest that is or may be 603
adversely affected or the officer or head of any federal, state, 604
or local governmental agency or authority may file written 605
objections to the proposed initial or revised application for a 606
coal mining and reclamation permit with the chief within thirty 607
days after the last publication of the notice required by 608
division (A) of this section. The objections shall immediately 609
be transmitted to the applicant by the chief and shall be made 610
available to the public. If written objections are filed and an 611
informal conference requested, the chief or the chief's 612
representative shall then hold an informal conference on the 613
application for a permit within a reasonable time in the county 614
where the largest area of the area to be permitted is located. 615
The date, time, and location of the informal conference shall be 616
advertised by the chief in a newspaper of general circulation in 617
the locality at least two weeks prior to the scheduled 618
conference date. The chief may arrange with the applicant, upon 619

request by any objecting party, access to the proposed mining 620
area for the purpose of gathering information relevant to the 621
proceeding. An electronic ~~or stenographic~~ record shall be made 622
of the conference proceeding unless waived by all parties. The 623
record shall be maintained and shall be accessible to the 624
parties until final release of the applicant's performance 625
security. If all parties requesting the informal conference 626
stipulate agreement prior to the requested informal conference 627
and withdraw their request, the informal conference need not be 628
held. 629

Sec. 1513.08. (A) After a coal mining and reclamation 630
permit application has been approved, the applicant shall file 631
with the chief of the division of mineral resources management, 632
on a form prescribed and furnished by the chief, the performance 633
security required under this section that shall be payable to 634
the state and conditioned on the faithful performance of all the 635
requirements of this chapter and rules adopted under it and the 636
terms and conditions of the permit. 637

(B) Using the information contained in the permit 638
application; the requirements contained in the approved permit 639
and reclamation plan; and, after considering the topography, 640
geology, hydrology, and revegetation potential of the area of 641
the approved permit, the probable difficulty of reclamation; the 642
chief shall determine the estimated cost of reclamation under 643
the initial term of the permit if the reclamation has to be 644
performed by the division of mineral resources management in the 645
event of forfeiture of the performance security by the 646
applicant. The chief shall send either written notice by 647
certified mail or electronic notice with acknowledgment of 648
receipt of the amount of the estimated cost of reclamation ~~by~~ 649
~~certified mail~~ to the applicant. The applicant shall send either 650

written notice or electronic notice with acknowledgment of 651
receipt to the chief indicating the method by which the 652
applicant will provide the performance security pursuant to 653
division (C) of this section. 654

(C) The applicant shall provide the performance security 655
in an amount using one of the following: 656

(1) If the applicant elects to provide performance 657
security without reliance on the reclamation forfeiture fund 658
created in section 1513.18 of the Revised Code, the amount of 659
the estimated cost of reclamation as determined by the chief 660
under division (B) of this section for the increments of land on 661
which the operator will conduct a coal mining and reclamation 662
operation under the initial term of the permit as indicated in 663
the application; 664

(2) If the applicant elects to provide performance 665
security together with reliance on the reclamation forfeiture 666
fund through payment of the additional tax on the severance of 667
coal that is levied under division (A) (8) of section 5749.02 of 668
the Revised Code, an amount of twenty-five hundred dollars per 669
acre of land on which the operator will conduct coal mining and 670
reclamation under the initial term of the permit as indicated in 671
the application. In order for an applicant to be eligible to 672
provide performance security in accordance with division (C) (2) 673
of this section, the applicant, an owner and controller of the 674
applicant, or an affiliate of the applicant shall have held a 675
permit issued under this chapter for any coal mining and 676
reclamation operation for a period of not less than five years. 677

If a permit is transferred, assigned, or sold, the 678
transferee is not eligible to provide performance security under 679
division (C) (2) of this section if the transferee has not held a 680

permit issued under this chapter for any coal mining and 681
reclamation operation for a period of not less than five years. 682
This restriction applies even if the status or name of the 683
permittee otherwise remains the same after the transfer, 684
assignment, or sale. 685

In the event of forfeiture of performance security that 686
was provided in accordance with division (C) (2) of this section, 687
the difference between the amount of that performance security 688
and the estimated cost of reclamation as determined by the chief 689
under division (B) of this section shall be obtained from money 690
in the reclamation forfeiture fund as needed to complete the 691
reclamation. 692

The performance security provided under division (C) of 693
this section for the entire area to be mined under one permit 694
issued under this chapter shall not be less than ten thousand 695
dollars. 696

The performance security shall cover areas of land 697
affected by mining within or immediately adjacent to the 698
permitted area, so long as the total number of acres does not 699
exceed the number of acres for which the performance security is 700
provided. However, the authority for the performance security to 701
cover areas of land immediately adjacent to the permitted area 702
does not authorize a permittee to mine areas outside an approved 703
permit area. As succeeding increments of coal mining and 704
reclamation operations are to be initiated and conducted within 705
the permit area, the permittee shall file with the chief 706
additional performance security to cover the increments in 707
accordance with this section. If a permittee intends to mine 708
areas outside the approved permit area, the permittee shall 709
provide additional performance security in accordance with this 710

section to cover the areas to be mined. 711

If an applicant or permittee is not eligible to provide 712
performance security in accordance with division (C) (2) of this 713
section, the applicant or permittee shall provide performance 714
security in accordance with division (C) (1) of this section in 715
the full amount of the estimated cost of reclamation as 716
determined by the chief for a permitted coal preparation plant 717
or coal refuse disposal area that is not located within a 718
permitted area of a mine. If an applicant for a permit for a 719
coal preparation plant or coal refuse disposal area or a 720
permittee of a permitted coal preparation plant or coal refuse 721
disposal area that is not located within a permitted area of a 722
mine has held a permit issued under this chapter for any coal 723
mining and reclamation operation for a period of five years or 724
more, the applicant or permittee may provide performance 725
security for the coal preparation plant or coal refuse disposal 726
area either in accordance with division (C) (1) of this section 727
in the full amount of the estimated cost of reclamation as 728
determined by the chief or in accordance with division (C) (2) of 729
this section in an amount of twenty-five hundred dollars per 730
acre of land with reliance on the reclamation forfeiture fund. 731
If a permittee has previously provided performance security 732
under division (C) (1) of this section for a coal preparation 733
plant or coal refuse disposal area that is not located within a 734
permitted area of a mine and elects to provide performance 735
security in accordance with division (C) (2) of this section, the 736
permittee shall submit written notice to the chief indicating 737
that the permittee elects to provide performance security in 738
accordance with division (C) (2) of this section. Upon receipt of 739
such a written notice, the chief shall release to the permittee 740
the amount of the performance security previously provided under 741

division (C) (1) of this section that exceeds the amount of 742
performance security that is required to be provided under 743
division (C) (2) of this section. 744

(D) A permittee's liability under the performance security 745
shall be limited to the obligations established under the 746
permit, which include completion of the reclamation plan in 747
order to make the land capable of supporting the postmining land 748
use that was approved in the permit. The period of liability 749
under the performance security shall be for the duration of the 750
coal mining and reclamation operation and for a period 751
coincident with the operator's responsibility for revegetation 752
requirements under section 1513.16 of the Revised Code. 753

(E) The amount of the estimated cost of reclamation 754
determined under division (B) of this section and the amount of 755
a permittee's performance security provided in accordance with 756
division (C) (1) of this section shall be adjusted by the chief 757
as the land that is affected by mining increases or decreases or 758
if the cost of reclamation increases or decreases. If the 759
performance security was provided in accordance with division 760
(C) (2) of this section and the chief has issued a cessation 761
order under division (D) (2) of section 1513.02 of the Revised 762
Code for failure to abate a violation of the contemporaneous 763
reclamation requirement under division (A) (15) of section 764
1513.16 of the Revised Code, the chief may require the permittee 765
to increase the amount of performance security from twenty-five 766
hundred dollars per acre of land to five thousand dollars per 767
acre of land. 768

The chief shall notify the permittee, each surety, and any 769
person who has a property interest in the performance security 770
and who has requested to be notified of any proposed adjustment 771

to the performance security. The permittee may request an 772
informal conference with the chief concerning the proposed 773
adjustment, and the chief shall provide such an informal 774
conference. 775

If the chief increases the amount of performance security 776
under this division, the permittee shall provide additional 777
performance security in an amount determined by the chief. If 778
the chief decreases the amount of performance security under 779
this division, the chief shall determine the amount of the 780
reduction of the performance security and send either written 781
notice or electronic notice with acknowledgment of receipt of 782
the amount of reduction to the permittee. The permittee may 783
reduce the amount of the performance security in the amount 784
determined by the chief. 785

(F) A permittee may request a reduction in the amount of 786
the performance security by submitting to the chief 787
documentation proving that the amount of the performance 788
security provided by the permittee exceeds the estimated cost of 789
reclamation if the reclamation would have to be performed by the 790
division in the event of forfeiture of the performance security. 791
The chief shall examine the documentation and determine whether 792
the permittee's performance security exceeds the estimated cost 793
of reclamation. If the chief determines that the performance 794
security exceeds that estimated cost, the chief shall determine 795
the amount of the reduction of the performance security and send 796
either written notice or electronic notice with acknowledgment 797
of receipt of the amount to the permittee. The permittee may 798
reduce the amount of the performance security in the amount 799
determined by the chief. Adjustments in the amount of 800
performance security under this division shall not be considered 801
release of performance security and are not subject to section 802

1513.16 of the Revised Code. 803

(G) If the performance security is a bond, it shall be 804
executed by the operator and a corporate surety licensed to do 805
business in this state. If the performance security is a cash 806
deposit or negotiable certificates of deposit of a bank or 807
savings and loan association, the bank or savings and loan 808
association shall be licensed and operating in this state. The 809
cash deposit or market value of the securities shall be equal to 810
or greater than the amount of the performance security required 811
under this section. The chief shall review any documents 812
pertaining to the performance security and approve or disapprove 813
the documents. The chief shall notify the applicant of the 814
chief's determination. 815

(H) If the performance security is a bond, the chief may 816
accept the bond of the applicant itself without separate surety 817
when the applicant demonstrates to the satisfaction of the chief 818
the existence of a suitable agent to receive service of process 819
and a history of financial solvency and continuous operation 820
sufficient for authorization to self-insure or bond the amount. 821

(I) Performance security provided under this section may 822
be held in trust, provided that the state is the primary 823
beneficiary of the trust and the custodian of the performance 824
security held in trust is a bank, trust company, or other 825
financial institution that is licensed and operating in this 826
state. The chief shall review the trust document and approve or 827
disapprove the document. The chief shall notify the applicant of 828
the chief's determination. 829

(J) If a surety, bank, savings and loan association, trust 830
company, or other financial institution that holds the 831
performance security required under this section becomes 832

insolvent, the permittee shall notify the chief of the 833
insolvency, and the chief shall order the permittee to submit a 834
plan for replacement performance security within thirty days 835
after receipt of notice from the chief. If the permittee 836
provided performance security in accordance with division (C) (1) 837
of this section, the permittee shall provide the replacement 838
performance security within ninety days after receipt of notice 839
from the chief. If the permittee provided performance security 840
in accordance with division (C) (2) of this section, the 841
permittee shall provide the replacement performance security 842
within one year after receipt of notice from the chief, and, for 843
a period of one year after the permittee's receipt of notice 844
from the chief or until the permittee provides the replacement 845
performance security, whichever occurs first, money in the 846
reclamation forfeiture fund shall be the permittee's replacement 847
performance security in an amount not to exceed the estimated 848
cost of reclamation as determined by the chief. 849

(K) If a permittee provided performance security in 850
accordance with division (C) (1) of this section, the permittee's 851
responsibility for repairing material damage and replacement of 852
water supply resulting from subsidence shall be satisfied by 853
either of the following: 854

(1) The purchase prior to mining of a noncancelable 855
premium-prepaid liability insurance policy in lieu of the 856
permittee's performance security for subsidence damage. The 857
insurance policy shall contain terms and conditions that 858
specifically provide coverage for repairing material damage and 859
replacement of water supply resulting from subsidence. 860

(2) The provision of additional performance security in 861
the amount of the estimated cost to the division of mineral 862

resources management to repair material damage and replace water 863
supplies resulting from subsidence until the repair or 864
replacement is completed. However, if such repair or replacement 865
is completed, or compensation for structures that have been 866
damaged by subsidence is provided, by the permittee within 867
ninety days of the occurrence of the subsidence, additional 868
performance security is not required. In addition, the chief may 869
extend the ninety-day period for a period not to exceed one year 870
if the chief determines that the permittee has demonstrated in 871
writing that subsidence is not complete and that probable 872
subsidence-related damage likely will occur and, as a result, 873
the completion of repairs of subsidence-related material damage 874
to lands or protected structures or the replacement of water 875
supply within ninety days of the occurrence of the subsidence 876
would be unreasonable. 877

(L) If the performance security provided in accordance 878
with this section exceeds the estimated cost of reclamation, the 879
chief may authorize the amount of the performance security that 880
exceeds the estimated cost of reclamation together with any 881
interest or other earnings on the performance security to be 882
paid to the permittee. 883

(M) A permittee that held a valid coal mining and 884
reclamation permit immediately prior to April 6, 2007, shall 885
provide, not later than a date established by the chief, 886
performance security in accordance with division (C)(1) or (2) 887
of this section, rather than in accordance with the law as it 888
existed prior to that date, by filing it with the chief on a 889
form that the chief prescribes and furnishes. Accordingly, for 890
purposes of this section, "applicant" is deemed to include such 891
a permittee. 892

(N) As used in this section: 893

(1) "Affiliate of the applicant" means an entity that has 894
a parent entity in common with the applicant. 895

(2) "Owner and controller of the applicant" means a person 896
that has any relationship with the applicant that gives the 897
person authority to determine directly or indirectly the manner 898
in which the applicant conducts coal mining operations. 899

Sec. 1513.16. (A) Any permit issued under this chapter to 900
conduct coal mining operations shall require that the operations 901
meet all applicable performance standards of this chapter and 902
such other requirements as the chief of the division of mineral 903
resources management shall adopt by rule. General performance 904
standards shall apply to all coal mining and reclamation 905
operations and shall require the operator at a minimum to do all 906
of the following: 907

(1) Conduct coal mining operations so as to maximize the 908
utilization and conservation of the solid fuel resource being 909
recovered so that re-affecting the land in the future through 910
coal mining can be minimized; 911

(2) Restore the land affected to a condition capable of 912
supporting the uses that it was capable of supporting prior to 913
any mining, or higher or better uses of which there is 914
reasonable likelihood, so long as the uses do not present any 915
actual or probable hazard to public health or safety or pose any 916
actual or probable threat of diminution or pollution of the 917
waters of the state, and the permit applicants' declared 918
proposed land uses following reclamation are not considered to 919
be impractical or unreasonable, to be inconsistent with 920
applicable land use policies and plans, to involve unreasonable 921

delay in implementation, or to violate federal, state, or local 922
law; 923

(3) Except as provided in division (B) of this section, 924
with respect to all coal mining operations, backfill, compact 925
where advisable to ensure stability or to prevent leaching of 926
toxic materials, and grade in order to restore the approximate 927
original contour of the land with all highwalls, spoil piles, 928
and depressions eliminated unless small depressions are needed 929
in order to retain moisture to assist revegetation or as 930
otherwise authorized pursuant to this chapter, provided that if 931
the operator demonstrates that due to volumetric expansion the 932
amount of overburden and the spoil and waste materials removed 933
in the course of the mining operation are more than sufficient 934
to restore the approximate original contour, the operator shall 935
backfill, grade, and compact the excess overburden and other 936
spoil and waste materials to attain the lowest grade, but not 937
more than the angle of repose, and to cover all acid-forming and 938
other toxic materials in order to achieve an ecologically sound 939
land use compatible with the surrounding region in accordance 940
with the approved mining plan. The overburden or spoil shall be 941
shaped and graded in such a way as to prevent slides, erosion, 942
and water pollution and shall be revegetated in accordance with 943
this chapter. 944

(4) Stabilize and protect all surface areas, including 945
spoil piles affected by the coal mining and reclamation 946
operation, to control erosion and attendant air and water 947
pollution effectively; 948

(5) Remove the topsoil from the land in a separate layer, 949
replace it on the backfill area, or, if not utilized 950
immediately, segregate it in a separate pile from the spoil, and 951

when the topsoil is not replaced on a backfill area within a 952
time short enough to avoid deterioration of the topsoil, 953
maintain a successful cover by quick-growing plants or other 954
means thereafter so that the topsoil is preserved from wind and 955
water erosion, remains free of any contamination by acid or 956
other toxic material, and is in a usable condition for 957
sustaining vegetation when restored during reclamation. If the 958
topsoil is of insufficient quantity or of poor quality for 959
sustaining vegetation or if other strata can be shown to be more 960
suitable for vegetation requirements, the operator shall remove, 961
segregate, and preserve in a like manner such other strata as 962
are best able to support vegetation. 963

(6) Restore the topsoil or the best available subsoil that 964
is best able to support vegetation; 965

(7) For all prime farmlands as identified in division (B) 966
(1) (p) of section 1513.07 of the Revised Code to be mined and 967
reclaimed, perform soil removal, storage, replacement, and 968
reconstruction in accordance with specifications established by 969
the secretary of the United States department of agriculture 970
under the "Surface Mining Control and Reclamation Act of 1977," 971
91 Stat. 445, 30 U.S.C.A. 1201. The operator, at a minimum, 972
shall be required to do all of the following: 973

(a) Segregate the A horizon of the natural soil, except 974
where it can be shown that other available soil materials will 975
create a final soil having a greater productive capacity, and, 976
if not utilized immediately, stockpile this material separately 977
from the spoil and provide needed protection from wind and water 978
erosion or contamination by acid or other toxic material; 979

(b) Segregate the B horizon of the natural soil, or 980
underlying C horizons or other strata, or a combination of such 981

horizons or other strata that are shown to be both texturally 982
and chemically suitable for plant growth and that can be shown 983
to be equally or more favorable for plant growth than the B 984
horizon, in sufficient quantities to create in the regraded 985
final soil a root zone of comparable depth and quality to that 986
which existed in the natural soil, and, if not utilized 987
immediately, stockpile this material separately from the spoil 988
and provide needed protection from wind and water erosion or 989
contamination by acid or other toxic material; 990

(c) Replace and regrade the root zone material described 991
in division (A) (7) (b) of this section with proper compaction and 992
uniform depth over the regraded spoil material; 993

(d) Redistribute and grade in a uniform manner the surface 994
soil horizon described in division (A) (7) (a) of this section. 995

(8) Create, if authorized in the approved mining and 996
reclamation plan and permit, permanent impoundments of water on 997
mining sites as part of reclamation activities only when it is 998
adequately demonstrated by the operator that all of the 999
following conditions will be met: 1000

(a) The size of the impoundment is adequate for its 1001
intended purposes. 1002

(b) The impoundment dam construction will be so designed 1003
as to achieve necessary stability with an adequate margin of 1004
safety compatible with that of structures constructed under the 1005
"Watershed Protection and Flood Prevention Act," 68 Stat. 666 1006
(1954), 16 U.S.C. 1001, as amended. 1007

(c) The quality of impounded water will be suitable on a 1008
permanent basis for its intended use and discharges from the 1009
impoundment will not degrade the water quality below water 1010

quality standards established pursuant to applicable federal and 1011
state law in the receiving stream. 1012

(d) The level of water will be reasonably stable. 1013

(e) Final grading will provide adequate safety and access 1014
for proposed water users. 1015

(f) The water impoundments will not result in the 1016
diminution of the quality or quantity of water utilized by 1017
adjacent or surrounding landowners for agricultural, industrial, 1018
recreational, or domestic uses. 1019

(9) Conduct any augering operation associated with strip 1020
mining in a manner to maximize recoverability of mineral 1021
reserves remaining after the operation and reclamation are 1022
complete and seal all auger holes with an impervious and 1023
noncombustible material in order to prevent drainage, except 1024
where the chief determines that the resulting impoundment of 1025
water in such auger holes may create a hazard to the environment 1026
or the public health or safety. The chief may prohibit augering 1027
if necessary to maximize the utilization, recoverability, or 1028
conservation of the solid fuel resources or to protect against 1029
adverse water quality impacts. 1030

(10) Minimize the disturbances to the prevailing 1031
hydrologic balance at the mine site and in associated offsite 1032
areas and to the quality and quantity of water in surface and 1033
ground water systems both during and after coal mining 1034
operations and during reclamation by doing all of the following: 1035

(a) Avoiding acid or other toxic mine drainage by such 1036
measures as, but not limited to: 1037

(i) Preventing or removing water from contact with toxic 1038
producing deposits; 1039

(ii) Treating drainage to reduce toxic content that 1040
adversely affects downstream water upon being released to water 1041
courses in accordance with rules adopted by the chief in 1042
accordance with section 1513.02 of the Revised Code; 1043

(iii) Casing, sealing, or otherwise managing boreholes, 1044
shafts, and wells, and keeping acid or other toxic drainage from 1045
entering ground and surface waters. 1046

(b) (i) Conducting coal mining operations so as to prevent, 1047
to the extent possible using the best technology currently 1048
available, additional contributions of suspended solids to 1049
streamflow or runoff outside the permit area, but in no event 1050
shall contributions be in excess of requirements set by 1051
applicable state or federal laws; 1052

(ii) Constructing any siltation structures pursuant to 1053
division (A) (10) (b) (i) of this section prior to commencement of 1054
coal mining operations. The structures shall be certified by 1055
persons approved by the chief to be constructed as designed and 1056
as approved in the reclamation plan. 1057

(c) Cleaning out and removing temporary or large settling 1058
ponds or other siltation structures from drainways after 1059
disturbed areas are revegetated and stabilized, and depositing 1060
the silt and debris at a site and in a manner approved by the 1061
chief; 1062

(d) Restoring recharge capacity of the mined area to 1063
approximate premining conditions; 1064

(e) Avoiding channel deepening or enlargement in 1065
operations requiring the discharge of water from mines; 1066

(f) Such other actions as the chief may prescribe. 1067

(11) With respect to surface disposal of mine wastes, 1068
tailings, coal processing wastes, and other wastes in areas 1069
other than the mine working areas or excavations, stabilize all 1070
waste piles in designated areas through construction in 1071
compacted layers, including the use of noncombustible and 1072
impervious materials if necessary, and ensure that the final 1073
contour of the waste pile will be compatible with natural 1074
surroundings and that the site can and will be stabilized and 1075
revegetated according to this chapter; 1076

(12) Refrain from coal mining within five hundred feet of 1077
active and abandoned underground mines in order to prevent 1078
breakthroughs and to protect the health or safety of miners. The 1079
chief shall permit an operator to mine near, through, or 1080
partially through an abandoned underground mine or closer than 1081
five hundred feet to an active underground mine if both of the 1082
following conditions are met: 1083

(a) The nature, timing, and sequencing of the approximate 1084
coincidence of specific strip mine activities with specific 1085
underground mine activities are approved by the chief. 1086

(b) The operations will result in improved resource 1087
recovery, abatement of water pollution, or elimination of 1088
hazards to the health and safety of the public. 1089

(13) Design, locate, construct, operate, maintain, 1090
enlarge, modify, and remove or abandon, in accordance with the 1091
standards and criteria developed pursuant to rules adopted by 1092
the chief, all existing and new coal mine waste piles consisting 1093
of mine wastes, tailings, coal processing wastes, or other 1094
liquid and solid wastes, and used either temporarily or 1095
permanently as dams or embankments; 1096

(14) Ensure that all debris, acid-forming materials, toxic 1097
materials, or materials constituting a fire hazard are treated 1098
or buried and compacted or otherwise disposed of in a manner 1099
designed to prevent contamination of ground or surface waters 1100
and that contingency plans are developed to prevent sustained 1101
combustion; 1102

(15) Ensure that all reclamation efforts proceed in an 1103
environmentally sound manner and as contemporaneously as 1104
practicable with the coal mining operations, except that where 1105
the applicant proposes to combine strip mining operations with 1106
underground mining operations to ensure maximum practical 1107
recovery of the mineral resources, the chief may grant a 1108
variance for specific areas within the reclamation plan from the 1109
requirement that reclamation efforts proceed as 1110
contemporaneously as practicable to permit underground mining 1111
operations prior to reclamation if: 1112

(a) The chief finds in writing that: 1113

(i) The applicant has presented, as part of the permit 1114
application, specific, feasible plans for the proposed 1115
underground mining operations. 1116

(ii) The proposed underground mining operations are 1117
necessary or desirable to ensure maximum practical recovery of 1118
the mineral resource and will avoid multiple disturbance of the 1119
surface. 1120

(iii) The applicant has satisfactorily demonstrated that 1121
the plan for the underground mining operations conforms to 1122
requirements for underground mining in this state and that 1123
permits necessary for the underground mining operations have 1124
been issued by the appropriate authority. 1125

(iv) The areas proposed for the variance have been shown 1126
by the applicant to be necessary for the implementing of the 1127
proposed underground mining operations. 1128

(v) No substantial adverse environmental damage, either 1129
on-site or off-site, will result from the delay in completion of 1130
reclamation as required by this chapter. 1131

(vi) Provisions for the off-site storage of spoil will 1132
comply with division (A) (21) of this section. 1133

(b) The chief has adopted specific rules to govern the 1134
granting of such variances in accordance with this division and 1135
has imposed such additional requirements as the chief considers 1136
necessary. 1137

(c) Variances granted under this division shall be 1138
reviewed by the chief not more than three years from the date of 1139
issuance of the permit. 1140

(d) Liability under the performance security filed by the 1141
applicant with the chief pursuant to section 1513.08 of the 1142
Revised Code shall be for the duration of the underground mining 1143
operations and until the requirements of this section and 1144
section 1513.08 of the Revised Code have been fully complied 1145
with. 1146

(16) Ensure that the construction, maintenance, and 1147
postmining conditions of access roads into and across the site 1148
of operations will control or prevent erosion and siltation, 1149
pollution of water, and damage to fish or wildlife or their 1150
habitat, or to public or private property; 1151

(17) Refrain from the construction of roads or other 1152
access ways up a stream bed or drainage channel or in such 1153
proximity to the channel as to seriously alter the normal flow 1154

of water; 1155

(18) Establish, on the regraded areas and all other lands 1156
affected, a diverse, effective, and permanent vegetative cover 1157
of the same seasonal variety native to the area of land to be 1158
affected and capable of self-regeneration and plant succession 1159
at least equal in extent of cover to the natural vegetation of 1160
the area, except that introduced species may be used in the 1161
revegetation process where desirable and necessary to achieve 1162
the approved postmining land use plan; 1163

(19) (a) Assume the responsibility for successful 1164
revegetation, as required by division (A) (18) of this section, 1165
for a period of five full years after the last year of augmented 1166
seeding, fertilizing, irrigation, or other work in order to 1167
ensure compliance with that division, except that when the chief 1168
approves a long-term intensive agricultural postmining land use, 1169
the applicable five-year period of responsibility for 1170
revegetation shall commence at the date of initial planting for 1171
that long-term intensive agricultural postmining land use, and 1172
except that when the chief issues a written finding approving a 1173
long-term intensive agricultural postmining land use as part of 1174
the mining and reclamation plan, the chief may grant an 1175
exception to division (A) (18) of this section; 1176

(b) On lands eligible for remining, assume the 1177
responsibility for successful revegetation, as required by 1178
division (A) (18) of this section, for a period of two full years 1179
after the last year of augmented seeding, fertilizing, 1180
irrigation, or other work in order to ensure compliance with 1181
that division. 1182

(20) Protect off-site areas from slides or damage 1183
occurring during the coal mining and reclamation operations and 1184

not deposit spoil material or locate any part of the operations 1185
or waste accumulations outside the permit area; 1186

(21) Place all excess spoil material resulting from coal 1187
mining and reclamation operations in such a manner that all of 1188
the following apply: 1189

(a) Spoil is transported and placed in a controlled manner 1190
in position for concurrent compaction and in such a way as to 1191
ensure mass stability and to prevent mass movement. 1192

(b) The areas of disposal are within the permit areas for 1193
which performance security has been provided. All organic matter 1194
shall be removed immediately prior to spoil placement except in 1195
the zoned concept method. 1196

(c) Appropriate surface and internal drainage systems and 1197
diversion ditches are used so as to prevent spoil erosion and 1198
mass movement. 1199

(d) The disposal area does not contain springs, natural 1200
watercourses, or wet weather seeps unless lateral drains are 1201
constructed from the wet areas to the main underdrains in such a 1202
manner that filtration of the water into the spoil pile will be 1203
prevented unless the zoned concept method is used. 1204

(e) If placed on a slope, the spoil is placed upon the 1205
most moderate slope among those slopes upon which, in the 1206
judgment of the chief, the spoil could be placed in compliance 1207
with all the requirements of this chapter and is placed, where 1208
possible, upon, or above, a natural terrace, bench, or berm if 1209
that placement provides additional stability and prevents mass 1210
movement. 1211

(f) Where the toe of the spoil rests on a downslope, a 1212
rock toe buttress of sufficient size to prevent mass movement is 1213

constructed. 1214

(g) The final configuration is compatible with the natural 1215
drainage pattern and surroundings and suitable for intended 1216
uses. 1217

(h) Design of the spoil disposal area is certified by a 1218
qualified registered professional engineer in conformance with 1219
professional standards. 1220

(i) All other provisions of this chapter are met. 1221

(22) Meet such other criteria as are necessary to achieve 1222
reclamation in accordance with the purpose of this chapter, 1223
taking into consideration the physical, climatological, and 1224
other characteristics of the site; 1225

(23) To the extent possible, using the best technology 1226
currently available, minimize disturbances and adverse impacts 1227
of the operation on fish, wildlife, and related environmental 1228
values, and achieve enhancement of such resources where 1229
practicable; 1230

(24) Provide for an undisturbed natural barrier beginning 1231
at the elevation of the lowest coal seam to be mined and 1232
extending from the outslope for such distance as the chief shall 1233
determine to be retained in place as a barrier to slides and 1234
erosion; 1235

(25) Restore on the permit area streams and wetlands 1236
affected by mining operations unless the chief approves 1237
restoration off the permit area without a permit required by 1238
section 1513.07 or 1513.074 of the Revised Code, instead of 1239
restoration on the permit area, of a stream or wetland or a 1240
portion of a stream or wetland, provided that the chief first 1241
makes all of the following written determinations: 1242

(a) A hydrologic and engineering assessment of the 1243
affected lands, submitted by the operator, demonstrates that 1244
restoration on the permit area is not possible. 1245

(b) The proposed mitigation plan under which mitigation 1246
activities described in division (A)(25)(c) of this section will 1247
be conducted is limited to a stream or wetland, or a portion of 1248
a stream or wetland, for which restoration on the permit area is 1249
not possible. 1250

(c) Mitigation activities off the permit area, including 1251
mitigation banking and payment of in-lieu mitigation fees, will 1252
be performed pursuant to a permit issued under sections 401 and 1253
404 of the "Federal Water Pollution Control Act" as defined in 1254
section 6111.01 of the Revised Code or an isolated wetland 1255
permit issued under Chapter 6111. of the Revised Code or 1256
pursuant to a no-cost reclamation contract for the restoration 1257
of water resources affected by past mining activities pursuant 1258
to section 1513.37 of the Revised Code. 1259

(d) The proposed mitigation plan and mitigation activities 1260
comply with the standards established in this section. 1261

If the chief approves restoration off the permit area in 1262
accordance with this division, the operator shall complete all 1263
mitigation construction or other activities required by the 1264
mitigation plan. 1265

Performance security for reclamation activities on the 1266
permit area shall be released pursuant to division (F) of this 1267
section, except that the release of the remaining portion of 1268
performance security under division (F)(3)(c) of this section 1269
shall not be approved prior to the construction of required 1270
mitigation activities off the permit area. 1271

(B) (1) The chief may permit mining operations for the 1272
purposes set forth in division (B) (3) of this section. 1273

(2) When an applicant meets the requirements of divisions 1274
(B) (3) and (4) of this section, a permit without regard to the 1275
requirement to restore to approximate original contour known as 1276
mountain top removal set forth in divisions (A) (3) or (C) (2) and 1277
(3) of this section may be granted for the mining of coal where 1278
the mining operation will remove an entire coal seam or seams 1279
running through the upper fraction of a mountain, ridge, or 1280
hill, except as provided in division (B) (4) (a) of this section, 1281
by removing all of the overburden and creating a level plateau 1282
or a gently rolling contour with no highwalls remaining, and 1283
capable of supporting postmining uses in accordance with this 1284
division. 1285

(3) In cases where an industrial, commercial, 1286
agricultural, residential, or public facility use, including 1287
recreational facilities, is proposed for the postmining use of 1288
the affected land, the chief may grant a permit for a mining 1289
operation of the nature described in division (B) (2) of this 1290
section when all of the following apply: 1291

(a) After consultation with the appropriate land use 1292
planning agencies, if any, the proposed postmining land use is 1293
considered to constitute an equal or better economic or public 1294
use of the affected land, as compared with premining use. 1295

(b) The applicant presents specific plans for the proposed 1296
postmining land use and appropriate assurances that the use will 1297
be all of the following: 1298

(i) Compatible with adjacent land uses; 1299

(ii) Obtainable according to data regarding expected need 1300

and market; 1301

(iii) Assured of investment in necessary public 1302
facilities; 1303

(iv) Supported by commitments from public agencies where 1304
appropriate; 1305

(v) Practicable with respect to private financial 1306
capability for completion of the proposed use; 1307

(vi) Planned pursuant to a schedule attached to the 1308
reclamation plan so as to integrate the mining operation and 1309
reclamation with the postmining land use; 1310

(vii) Designed by a registered engineer in conformity with 1311
professional standards established to ensure the stability, 1312
drainage, and configuration necessary for the intended use of 1313
the site. 1314

(c) The proposed use is consistent with adjacent land uses 1315
and existing state and local land use plans and programs. 1316

(d) The chief provides the governing body of the unit of 1317
general-purpose local government in which the land is located, 1318
and any state or federal agency that the chief, in the chief's 1319
discretion, determines to have an interest in the proposed use, 1320
an opportunity of not more than sixty days to review and comment 1321
on the proposed use. 1322

(e) All other requirements of this chapter will be met. 1323

(4) In granting a permit pursuant to this division, the 1324
chief shall require that each of the following is met: 1325

(a) The toe of the lowest coal seam and the overburden 1326
associated with it are retained in place as a barrier to slides 1327

and erosion. 1328

(b) The reclaimed area is stable. 1329

(c) The resulting plateau or rolling contour drains inward 1330
from the out slopes except at specified points. 1331

(d) No damage will be done to natural watercourses. 1332

(e) Spoil will be placed on the mountaintop bench as is 1333
necessary to achieve the planned postmining land use, except 1334
that all excess spoil material not retained on the mountaintop 1335
bench shall be placed in accordance with division (A) (21) of 1336
this section. 1337

(f) Stability of the spoil retained on the mountaintop 1338
bench is ensured and the other requirements of this chapter are 1339
met. 1340

(5) The chief shall adopt specific rules to govern the 1341
granting of permits in accordance with divisions (B) (1) to (4) 1342
of this section and may impose such additional requirements as 1343
the chief considers necessary. 1344

(6) All permits granted under divisions (B) (1) to (4) of 1345
this section shall be reviewed not more than three years from 1346
the date of issuance of the permit unless the applicant 1347
affirmatively demonstrates that the proposed development is 1348
proceeding in accordance with the terms of the approved schedule 1349
and reclamation plan. 1350

(C) All of the following performance standards apply to 1351
steep-slope coal mining and are in addition to those general 1352
performance standards required by this section, except that this 1353
division does not apply to those situations in which an operator 1354
is mining on flat or gently rolling terrain on which an 1355

occasional steep slope is encountered through which the mining 1356
operation is to proceed, leaving a plain or predominantly flat 1357
area, or where an operator is in compliance with division (B) of 1358
this section: 1359

(1) The operator shall ensure that when performing coal 1360
mining on steep slopes, no debris, abandoned or disabled 1361
equipment, spoil material, or waste mineral matter is placed on 1362
the downslope below the bench or mining cut. Spoil material in 1363
excess of that required for the reconstruction of the 1364
approximate original contour under division (A) (3) or (C) (2) of 1365
this section shall be permanently stored pursuant to division 1366
(A) (21) of this section. 1367

(2) The operator shall complete backfilling with spoil 1368
material to cover completely the highwall and return the site to 1369
the approximate original contour, which material will maintain 1370
stability following mining and reclamation. 1371

(3) The operator shall not disturb land above the top of 1372
the highwall unless the chief finds that the disturbance will 1373
facilitate compliance with the environmental protection 1374
standards of this section, except that any such disturbance 1375
involving land above the highwall shall be limited to that 1376
amount of land necessary to facilitate compliance. 1377

(D) (1) The chief may permit variances for the purposes set 1378
forth in division (D) (3) of this section, provided that the 1379
watershed control of the area is improved and that complete 1380
backfilling with spoil material shall be required to cover 1381
completely the highwall, which material will maintain stability 1382
following mining and reclamation. 1383

(2) Where an applicant meets the requirements of divisions 1384

(D) (3) and (4) of this section, a variance from the requirement 1385
to restore to approximate original contour set forth in division 1386
(C) (2) of this section may be granted for the mining of coal 1387
when the owner of the surface knowingly requests in writing, as 1388
a part of the permit application, that such a variance be 1389
granted so as to render the land, after reclamation, suitable 1390
for an industrial, commercial, residential, or public use, 1391
including recreational facilities, in accordance with divisions 1392
(D) (3) and (4) of this section. 1393

(3) A variance pursuant to division (D) (2) of this section 1394
may be granted if: 1395

(a) After consultation with the appropriate land use 1396
planning agencies, if any, the potential use of the affected 1397
land is considered to constitute an equal or better economic or 1398
public use. 1399

(b) The postmining land condition is designed and 1400
certified by a registered professional engineer in conformity 1401
with professional standards established to ensure the stability, 1402
drainage, and configuration necessary for the intended use of 1403
the site. 1404

(c) After approval of the appropriate state environmental 1405
agencies, the watershed of the affected land is considered to be 1406
improved. 1407

(4) In granting a variance pursuant to division (D) of 1408
this section, the chief shall require that only such amount of 1409
spoil will be placed off the mine bench as is necessary to 1410
achieve the planned postmining land use, ensure stability of the 1411
spoil retained on the bench, and meet all other requirements of 1412
this chapter. All spoil placement off the mine bench shall 1413

comply with division (A) (21) of this section. 1414

(5) The chief shall adopt specific rules to govern the 1415
granting of variances under division (D) of this section and may 1416
impose such additional requirements as the chief considers 1417
necessary. 1418

(6) All variances granted under division (D) of this 1419
section shall be reviewed not more than three years from the 1420
date of issuance of the permit unless the permittee 1421
affirmatively demonstrates that the proposed development is 1422
proceeding in accordance with the terms of the reclamation plan. 1423

(E) The chief shall establish standards and criteria 1424
regulating the design, location, construction, operation, 1425
maintenance, enlargement, modification, removal, and abandonment 1426
of new and existing coal mine waste piles referred to in 1427
division (A) (13) of this section and division (A) (5) of section 1428
1513.35 of the Revised Code. The standards and criteria shall 1429
conform to the standards and criteria used by the chief of the 1430
United States army corps of engineers to ensure that flood 1431
control structures are safe and effectively perform their 1432
intended function. In addition to engineering and other 1433
technical specifications, the standards and criteria developed 1434
pursuant to this division shall include provisions for review 1435
and approval of plans and specifications prior to construction, 1436
enlargement, modification, removal, or abandonment; performance 1437
of periodic inspections during construction; issuance of 1438
certificates of approval upon completion of construction; 1439
performance of periodic safety inspections; and issuance of 1440
notices for required remedial or maintenance work. 1441

(F) (1) The permittee may file a request with the chief for 1442
release of a part of a performance security under division (F) 1443

(3) of this section. Within thirty days after any request for
performance security 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 performance security 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 performance security 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 performance security 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 performance
security.

(2) Upon receipt of a copy of the advertisement and
request for release of a performance security 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 1475
release or not to release all or part of the performance 1476
security within sixty days after the filing of the request if no 1477
public hearing is held pursuant to division (F) (6) of this 1478
section or, if there has been a public hearing held pursuant to 1479
division (F) (6) of this section, within thirty days thereafter. 1480

(3) The chief may release the performance security if the 1481
reclamation covered by the performance security or portion 1482
thereof has been accomplished as required by this chapter and 1483
rules adopted under it according to the following schedule: 1484

(a) When the operator completes the backfilling, 1485
regrading, and drainage control of an area for which performance 1486
security has been provided in accordance with the approved 1487
reclamation plan, and, if the area covered by the performance 1488
security is one for which an authorization was made under 1489
division (E) (7) of section 1513.07 of the Revised Code, the 1490
operator has complied with the approved pollution abatement plan 1491
and all additional requirements established by the chief in 1492
rules adopted under section 1513.02 of the Revised Code 1493
governing coal mining and reclamation operations on pollution 1494
abatement areas, the chief shall grant a release of fifty per 1495
cent of the performance security for the applicable permit area. 1496

(b) After resoiling and revegetation have been established 1497
on the regraded mined lands in accordance with the approved 1498
reclamation plan, the chief shall grant a release in an amount 1499
not exceeding thirty-five per cent of the original performance 1500
security for all or part of the affected area under the permit. 1501
When determining the amount of performance security to be 1502
released after successful revegetation has been established, the 1503
chief shall retain that amount of performance security for the 1504

revegetated area that would be sufficient for a third party to 1505
cover the cost of reestablishing revegetation for the period 1506
specified for operator responsibility in this section for 1507
reestablishing revegetation. No part of the performance security 1508
shall be released under this division so long as the lands to 1509
which the release would be applicable are contributing suspended 1510
solids to streamflow or runoff outside the permit area in excess 1511
of the requirements of this section or until soil productivity 1512
for prime farmlands has returned to equivalent levels of yield 1513
as nonmined land of the same soil type in the surrounding area 1514
under equivalent management practices as determined from the 1515
soil survey performed pursuant to section 1513.07 of the Revised 1516
Code. If the area covered by the performance security is one for 1517
which an authorization was made under division (E) (7) of section 1518
1513.07 of the Revised Code, no part of the performance security 1519
shall be released under this division until the operator has 1520
complied with the approved pollution abatement plan and all 1521
additional requirements established by the chief in rules 1522
adopted under section 1513.02 of the Revised Code governing coal 1523
mining and reclamation operations on pollution abatement areas. 1524
Where a silt dam is to be retained as a permanent impoundment 1525
pursuant to division (A) (10) of this section, the portion of 1526
performance security may be released under this division so long 1527
as provisions for sound future maintenance by the operator or 1528
the landowner have been made with the chief. 1529

(c) When the operator has completed successfully all coal 1530
mining and reclamation activities, including, if applicable, all 1531
additional requirements established in the pollution abatement 1532
plan approved under division (E) (7) of section 1513.07 of the 1533
Revised Code and all additional requirements established by the 1534
chief in rules adopted under section 1513.02 of the Revised Code 1535

governing coal mining and reclamation operations on pollution 1536
abatement areas, the chief shall release all or any of the 1537
remaining portion of the performance security for all or part of 1538
the affected area under a permit, but not before the expiration 1539
of the period specified for operator responsibility in this 1540
section, except that the chief may adopt rules for a variance to 1541
the operator period of responsibility considering vegetation 1542
success and probability of continued growth and consent of the 1543
landowner, provided that no performance security shall be fully 1544
released until all reclamation requirements of this chapter are 1545
fully met. 1546

(4) If the chief disapproves the application for release 1547
of the performance security or portion thereof, the chief shall 1548
notify the permittee, in writing, stating the reasons for 1549
disapproval and recommending corrective actions necessary to 1550
secure the release, and allowing the opportunity for a public 1551
adjudicatory hearing. 1552

(5) When any application for total or partial performance 1553
security release is filed with the chief under this section, the 1554
chief shall notify the municipal corporation in which the coal 1555
mining operation is located by certified mail at least thirty 1556
days prior to the release of all or a portion of the performance 1557
security. 1558

(6) A person with a valid legal interest that might be 1559
adversely affected by release of a performance security under 1560
this section or the responsible officer or head of any federal, 1561
state, or local government agency that has jurisdiction by law 1562
or special expertise with respect to any environmental, social, 1563
or economic impact involved in the operation or is authorized to 1564
develop and enforce environmental standards with respect to such 1565

operations may file written objections to the proposed release 1566
from the performance security with the chief within thirty days 1567
after the last publication of the notice required by division 1568
(F) (1) of this section. If written objections are filed and an 1569
informal conference is requested, the chief shall inform all 1570
interested parties of the time and place of the conference. The 1571
date, time, and location of the informal conference shall be 1572
advertised by the chief in a newspaper of general circulation in 1573
the locality of the coal mining operation proposed for 1574
performance security release for at least once a week for two 1575
consecutive weeks. The informal conference shall be held in the 1576
locality of the coal mining operation proposed for performance 1577
security release or in Franklin county, at the option of the 1578
objector, within thirty days after the request for the 1579
conference. An electronic ~~or stenographic~~ record shall be made 1580
of the conference proceeding unless waived by all parties. The 1581
record shall be maintained and shall be accessible to the 1582
parties until final release of the performance security at 1583
issue. In the event all parties requesting the informal 1584
conference stipulate agreement prior to the requested informal 1585
conference and withdraw their request, the informal conference 1586
need not be held. 1587

(7) If an informal conference has been held pursuant to 1588
division (F) (6) of this section, the chief shall issue and 1589
furnish the applicant and persons who participated in the 1590
conference with the written decision regarding the release 1591
within sixty days after the conference. Within thirty days after 1592
notification of the final decision of the chief regarding the 1593
performance security release, the applicant or any person with 1594
an interest that is or may be adversely affected by the decision 1595
may appeal the decision to the reclamation commission pursuant 1596

to section 1513.13 of the Revised Code. 1597

(8) (a) If the chief determines that a permittee is 1598
responsible for mine drainage that requires water treatment 1599
after reclamation is completed under the terms of the permit or 1600
that a permittee must provide an alternative water supply after 1601
reclamation is completed under the terms of the permit, the 1602
permittee shall provide alternative financial security in an 1603
amount determined by the chief prior to the release of the 1604
remaining portion of performance security under division (F) (3) 1605
(c) of this section. The alternative financial security shall be 1606
in an amount that is equal to or greater than the present value 1607
of the estimated cost over time to develop and implement mine 1608
drainage plans and provide water treatment or in an amount that 1609
is necessary to provide and maintain an alternative water 1610
supply, as applicable. The alternative financial security shall 1611
include a contract, trust, or other agreement or mechanism that 1612
is enforceable under law to provide long-term water treatment or 1613
a long-term alternative water supply, or both. The contract, 1614
trust, or other agreement or mechanism included with the 1615
alternative financial security may provide for the funding of 1616
the alternative financial security incrementally over a period 1617
of time, not to exceed five years, with reliance on guarantees 1618
or other collateral provided by the permittee and approved by 1619
the chief for the balance of the alternative financial security 1620
required until the alternative financial security has been fully 1621
funded by the permittee. 1622

(b) The chief shall adopt rules in accordance with Chapter 1623
119. of the Revised Code that are necessary for the 1624
administration of division (F) (8) (a) of this section. 1625

(c) If the chief determines that a permittee must provide 1626

alternative financial security under division (F) (8) (a) of this 1627
section and the performance security for the permit was provided 1628
under division (C) (2) of section 1513.08 of the Revised Code, 1629
the permittee may fund the alternative financial security 1630
incrementally over a period of time, not to exceed five years, 1631
with reliance on the reclamation forfeiture fund created in 1632
section 1513.18 of the Revised Code for the balance of the 1633
alternative financial security required until the alternative 1634
financial security has been fully funded by the permittee. The 1635
permittee semiannually shall pay to the division of mineral 1636
resources management a fee that is equal to seven and one-half 1637
per cent of the average balance of the alternative financial 1638
security that is being provided by reliance on the reclamation 1639
forfeiture fund over the previous six months. All money received 1640
from the fee shall be credited to the reclamation forfeiture 1641
fund. 1642

(9) Final release of the performance security in 1643
accordance with division (F) (3) (c) of this section terminates 1644
the jurisdiction of the chief under this chapter over the 1645
reclaimed site of a surface coal mining and reclamation 1646
operation or applicable portion of an operation. However, the 1647
chief shall reassert jurisdiction over such a site if the 1648
release was based on fraud, collusion, or misrepresentation of a 1649
material fact and the chief, in writing, demonstrates evidence 1650
of the fraud, collusion, or misrepresentation. Any person with 1651
an interest that is or may be adversely affected by the chief's 1652
determination may appeal the determination to the reclamation 1653
commission in accordance with section 1513.13 of the Revised 1654
Code. 1655

(G) The chief shall adopt rules governing the criteria for 1656
forfeiture of performance security, the method of determining 1657

the forfeited amount, and the procedures to be followed in the 1658
event of forfeiture. Cash received as the result of such 1659
forfeiture is the property of the state. 1660

Sec. 1565.12. When a loss of life is occasioned by 1661
accident in any mine, the operator thereof shall forthwith give 1662
notice thereof to the chief of the division of mineral resources 1663
management, and to the deputy mine inspector in charge of the 1664
district. Such notice shall be given by telephone or 1665
~~telegraph~~electronic format. The operator of such mine shall, 1666
within twenty-four hours after such accident causing loss of 1667
life, send a written report of the accident to the chief. Such 1668
written report shall specify the character and cause of the 1669
accident, the names of the persons killed, and the nature of the 1670
injuries that caused death. In the case of injury thereafter 1671
resulting in death, the operator shall send a written notice 1672
thereof to the chief, and to the deputy mine inspector of such 1673
district, at such time as such death comes to the operator's 1674
knowledge. 1675

No operator of a mine shall refuse or neglect to comply 1676
with this section. 1677

Sec. 1571.05. (A) Whenever any part of a gas storage 1678
reservoir or any part of its protective area underlies any part 1679
of a coal mine, or is, or within nine months is expected or 1680
intended to be, within two thousand linear feet of the boundary 1681
of a coal mine that is operating in a coal seam any part of 1682
which extends over any part of the storage reservoir or its 1683
protective area, the operator of the reservoir, if the reservoir 1684
operator or some other reservoir operator has not theretofore 1685
done so, shall: 1686

(1) Use every known method that is reasonable under the 1687

circumstance for discovering and locating all wells drilled 1688
within the area of the reservoir or its protective area that 1689
underlie any part of the coal mine or its protective area; 1690

(2) Plug or recondition all known wells drilled within the 1691
area of the reservoir or its protective area that underlie any 1692
part of the coal mine. 1693

(B) Whenever an operator of a gas storage reservoir is 1694
notified by the operator of a coal mine, as provided in division 1695
(B) of section 1571.03 of the Revised Code, that the coal mine 1696
operator believes that part of the boundary of the mine is 1697
within two thousand linear feet of a well that is drilled 1698
through the horizon of the coal mine and into or through the 1699
storage stratum or strata of the reservoir within the boundary 1700
of the reservoir or within its protective area, the reservoir 1701
operator shall plug or recondition the well as in this section 1702
prescribed, unless it is agreed in a conference or is ordered by 1703
the chief of the division of oil and gas resources management 1704
after a hearing, as provided in section 1571.10 of the Revised 1705
Code, that the well referred to in the notice is not such a well 1706
as is described in division (B) of section 1571.03 of the 1707
Revised Code. 1708

Whenever an operator of a gas storage reservoir is 1709
notified by the operator of a coal mine as provided in division 1710
(C) or (D) of section 1571.03 of the Revised Code, that part of 1711
the boundary of the mine is, or within nine months is intended 1712
or expected to be, within two thousand linear feet of a well 1713
that is drilled through the horizon of the mine and into or 1714
through the storage stratum or strata of the reservoir within 1715
the boundary of the reservoir or within its protective area, the 1716
reservoir operator shall plug or recondition the well as in this 1717

section prescribed. 1718

Whenever the operator of a coal mine considers that the 1719
use of a well such as in this section described, if used for 1720
injecting gas into, or storing gas in, or removing gas from, a 1721
gas storage reservoir, would be hazardous to the safety of 1722
persons or property on or in the vicinity of the premises of the 1723
coal mine or the reservoir or well, the coal mine operator may 1724
file with the division objections to the use of the well for 1725
such purposes, and a request that a conference be held as 1726
provided in section 1571.10 of the Revised Code, to discuss and 1727
endeavor to resolve by mutual agreement whether or not the well 1728
shall or shall not be used for such purposes, and whether or not 1729
the well shall be reconditioned, inactivated, or plugged. The 1730
request shall set forth the mine operator's reasons for such 1731
objections. If no approved agreement is reached in the 1732
conference, the gas storage well inspector shall within ten days 1733
after the termination of the conference, file with the chief a 1734
request that the chief hear and determine the matters considered 1735
at the conference as provided in section 1571.10 of the Revised 1736
Code. Upon conclusion of the hearing, the chief shall find and 1737
determine whether or not the safety of persons or of the 1738
property on or in the vicinity of the premises of the coal mine, 1739
or the reservoir, or the well requires that the well be 1740
reconditioned, inactivated, or plugged, and shall make an order 1741
consistent with that determination, provided that the chief 1742
shall not order a well plugged unless the chief first finds that 1743
there is underground leakage of gas therefrom. 1744

The plugging or reconditioning of each well described in a 1745
notice from a coal mine operator to a reservoir operator as 1746
provided in division (B) of section 1571.03 of the Revised Code, 1747
which must be plugged or reconditioned, shall be completed 1748

within such time as the gas storage well inspector may fix in 1749
the case of each such well. The plugging or reconditioning of 1750
each well described in a notice from a coal mine operator to a 1751
reservoir operator as provided in division (C) of section 1752
1571.03 of the Revised Code, which must be plugged or 1753
reconditioned, shall be completed by the time the well, by 1754
reason of the extension of the boundary of the coal mine, is 1755
within two thousand linear feet of any part of the boundary of 1756
the mine. The plugging or reconditioning of each well described 1757
in a notice from a coal mine operator to a reservoir operator, 1758
as provided in division (D) of section 1571.03 of the Revised 1759
Code, which must be plugged or reconditioned, shall be completed 1760
by the time the well, by reason of the opening of the new mine, 1761
is within two thousand linear feet of any part of the boundary 1762
of the new mine. A reservoir operator who is required to 1763
complete the plugging or reconditioning of a well within a 1764
period of time fixed as in this division prescribed, may prior 1765
to the end of that period of time, notify the division and the 1766
mine operator from whom the reservoir operator received a notice 1767
as provided in division (B), (C), or (D) of section 1571.03 of 1768
the Revised Code, in writing by ~~registered~~ certified mail or 1769
electronic format, that the completion of the plugging or 1770
reconditioning of the well referred to in the notice will be 1771
delayed beyond the end of the period of time fixed therefor as 1772
in this section provided, and that the reservoir operator 1773
requests that a conference be held for the purpose of 1774
endeavoring to reach an agreement establishing a date subsequent 1775
to the end of that period of time, on or before which the 1776
reservoir operator may complete the plugging or reconditioning 1777
without incurring any penalties for failure to do so as provided 1778
in this chapter. If such a reservoir operator sends to such a 1779
mine operator and to the division a notice and request for a 1780

conference as in this division provided, the reservoir operator 1781
shall not incur any penalties for failure to complete the 1782
plugging or reconditioning of the well within the period of time 1783
fixed as in this division prescribed, unless the reservoir 1784
operator fails to complete the plugging or reconditioning of the 1785
well within the period of time fixed by an approved agreement 1786
reached in the conference, or fixed by an order by the chief 1787
upon a hearing held in the matter in the event of failure to 1788
reach an approved agreement in the conference. 1789

Whenever, in compliance with this division, a well is to 1790
be plugged by a reservoir operator, the operator shall give to 1791
the division notice thereof, as many days in advance as will be 1792
necessary for the gas storage well inspector or a deputy mine 1793
inspector to be present at the plugging. The notification shall 1794
be made on blanks furnished by the division and shall show the 1795
following information: 1796

(1) Name and address of the applicant; 1797

(2) The location of the well identified by section or lot 1798
number, city or village, and township and county; 1799

(3) The well name and number of each well to be plugged. 1800

(C) The operator shall give written notice at the same 1801
time to the owner of the land upon which the well is located, 1802
the owners or agents of the adjoining land, and adjoining well 1803
owners or agents of the operator's intention to abandon the 1804
well, and of the time when the operator will be prepared to 1805
commence plugging and filling the same. In addition to giving 1806
such notices, the reservoir operator shall also at the same time 1807
send a copy of the notice by ~~registered-certified mail or~~ 1808
electronic format to the coal mine operator, if any, who sent to 1809

the reservoir operator the notice as provided in division (B), 1810
(C), or (D) of section 1571.03 of the Revised Code, in order 1811
that the coal mine operator or the coal mine operator's 1812
designated representative may attend and observe the manner in 1813
which the plugging of the well is done. 1814

If the reservoir operator plugs the well without the gas 1815
storage well inspector or a deputy mine inspector being present 1816
to supervise the plugging, the reservoir operator shall send to 1817
the division and to the coal mine operator a copy of the report 1818
of the plugging of the well, including in the report: 1819

(1) The date of abandonment; 1820

(2) The name of the owner or operator of the well at the 1821
time of abandonment and the well owner's or operator's post 1822
office address; 1823

(3) The location of the well as to township and county and 1824
the name of the owner of the surface upon which the well is 1825
drilled, with the address thereof; 1826

(4) The date of the permit to drill; 1827

(5) The date when drilled; 1828

(6) Whether the well has been mapped; 1829

(7) The depth of the well; 1830

(8) The depth of the top of the sand to which the well was 1831
drilled; 1832

(9) The depth of each seam of coal drilled through; 1833

(10) A detailed report as to how the well was plugged, 1834
giving in particular the manner in which the coal and various 1835
sands were plugged, and the date of the plugging of the well, 1836

including therein the names of those who witnessed the plugging 1837
of the well. 1838

The report shall be signed by the operator or the 1839
operator's agent who plugged the well and verified by the oath 1840
of the party so signing. For the purposes of this section, a 1841
deputy mine inspector may take acknowledgements and administer 1842
oaths to the parties signing the report. 1843

Whenever, in compliance with this division, a well is to 1844
be reconditioned by a reservoir operator, the operator shall 1845
give to the division notice thereof as many days before the 1846
reconditioning is begun as will be necessary for the gas storage 1847
well inspector, or a deputy mine inspector, to be present at the 1848
reconditioning. No well shall be reconditioned if an inspector 1849
of the division is not present unless permission to do so has 1850
been granted by the chief. The reservoir operator, at the time 1851
of giving notice to the division as in this section required, 1852
also shall send a copy of the notice by ~~registered~~ certified 1853
mail or electronic format to the coal mine operator, if any, who 1854
sent to the reservoir operator the notice as provided in 1855
division (B), (C), or (D) of section 1571.03 of the Revised 1856
Code, in order that the coal mine operator or the coal mine 1857
operator's designated representative may attend and observe the 1858
manner in which the reconditioning of the well is done. 1859

If the reservoir operator reconditions the well when the 1860
gas storage well inspector or a deputy mine inspector is not 1861
present to supervise the reconditioning, the reservoir operator 1862
shall make written report to the division describing the manner 1863
in which the reconditioning was done, and shall send to the coal 1864
mine operator a copy of the report by ~~registered~~ certified mail 1865
or electronic format. 1866

(D) Wells that are required by this section to be plugged 1867
shall be plugged in the manner specified in sections 1509.13 to 1868
1509.17 of the Revised Code, and the operator shall give the 1869
notifications and reports required by divisions (B) and (C) of 1870
this section. No such well shall be plugged or abandoned without 1871
the written approval of the division, and no such well shall be 1872
mudded, plugged, or abandoned without the gas storage well 1873
inspector or a deputy mine inspector present unless written 1874
permission has been granted by the chief or the gas storage well 1875
inspector. For purposes of this section, the chief of the 1876
division of mineral resources management has the authority given 1877
the chief of the division of oil and gas resources management in 1878
sections 1509.15 and 1509.17 of the Revised Code. If such a well 1879
has been plugged prior to the time plugging thereof is required 1880
by this section, and, on the basis of the data, information, and 1881
other evidence available it is determined that the plugging was 1882
done in the manner required by this section, or was done in 1883
accordance with statutes prescribing the manner of plugging 1884
wells in effect at the time the plugging was done, and that 1885
there is no evidence of leakage of gas from the well either at 1886
or below the surface, and that the plugging is sufficiently 1887
effective to prevent the leakage of gas from the well, the 1888
obligations imposed upon the reservoir operator by this section 1889
as to plugging the well shall be considered fully satisfied. The 1890
operator of a coal mine any part of the boundary of which is, or 1891
within nine months is expected or intended to be, within two 1892
thousand linear feet of the well may at any time raise a 1893
question as to whether the plugging of the well is sufficiently 1894
effective to prevent the leakage of gas therefrom, and the issue 1895
so made shall be determined by a conference or hearing as 1896
provided in section 1571.10 of the Revised Code. 1897

(E) Wells that are to be reconditioned as required by this 1898
section shall be, or shall be made to be: 1899

(1) Cased in accordance with the statutes of this state in 1900
effect at the time the wells were drilled, with the casing 1901
being, or made to be, sufficiently effective in that there is no 1902
evidence of any leakage of gas therefrom; 1903

(2) Equipped with a producing string and well head 1904
composed of new pipe, or pipe as good as new, and fittings 1905
designed to operate with safety and to contain the stored gas at 1906
maximum pressures contemplated. 1907

When a well that is to be reconditioned as required by 1908
this section has been reconditioned for use in the operation of 1909
the reservoir prior to the time prescribed in this section, and 1910
on the basis of the data, information, and other evidence 1911
available it is determined that at the time the well was so 1912
reconditioned the requirements prescribed in this division were 1913
met, and that there is no evidence of underground leakage of gas 1914
from the well, and that the reconditioning is sufficiently 1915
effective to prevent underground leakage from the well, the 1916
obligations imposed upon the reservoir operator by this section 1917
as to reconditioning the well shall be considered fully 1918
satisfied. Any operator of a coal mine any part of the boundary 1919
of which is, or within nine months is expected or intended to 1920
be, within two thousand linear feet of the well may at any time 1921
raise a question as to whether the reconditioning of the well is 1922
sufficiently effective to prevent underground leakage of gas 1923
therefrom, and the issue so made shall be determined by a 1924
conference or hearing as provided in section 1571.10 of the 1925
Revised Code. 1926

If the gas storage well inspector at any time finds that a 1927

well that is drilled through the horizon of a coal mine and into 1928
or through the storage stratum or strata of a reservoir within 1929
the boundary of the reservoir or within its protective area is 1930
located within the boundary of the coal mine or within two 1931
thousand linear feet of the mine boundary, and was drilled prior 1932
to the time the statutes of this state required that wells be 1933
cased, and that the well fails to meet the casing and equipping 1934
requirements prescribed in this division, the gas storage well 1935
inspector shall promptly notify the operator of the reservoir 1936
thereof in writing, and the reservoir operator upon receipt of 1937
the notice shall promptly recondition the well in the manner 1938
prescribed in this division for reconditioning wells, unless, in 1939
a conference or hearing as provided in section 1571.10 of the 1940
Revised Code, a different course of action is agreed upon or 1941
ordered. 1942

(F) (1) When a well within the boundary of a gas storage 1943
reservoir or within the reservoir's protective area penetrates 1944
the storage stratum or strata of the reservoir, but does not 1945
penetrate the coal seam within the boundary of a coal mine, the 1946
gas storage well inspector may, upon application of the operator 1947
of the storage reservoir, exempt the well from the requirements 1948
of this section. Either party affected by the action of the gas 1949
storage well inspector may request a conference and hearing with 1950
respect to the exemption. 1951

(2) When a well located within the boundary of a storage 1952
reservoir or a reservoir's protective area is a producing well 1953
in a stratum above or below the storage stratum, the obligations 1954
imposed by this section shall not begin until the well ceases to 1955
be a producing well. 1956

(G) When retreat mining reaches a point in a coal mine 1957

when the operator of the mine expects that within ninety days 1958
retreat work will be at the location of a pillar surrounding an 1959
active storage reservoir well, the operator of the mine shall 1960
promptly send by ~~registered~~ certified mail or electronic format 1961
notice to that effect to the operator of the reservoir. 1962
Thereupon the operators may by agreement determine whether it is 1963
necessary or advisable to temporarily inactivate the well. If 1964
inactivated, the well shall not be reactivated until a 1965
reasonable period of time has elapsed, such period of time to be 1966
determined by agreement by the operators. In the event that the 1967
parties cannot agree upon either of the foregoing matters, the 1968
question shall be submitted to the gas storage well inspector 1969
for a conference in accordance with section 1571.10 of the 1970
Revised Code. 1971

(H) (1) The provisions of this section that require the 1972
plugging or reconditioning of wells shall not apply to such 1973
wells as are used to inject gas into, store gas in, or remove 1974
gas from a gas storage reservoir when the sole purpose of the 1975
injection, storage, or removal is testing. The operator of a gas 1976
storage reservoir who injects gas into, stores gas in, or 1977
removes gas from a reservoir for the sole purpose of testing 1978
shall be subject to all other provisions of this chapter that 1979
are applicable to operators of reservoirs. 1980

(2) If the injection of gas into, or storage of gas in, a 1981
gas storage reservoir any part of which, or of the protective 1982
area of which, is within the boundary of a coal mine is begun 1983
after September 9, 1957, and if the injection or storage of gas 1984
is for the sole purpose of testing, the operator of the 1985
reservoir shall send by ~~registered~~ certified mail or electronic 1986
format to the operator of the coal mine, the division of oil and 1987
gas resources management, and the division of mineral resources 1988

management at least sixty days' notice of the date upon which 1989
the testing will be begun. 1990

If at any time within the period of time during which 1991
testing of a reservoir is in progress, any part of the reservoir 1992
or of its protective area comes within any part of the boundary 1993
of a coal mine, the operator of the reservoir shall promptly 1994
send notice to that effect by ~~registered~~ certified mail or 1995
electronic format to the operator of the mine, the division of 1996
oil and gas resources management, and the division of mineral 1997
resources management. 1998

(3) Any coal mine operator who receives a notice as 1999
provided for in division (H) (2) of this section may within 2000
thirty days of the receipt thereof file with the division 2001
objections to the testing. The gas storage well inspector also 2002
may, within the time within which a coal mine operator may file 2003
an objection, place in the files of the division objections to 2004
the testing. The reservoir operator shall comply throughout the 2005
period of the testing operations with all conditions and 2006
requirements agreed upon and approved in the conference on such 2007
objections conducted as provided in section 1571.10 of the 2008
Revised Code, or in an order made by the chief following a 2009
hearing in the matter as provided in section 1571.10 of the 2010
Revised Code. If in complying with the agreement or order either 2011
the reservoir operator or the coal mine operator encounters or 2012
discovers conditions that were not known to exist at the time of 2013
the conference or hearing and that materially affect the 2014
agreement or order, or the ability of the reservoir operator to 2015
comply therewith, either operator may apply for a rehearing or 2016
modification of the order. 2017

(I) In addition to complying with all other provisions of 2018

this chapter and any lawful orders issued thereunder, the 2019
operator of each gas storage reservoir shall keep all wells 2020
drilled into or through the storage stratum or strata within the 2021
boundary of the operator's reservoir or within the reservoir's 2022
protective area in such condition, and operate the same in such 2023
manner, as to prevent the escape of gas therefrom into any coal 2024
mine, and shall operate and maintain the storage reservoir and 2025
its facilities in such manner and at such pressures as will 2026
prevent gas from escaping from the reservoir or its facilities 2027
into any coal mine. 2028

Sec. 1571.08. (A) Whenever in this chapter, the method or 2029
material to be used in discharging any obligations imposed by 2030
this chapter is specified, an alternative method or material may 2031
be used if approved by the gas storage well inspector or the 2032
chief of the division of oil and gas resources management. A 2033
person desiring to use such alternative method or material shall 2034
file with the division of oil and gas resources management an 2035
application for permission to do so. Such application shall 2036
describe such alternative method or material in reasonable 2037
detail. The gas storage well inspector shall promptly send by 2038
~~registered~~ certified mail or electronic format notice of the 2039
filing of such application to any coal mine operator or 2040
reservoir operator whose mine or reservoir may be directly 2041
affected thereby. Any such coal mine operator or reservoir 2042
operator may within ten days following receipt of such notice, 2043
file with the division objections to such application. The gas 2044
storage well inspector may also file with the division an 2045
objection to such application at any time during which coal mine 2046
operators or reservoir operators are permitted to file 2047
objections. If no objections are filed within the ten-day period 2048
of time, the gas storage well inspector shall thereupon issue a 2049

permit approving the use of such alternative method or material. 2050
If any such objections are filed by any coal mine operator or 2051
reservoir operator, or by the gas storage well inspector, the 2052
question as to whether or not the use of such alternative method 2053
or material, or a modification thereof is approved, shall be 2054
determined by a conference or hearing as provided in section 2055
1571.10 of the Revised Code. 2056

(B) Whenever in this chapter, provision is made for the 2057
filing of objections with the division, such objections shall be 2058
in writing and shall state as definitely as is reasonably 2059
possible the reasons for such objections. Upon the filing of any 2060
such objection the gas storage well inspector shall promptly fix 2061
the time and place for holding a conference for the purpose of 2062
discussing and endeavoring to resolve by mutual agreement the 2063
issue raised by such objection. The gas storage well inspector 2064
shall send written notice thereof by ~~registered~~ certified mail 2065
or electronic format to each person having a direct interest 2066
therein. Thereupon the issue made by such objection shall be 2067
determined by a conference or hearing in accordance with the 2068
procedures for conferences and hearings as provided in section 2069
1571.10 of the Revised Code. 2070

Sec. 1571.10. (A) The gas storage well inspector or any 2071
person having a direct interest in the administration of this 2072
chapter may at any time file with the division of oil and gas 2073
resources management a written request that a conference be held 2074
for the purpose of discussing and endeavoring to resolve by 2075
mutual agreement any question or issue relating to the 2076
administration of this chapter, or to compliance with its 2077
provisions, or to any violation thereof. Such request shall 2078
describe the matter concerning which the conference is 2079
requested. Thereupon the gas storage well inspector shall 2080

promptly fix the time and place for the holding of such 2081
conference and shall send written notice thereof to each person 2082
having a direct interest therein. At such conference the gas 2083
storage well inspector or a representative of the division 2084
designated by the gas storage well inspector shall be in 2085
attendance, and shall preside at the conference, and the gas 2086
storage well inspector or designated representative may make 2087
such recommendations as the gas storage well inspector or 2088
designated representative deems proper. Any agreement reached at 2089
such conference shall be consistent with the requirements of 2090
this chapter and, if approved by the gas storage well inspector, 2091
it shall be reduced to writing and shall be effective. Any such 2092
agreement approved by the gas storage well inspector shall be 2093
kept on file in the division and a copy thereof shall be 2094
furnished to each of the persons having a direct interest 2095
therein. The conference shall be deemed terminated as of the 2096
date an approved agreement is reached or when any person having 2097
a direct interest therein refuses to confer thereafter. Such a 2098
conference shall be held in all cases prior to the holding of a 2099
hearing as provided in this section. 2100

(B) Within ten days after the termination of a conference 2101
at which no approved agreement is reached, any person who 2102
participated in such conference and who has a direct interest in 2103
the subject matter thereof, or the gas storage well inspector, 2104
may file with the chief of the division of oil and gas resources 2105
management a request that the chief hear and determine the 2106
matter or matters, or any part thereof considered at the 2107
conference. Thereupon the chief shall promptly fix the time and 2108
place for the holding of such hearing and shall send written 2109
notice thereof to each person having a direct interest therein. 2110
The form of the request for such hearing and the conduct of the 2111

hearing shall be in accordance with rules that the chief adopts 2112
under section 1571.11 of the Revised Code. Consistent with the 2113
requirement for reasonable notice each such hearing shall be 2114
held promptly after the filing of the request therefor. Any 2115
person having a direct interest in the matter to be heard shall 2116
be entitled to appear and be heard in person or by attorney. The 2117
division may present at such hearing any evidence that is 2118
material to the matter being heard and that has come to the 2119
division's attention in any investigation or inspection made 2120
pursuant to this chapter. 2121

(C) For the purpose of conducting such a hearing the chief 2122
may require the attendance of witnesses and the production of 2123
books, records, and papers, and the chief may, and at the 2124
request of any person having a direct interest in the matter 2125
being heard, the chief shall, issue subpoenas for witnesses or 2126
subpoenas duces tecum to compel the production of any books, 2127
records, or papers, directed to the sheriffs of the counties 2128
where such witnesses are found, which subpoenas shall be served 2129
and returned in the same manner as subpoenas in criminal cases 2130
are served and returned. The fees of sheriffs shall be the same 2131
as those allowed by the court of common pleas in criminal cases. 2132
Witnesses shall be paid the fees and mileage provided for under 2133
section 119.094 of the Revised Code. Such fee and mileage 2134
expenses shall be paid in advance by the persons at whose 2135
request they are incurred, and the remainder of such expenses 2136
shall be paid out of funds appropriated for the expenses of the 2137
division. 2138

In case of disobedience or neglect of any subpoena served 2139
on any person, or the refusal of any witness to testify to any 2140
matter regarding which the witness may be lawfully interrogated, 2141
the court of common pleas of the county in which such 2142

disobedience, neglect, or refusal occurs, or any judge thereof, 2143
on application of the chief, shall compel obedience by 2144
attachment proceedings for contempt as in the case of 2145
disobedience of the requirements of a subpoena issued from such 2146
court or a refusal to testify therein. Witnesses at such 2147
hearings shall testify under oath, and the chief may administer 2148
oaths or affirmations to persons who so testify. 2149

(D) With the consent of the chief, the testimony of any 2150
witness may be taken by deposition at the instance of a party to 2151
any hearing before the chief at any time after hearing has been 2152
formally commenced. The chief may, of the chief's own motion, 2153
order testimony to be taken by deposition at any stage in any 2154
hearing, proceeding, or investigation pending before the chief. 2155
Such deposition shall be taken in the manner prescribed by the 2156
laws of this state for taking depositions in civil cases in 2157
courts of record. 2158

(E) After the conclusion of a hearing the chief shall make 2159
a determination and finding of facts. Every adjudication, 2160
determination, or finding by the chief shall be made by written 2161
order and shall contain a written finding by the chief of the 2162
facts upon which the adjudication, determination, or finding is 2163
based. Notice of the making of such order shall be given to the 2164
persons whose rights, duties, or privileges are affected 2165
thereby, by sending a certified copy thereof by ~~registered~~ 2166
certified mail or electronic format to each of such persons. 2167

Adjudications, determinations, findings, and orders made 2168
by the chief shall not be governed by, or be subject to, Chapter 2169
119. of the Revised Code. 2170

Sec. 1571.14. Any person claiming to be aggrieved or 2171
adversely affected by an order of the chief of the division of 2172

oil and gas resources management made as provided in section 2173
1571.10 or 1571.16 of the Revised Code may appeal to the 2174
director of natural resources for an order vacating or modifying 2175
such order. Upon receipt of the appeal, the director shall 2176
appoint an individual who has knowledge of the laws and rules 2177
regarding the underground storage of gas and who shall act as a 2178
hearing officer in accordance with Chapter 119. of the Revised 2179
Code in hearing the appeal. 2180

The person appealing to the director shall be known as 2181
appellant and the chief shall be known as appellee. The 2182
appellant and the appellee shall be deemed parties to the 2183
appeal. 2184

The appeal shall be in writing and shall set forth the 2185
order complained of and the grounds upon which the appeal is 2186
based. The appeal shall be filed with the director within thirty 2187
days after the date upon which appellant received notice by 2188
~~registered~~ certified mail or electronic format of the making of 2189
the order complained of, as required by section 1571.10 of the 2190
Revised Code. Notice of the filing of such appeal shall be 2191
delivered by appellant to the chief within three days after the 2192
appeal is filed with the director. 2193

Within seven days after receipt of the notice of appeal 2194
the chief shall prepare and certify to the director at the 2195
expense of appellant a complete transcript of the proceedings 2196
out of which the appeal arises, including a transcript of the 2197
testimony submitted to the chief. 2198

Upon the filing of the appeal the director shall fix the 2199
time and place at which the hearing on the appeal will be held, 2200
and shall give appellant and the chief at least ten days' 2201
written notice thereof by mail. The director may postpone or 2202

continue any hearing upon the director's own motion or upon 2203
application of appellant or of the chief. 2204

The filing of an appeal provided for in this section does 2205
not automatically suspend or stay execution of the order 2206
appealed from, but upon application by the appellant the 2207
director may suspend or stay such execution pending 2208
determination of the appeal upon such terms as the director 2209
deems proper. 2210

The hearing officer appointed by the director shall hear 2211
the appeal de novo, and either party to the appeal may submit 2212
such evidence as the hearing officer deems admissible. 2213

For the purpose of conducting a hearing on an appeal, the 2214
hearing officer may require the attendance of witnesses and the 2215
production of books, records, and papers, and may, and at the 2216
request of any party shall, issue subpoenas for witnesses or 2217
subpoenas duces tecum to compel the production of any books, 2218
records, or papers, directed to the sheriffs of the counties 2219
where such witnesses are found, which subpoenas shall be served 2220
and returned in the same manner as subpoenas in criminal cases 2221
are served and returned. The fees of sheriffs shall be the same 2222
as those allowed by the court of common pleas in criminal cases. 2223
Witnesses shall be paid the fees and mileage provided for under 2224
section 119.094 of the Revised Code. Such fee and mileage 2225
expenses incurred at the request of appellant shall be paid in 2226
advance by appellant, and the remainder of such expenses shall 2227
be paid out of funds appropriated for the expenses of the 2228
division of oil and gas resources management. 2229

In case of disobedience or neglect of any subpoena served 2230
on any person, or the refusal of any witness to testify to any 2231
matter regarding which the witness may be lawfully interrogated, 2232

the court of common pleas of the county in which such 2233
disobedience, neglect, or refusal occurs, or any judge thereof, 2234
on application of the director, shall compel obedience by 2235
attachment proceedings for contempt as in the case of 2236
disobedience of the requirements of a subpoena issued from such 2237
court or a refusal to testify therein. Witnesses at such 2238
hearings shall testify under oath, and the hearing officer may 2239
administer oaths or affirmations to persons who so testify. 2240

At the request of any party to the appeal, a record of the 2241
testimony and other evidence submitted shall be taken by an 2242
official court reporter at the expense of the party making the 2243
request for the record. The record shall include all of the 2244
testimony and other evidence and the rulings on the 2245
admissibility thereof presented at the hearing. The hearing 2246
officer shall pass upon the admissibility of evidence, but any 2247
party may at the time object to the admission of any evidence 2248
and except to the ruling of the hearing officer thereon, and if 2249
the hearing officer refuses to admit evidence, the party 2250
offering same may make a proffer thereof, and such proffer shall 2251
be made a part of the record of such hearing. 2252

If upon completion of the hearing the hearing officer 2253
finds that the order appealed from was lawful and reasonable, 2254
the hearing officer shall make a written order affirming the 2255
order appealed from. If the hearing officer finds that such 2256
order was unreasonable or unlawful, the hearing officer shall 2257
make a written order vacating the order appealed from and making 2258
the order that it finds the chief should have made. Every order 2259
made by the hearing officer shall contain a written finding by 2260
the hearing officer of the facts upon which the order is based. 2261
Notice of the making of such order shall be given forthwith to 2262
each party to the appeal by mailing a certified copy thereof to 2263

each such party by ~~registered-certified mail~~ or electronic
format. 2264
2265

Sec. 1571.15. Any party adversely affected by an order of 2266
the hearing officer under section 1571.14 of the Revised Code 2267
may appeal to the court of common pleas of any county in which 2268
the well, or part of the gas storage reservoir, or part of the 2269
coal mine, involved in the order of the hearing officer which is 2270
being appealed, is located. Any party desiring to so appeal 2271
shall file with the director of natural resources a notice of 2272
appeal designating the order appealed from and stating whether 2273
the appeal is taken on questions of law or questions of law and 2274
fact. A copy of such notice shall also be filed by appellant 2275
with the court and shall be mailed or otherwise delivered to 2276
appellee. The notice shall be filed and mailed or otherwise 2277
delivered within thirty days after the date upon which appellant 2278
received notice from the hearing officer by ~~registered-certified~~
mail or electronic format of the making of the order appealed 2279
from. No appeal bond shall be required to make either an appeal 2280
on questions of law or an appeal on questions of law and fact 2281
effective. 2282
2283

The filing of a notice of appeal shall not automatically 2284
operate as a suspension of the order of the hearing officer. If 2285
it appears to the court that an unjust hardship to the appellant 2286
will result from the execution of the hearing officer's order 2287
pending determination of the appeal, the court may grant a 2288
suspension of such order and fix its terms. 2289

Within fifteen days after receipt of the notice of appeal 2290
the hearing officer shall prepare and file in the court the 2291
complete record of proceedings out of which the appeal arises, 2292
including a transcript of the testimony and other evidence which 2293

has been submitted before ~~him~~ the hearing officer. The expense 2294
of preparing and transcribing such record shall be taxed as a 2295
part of the costs of the appeal. Appellant shall provide 2296
security for costs satisfactory to the court. Upon demand by a 2297
party the director shall furnish at the cost of the party 2298
requesting the same a copy of such record. In the event such 2299
complete record is not filed in the court within the time 2300
provided for in this section either party may apply to the court 2301
to have the case docketed, and the court shall order such record 2302
filed. 2303

Appeals taken on questions of law shall be heard upon 2304
assignments of error filed in the cause or set out in the briefs 2305
of the appellant before the hearing. Errors not argued by brief 2306
may be disregarded, but the court may consider and decide errors 2307
which are not assigned or argued. Failure to file such briefs 2308
and assignments of error within the time prescribed by the 2309
court's rules shall be a cause for dismissal of such appeal. 2310

In appeals taken on questions of law and fact, the hearing 2311
in the court shall be a hearing de novo of the appeal heard by 2312
the hearing officer in which the order appealed from was made. 2313
In such hearings any party may offer as evidence any part of the 2314
record of the proceedings out of which the appeal arises, 2315
certified to the court as provided for in this section, and any 2316
other evidence which the court deems admissible. 2317

If the court finds that the order of the hearing officer 2318
appealed from was lawful and reasonable, it shall affirm such 2319
order. If the court finds that such order was unreasonable or 2320
unlawful, it shall vacate such order and make the order which it 2321
finds the hearing officer should have made. The judgment of the 2322
court is final unless reversed, vacated, or modified on appeal 2323

as in civil actions. 2324

Sec. 1571.16. (A) The gas storage well inspector or any 2325
person having a direct interest in the subject matter of this 2326
chapter may file with the division of oil and gas resources 2327
management a complaint in writing stating that a person is 2328
violating, or is about to violate, a provision or provisions of 2329
this chapter, or has done, or is about to do, an act, matter, or 2330
thing therein prohibited or declared to be unlawful, or has 2331
failed, omitted, neglected, or refused, or is about to fail, 2332
omit, neglect, or refuse, to perform a duty enjoined upon the 2333
person by this chapter. Upon the filing of such a complaint, the 2334
chief of the division of oil and gas resources management shall 2335
promptly fix the time for the holding of a hearing on such 2336
complaint and shall send by ~~registered~~certified mail or 2337
electronic format to the person so complained of, a copy of such 2338
complaint together with at least five days' notice of the time 2339
and place at which such hearing will be held. Such notice of 2340
such hearing shall also be given to all persons having a direct 2341
interest in the matters complained of in such complaint. Such 2342
hearing shall be conducted in the same manner, and the chief and 2343
persons having a direct interest in the matter being heard, 2344
shall have the same powers, rights, and duties as provided in 2345
divisions (B), (C), (D), and (E) of section 1571.10 of the 2346
Revised Code, in connection with hearings by the chief, provided 2347
that if after conclusion of the hearing the chief finds that the 2348
charges against the person complained of, as stated in such 2349
complaint, have not been sustained by a preponderance of 2350
evidence, the chief shall make an order dismissing the 2351
complaint, and if the chief finds that the charges have been so 2352
sustained, the chief shall by appropriate order require 2353
compliance with those provisions. 2354

(B) Whenever the chief is of the opinion that any person 2355
is violating, or is about to violate, any provision of this 2356
chapter, or has done, or is about to do, any act, matter, or 2357
thing therein prohibited or declared to be unlawful, or has 2358
failed, omitted, neglected, or refused, or is about to fail, 2359
omit, neglect, or refuse, to perform any duty enjoined upon the 2360
person by this chapter, or has failed, omitted, neglected, or 2361
refused, or is about to fail, omit, neglect, or refuse, to obey 2362
any lawful requirement or order made by the chief, or any final 2363
judgment, order, or decree made by any court pursuant to this 2364
chapter, then and in every such case, the chief may institute in 2365
a court of competent jurisdiction of the county or counties 2366
wherein the operation is situated, an action to enjoin or 2367
restrain such violations or to enforce obedience with law or the 2368
orders of the chief. No injunction bond shall be required to be 2369
filed in any such proceeding. Such persons or corporations as 2370
the court may deem necessary or proper to be joined as parties 2371
in order to make its judgment, order, or writ effective may be 2372
joined as parties. An appeal may be taken as in other civil 2373
actions. 2374

(C) In addition to the other remedies as provided in 2375
divisions (A) and (B) of this section, any reservoir operator or 2376
coal mine operator affected by this chapter may proceed by 2377
injunction or other appropriate remedy to restrain violations or 2378
threatened violations of this chapter or of orders of the chief, 2379
or of the hearing officer appointed under section 1571.14 of the 2380
Revised Code, or the judgments, orders, or decrees of any court 2381
or to enforce obedience therewith. 2382

(D) Each remedy prescribed in divisions (A), (B), and (C) 2383
of this section is deemed concurrent or contemporaneous with 2384
each other remedy prescribed therein, and the existence or 2385

exercise of any one such remedy shall not prevent the exercise 2386
of any other such remedy. 2387

(E) The provisions of this chapter providing for 2388
conferences, hearings by the chief, appeals to the hearing 2389
officer from orders of the chief, and appeals to the court of 2390
common pleas from orders of the hearing officer, and the 2391
remedies prescribed in divisions (A), (B), (C), and (D) of this 2392
section, do not constitute the exclusive procedure that a 2393
person, who deems the person's rights to be unlawfully affected 2394
by any official action taken thereunder, must pursue in order to 2395
protect and preserve such rights, nor does this chapter 2396
constitute a procedure that such a person must pursue before the 2397
person may lawfully proceed by other actions, legal or 2398
equitable, to protect and preserve such rights. 2399

Sec. 1707.02. (A) "Exempt," as used in this section, means 2400
exempt from sections 1707.08 to 1707.11 and 1707.39 of the 2401
Revised Code. 2402

(B) (1) Except as provided in division (B) (2) of this 2403
section, the following securities are exempt, if the issuer or 2404
guarantor has the power of taxation or assessment for the 2405
purpose of paying the obligation represented by the security, or 2406
is in specific terms empowered by the laws of the state of 2407
issuance to issue securities payable as to principal or 2408
interest, or as to both, out of revenues collected or 2409
administered by such issuer: 2410

(a) Any security issued or guaranteed by the United 2411
States; 2412

(b) Any security issued or guaranteed by, and recognized, 2413
at the time of sale, as its valid obligation by, any foreign 2414

government with which the United States is, at the time of sale, 2415
maintaining diplomatic relations; 2416

(c) Any security issued or guaranteed, and recognized as 2417
its valid obligation, by any political subdivision or any 2418
governmental or other public body, corporation, or agency in or 2419
of the United States, any state, territory, or possession of the 2420
United States, or any foreign government with which the United 2421
States is, at the time of sale, maintaining diplomatic 2422
relations. 2423

(2) If a security described in division (B)(1) of this 2424
section is not payable out of the proceeds of a general tax, the 2425
security is exempt only if, at the time of its first sale in 2426
this state, there is no default in the payment of any of the 2427
interest or principal of the security, and there are no 2428
adjudications or pending suits adversely affecting its validity. 2429

(C) Any security issued or guaranteed by a state or 2430
nationally chartered bank, savings and loan association, savings 2431
bank, or credit union, or a governmental corporation or agency 2432
created by or under the laws of the United States or of Canada 2433
is exempt, if it is under the supervision of or subject to 2434
regulation by the government or state under whose laws it was 2435
organized. 2436

(D) Any interim certificate is exempt, if the securities 2437
to be delivered therefor are themselves exempt, are the subject 2438
matter of an exempt transaction, have been registered by 2439
description or registered by qualification, or are the subject 2440
matter of a transaction which has been registered by 2441
description. 2442

(E) (1) A security is exempt if it meets any of the 2443

following requirements: 2444

(a) The security is listed, or authorized for listing, on 2445
the New York stock exchange, the American stock exchange, or the 2446
national market system of the NASDAQ stock market, or any 2447
successor to such entities. 2448

(b) The security is listed, or authorized for listing, on 2449
a national securities exchange or system, or on a tier or 2450
segment of such exchange or system, designated by the securities 2451
and exchange commission in rule 146(b) promulgated under section 2452
18(b) (1) of the Securities Act of 1933. 2453

(c) The security is listed, or authorized for listing, on 2454
a national securities exchange or system, or on a tier or 2455
segment of such exchange or system, that has listing standards 2456
that the division of securities, on its own initiative or on the 2457
basis of an application, determines by rule are substantially 2458
similar to the listing standards applicable to securities 2459
described in division (E) (1) (a) of this section. 2460

(d) The security is a security of the same issuer that is 2461
equal in seniority or that is a senior security to a security 2462
described in division (E) (1) (a), (b), or (c) of this section. 2463

(2) Application for approval of a stock exchange or system 2464
not approved in this section may be made by any organized stock 2465
exchange or system, or by any dealer who is a member of such 2466
exchange, in such manner and upon such forms as are prescribed 2467
by the division, accompanied by payment of an approval fee of 2468
two hundred dollars, and the division shall make such 2469
investigation and may hold such hearings as it deems necessary 2470
to determine the propriety of giving approval. The cost of such 2471
investigation shall be borne by the applicant. The division may 2472

enter an order of approval, and if it does so, it shall notify 2473
the applicant of such approval. 2474

(3) The division may revoke the approval of an exchange or 2475
system enumerated in division (E)(1) of this section, provided 2476
that the exchange or system is not listed in section 18(b)(1) of 2477
the Securities Act of 1933 or any rule promulgated thereunder. 2478
The division may effect a revocation after due notice, 2479
investigation, a hearing, and a finding that the practices or 2480
requirements of such exchange or system have been so changed or 2481
modified, or are, in their actual operation, such that the 2482
contemplated protection is no longer afforded. The principles of 2483
res adjudicata ordinarily applicable in civil matters shall not 2484
be applicable to this matter, which is hereby declared to be 2485
administrative rather than judicial. Notice of the hearing may 2486
be given by ~~certified~~electronic mail at least ten days before 2487
such hearing. 2488

(4) The division may suspend the exemption of any security 2489
described in division (E)(1) of this section, provided that the 2490
security is listed or authorized for listing on an exchange or 2491
system that is not listed in section 18(b)(1) of the Securities 2492
Act of 1933 or any rule promulgated thereunder. The division may 2493
effect a suspension by giving notice, by ~~certified~~electronic 2494
mail, to that effect to the exchange or system upon which such 2495
security is listed or designated and to the issuer of such 2496
security. After notice and hearing, the division may revoke such 2497
exemption if it appears to it that sales of such security have 2498
been fraudulent or that future sales of it would be fraudulent. 2499
The division shall set such hearing not later than ten days from 2500
the date of the order of suspension, but may for good cause 2501
continue such hearing upon application of the exchange or system 2502
upon which such security is listed or designated or upon 2503

application of the issuer of such security. 2504

(F) Any security, issued or guaranteed as to principal, 2505
interest, or dividend or distribution by a corporation owning or 2506
operating any public utility, is exempt, if such corporation is, 2507
as to its rates and charges or as to the issuance and 2508
guaranteeing of securities, under the supervision of or 2509
regulated by a public commission, board, or officer of the 2510
United States, or of Canada, or of any state, province, or 2511
municipal corporation in either of such countries. Equipment- 2512
trust securities based on chattel mortgages, leases, or 2513
agreements for conditional sale, of cars, locomotives, motor 2514
trucks, or other rolling stock or of motor vehicles mortgaged, 2515
leased, or sold to, or finished for the use of, a public 2516
utility, are exempt; and so are equipment securities where the 2517
ownership or title of such equipment is pledged or retained, in 2518
accordance with the laws of the United States or of any state, 2519
or of Canada or any province thereof, to secure the payment of 2520
such securities. 2521

(G) Commercial paper and promissory notes are exempt when 2522
they are not offered directly or indirectly for sale to the 2523
public. 2524

(H) Any security issued or guaranteed by an insurance 2525
company, except as provided in section 1707.32 of the Revised 2526
Code, is exempt if such company is under the supervision of, and 2527
the issuance or guaranty of such security is regulated by, a 2528
state. 2529

(I) Any security, except notes, bonds, debentures, or 2530
other evidences of indebtedness or of promises or agreements to 2531
pay money, which is issued by a person, corporation, or 2532
association organized not for profit, including persons, 2533

corporations, and associations organized exclusively for 2534
conducting county fairs, or for religious, educational, social, 2535
recreational, athletic, benevolent, fraternal, charitable, or 2536
reformatory purposes, and agricultural cooperatives as defined 2537
in section 1729.01 of the Revised Code, is exempt, if no part of 2538
the net earnings of such issuer inures to the benefit of any 2539
shareholder or member of such issuer or of any individual, and 2540
if the total commission, remuneration, expense, or discount in 2541
connection with the sale of such securities does not exceed two 2542
per cent of the total sale price thereof plus five hundred 2543
dollars. 2544

(J) (1) Any securities outstanding for a period of not less 2545
than five years, on which there has occurred no default in 2546
payment of principal, interest, or dividend or distribution for 2547
the five years immediately preceding the sale, are exempt. 2548

(2) For the purpose of division (J) of this section, the 2549
dividend, distribution, or interest rate on securities in which 2550
no such rate is specified shall be at the rate of at least four 2551
per cent annually on the aggregate of the price at which such 2552
securities are to be sold. 2553

(K) All bonds issued under authority of Chapter 165. or 2554
761., or section 4582.06 or 4582.31 of the Revised Code are 2555
exempt. 2556

Sec. 1707.04. (A) The division of securities may consider 2557
and conduct hearings upon any plan of reorganization, 2558
recapitalization, or refinancing of a corporation organized 2559
under the laws of this state, or having its principal place of 2560
business within this state, when such plan is proposed by such 2561
corporation or by any of its shareholders or creditors and 2562
contains a proposal to issue securities in exchange for one or 2563

more bona fide outstanding securities, claims, or property 2564
interests, or partly in such exchange or partly for cash. The 2565
division may also approve the terms of such issuance and 2566
exchange and the fairness of such terms, after a hearing upon 2567
such fairness at which all persons to whom it is proposed to 2568
issue securities in such exchange have the right to appear, if 2569
application for such a hearing is made by such corporation, by 2570
the holders of a majority in amount of its debts, or by the 2571
holders of a majority in amount of any outstanding class of 2572
securities issued by it. Notice in person or by electronic or 2573
regular mail of the time and place of such hearing shall be 2574
given to all persons to whom it is proposed to issue such 2575
securities, and evidence satisfactory to the division that such 2576
notice has been given shall be filed with the division. 2577
Securities issued in accordance with a plan so approved by the 2578
division are exempt from sections 1707.01 to 1707.50 of the 2579
Revised Code, relating to registration or qualification of 2580
securities or the registration of transactions therein. 2581

(B) "Reorganization," "recapitalization," and 2582
"refinancing," as used in this section, include the following: 2583

(1) A readjustment by modification of the terms of 2584
securities by agreement; 2585

(2) A readjustment by the exchange of securities by the 2586
issuer for others of its securities; 2587

(3) The exchange of securities by the issuer for 2588
securities of another issuer; 2589

(4) The acquisition of assets of a person, directly or 2590
indirectly, partly or wholly in consideration for securities 2591
distributed or to be distributed as part of the same 2592

transaction, directly or indirectly, to holders of securities 2593
issued by such person or secured by assets of such person; 2594

(5) A merger or consolidation. 2595

(C) Upon filing an application with the division under 2596
this section, the applicant shall pay to the division a filing 2597
fee of one hundred dollars and shall deposit with the division 2598
such sum, not in excess of one thousand dollars, as the division 2599
requires for the purpose of defraying the costs of the hearing 2600
provided for in this section and of any investigation which the 2601
division may make in connection herewith. 2602

Sec. 1707.042. (A) No person who makes or opposes a 2603
control bid to offerees in this state shall knowingly do any of 2604
the following: 2605

(1) Make any untrue statement of a material fact or omit 2606
to state a material fact necessary in order to make the 2607
statements made, in light of the circumstances under which they 2608
were made, not misleading; 2609

(2) Engage in any act, practice, or course of business 2610
which operates or would operate as a fraud or deceit upon any 2611
such offeree; 2612

(3) Engage in any manipulative act or practice. 2613

(B) Any person who makes or opposes a control bid to 2614
offerees in this state, or who realizes any profit which inures 2615
to and is recoverable by a corporation, formed in this state, 2616
pursuant to section 1707.043 of the Revised Code, is 2617
conclusively presumed to have designated the secretary of state 2618
as its agent for the service of process in any action or 2619
proceeding under this chapter. Upon receipt of any such process, 2620
together with an affidavit showing the last known address of the 2621

person who made or opposed the control bid or who realized such 2622
profit, the secretary of state shall forthwith give notice by 2623
~~telegraph of the fact of the service of process and forward a~~ 2624
~~copy of such process to such address by certified mail, return~~ 2625
~~receipt requested.~~ This section does not affect any right to 2626
serve process in any other manner permitted by law. 2627

(C) Any person who makes or opposes a control bid is 2628
subject to the liabilities and penalties applicable to a seller, 2629
and an offeree is entitled to the remedies applicable to a 2630
purchaser, as set forth in sections 1707.41 to 1707.50 of the 2631
Revised Code. 2632

(D) In case any provision or application of any provision 2633
of this section is for any reason held to be illegal or invalid, 2634
such illegality or invalidity shall not affect any legal and 2635
valid provision or application of this section. 2636

Sec. 1707.091. (A) Any security for which a registration 2637
statement has been filed pursuant to Section 6 of the Securities 2638
Act of 1933 or for which a notification form and offering 2639
circular has been filed pursuant to regulation A of the general 2640
rules and regulations of the securities and exchange commission, 2641
17 C.F.R. sections 230.251 to 230.256 and 230.258 to 230.263, as 2642
amended before or after the effective date of this section, in 2643
connection with the same offering may be registered by 2644
coordination. 2645

(B) A registration statement filed by or on behalf of the 2646
issuer under this section with the division of securities shall 2647
contain the following information and be accompanied by the 2648
following items in addition to the consent to service of process 2649
required by section 1707.11 of the Revised Code: 2650

(1) One copy of the latest form of prospectus or offering
circular and notification filed with the securities and exchange
commission;

(2) If the division of securities by rule or otherwise
requires, a copy of the articles of incorporation and code of
regulations or bylaws, or their substantial equivalents, as
currently in effect, a copy of any agreements with or among
underwriters, a copy of any indenture or other instrument
governing the issuance of the security to be registered, and a
specimen or copy of the security;

(3) If the division of securities requests, any other
information, or copies of any other documents, filed with the
securities and exchange commission;

(4) An undertaking by the issuer to forward to the
division, promptly and in any event not later than the first
business day after the day they are forwarded to or thereafter
are filed with the securities and exchange commission, whichever
occurs first, all amendments to the federal prospectus, offering
circular, notification form, or other documents filed with the
securities and exchange commission, other than an amendment that
merely delays the effective date;

(5) A filing fee of one hundred dollars.

(C) A registration statement filed under this section
becomes effective either at the moment the federal registration
statement becomes effective or at the time the offering may
otherwise be commenced in accordance with the rules,
regulations, or orders of the securities and exchange
commission, if all of the following conditions are satisfied:

(1) No stop order is in effect, no proceeding is pending

under section 1707.13 of the Revised Code, and no cease and 2680
desist order has been issued pursuant to section 1707.23 of the 2681
Revised Code; 2682

(2) The registration statement has been on file with the 2683
division for at least fifteen days or for such shorter period as 2684
the division by rule or otherwise permits; provided, that if the 2685
registration statement is not filed with the division within 2686
five days of the initial filing with the securities and exchange 2687
commission, the registration statement must be on file with the 2688
division for thirty days or for such shorter period as the 2689
division by rule or otherwise permits. 2690

(3) A statement of the maximum and minimum proposed 2691
offering prices and the maximum underwriting discounts and 2692
commissions has been on file with the division for two full 2693
business days or for such shorter period as the division by rule 2694
or otherwise permits and the offering is made within those 2695
limitations; 2696

(4) The division has received a registration fee of one- 2697
tenth of one per cent of the aggregate price at which the 2698
securities are to be sold to the public in this state, which 2699
fee, however, shall in no case be less than one hundred or more 2700
than one thousand dollars. 2701

(D) The issuer shall promptly notify the division by 2702
telephone ~~or telegram~~ of the date and time when the federal 2703
registration statement became effective, or when the offering 2704
may otherwise be commenced in accordance with the rules, 2705
regulations, or orders of the securities and exchange 2706
commission, and of the contents of the price amendment, if any, 2707
and shall promptly file the price amendment. 2708

"Price amendment" for the purpose of this division, means
the final federal registration statement amendment that includes
a statement of the offering price, underwriting and selling
discounts or commissions, amount of proceeds, conversion rates,
call prices, and other matters dependent upon the offering
price.

If the division fails to receive the required notice and
required copies of the price amendment, the division may enter a
provisional stop order retroactively denying effectiveness to
the registration statement or suspending its effectiveness until
there is compliance with this division, provided the division
promptly notifies the issuer or its representative by telephone-
~~or telegram~~, and promptly confirms by letter ~~or telegram~~ when it
notifies by telephone, of the entry of the order. If the issuer
or its representative proves compliance with the requirements of
this division as to notice and price amendment filing, the stop
order is void as of the time of its entry. The division may by
rule or otherwise waive either or both of the conditions
specified in divisions (C) (2) and (3) of this section. If the
federal registration statement becomes effective, or if the
offering may otherwise be commenced in accordance with the
rules, regulations, or orders of the securities and exchange
commission, before all of the conditions specified in divisions
(C) and (D) of this section are satisfied and they are not
waived by the division the registration statement becomes
effective as soon as all of the conditions are satisfied.

If the issuer advises the division of the date when the
federal registration statement is expected to become effective,
or when the offering may otherwise be commenced in accordance
with the rules, regulations, or orders of the securities and
exchange commission, the division shall promptly advise the

issuer or its representative by telephone ~~or telegram~~, at the 2740
issuer's expense, whether all of the conditions have been 2741
satisfied or whether the division then contemplates the 2742
institution of a proceeding under section 1707.13 or 1707.23 of 2743
the Revised Code, but such advice does not preclude the 2744
institution of such a proceeding at any time. 2745

Sec. 1707.11. (A) Each person that is not organized under 2746
the laws of this state, that is not licensed under section 2747
1703.03 of the Revised Code, or that does not have its principal 2748
place of business in this state, shall submit to the division of 2749
securities an irrevocable consent to service of process, as 2750
described in division (B) of this section, in connection with 2751
any of the following: 2752

(1) Filings to claim any of the exemptions enumerated in 2753
division (Q), (W), or (Y) of section 1707.03 of the Revised 2754
Code; 2755

(2) Applications for registration by description, 2756
qualification, or coordination; 2757

(3) Notice filings pursuant to section 1707.092 of the 2758
Revised Code. 2759

(B) The irrevocable written consent shall be executed and 2760
acknowledged by an individual duly authorized to give the 2761
consent and shall do all of the following: 2762

(1) Designate the secretary of state as agent for service 2763
of process or pleadings; 2764

(2) State that actions growing out of the sale of such 2765
securities, the giving of investment advice, or fraud committed 2766
by a person on whose behalf the consent is submitted may be 2767
commenced against the person, in the proper court of any county 2768

in this state in which a cause of action may arise or in which 2769
the plaintiff in the action may reside, by serving on the 2770
secretary of state any proper process or pleading authorized by 2771
the laws of this state; 2772

(3) Stipulate that service of process or pleading on the 2773
secretary of state shall be taken in all courts to be as valid 2774
and binding as if service had been made upon the person on whose 2775
behalf the consent is submitted. 2776

(C) Notwithstanding any application, form, or other 2777
material filed with or submitted to the division that purports 2778
to appoint as agent for service of process a person other than 2779
the secretary of state, the application, form, or other material 2780
shall be considered to appoint the secretary of state as agent 2781
for service of process. 2782

(D) Service of any process or pleadings may be made on the 2783
secretary of state ~~by duplicate copies, of which one shall be~~ 2784
~~filed in the office of the secretary of state, and the other~~ 2785
~~immediately forwarded by the secretary of state by certified~~ 2786
~~mail to the principal place of business of the person on whose~~ 2787
behalf the consent is submitted or to the last known address as 2788
shown on the filing made with the division. However, failure to 2789
~~mail send~~ such copy does not invalidate the service. 2790

(E) Notwithstanding any provision of this chapter, or of 2791
any rule adopted by the division of securities under this 2792
chapter, that requires the submission of a consent to service of 2793
process, the division may provide by rule for the electronic 2794
filing or submission of a consent to service of process. 2795

Sec. 1707.43. (A) Subject to divisions (B) and (C) of this 2796
section, every sale or contract for sale made in violation of 2797

Chapter 1707. of the Revised Code, is voidable at the election 2798
of the purchaser. The person making such sale or contract for 2799
sale, and every person that has participated in or aided the 2800
seller in any way in making such sale or contract for sale, are 2801
jointly and severally liable to the purchaser, in an action at 2802
law in any court of competent jurisdiction, upon tender to the 2803
seller ~~in person or in open court~~ of the securities sold or of 2804
the contract made, for the full amount paid by the purchaser and 2805
for all taxable court costs, unless the court determines that 2806
the violation did not materially affect the protection 2807
contemplated by the violated provision. 2808

(B) No action for the recovery of the purchase price as 2809
provided for in this section, and no other action for any 2810
recovery based upon or arising out of a sale or contract for 2811
sale made in violation of Chapter 1707. of the Revised Code, 2812
shall be brought more than two years after the plaintiff knew, 2813
or had reason to know, of the facts by reason of which the 2814
actions of the person or director were unlawful, or more than 2815
five years from the date of such sale or contract for sale, 2816
whichever is the shorter period. 2817

(C) No purchaser is entitled to the benefit of this 2818
section who has failed to accept, within thirty days from the 2819
date of such offer, an offer in writing made after two weeks 2820
from the date of the sale or contract of sale, by the seller or 2821
by any person that has participated in or aided the seller in 2822
any way in making the sale or contract of sale, to take back the 2823
security in question and to refund the full amount paid by the 2824
purchaser. 2825

Sec. 1733.16. Unless otherwise provided in the articles, 2826
regulations, or bylaws, and subject to the exceptions applicable 2827

during an emergency, as that term is defined in section 1733.01 2828
of the Revised Code: 2829

(A) Meetings of the directors may be called by the 2830
chairperson, vice-chairperson, president, or any vice-president 2831
of the board or any two directors. 2832

(B) Regularly scheduled meetings of the directors shall be 2833
held in the manner prescribed by the credit union's code of 2834
regulations, but not less frequently than quarterly. 2835

(C) Meetings of the directors may be held within or 2836
without the state. Unless the articles or regulations prohibit 2837
participation by directors at a meeting by means of 2838
communication equipment, meetings of the directors may be held 2839
through any communication equipment if all the persons 2840
participating can hear each other, and participation in the 2841
meeting pursuant to this division constitutes presence at the 2842
meeting. 2843

(D) Notice of the place, if any, and time of each meeting 2844
of the directors shall be given to each director either by 2845
personal delivery or by mail, ~~telegram, cablegram,~~ overnight 2846
delivery service, or any other means of communication authorized 2847
by the ~~director~~ board of directors at least two days before the 2848
meeting, unless otherwise specified in the regulations or 2849
bylaws. The notice described in this division need not specify 2850
the purpose of the meeting. 2851

(E) Notice of adjournment of a meeting need not be given, 2852
if the time and place to which it is adjourned are fixed and 2853
announced at the meeting. 2854

Sec. 2941.401. When a person has entered upon a term of 2855
imprisonment in a correctional institution of this state, and 2856

when during the continuance of the term of imprisonment there is 2857
pending in this state any untried indictment, information, or 2858
complaint against the prisoner, ~~he~~ the prisoner shall be brought 2859
to trial within one hundred eighty days after ~~he~~ the prisoner 2860
causes to be delivered to the prosecuting attorney and the 2861
appropriate court in which the matter is pending, written notice 2862
of the place of ~~his~~ the prisoner's imprisonment and a request 2863
for a final disposition to be made of the matter, except that 2864
for good cause shown in open court, with the prisoner or ~~his~~ the 2865
prisoner's counsel present, the court may grant any necessary or 2866
reasonable continuance. The request of the prisoner shall be 2867
accompanied by a certificate of the warden or superintendent 2868
having custody of the prisoner, stating the term of commitment 2869
under which the prisoner is being held, the time served and 2870
remaining to be served on the sentence, the amount of good time 2871
earned, the time of parole eligibility of the prisoner, and any 2872
decisions of the adult parole authority relating to the 2873
prisoner. 2874

The written notice and request for final disposition shall 2875
be given or sent by the prisoner to the warden or superintendent 2876
having custody of ~~him~~ the prisoner, who shall promptly forward 2877
it with the certificate to the appropriate prosecuting attorney 2878
and court by registered or certified mail, return receipt 2879
requested. If the appropriate prosecuting attorney and agency 2880
having custody of the prisoner have previously agreed, then the 2881
written notice, request, and certificate may be sent by 2882
electronic mail or facsimile, in lieu of registered mail or 2883
certified mail. 2884

The warden or superintendent having custody of the 2885
prisoner shall promptly inform ~~him~~ the prisoner in writing of 2886
the source and contents of any untried indictment, information, 2887

or complaint against ~~him~~ the prisoner, concerning which the 2888
warden or superintendent has knowledge, and of ~~his~~ the 2889
prisoner's right to make a request for final disposition 2890
thereof. 2891

Escape from custody by the prisoner, subsequent to ~~his~~ the 2892
prisoner's execution of the request for final disposition, voids 2893
the request. 2894

If the action is not brought to trial within the time 2895
provided, subject to continuance allowed pursuant to this 2896
section, no court any longer has jurisdiction thereof, the 2897
indictment, information, or complaint is void, and the court 2898
shall enter an order dismissing the action with prejudice. 2899

This section does not apply to any person adjudged to be 2900
mentally ill or who is under sentence of life imprisonment or 2901
death, or to any prisoner under sentence of death. 2902

Sec. 3111.23. The natural mother, the man acknowledging he 2903
is the natural father, or the other custodian or guardian of a 2904
child, a child support enforcement agency pursuant to section 2905
3111.22 of the Revised Code, a local registrar of vital 2906
statistics pursuant to section 3705.091 of the Revised Code, or 2907
a hospital staff person pursuant to section 3727.17 of the 2908
Revised Code, ~~in person or~~ by mail, may file an acknowledgment 2909
of paternity with the office of child support in the department 2910
of job and family services, acknowledging that the child is the 2911
child of the man who signed the acknowledgment. The 2912
acknowledgment of paternity shall be made on the affidavit 2913
prepared pursuant to section 3111.31 of the Revised Code, shall 2914
be signed by the natural mother and the man acknowledging that 2915
he is the natural father, and each signature shall be notarized. 2916
The mother and man may sign and have the signature notarized 2917

outside of each other's presence. An acknowledgment shall be 2918
sent to the office no later than ten days after it has been 2919
signed and notarized. If a person knows a man is presumed under 2920
section 3111.03 of the Revised Code to be the father of the 2921
child described in this section and that the presumed father is 2922
not the man who signed an acknowledgment with respect to the 2923
child, the person shall not notarize or file the acknowledgment 2924
pursuant to this section. 2925

Sec. 3301.05. A majority of the voting members of the 2926
state board of education shall constitute a quorum for the 2927
transaction of business. Official actions of the state board, 2928
including the making and adoption of motions and resolutions, 2929
shall be transacted only at public meetings open to the public. 2930
The superintendent of public instruction, or a designated 2931
subordinate ~~designated by him~~, shall record all official actions 2932
taken at each meeting of the board ~~in a book provided for that~~ 2933
~~purpose~~, which shall be a public record. The record of the 2934
proceedings of each meeting of the board shall be read at its 2935
next succeeding meeting and corrected and approved, which 2936
approval shall be noted in the proceedings. The president shall 2937
sign the record and the superintendent of public instruction or 2938
~~his~~ a designated subordinate attest it. The president's 2939
signature of the record and the attestation of the 2940
superintendent or designated subordinate may be made 2941
electronically. 2942

Sec. 3302.04. As used in divisions (A), (C), and (D) of 2943
this section, for the 2014-2015 school year, and for each school 2944
year thereafter, when a provision refers to a school district or 2945
school building in a state of academic emergency, it shall mean 2946
a district or building rated "F"; when a provision refers to a 2947
school district or school building under an academic watch, it 2948

shall mean a district or building rated "D"; and when a 2949
provision refers to a school district or school building in need 2950
of continuous improvement, it shall mean a district or building 2951
rated "C" as those letter grade ratings for overall performance 2952
are assigned under division (C)(3) of section 3302.03 of the 2953
Revised Code, as it exists on or after March 22, 2013. 2954

(A) The department of education shall establish a system 2955
of intensive, ongoing support for the improvement of school 2956
districts and school buildings. In accordance with the model of 2957
differentiated accountability described in section 3302.041 of 2958
the Revised Code, the system shall give priority to the 2959
following: 2960

(1) For any school year prior to the 2012-2013 school 2961
year, districts and buildings that have been declared to be 2962
under an academic watch or in a state of academic emergency 2963
under section 3302.03 of the Revised Code; 2964

(2) For the 2012-2013 school year, and for each school 2965
year thereafter, districts and buildings in the manner 2966
prescribed by any agreement currently in force between the 2967
department and the United States department of education. The 2968
department shall endeavor to include schools and buildings that 2969
receive grades or performance ratings under section 3302.03 of 2970
the Revised Code that the department considers to be low 2971
performing. 2972

The system shall include services provided to districts 2973
and buildings through regional service providers, such as 2974
educational service centers. The system may include the 2975
appointment of an improvement coordinator for any of the lowest 2976
performing districts, as determined by the department, to 2977
coordinate the district's academic improvement efforts and to 2978

build support among the community for those efforts. 2979

(B) This division does not apply to any school district 2980
after June 30, 2008. 2981

When a school district has been notified by the department 2982
pursuant to section 3302.03 of the Revised Code that the 2983
district or a building within the district has failed to make 2984
adequate yearly progress for two consecutive school years, the 2985
district shall develop a three-year continuous improvement plan 2986
for the district or building containing each of the following: 2987

(1) An analysis of the reasons for the failure of the 2988
district or building to meet any of the applicable performance 2989
indicators established under section 3302.02 of the Revised Code 2990
that it did not meet and an analysis of the reasons for its 2991
failure to make adequate yearly progress; 2992

(2) Specific strategies that the district or building will 2993
use to address the problems in academic achievement identified 2994
in division (B) (1) of this section; 2995

(3) Identification of the resources that the district will 2996
allocate toward improving the academic achievement of the 2997
district or building; 2998

(4) A description of any progress that the district or 2999
building made in the preceding year toward improving its 3000
academic achievement; 3001

(5) An analysis of how the district is utilizing the 3002
professional development standards adopted by the state board 3003
pursuant to section 3319.61 of the Revised Code; 3004

(6) Strategies that the district or building will use to 3005
improve the cultural competency, as defined pursuant to section 3006

3319.61 of the Revised Code, of teachers and other educators. 3007

No three-year continuous improvement plan shall be 3008
developed or adopted pursuant to this division unless at least 3009
one public hearing is held within the affected school district 3010
or building concerning the final draft of the plan. Notice of 3011
the hearing shall be given two weeks prior to the hearing by 3012
publication in one newspaper of general circulation within the 3013
territory of the affected school district or building. Copies of 3014
the plan shall be made available to the public. 3015

(C) (1) For any school year prior to the school year that 3016
begins on July 1, 2012, when a school district or building has 3017
been notified by the department pursuant to section 3302.03 of 3018
the Revised Code that the district or building is under an 3019
academic watch or in a state of academic emergency, the district 3020
or building shall be subject to any rules establishing 3021
intervention in academic watch or emergency school districts or 3022
buildings. 3023

(2) For the 2012-2013 school year, and for each school 3024
year thereafter, a district or building that meets the 3025
conditions for intervention prescribed by the agreement 3026
described in division (A) (2) of this section shall be subject to 3027
any rules establishing such intervention. 3028

(D) (1) For any school year prior to the 2012-2013 school 3029
year, within one hundred twenty days after any school district 3030
or building is declared to be in a state of academic emergency 3031
under section 3302.03 of the Revised Code, the department may 3032
initiate a site evaluation of the building or school district. 3033

(2) For the 2012-2013 school year, and for each school 3034
year thereafter, the department may initiate a site evaluation 3035

of a building or school district that meets the conditions for a
site evaluation prescribed by the agreement described in
division (A) (2) of this section.

~~(3) Division (D) (3) of this section does not apply to any
school district after June 30, 2008.~~

~~If any school district that is declared to be in a state
of academic emergency or in a state of academic watch under
section 3302.03 of the Revised Code or encompasses a building
that is declared to be in a state of academic emergency or in a
state of academic watch fails to demonstrate to the department
satisfactory improvement of the district or applicable buildings
or fails to submit to the department any information required
under rules established by the state board of education, prior
to approving a three-year continuous improvement plan under
rules established by the state board of education, the
department shall conduct a site evaluation of the school
district or applicable buildings to determine whether the school
district is in compliance with minimum standards established by
law or rule.~~

~~(4) Division (D) (4) of this section does not apply to any
school district after June 30, 2008. Site evaluations conducted
under divisions (D) (1), (2), and (3) of this section shall
include, but not be limited to, the following:~~

~~(a) Determining whether teachers are assigned to subject
areas for which they are licensed or certified;~~

~~(b) Determining pupil teacher ratios;~~

~~(c) Examination of compliance with minimum instruction
time requirements for each school day and for each school year;~~

~~(d) Determining whether materials and equipment necessary~~

~~to implement the curriculum approved by the school district~~ 3065
~~board are available;~~ 3066

~~(e) Examination of whether the teacher and principal~~ 3067
~~evaluation systems comply with sections 3311.80, 3311.84,~~ 3068
~~3319.02, and 3319.111 of the Revised Code;~~ 3069

~~(f) Examination of the adequacy of efforts to improve the~~ 3070
~~cultural competency, as defined pursuant to section 3319.61 of~~ 3071
~~the Revised Code, of teachers and other educators.~~ 3072

(E) This division applies only to school districts that 3073
operate a school building that fails to make adequate yearly 3074
progress for two or more consecutive school years. It does not 3075
apply to any such district after June 30, 2008, except as 3076
provided in division (D) (2) of section 3313.97 of the Revised 3077
Code. 3078

(1) For any school building that fails to make adequate 3079
yearly progress for two consecutive school years, the district 3080
shall do all of the following: 3081

(a) Provide written notification of the academic issues 3082
that resulted in the building's failure to make adequate yearly 3083
progress to the parent or guardian of each student enrolled in 3084
the building. The notification shall also describe the actions 3085
being taken by the district or building to improve the academic 3086
performance of the building and any progress achieved toward 3087
that goal in the immediately preceding school year. 3088

(b) If the building receives funds under Title I, Part A 3089
of the "Elementary and Secondary Education Act of 1965," 20 3090
U.S.C. 6311 to 6339, from the district, in accordance with 3091
section 3313.97 of the Revised Code, offer all students enrolled 3092
in the building the opportunity to enroll in an alternative 3093

building within the district that is not in school improvement 3094
status as defined by the "No Child Left Behind Act of 2001." 3095
Notwithstanding Chapter 3327. of the Revised Code, the district 3096
shall spend an amount equal to twenty per cent of the funds it 3097
receives under Title I, Part A of the "Elementary and Secondary 3098
Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide 3099
transportation for students who enroll in alternative buildings 3100
under this division, unless the district can satisfy all demand 3101
for transportation with a lesser amount. If an amount equal to 3102
twenty per cent of the funds the district receives under Title 3103
I, Part A of the "Elementary and Secondary Education Act of 3104
1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all 3105
demand for transportation, the district shall grant priority 3106
over all other students to the lowest achieving students among 3107
the subgroup described in division (B)(3) of section 3302.01 of 3108
the Revised Code in providing transportation. Any district that 3109
does not receive funds under Title I, Part A of the "Elementary 3110
and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, 3111
shall not be required to provide transportation to any student 3112
who enrolls in an alternative building under this division. 3113

(2) For any school building that fails to make adequate 3114
yearly progress for three consecutive school years, the district 3115
shall do both of the following: 3116

(a) If the building receives funds under Title I, Part A 3117
of the "Elementary and Secondary Education Act of 1965," 20 3118
U.S.C. 6311 to 6339, from the district, in accordance with 3119
section 3313.97 of the Revised Code, provide all students 3120
enrolled in the building the opportunity to enroll in an 3121
alternative building within the district that is not in school 3122
improvement status as defined by the "No Child Left Behind Act 3123
of 2001." Notwithstanding Chapter 3327. of the Revised Code, the 3124

district shall provide transportation for students who enroll in 3125
alternative buildings under this division to the extent required 3126
under division (E) (2) of this section. 3127

(b) If the building receives funds under Title I, Part A 3128
of the "Elementary and Secondary Education Act of 1965," 20 3129
U.S.C. 6311 to 6339, from the district, offer supplemental 3130
educational services to students who are enrolled in the 3131
building and who are in the subgroup described in division (B) 3132
(3) of section 3302.01 of the Revised Code. 3133

The district shall spend a combined total of an amount 3134
equal to twenty per cent of the funds it receives under Title I, 3135
Part A of the "Elementary and Secondary Education Act of 1965," 3136
20 U.S.C. 6311 to 6339, to provide transportation for students 3137
who enroll in alternative buildings under division (E) (1) (b) or 3138
(E) (2) (a) of this section and to pay the costs of the 3139
supplemental educational services provided to students under 3140
division (E) (2) (b) of this section, unless the district can 3141
satisfy all demand for transportation and pay the costs of 3142
supplemental educational services for those students who request 3143
them with a lesser amount. In allocating funds between the 3144
requirements of divisions (E) (1) (b) and (E) (2) (a) and (b) of 3145
this section, the district shall spend at least an amount equal 3146
to five per cent of the funds it receives under Title I, Part A 3147
of the "Elementary and Secondary Education Act of 1965," 20 3148
U.S.C. 6311 to 6339, to provide transportation for students who 3149
enroll in alternative buildings under division (E) (1) (b) or (E) 3150
(2) (a) of this section, unless the district can satisfy all 3151
demand for transportation with a lesser amount, and at least an 3152
amount equal to five per cent of the funds it receives under 3153
Title I, Part A of the "Elementary and Secondary Education Act 3154
of 1965," 20 U.S.C. 6311 to 6339, to pay the costs of the 3155

supplemental educational services provided to students under 3156
division (E) (2) (b) of this section, unless the district can pay 3157
the costs of such services for all students requesting them with 3158
a lesser amount. If an amount equal to twenty per cent of the 3159
funds the district receives under Title I, Part A of the 3160
"Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 3161
to 6339, is insufficient to satisfy all demand for 3162
transportation under divisions (E) (1) (b) and (E) (2) (a) of this 3163
section and to pay the costs of all of the supplemental 3164
educational services provided to students under division (E) (2) 3165
(b) of this section, the district shall grant priority over all 3166
other students in providing transportation and in paying the 3167
costs of supplemental educational services to the lowest 3168
achieving students among the subgroup described in division (B) 3169
(3) of section 3302.01 of the Revised Code. 3170

Any district that does not receive funds under Title I, 3171
Part A of the "Elementary and Secondary Education Act of 1965," 3172
20 U.S.C. 6311 to 6339, shall not be required to provide 3173
transportation to any student who enrolls in an alternative 3174
building under division (E) (2) (a) of this section or to pay the 3175
costs of supplemental educational services provided to any 3176
student under division (E) (2) (b) of this section. 3177

No student who enrolls in an alternative building under 3178
division (E) (2) (a) of this section shall be eligible for 3179
supplemental educational services under division (E) (2) (b) of 3180
this section. 3181

(3) For any school building that fails to make adequate 3182
yearly progress for four consecutive school years, the district 3183
shall continue to comply with division (E) (2) of this section 3184
and shall implement at least one of the following options with 3185

respect to the building: 3186

(a) Institute a new curriculum that is consistent with the 3187
statewide academic standards adopted pursuant to division (A) of 3188
section 3301.079 of the Revised Code; 3189

(b) Decrease the degree of authority the building has to 3190
manage its internal operations; 3191

(c) Appoint an outside expert to make recommendations for 3192
improving the academic performance of the building. The district 3193
may request the department to establish a state intervention 3194
team for this purpose pursuant to division (G) of this section. 3195

(d) Extend the length of the school day or year; 3196

(e) Replace the building principal or other key personnel; 3197

(f) Reorganize the administrative structure of the 3198
building. 3199

(4) For any school building that fails to make adequate 3200
yearly progress for five consecutive school years, the district 3201
shall continue to comply with division (E)(2) of this section 3202
and shall develop a plan during the next succeeding school year 3203
to improve the academic performance of the building, which shall 3204
include at least one of the following options: 3205

(a) Reopen the school as a community school under Chapter 3206
3314. of the Revised Code; 3207

(b) Replace personnel; 3208

(c) Contract with a nonprofit or for-profit entity to 3209
operate the building; 3210

(d) Turn operation of the building over to the department; 3211

(e) Other significant restructuring of the building's 3212

governance. 3213

(5) For any school building that fails to make adequate 3214
yearly progress for six consecutive school years, the district 3215
shall continue to comply with division (E)(2) of this section 3216
and shall implement the plan developed pursuant to division (E) 3217
(4) of this section. 3218

(6) A district shall continue to comply with division (E) 3219
(1)(b) or (E)(2) of this section, whichever was most recently 3220
applicable, with respect to any building formerly subject to one 3221
of those divisions until the building makes adequate yearly 3222
progress for two consecutive school years. 3223

(F) This division applies only to school districts that 3224
have been identified for improvement by the department pursuant 3225
to the "No Child Left Behind Act of 2001." It does not apply to 3226
any such district after June 30, 2008. 3227

(1) If a school district has been identified for 3228
improvement for one school year, the district shall provide a 3229
written description of the continuous improvement plan developed 3230
by the district pursuant to division (B) of this section to the 3231
parent or guardian of each student enrolled in the district. If 3232
the district does not have a continuous improvement plan, the 3233
district shall develop such a plan in accordance with division 3234
(B) of this section and provide a written description of the 3235
plan to the parent or guardian of each student enrolled in the 3236
district. 3237

(2) If a school district has been identified for 3238
improvement for two consecutive school years, the district shall 3239
continue to implement the continuous improvement plan developed 3240
by the district pursuant to division (B) or (F)(1) of this 3241

section. 3242

(3) If a school district has been identified for 3243
improvement for three consecutive school years, the department 3244
shall take at least one of the following corrective actions with 3245
respect to the district: 3246

(a) Withhold a portion of the funds the district is 3247
entitled to receive under Title I, Part A of the "Elementary and 3248
Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339; 3249

(b) Direct the district to replace key district personnel; 3250

(c) Institute a new curriculum that is consistent with the 3251
statewide academic standards adopted pursuant to division (A) of 3252
section 3301.079 of the Revised Code; 3253

(d) Establish alternative forms of governance for 3254
individual school buildings within the district; 3255

(e) Appoint a trustee to manage the district in place of 3256
the district superintendent and board of education. 3257

The department shall conduct individual audits of a 3258
sampling of districts subject to this division to determine 3259
compliance with the corrective actions taken by the department. 3260

(4) If a school district has been identified for 3261
improvement for four consecutive school years, the department 3262
shall continue to monitor implementation of the corrective 3263
action taken under division (F) (3) of this section with respect 3264
to the district. 3265

(5) If a school district has been identified for 3266
improvement for five consecutive school years, the department 3267
shall take at least one of the corrective actions identified in 3268
division (F) (3) of this section with respect to the district, 3269

provided that the corrective action the department takes is 3270
different from the corrective action previously taken under 3271
division (F) (3) of this section with respect to the district. 3272

(G) The department may establish a state intervention team 3273
to evaluate all aspects of a school district or building, 3274
including management, curriculum, instructional methods, 3275
resource allocation, and scheduling. Any such intervention team 3276
shall be appointed by the department and shall include teachers 3277
and administrators recognized as outstanding in their fields. 3278
The intervention team shall make recommendations regarding 3279
methods for improving the performance of the district or 3280
building. 3281

The department shall not approve a district's request for 3282
an intervention team under division (E) (3) of this section if 3283
the department cannot adequately fund the work of the team, 3284
unless the district agrees to pay for the expenses of the team. 3285

(H) The department shall conduct individual audits of a 3286
sampling of community schools established under Chapter 3314. of 3287
the Revised Code to determine compliance with this section. 3288

(I) A school district in which the pilot project 3289
scholarship program is operating under sections 3313.974 to 3290
3313.979 of the Revised Code shall report the use of funding for 3291
tutorial assistance grants under that program in the district's 3292
three-year continuous improvement plan under this section in a 3293
manner approved by the department. 3294

(J) The state board shall adopt rules for implementing 3295
this section. 3296

Sec. 3310.521. (A) As a condition of receiving payments 3297
for a scholarship, each eligible applicant shall attest to 3298

receipt of the profile prescribed by division (B) of this 3299
section. Such attestation shall be made and submitted to the 3300
department of education in the form and manner as required by 3301
the department. 3302

(B) The alternative public provider or registered private 3303
provider that enrolls a qualified special education child shall 3304
submit in writing to the eligible applicant to whom a 3305
scholarship is awarded on behalf of that child a profile of the 3306
provider's special education program, in a form as prescribed by 3307
the department, that shall contain the following: 3308

(1) Methods of instruction that will be utilized by the 3309
provider to provide services to the qualified special education 3310
child; 3311

(2) Qualifications of teachers, instructors, and other 3312
persons who will be engaged by the provider to provide services 3313
to the qualified special education child. 3314

The form required under division (B) of this section may 3315
be submitted electronically. 3316

Sec. 3313.41. (A) Except as provided in divisions (C), 3317
(D), and (F) of this section and in sections 3313.412 and 3318
3313.413 of the Revised Code, when a board of education decides 3319
to dispose of real or personal property that it owns in its 3320
corporate capacity and that exceeds in value ten thousand 3321
dollars, it shall sell the property at public auction, after 3322
giving at least thirty days' notice of the auction by 3323
publication in a newspaper of general circulation in the school 3324
district, by publication as provided in section 7.16 of the 3325
Revised Code, or by posting notices in five of the most public 3326
places in the school district in which the property, if it is 3327

real property, is situated, or, if it is personal property, in 3328
the school district of the board of education that owns the 3329
property. The board may offer real property for sale as an 3330
entire tract or in parcels. 3331

(B) When the board of education has offered real or 3332
personal property for sale at public auction at least once 3333
pursuant to division (A) of this section, and the property has 3334
not been sold, the board may sell it at a private sale. 3335
Regardless of how it was offered at public auction, at a private 3336
sale, the board shall, as it considers best, sell real property 3337
as an entire tract or in parcels, and personal property in a 3338
single lot or in several lots. 3339

(C) If a board of education decides to dispose of real or 3340
personal property that it owns in its corporate capacity and 3341
that exceeds in value ten thousand dollars, it may sell the 3342
property to the adjutant general; to any subdivision or taxing 3343
authority as respectively defined in section 5705.01 of the 3344
Revised Code, township park district, board of park 3345
commissioners established under Chapter 755. of the Revised 3346
Code, or park district established under Chapter 1545. of the 3347
Revised Code; to a wholly or partially tax-supported university, 3348
university branch, or college; to a nonprofit institution of 3349
higher education that has a certificate of authorization under 3350
Chapter 1713. of the Revised Code; to the governing authority of 3351
a chartered nonpublic school; or to the board of trustees of a 3352
school district library, upon such terms as are agreed upon. The 3353
sale of real or personal property to the board of trustees of a 3354
school district library is limited, in the case of real 3355
property, to a school district library within whose boundaries 3356
the real property is situated, or, in the case of personal 3357
property, to a school district library whose boundaries lie in 3358

whole or in part within the school district of the selling board 3359
of education. 3360

(D) When a board of education decides to trade as a part 3361
or an entire consideration, an item of personal property on the 3362
purchase price of an item of similar personal property, it may 3363
trade the same upon such terms as are agreed upon by the parties 3364
to the trade. 3365

(E) The president and the treasurer of the board of 3366
education shall execute and deliver deeds or other necessary 3367
instruments of conveyance to complete any sale or trade under 3368
this section. 3369

(F) When a board of education has identified a parcel of 3370
real property that it determines is needed for school purposes, 3371
the board may, upon a majority vote of the members of the board, 3372
acquire that property by exchanging real property that the board 3373
owns in its corporate capacity for the identified real property 3374
or by using real property that the board owns in its corporate 3375
capacity as part or an entire consideration for the purchase 3376
price of the identified real property. Any exchange or 3377
acquisition made pursuant to this division shall be made by a 3378
conveyance executed by the president and the treasurer of the 3379
board. 3380

(G) When a school district board of education has property 3381
that the board, by resolution, finds is not needed for school 3382
district use, is obsolete, or is unfit for the use for which it 3383
was acquired, the board may donate that property in accordance 3384
with this division if the fair market value of the property is, 3385
in the opinion of the board, two thousand five hundred dollars 3386
or less. 3387

The property may be donated to an eligible nonprofit 3388
organization that is located in this state and is exempt from 3389
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 3390
Before donating any property under this division, the board 3391
shall adopt a resolution expressing its intent to make unneeded, 3392
obsolete, or unfit-for-use school district property available to 3393
these organizations. The resolution shall include guidelines and 3394
procedures the board considers to be necessary to implement the 3395
donation program and shall indicate whether the school district 3396
will conduct the donation program or the board will contract 3397
with a representative to conduct it. If a representative is 3398
known when the resolution is adopted, the resolution shall 3399
provide contact information such as the representative's name, 3400
address, and telephone number. 3401

The resolution shall include within its procedures a 3402
requirement that any nonprofit organization desiring to obtain 3403
donated property under this division shall submit a written 3404
notice to the board or its representative. The written notice 3405
shall include evidence that the organization is a nonprofit 3406
organization that is located in this state and is exempt from 3407
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); 3408
a description of the organization's primary purpose; a 3409
description of the type or types of property the organization 3410
needs; and the name, address, and telephone number of a person 3411
designated by the organization's governing board to receive 3412
donated property and to serve as its agent. The written notice 3413
may be submitted electronically to the board or its 3414
representative. 3415

After adoption of the resolution, the board shall ~~publish,~~ 3416
~~in a newspaper of general circulation in the school district or~~ 3417
~~as provided in section 7.16 of the Revised Code, notice of its~~ 3418

~~intent to donate unneeded, obsolete, or unfit for use school~~ 3419
~~district property to eligible nonprofit organizations. The~~ 3420
~~notice shall include a summary of the information provided in~~ 3421
~~the resolution and shall be published twice. The second notice~~ 3422
~~shall be published not less than ten nor more than twenty days~~ 3423
~~after the previous notice. A similar notice also shall be posted~~ 3424
continually post in the board's office notice of its intent to 3425
donate school district property that is unneeded, obsolete, or 3426
unfit for use to eligible nonprofit organizations. If the school 3427
district maintains a web site on the internet, the notice shall 3428
be posted continually at that web site. 3429

The board or its representatives shall maintain a list of 3430
all nonprofit organizations that notify the board or its 3431
representative of their desire to obtain donated property under 3432
this division and that the board or its representative 3433
determines to be eligible, in accordance with the requirements 3434
set forth in this section and in the donation program's 3435
guidelines and procedures, to receive donated property. 3436

The board or its representative also shall maintain a list 3437
of all school district property the board finds to be unneeded, 3438
obsolete, or unfit for use and to be available for donation 3439
under this division. The list shall be posted continually in a 3440
conspicuous location in the board's office, and, if the school 3441
district maintains a web site on the internet, the list shall be 3442
posted continually at that web site. An item of property on the 3443
list shall be donated to the eligible nonprofit organization 3444
that first declares to the board or its representative its 3445
desire to obtain the item unless the board previously has 3446
established, by resolution, a list of eligible nonprofit 3447
organizations that shall be given priority with respect to the 3448
item's donation. Priority may be given on the basis that the 3449

purposes of a nonprofit organization have a direct relationship 3450
to specific school district purposes of programs provided or 3451
administered by the board. A resolution giving priority to 3452
certain nonprofit organizations with respect to the donation of 3453
an item of property shall specify the reasons why the 3454
organizations are given that priority. 3455

Members of the board shall consult with the Ohio ethics 3456
commission, and comply with Chapters 102. and 2921. of the 3457
Revised Code, with respect to any donation under this division 3458
to a nonprofit organization of which a board member, any member 3459
of a board member's family, or any business associate of a board 3460
member is a trustee, officer, board member, or employee. 3461

Sec. 3313.818. (A) (1) The department of education shall 3462
establish a program under which public schools that meet the 3463
conditions prescribed in this section shall offer breakfast to 3464
all students either before or during the school day. Each of the 3465
following shall apply: 3466

(a) In the ~~first~~ 2020-2021 school year ~~after the effective~~
~~date of this section~~, the program shall apply to any public 3467
school in which seventy per cent or more of the students 3468
enrolled in the school during the previous school year were 3469
eligible under federal requirements for free or reduced-price 3470
breakfasts or lunches. 3471
3472

(b) In the ~~second~~ 2021-2022 school year ~~after the~~
~~effective date of this section~~, the program shall apply to any 3473
public school in which sixty per cent or more of the students 3474
enrolled in the school during the previous school year were 3475
eligible under federal requirements for free or reduced-price 3476
breakfasts or lunches. 3477
3478

(c) In the ~~third~~ 2022-2023 school year ~~after the enactment~~
~~date of this section~~ and every school year thereafter, the
program shall apply to any public school in which fifty per cent
or more of the students enrolled in the school during the
previous school year were eligible under federal requirements
for free or reduced-price breakfasts or lunches.

(2) The district superintendent or building principal, in
consultation with the building staff, shall determine the model
for serving breakfast under the program. Each breakfast served
under the program shall comply with federal meal patterns and
nutritional standards and with section 3313.814 of the Revised
Code. A school district board of education may make a charge in
accordance with federal requirements for each meal to cover all
or part of the costs incurred in operating the program.

(B) The department shall publish a list of public schools
that meet the conditions of division (A) of this section. The
department shall offer technical assistance to school districts
and schools regarding the implementation of a school breakfast
program that complies with this section and the submission of
claims for reimbursement under the federal school breakfast
program.

(C) (1) The department shall monitor each school
participating in the program and ensure that each participating
school complies with the requirements of this section.

(2) If the board of education of a school district
determines that, for financial reasons, a school under the
board's control cannot comply with the requirements of this
section or the board already has a successful breakfast program
or partnership in place, the district board may choose not to
comply with those requirements.

(D) Not later than the thirty-first day of December of 3509
each school year, the department shall provide statistical 3510
reports on its web site that specify the number and percentage 3511
of students participating in school breakfast programs 3512
disaggregated by school district and individual schools, 3513
including community schools, established under Chapter 3314. of 3514
the Revised Code, and STEM schools, established under Chapter 3515
3326. of the Revised Code. 3516

(E) Not later than the thirty-first day of December of 3517
each school year, the department shall prepare a report on the 3518
implementation and effectiveness of the program established 3519
under this section and submit the report to the general 3520
assembly, in accordance with section 101.68 of the Revised Code, 3521
and to the governor. The report may be submitted electronically. 3522
The report shall include: 3523

(1) The number of students and participation rates in the 3524
free and reduced-price breakfast programs under this section for 3525
each school building; 3526

(2) The type of breakfast model used by each school 3527
building participating in the breakfast program; 3528

(3) The number of students and participation rates in free 3529
or reduced-price lunch for each school building. 3530

Sec. 3314.21. (A) As used in this section: 3531

(1) "Harmful to juveniles" has the same meaning as in 3532
section 2907.01 of the Revised Code. 3533

(2) "Obscene" has the same meaning as in division (F) of 3534
section 2907.01 of the Revised Code as that division has been 3535
construed by the supreme court of this state. 3536

(3) "Teacher of record" means a teacher who is responsible 3537
for the overall academic development and achievement of a 3538
student and not merely the student's instruction in any single 3539
subject. 3540

(B) (1) It is the intent of the general assembly that 3541
teachers employed by internet- or computer-based community 3542
schools conduct visits with their students ~~in person~~ throughout 3543
the school year. 3544

(2) Each internet- or computer-based community school 3545
shall retain an affiliation with at least one full-time teacher 3546
of record licensed in accordance with division (A) (10) of 3547
section 3314.03 of the Revised Code. 3548

(3) Each student enrolled in an internet- or computer- 3549
based community school shall be assigned to at least one teacher 3550
of record. No teacher of record shall be primarily responsible 3551
for the academic development and achievement of more than one 3552
hundred twenty-five students enrolled in the internet- or 3553
computer-based community school that has retained that teacher. 3554

(C) For any internet- or computer-based community school, 3555
the contract between the sponsor and the governing authority of 3556
the school described in section 3314.03 of the Revised Code 3557
shall specify each of the following: 3558

(1) A requirement that the school use a filtering device 3559
or install filtering software that protects against internet 3560
access to materials that are obscene or harmful to juveniles on 3561
each computer provided to students for instructional use. The 3562
school shall provide such device or software at no cost to any 3563
student who works primarily from the student's residence on a 3564
computer obtained from a source other than the school. 3565

(2) A plan for fulfilling the intent of the general 3566
assembly specified in division (B)(1) of this section. The plan 3567
shall indicate the number of times teachers will visit each 3568
student throughout the school year and the manner in which those 3569
visits will be conducted. The visits may be conducted 3570
electronically. 3571

(3) That the school will set up a central base of 3572
operation and the sponsor will maintain a representative within 3573
fifty miles of that base of operation to provide monitoring and 3574
assistance. 3575

(D)(1) Annually, each internet- or computer-based 3576
community school shall prepare and submit to the department of 3577
education, in a time and manner prescribed by the department, a 3578
report that contains information about all of the following: 3579

- (a) Classroom size; 3580
- (b) The ratio of teachers to students per classroom; 3581
- (c) The number of student-teacher meetings conducted in 3582
person or by video conference; 3583
- (d) Any other information determined necessary by the 3584
department. 3585

(2) The department annually shall prepare and submit to 3586
the state board of education a report that contains the 3587
information received under division (D)(1) of this section. 3588

Sec. 3319.081. Except as otherwise provided in division 3589
(G) of this section, in all school districts wherein the 3590
provisions of Chapter 124. of the Revised Code do not apply, the 3591
following employment contract system shall control for employees 3592
whose contracts of employment are not otherwise provided by law: 3593

(A) Newly hired regular nonteaching school employees, 3594
including regular hourly rate and per diem employees, shall 3595
enter into written contracts for their employment which shall be 3596
for a period of not more than one year. If such employees are 3597
rehired, their three subsequent contracts shall be for a period 3598
of two years each. 3599

(B) After the termination of the third two-year contract 3600
provided in division (A) of this section, if the contract of a 3601
nonteaching employee is renewed, the employee shall be continued 3602
in employment, and the salary provided in the contract may be 3603
increased but not reduced unless such reduction is a part of a 3604
uniform plan affecting the nonteaching employees of the entire 3605
district. 3606

(C) The contracts as provided for in this section may be 3607
terminated by a majority vote of the board of education. Except 3608
as provided in sections 3319.0810 and 3319.172 of the Revised 3609
Code, the contracts may be terminated only for violation of 3610
written rules and regulations as set forth by the board of 3611
education or for incompetency, inefficiency, dishonesty, 3612
drunkenness, immoral conduct, insubordination, discourteous 3613
treatment of the public, neglect of duty, or any other acts of 3614
misfeasance, malfeasance, or nonfeasance. In addition to the 3615
right of the board of education to terminate the contract of an 3616
employee, the board may suspend an employee for a definite 3617
period of time or demote the employee for the reasons set forth 3618
in this division. The action of the board of education 3619
terminating the contract of an employee or suspending or 3620
demoting the employee shall be served upon the employee by 3621
certified mail, regular mail with a certificate of mailing, or 3622
other form of delivery with proof of delivery, including 3623
electronic delivery with electronic proof of delivery. Within 3624

ten days following the receipt of such notice by the employee, 3625
the employee may file an appeal, in writing, with the court of 3626
common pleas of the county in which such school board is 3627
situated. After hearing the appeal the common pleas court may 3628
affirm, disaffirm, or modify the action of the school board. 3629

A violation of division (A) (7) of section 2907.03 of the 3630
Revised Code is grounds for termination of employment of a 3631
nonteaching employee under this division. 3632

(D) All employees who have been employed by a school 3633
district where the provisions of Chapter 124. of the Revised 3634
Code do not apply, for a period of at least three years on 3635
November 24, 1967, shall hold continuing contracts of employment 3636
pursuant to this section. 3637

(E) Any nonteaching school employee may terminate the 3638
nonteaching school employee's contract of employment thirty days 3639
subsequent to the filing of a written notice of such termination 3640
with the treasurer of the board. 3641

(F) A person hired exclusively for the purpose of 3642
replacing a nonteaching school employee while such employee is 3643
on leave of absence granted under section 3319.13 of the Revised 3644
Code is not a regular nonteaching school employee under this 3645
section. 3646

(G) All nonteaching employees employed pursuant to this 3647
section and Chapter 124. of the Revised Code shall be paid for 3648
all time lost when the schools in which they are employed are 3649
closed owing to an epidemic or other public calamity. Nothing in 3650
this division shall be construed as requiring payment in excess 3651
of an employee's regular wage rate or salary for any time worked 3652
while the school in which the employee is employed is officially 3653

closed for the reasons set forth in this division. 3654

Sec. 3319.11. (A) As used in this section: 3655

(1) "Evaluation procedures" means the procedures required 3656
by the policy adopted pursuant to division (A) of section 3657
3319.111 of the Revised Code. 3658

(2) "Limited contract" means a limited contract, as 3659
described in section 3319.08 of the Revised Code, that a school 3660
district board of education or governing board of an educational 3661
service center enters into with a teacher who is not eligible 3662
for continuing service status. 3663

(3) "Extended limited contract" means a limited contract, 3664
as described in section 3319.08 of the Revised Code, that a 3665
board of education or governing board enters into with a teacher 3666
who is eligible for continuing service status. 3667

(B) Teachers eligible for continuing service status in any 3668
city, exempted village, local, or joint vocational school 3669
district or educational service center shall be those teachers 3670
qualified as described in division (D) of section 3319.08 of the 3671
Revised Code, who within the last five years have taught for at 3672
least three years in the district or center, and those teachers 3673
who, having attained continuing contract status elsewhere, have 3674
served two years in the district or center, but the board, upon 3675
the recommendation of the superintendent, may at the time of 3676
employment or at any time within such two-year period, declare 3677
any of the latter teachers eligible. 3678

(1) Upon the recommendation of the superintendent that a 3679
teacher eligible for continuing service status be reemployed, a 3680
continuing contract shall be entered into between the board and 3681
the teacher unless the board by a three-fourths vote of its full 3682

membership rejects the recommendation of the superintendent. If 3683
the board rejects by a three-fourths vote of its full membership 3684
the recommendation of the superintendent that a teacher eligible 3685
for continuing service status be reemployed and the 3686
superintendent makes no recommendation to the board pursuant to 3687
division (C) of this section, the board may declare its 3688
intention not to reemploy the teacher by giving the teacher 3689
written notice on or before the first day of June of its 3690
intention not to reemploy the teacher. If evaluation procedures 3691
have not been complied with pursuant to section 3319.111 of the 3692
Revised Code or the board does not give the teacher written 3693
notice on or before the first day of June of its intention not 3694
to reemploy the teacher, the teacher is deemed reemployed under 3695
an extended limited contract for a term not to exceed one year 3696
at the same salary plus any increment provided by the salary 3697
schedule. The teacher is presumed to have accepted employment 3698
under the extended limited contract for a term not to exceed one 3699
year unless such teacher notifies the board in writing to the 3700
contrary on or before the fifteenth day of June, and an extended 3701
limited contract for a term not to exceed one year shall be 3702
executed accordingly. Upon any subsequent reemployment of the 3703
teacher only a continuing contract may be entered into. 3704

(2) If the superintendent recommends that a teacher 3705
eligible for continuing service status not be reemployed, the 3706
board may declare its intention not to reemploy the teacher by 3707
giving the teacher written notice on or before the first day of 3708
June of its intention not to reemploy the teacher. If evaluation 3709
procedures have not been complied with pursuant to section 3710
3319.111 of the Revised Code or the board does not give the 3711
teacher written notice on or before the first day of June of its 3712
intention not to reemploy the teacher, the teacher is deemed 3713

reemployed under an extended limited contract for a term not to 3714
exceed one year at the same salary plus any increment provided 3715
by the salary schedule. The teacher is presumed to have accepted 3716
employment under the extended limited contract for a term not to 3717
exceed one year unless such teacher notifies the board in 3718
writing to the contrary on or before the fifteenth day of June, 3719
and an extended limited contract for a term not to exceed one 3720
year shall be executed accordingly. Upon any subsequent 3721
reemployment of a teacher only a continuing contract may be 3722
entered into. 3723

(3) Any teacher receiving written notice of the intention 3724
of a board not to reemploy such teacher pursuant to this 3725
division is entitled to the hearing provisions of division (G) 3726
of this section. 3727

(C) (1) If a board rejects the recommendation of the 3728
superintendent for reemployment of a teacher pursuant to 3729
division (B) (1) of this section, the superintendent may 3730
recommend reemployment of the teacher, if continuing service 3731
status has not previously been attained elsewhere, under an 3732
extended limited contract for a term not to exceed two years, 3733
provided that written notice of the superintendent's intention 3734
to make such recommendation has been given to the teacher with 3735
reasons directed at the professional improvement of the teacher 3736
on or before the first day of June. Upon subsequent reemployment 3737
of the teacher only a continuing contract may be entered into. 3738

(2) If a board of education takes affirmative action on a 3739
superintendent's recommendation, made pursuant to division (C) 3740
(1) of this section, of an extended limited contract for a term 3741
not to exceed two years but the board does not give the teacher 3742
written notice of its affirmative action on the superintendent's 3743

recommendation of an extended limited contract on or before the 3744
first day of June, the teacher is deemed reemployed under a 3745
continuing contract at the same salary plus any increment 3746
provided by the salary schedule. The teacher is presumed to have 3747
accepted employment under such continuing contract unless such 3748
teacher notifies the board in writing to the contrary on or 3749
before the fifteenth day of June, and a continuing contract 3750
shall be executed accordingly. 3751

(3) A board shall not reject a superintendent's 3752
recommendation, made pursuant to division (C) (1) of this 3753
section, of an extended limited contract for a term not to 3754
exceed two years except by a three-fourths vote of its full 3755
membership. If a board rejects by a three-fourths vote of its 3756
full membership the recommendation of the superintendent of an 3757
extended limited contract for a term not to exceed two years, 3758
the board may declare its intention not to reemploy the teacher 3759
by giving the teacher written notice on or before the first day 3760
of June of its intention not to reemploy the teacher. If 3761
evaluation procedures have not been complied with pursuant to 3762
section 3319.111 of the Revised Code or if the board does not 3763
give the teacher written notice on or before the first day of 3764
June of its intention not to reemploy the teacher, the teacher 3765
is deemed reemployed under an extended limited contract for a 3766
term not to exceed one year at the same salary plus any 3767
increment provided by the salary schedule. The teacher is 3768
presumed to have accepted employment under the extended limited 3769
contract for a term not to exceed one year unless such teacher 3770
notifies the board in writing to the contrary on or before the 3771
fifteenth day of June, and an extended limited contract for a 3772
term not to exceed one year shall be executed accordingly. Upon 3773
any subsequent reemployment of the teacher only a continuing 3774

contract may be entered into. 3775

Any teacher receiving written notice of the intention of a 3776
board not to reemploy such teacher pursuant to this division is 3777
entitled to the hearing provisions of division (G) of this 3778
section. 3779

(D) A teacher eligible for continuing contract status 3780
employed under an extended limited contract pursuant to division 3781
(B) or (C) of this section, is, at the expiration of such 3782
extended limited contract, deemed reemployed under a continuing 3783
contract at the same salary plus any increment granted by the 3784
salary schedule, unless evaluation procedures have been complied 3785
with pursuant to section 3319.111 of the Revised Code and the 3786
employing board, acting on the superintendent's recommendation 3787
that the teacher not be reemployed, gives the teacher written 3788
notice on or before the first day of June of its intention not 3789
to reemploy such teacher. A teacher who does not have evaluation 3790
procedures applied in compliance with section 3319.111 of the 3791
Revised Code or who does not receive notice on or before the 3792
first day of June of the intention of the board not to reemploy 3793
such teacher is presumed to have accepted employment under a 3794
continuing contract unless such teacher notifies the board in 3795
writing to the contrary on or before the fifteenth day of June, 3796
and a continuing contract shall be executed accordingly. 3797

Any teacher receiving a written notice of the intention of 3798
a board not to reemploy such teacher pursuant to this division 3799
is entitled to the hearing provisions of division (G) of this 3800
section. 3801

(E) The board shall enter into a limited contract with 3802
each teacher employed by the board who is not eligible to be 3803
considered for a continuing contract. 3804

Any teacher employed under a limited contract, and not 3805
eligible to be considered for a continuing contract, is, at the 3806
expiration of such limited contract, considered reemployed under 3807
the provisions of this division at the same salary plus any 3808
increment provided by the salary schedule unless evaluation 3809
procedures have been complied with pursuant to section 3319.111 3810
of the Revised Code and the employing board, acting upon the 3811
superintendent's written recommendation that the teacher not be 3812
reemployed, gives such teacher written notice of its intention 3813
not to reemploy such teacher on or before the first day of June. 3814
A teacher who does not have evaluation procedures applied in 3815
compliance with section 3319.111 of the Revised Code or who does 3816
not receive notice of the intention of the board not to reemploy 3817
such teacher on or before the first day of June is presumed to 3818
have accepted such employment unless such teacher notifies the 3819
board in writing to the contrary on or before the fifteenth day 3820
of June, and a written contract for the succeeding school year 3821
shall be executed accordingly. 3822

Any teacher receiving a written notice of the intention of 3823
a board not to reemploy such teacher pursuant to this division 3824
is entitled to the hearing provisions of division (G) of this 3825
section. 3826

(F) The failure of a superintendent to make a 3827
recommendation to the board under any of the conditions set 3828
forth in divisions (B) to (E) of this section, or the failure of 3829
the board to give such teacher a written notice pursuant to 3830
divisions (C) to (E) of this section shall not prejudice or 3831
prevent a teacher from being deemed reemployed under either a 3832
limited or continuing contract as the case may be under the 3833
provisions of this section. A failure of the parties to execute 3834
a written contract shall not void any automatic reemployment 3835

provisions of this section. 3836

(G) (1) Any teacher receiving written notice of the 3837
intention of a board of education not to reemploy such teacher 3838
pursuant to division (B), (C) (3), (D), or (E) of this section 3839
may, within ten days of the date of receipt of the notice, file 3840
with the treasurer of the board a written demand for a written 3841
statement describing the circumstances that led to the board's 3842
intention not to reemploy the teacher. 3843

(2) The treasurer of a board, on behalf of the board, 3844
shall, within ten days of the date of receipt of a written 3845
demand for a written statement pursuant to division (G) (1) of 3846
this section, provide to the teacher a written statement 3847
describing the circumstances that led to the board's intention 3848
not to reemploy the teacher. 3849

(3) Any teacher receiving a written statement describing 3850
the circumstances that led to the board's intention not to 3851
reemploy the teacher pursuant to division (G) (2) of this section 3852
may, within five days of the date of receipt of the statement, 3853
file with the treasurer of the board a written demand for a 3854
hearing before the board pursuant to divisions (G) (4) to (6) of 3855
this section. 3856

(4) The treasurer of a board, on behalf of the board, 3857
shall, within ten days of the date of receipt of a written 3858
demand for a hearing pursuant to division (G) (3) of this 3859
section, provide to the teacher a written notice setting forth 3860
the time, date, and place of the hearing. The board shall 3861
schedule and conclude the hearing within forty days of the date 3862
on which the treasurer of the board receives a written demand 3863
for a hearing pursuant to division (G) (3) of this section. 3864

(5) Any hearing conducted pursuant to this division shall 3865
be conducted by a majority of the members of the board. The 3866
hearing shall be held in executive session of the board unless 3867
the board and the teacher agree to hold the hearing in public. 3868
The superintendent, assistant superintendent, the teacher, and 3869
any person designated by either party to take a record of the 3870
hearing may be present at the hearing. The board may be 3871
represented by counsel and the teacher may be represented by 3872
counsel or a designee. A record of the hearing may be taken by 3873
either party at the expense of the party taking the record. 3874

(6) Within ten days of the conclusion of a hearing 3875
conducted pursuant to this division, the board shall issue to 3876
the teacher a written decision containing an order affirming the 3877
intention of the board not to reemploy the teacher reported in 3878
the notice given to the teacher pursuant to division (B), (C) 3879
(3), (D), or (E) of this section or an order vacating the 3880
intention not to reemploy and expunging any record of the 3881
intention, notice of the intention, and the hearing conducted 3882
pursuant to this division. 3883

(7) A teacher may appeal an order affirming the intention 3884
of the board not to reemploy the teacher to the court of common 3885
pleas of the county in which the largest portion of the 3886
territory of the school district or service center is located, 3887
within thirty days of the date on which the teacher receives the 3888
written decision, on the grounds that the board has not complied 3889
with this section or section 3319.111 of the Revised Code. 3890

Notwithstanding section 2506.04 of the Revised Code, the 3891
court in an appeal under this division is limited to the 3892
determination of procedural errors and to ordering the 3893
correction of procedural errors and shall have no jurisdiction 3894

to order a board to reemploy a teacher, except that the court 3895
may order a board to reemploy a teacher in compliance with the 3896
requirements of division (B), (C) (3), (D), or (E) of this 3897
section when the court determines that evaluation procedures 3898
have not been complied with pursuant to section 3319.111 of the 3899
Revised Code or the board has not given the teacher written 3900
notice on or before the first day of June of its intention not 3901
to reemploy the teacher pursuant to division (B), (C) (3), (D), 3902
or (E) of this section. Otherwise, the determination whether to 3903
reemploy or not reemploy a teacher is solely a board's 3904
determination and not a proper subject of judicial review and, 3905
except as provided in this division, no decision of a board 3906
whether to reemploy or not reemploy a teacher shall be 3907
invalidated by the court on any basis, including that the 3908
decision was not warranted by the results of any evaluation or 3909
was not warranted by any statement given pursuant to division 3910
(G) (2) of this section. 3911

No appeal of an order of a board may be made except as 3912
specified in this division. 3913

(H) (1) In giving a teacher any notice required by division 3914
(B), (C), (D), or (E) of this section, the board or the 3915
superintendent shall do either of the following: 3916

(a) Deliver the notice by personal service upon the 3917
teacher; 3918

(b) Deliver the notice by certified mail, return receipt 3919
requested, regular mail with a certificate of mailing, or other 3920
form of delivery with proof of delivery, addressed to the 3921
teacher at the teacher's place of employment and deliver a copy 3922
of the notice by certified mail, return receipt requested, 3923
regular mail with a certificate of mailing, or other form of 3924

delivery with proof of delivery, addressed to the teacher at the 3925
teacher's place of residence. Delivery of the notice required 3926
under division (H) (1) (b) of this section may be satisfied by 3927
electronic delivery with electronic proof of delivery. 3928

(2) In giving a board any notice required by division (B), 3929
(C), (D), or (E) of this section, the teacher shall do either of 3930
the following: 3931

(a) Deliver the notice by personal delivery to the office 3932
of the superintendent during regular business hours; 3933

(b) Deliver the notice by certified mail, return receipt 3934
requested, regular mail with a certificate of mailing, or other 3935
form of delivery with proof of delivery, addressed to the office 3936
of the superintendent and deliver a copy of the notice by 3937
certified mail, return receipt requested, regular mail with a 3938
certificate of mailing, or other form of delivery with proof of 3939
delivery, addressed to the president of the board at the 3940
president's place of residence. Delivery of the notice required 3941
under division (H) (2) (b) of this section may be satisfied by 3942
electronic delivery with electronic proof of delivery. 3943

(3) When any notice and copy of the notice are mailed 3944
pursuant to division (H) (1) (b) or (2) (b) of this section, the 3945
notice or copy of the notice with the earlier date of receipt 3946
shall constitute the notice for the purposes of division (B), 3947
(C), (D), or (E) of this section. 3948

(I) The provisions of this section shall not apply to any 3949
supplemental written contracts entered into pursuant to section 3950
3319.08 of the Revised Code. 3951

(J) Notwithstanding any provision to the contrary in 3952
Chapter 4117. of the Revised Code, the dates set forth in this 3953

section as "on or before the first day of June" or "on or before
the fifteenth day of June" prevail over any conflicting
provisions of a collective bargaining agreement entered into on
or after ~~the effective date of this amendment~~ March 22, 2013.

Sec. 3319.16. The contract of any teacher employed by the
board of education of any city, exempted village, local, county,
or joint vocational school district may not be terminated except
for good and just cause. Notwithstanding any provision to the
contrary in Chapter 4117. of the Revised Code, the provisions of
this section relating to the grounds for termination of the
contract of a teacher prevail over any conflicting provisions of
a collective bargaining agreement entered into after ~~the~~
~~effective date of this amendment~~ October 16, 2009.

Before terminating any contract, the employing board shall
furnish the teacher a written notice signed by its treasurer of
its intention to consider the termination of the teacher's
contract with full specification of the grounds for such
consideration. The board shall not proceed with formal action to
terminate the contract until after the tenth day after receipt
of the notice by the teacher. Within ten days after receipt of
the notice from the treasurer of the board, the teacher may file
with the treasurer a written demand for a hearing before the
board or before a referee, and the board shall set a time for
the hearing which shall be within thirty days from the date of
receipt of the written demand, and the treasurer shall give the
teacher at least twenty days' notice in writing of the time and
place of the hearing. If a referee is demanded by either the
teacher or board, the treasurer also shall give twenty days'
notice to the superintendent of public instruction. No hearing
shall be held during the summer vacation without the teacher's
consent. The hearing shall be private unless the teacher

requests a public hearing. The hearing shall be conducted by a 3985
referee appointed pursuant to section 3319.161 of the Revised 3986
Code, if demanded; otherwise, it shall be conducted by a 3987
majority of the members of the board and shall be confined to 3988
the grounds given for the termination. The board shall provide 3989
for a complete—~~stenographic~~ record of the proceedings, a copy of 3990
the record to be furnished to the teacher. The board may suspend 3991
a teacher pending final action to terminate the teacher's 3992
contract if, in its judgment, the character of the charges 3993
warrants such action. 3994

Both parties may be present at such hearing, be 3995
represented by counsel, require witnesses to be under oath, 3996
cross-examine witnesses, take a record of the proceedings, and 3997
require the presence of witnesses in their behalf upon subpoena 3998
to be issued by the treasurer of the board. In case of the 3999
failure of any person to comply with a subpoena, a judge of the 4000
court of common pleas of the county in which the person resides, 4001
upon application of any interested party, shall compel 4002
attendance of the person by attachment proceedings as for 4003
contempt. Any member of the board or the referee may administer 4004
oaths to witnesses. After a hearing by a referee, the referee 4005
shall file a report within ten days after the termination of the 4006
hearing. After consideration of the referee's report, the board, 4007
by a majority vote, may accept or reject the referee's 4008
recommendation on the termination of the teacher's contract. 4009
After a hearing by the board, the board, by majority vote, may 4010
enter its determination upon its minutes. Any order of 4011
termination of a contract shall state the grounds for 4012
termination. If the decision, after hearing, is against 4013
termination of the contract, the charges and the record of the 4014
hearing shall be physically expunged from the minutes, and, if 4015

the teacher has suffered any loss of salary by reason of being 4016
suspended, the teacher shall be paid the teacher's full salary 4017
for the period of such suspension. 4018

Any teacher affected by an order of termination of 4019
contract may appeal to the court of common pleas of the county 4020
in which the school is located within thirty days after receipt 4021
of notice of the entry of such order. The appeal shall be an 4022
original action in the court and shall be commenced by the 4023
filing of a complaint against the board, in which complaint the 4024
facts shall be alleged upon which the teacher relies for a 4025
reversal or modification of such order of termination of 4026
contract. Upon service or waiver of summons in that appeal, the 4027
board immediately shall transmit to the clerk of the court for 4028
filing a transcript of the original papers filed with the board, 4029
a certified copy of the minutes of the board into which the 4030
termination finding was entered, and a certified transcript of 4031
all evidence adduced at the hearing or hearings before the board 4032
or a certified transcript of all evidence adduced at the hearing 4033
or hearings before the referee, whereupon the cause shall be at 4034
issue without further pleading and shall be advanced and heard 4035
without delay. The court shall examine the transcript and record 4036
of the hearing and shall hold such additional hearings as it 4037
considers advisable, at which it may consider other evidence in 4038
addition to the transcript and record. 4039

Upon final hearing, the court shall grant or deny the 4040
relief prayed for in the complaint as may be proper in 4041
accordance with the evidence adduced in the hearing. Such an 4042
action is a special proceeding, and either the teacher or the 4043
board may appeal from the decision of the court of common pleas 4044
pursuant to the Rules of Appellate Procedure and, to the extent 4045
not in conflict with those rules, Chapter 2505. of the Revised 4046

Code. 4047

In any court action, the board may utilize the services of 4048
the prosecuting attorney, village solicitor, city director of 4049
law, or other chief legal officer of a municipal corporation as 4050
authorized by section 3313.35 of the Revised Code, or may employ 4051
other legal counsel. 4052

A violation of division (A) (7) of section 2907.03 of the 4053
Revised Code is grounds for termination of a teacher contract 4054
under this section. 4055

Sec. 3319.291. (A) The state board of education shall 4056
require each of the following persons, at the times prescribed 4057
by division (A) of this section, to undergo a criminal records 4058
check, unless the person has undergone a records check under 4059
this section or a former version of this section less than five 4060
years prior to that time. 4061

(1) Any person initially applying for any certificate, 4062
license, or permit described in this chapter or in division (B) 4063
of section 3301.071 or in section 3301.074 of the Revised Code 4064
at the time that application is made; 4065

(2) Any person applying for renewal of any certificate, 4066
license, or permit described in division (A) (1) of this section 4067
at the time that application is made; 4068

(3) Any person who is teaching under a professional 4069
teaching certificate issued under former section 3319.222 of the 4070
Revised Code upon a date prescribed by the state board; 4071

(4) Any person who is teaching under a permanent teaching 4072
certificate issued under former section 3319.22 as it existed 4073
prior to October 29, 1996, or under former section 3319.222 of 4074
the Revised Code upon a date prescribed by the state board and 4075

every five years thereafter.

4076

(B) (1) Except as otherwise provided in division (B) (2) of
this section, the state board shall require each person subject
to a criminal records check under this section to submit two
complete sets of fingerprints and written permission that
authorizes the superintendent of public instruction to forward
the fingerprints to the bureau of criminal identification and
investigation pursuant to division (F) of section 109.57 of the
Revised Code and that authorizes that bureau to forward the
fingerprints to the federal bureau of investigation for purposes
of obtaining any criminal records that the federal bureau
maintains on the person.

4077
4078
4079
4080
4081
4082
4083
4084
4085
4086
4087

(2) If both of the following conditions apply to a person
subject to a criminal records check under this section, the
state board shall require the person to submit one complete set
of fingerprints and written permission that authorizes the
superintendent of public instruction to forward the fingerprints
to the bureau of criminal identification and investigation so
that bureau may forward the fingerprints to the federal bureau
of investigation for purposes of obtaining any criminal records
that the federal bureau maintains on the person:

4088
4089
4090
4091
4092
4093
4094
4095
4096

(a) Under this section or any former version of this
section, the state board or the superintendent of public
instruction previously requested the superintendent of the
bureau of criminal identification and investigation to determine
whether the bureau has any information, gathered pursuant to
division (A) of section 109.57 of the Revised Code, on the
person.

4097
4098
4099
4100
4101
4102
4103

(b) The person presents proof that the person has been a
resident of this state for the five-year period immediately

4104
4105

prior to the date upon which the person becomes subject to a 4106
criminal records check under this section. 4107

(C) Except as provided in division (D) of this section, 4108
prior to issuing or renewing any certificate, license, or permit 4109
for a person described in division (A) (1) or (2) of this section 4110
who is subject to a criminal records check and in the case of a 4111
person described in division (A) (3) or (4) of this section who 4112
is subject to a criminal records check, the state board or the 4113
superintendent of public instruction shall do one of the 4114
following: 4115

(1) If the person is required to submit fingerprints and 4116
written permission under division (B) (1) of this section, 4117
request the superintendent of the bureau of criminal 4118
identification and investigation to determine whether the bureau 4119
has any information, gathered pursuant to division (A) of 4120
section 109.57 of the Revised Code, pertaining to the person and 4121
to obtain any criminal records that the federal bureau of 4122
investigation has on the person. 4123

(2) If the person is required to submit fingerprints and 4124
written permission under division (B) (2) of this section, 4125
request the superintendent of the bureau of criminal 4126
identification and investigation to obtain any criminal records 4127
that the federal bureau of investigation has on the person. 4128

(D) The state board or the superintendent of public 4129
instruction may choose not to request any information about a 4130
person required by division (C) of this section if the person 4131
provides proof that a criminal records check that satisfies the 4132
requirements of that division was conducted on the person as a 4133
condition of employment pursuant to section 3319.39 of the 4134
Revised Code within the immediately preceding year. The state 4135

board or the superintendent of public instruction may accept a 4136
certified copy of records that were issued by the bureau of 4137
criminal identification and investigation and that are presented 4138
by the person in lieu of requesting that information under 4139
division (C) of this section if the records were issued by the 4140
bureau within the immediately preceding year. 4141

(E) (1) If a person described in division (A) (3) or (4) of 4142
this section who is subject to a criminal records check fails to 4143
submit fingerprints and written permission by the date specified 4144
in the applicable division, and the state board or the 4145
superintendent of public instruction does not apply division (D) 4146
of this section to the person, or if a person who is subject to 4147
division (G) of this section fails to submit fingerprints and 4148
written permission by the date prescribed under that division, 4149
the superintendent shall prepare a written notice to be sent to 4150
the person by mail or electronically stating that if the person 4151
does not submit the fingerprints and written permission within 4152
fifteen days after the date the notice was mailed or sent 4153
electronically, the person's application will be rejected or the 4154
person's professional or permanent teaching certificate or 4155
license will be inactivated. The superintendent shall send the 4156
notification by regular mail to the person's last known 4157
residence address or last known place of employment, as 4158
indicated in the department of education's records, or both. If 4159
the notice is sent electronically, the notification shall be 4160
sent via electronic mail to the person's last known electronic 4161
mail address. 4162

If the person fails to submit the fingerprints and written 4163
permission within fifteen days after the date the notice was 4164
mailed, the superintendent of public instruction, on behalf of 4165
the state board, shall issue a written order rejecting the 4166

application or inactivating the person's professional or 4167
permanent teaching certificate or license. The rejection or 4168
inactivation shall remain in effect until the person submits the 4169
fingerprints and written permission. The superintendent shall 4170
send the order by regular mail or electronic mail to the 4171
person's last known residence address, last known electronic 4172
mail address, or last known place of employment, as indicated in 4173
the department's records, ~~or both~~. The order shall state the 4174
reason for the rejection or inactivation and shall explain that 4175
the rejection or inactivation remains in effect until the person 4176
submits the fingerprints and written permission. 4177

The rejection or inactivation of a professional or 4178
permanent teaching certificate or license under division (E) (1) 4179
of this section does not constitute a suspension or revocation 4180
of the certificate or license by the state board under section 4181
3319.31 of the Revised Code and the state board and the 4182
superintendent of public instruction need not provide the person 4183
with an opportunity for a hearing with respect to the rejection 4184
or inactivation. 4185

(2) If a person whose professional or permanent teaching 4186
certificate or license has been rejected or inactivated under 4187
division (E) (1) of this section submits fingerprints and written 4188
permission as required by division (B) or (G) of this section, 4189
the superintendent of public instruction, on behalf of the state 4190
board, shall issue a written order issuing or reactivating the 4191
certificate or license. The superintendent shall send the order 4192
to the person by regular mail or electronic mail. 4193

(F) Notwithstanding divisions (A) to (C) of this section, 4194
if a person holds more than one certificate, license, or permit 4195
described in division (A) (1) of this section, the following 4196

shall apply:

4197

(1) If the certificates, licenses, or permits are of
different durations, the person shall be subject to divisions
(A) to (C) of this section only when applying for renewal of the
certificate, license, or permit that is of the longest duration.
Prior to renewing any certificate, license, or permit with a
shorter duration, the state board or the superintendent of
public instruction shall determine whether the department of
education has received any information about the person pursuant
to section 109.5721 of the Revised Code, but the person shall
not be subject to divisions (A) to (C) of this section as long
as the person's certificate, license, or permit with the longest
duration is valid.

4198
4199
4200
4201
4202
4203
4204
4205
4206
4207
4208
4209

(2) If the certificates, licenses, or permits are of the
same duration but do not expire in the same year, the person
shall designate one of the certificates, licenses, or permits as
the person's primary certificate, license, or permit and shall
notify the department of that designation. The person shall be
subject to divisions (A) to (C) of this section only when
applying for renewal of the person's primary certificate,
license, or permit. Prior to renewing any certificate, license,
or permit that is not the person's primary certificate, license,
or permit, the state board or the superintendent of public
instruction shall determine whether the department has received
any information about the person pursuant to section 109.5721 of
the Revised Code, but the person shall not be subject to
divisions (A) to (C) of this section as long as the person's
primary certificate, license, or permit is valid.

4210
4211
4212
4213
4214
4215
4216
4217
4218
4219
4220
4221
4222
4223
4224

(3) If the certificates, licenses, or permits are of the
same duration and expire in the same year and the person applies

4225
4226

for renewal of the certificates, licenses, or permits at the 4227
same time, the state board or the superintendent of public 4228
instruction shall request only one criminal records check of the 4229
person under division (C) of this section. 4230

(G) If the department is unable to enroll a person who has 4231
submitted an application for licensure, or to whom the state 4232
board has issued a license, in the retained applicant 4233
fingerprint database established under section 109.5721 of the 4234
Revised Code because the person has not satisfied the 4235
requirements for enrollment, the department shall require the 4236
person to satisfy the requirements for enrollment, including 4237
requiring the person to submit, by a date prescribed by the 4238
department, one complete set of fingerprints and written 4239
permission that authorizes the superintendent of public 4240
instruction to forward the fingerprints to the bureau of 4241
criminal identification and investigation for the purpose of 4242
enrolling the person in the database. If the person fails to 4243
comply by the prescribed date, the department shall reject the 4244
application or shall take action to inactivate the person's 4245
license in accordance with division (E) of this section. 4246

Sec. 3319.311. (A) (1) The state board of education, or the 4247
superintendent of public instruction on behalf of the board, may 4248
investigate any information received about a person that 4249
reasonably appears to be a basis for action under section 4250
3319.31 of the Revised Code, including information received 4251
pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 4252
3328.19, 5126.253, or 5153.176 of the Revised Code. Except as 4253
provided in division (A) (2) of this section, the board shall 4254
contract with the office of the Ohio attorney general to conduct 4255
any investigation of that nature. The board shall pay for the 4256
costs of the contract only from moneys in the state board of 4257

education licensure fund established under section 3319.51 of 4258
the Revised Code. Except as provided in division (A) (2) of this 4259
section, all information received pursuant to section 3314.40, 4260
3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of 4261
the Revised Code, and all information obtained during an 4262
investigation is confidential and is not a public record under 4263
section 149.43 of the Revised Code. If an investigation is 4264
conducted under this division regarding information received 4265
about a person and no action is taken against the person under 4266
this section or section 3319.31 of the Revised Code within two 4267
years of the completion of the investigation, all records of the 4268
investigation shall be expunged. 4269

(2) In the case of a person about whom the board has 4270
learned of a plea of guilty to, finding of guilt by a jury or 4271
court of, or a conviction of an offense listed in division (C) 4272
of section 3319.31 of the Revised Code, or substantially 4273
comparable conduct occurring in a jurisdiction outside this 4274
state, the board or the superintendent of public instruction 4275
need not conduct any further investigation and shall take the 4276
action required by division (C) or (F) of that section. Except 4277
as provided in division (G) of this section, all information 4278
obtained by the board or the superintendent of public 4279
instruction pertaining to the action is a public record under 4280
section 149.43 of the Revised Code. 4281

(B) The superintendent of public instruction shall review 4282
the results of each investigation of a person conducted under 4283
division (A) (1) of this section and shall determine, on behalf 4284
of the state board, whether the results warrant initiating 4285
action under division (B) of section 3319.31 of the Revised 4286
Code. The superintendent shall advise the board of such 4287
determination at a meeting of the board. Within fourteen days of 4288

the next meeting of the board, any member of the board may ask 4289
that the question of initiating action under section 3319.31 of 4290
the Revised Code be placed on the board's agenda for that next 4291
meeting. Prior to initiating that action against any person, the 4292
person's name and any other personally identifiable information 4293
shall remain confidential. 4294

(C) The board shall take no action against a person under 4295
division (B) of section 3319.31 of the Revised Code without 4296
providing the person with written notice of the charges and with 4297
an opportunity for a hearing in accordance with Chapter 119. of 4298
the Revised Code. 4299

(D) For purposes of an investigation under division (A) (1) 4300
of this section or a hearing under division (C) of this section 4301
or under division (E) (2) of section 3319.31 of the Revised Code, 4302
the board, or the superintendent on behalf of the board, may 4303
administer oaths, order the taking of depositions, issue 4304
subpoenas, and compel the attendance of witnesses and the 4305
production of books, accounts, papers, records, documents, and 4306
testimony. The issuance of subpoenas under this division may be 4307
by certified mail, regular mail with a certificate of mailing, 4308
or other form of delivery with proof of delivery, including 4309
electronic delivery with electronic proof of delivery, or 4310
personal delivery to the person. 4311

(E) The superintendent, on behalf of the board, may enter 4312
into a consent agreement with a person against whom action is 4313
being taken under division (B) of section 3319.31 of the Revised 4314
Code. The board may adopt rules governing the superintendent's 4315
action under this division. 4316

(F) No surrender of a license shall be effective until the 4317
board takes action to accept the surrender unless the surrender 4318

is pursuant to a consent agreement entered into under division 4319
(E) of this section. 4320

(G) The name of any person who is not required to report 4321
information under section 3314.40, 3319.313, 3326.24, 3328.19, 4322
5126.253, or 5153.176 of the Revised Code, but who in good faith 4323
provides information to the state board or superintendent of 4324
public instruction about alleged misconduct committed by a 4325
person who holds a license or has applied for issuance or 4326
renewal of a license, shall be confidential and shall not be 4327
released. Any such person shall be immune from any civil 4328
liability that otherwise might be incurred or imposed for 4329
injury, death, or loss to person or property as a result of the 4330
provision of that information. 4331

(H) (1) No person shall knowingly make a false report to 4332
the superintendent of public instruction or the state board of 4333
education alleging misconduct by an employee of a public or 4334
chartered nonpublic school or an employee of the operator of a 4335
community school established under Chapter 3314. or a college- 4336
preparatory boarding school established under Chapter 3328. of 4337
the Revised Code. 4338

(2) (a) In any civil action brought against a person in 4339
which it is alleged and proved that the person violated division 4340
(H) (1) of this section, the court shall award the prevailing 4341
party reasonable attorney's fees and costs that the prevailing 4342
party incurred in the civil action or as a result of the false 4343
report that was the basis of the violation. 4344

(b) If a person is convicted of or pleads guilty to a 4345
violation of division (H) (1) of this section, if the subject of 4346
the false report that was the basis of the violation was charged 4347
with any violation of a law or ordinance as a result of the 4348

false report, and if the subject of the false report is found 4349
not to be guilty of the charges brought against the subject as a 4350
result of the false report or those charges are dismissed, the 4351
court that sentences the person for the violation of division 4352
(H) (1) of this section, as part of the sentence, shall order the 4353
person to pay restitution to the subject of the false report, in 4354
an amount equal to reasonable attorney's fees and costs that the 4355
subject of the false report incurred as a result of or in 4356
relation to the charges. 4357

Sec. 3321.13. (A) Whenever any child of compulsory school 4358
age withdraws from school the teacher of that child shall 4359
ascertain the reason for withdrawal. The fact of the withdrawal 4360
and the reason for it shall be immediately transmitted by the 4361
teacher to the superintendent of the city, local, or exempted 4362
village school district. If the child who has withdrawn from 4363
school has done so because of change of residence, the next 4364
residence shall be ascertained and shall be included in the 4365
notice thus transmitted. The superintendent shall thereupon 4366
forward a card showing the essential facts regarding the child 4367
and stating the place of the child's new residence to the 4368
superintendent of schools of the district to which the child has 4369
moved. 4370

The superintendent of public instruction may prescribe the 4371
forms to be used in the operation of this division. 4372

(B) (1) Upon receipt of information that a child of 4373
compulsory school age has withdrawn from school for a reason 4374
other than because of change of residence and is not enrolled in 4375
and attending in accordance with school policy an approved 4376
program to obtain a diploma or its equivalent, the 4377
superintendent shall notify the registrar of motor vehicles and 4378

the juvenile judge of the county in which the district is 4379
located of the withdrawal and failure to enroll in and attend an 4380
approved program to obtain a diploma or its equivalent. A 4381
notification to the registrar required by this division shall be 4382
given in the manner the registrar by rule requires and a 4383
notification to the juvenile judge required by this division 4384
shall be given in writing. Each notification shall be given 4385
within two weeks after the withdrawal and failure to enroll in 4386
and attend an approved program or its equivalent. 4387

(2) The board of education of a school district may adopt 4388
a resolution providing that the provisions of division (B) (2) of 4389
this section apply within the district. The provisions of 4390
division (B) (2) of this section do not apply within any school 4391
district, and no superintendent of a school district shall send 4392
a notification of the type described in division (B) (2) of this 4393
section to the registrar of motor vehicles or the juvenile judge 4394
of the county in which the district is located, unless the board 4395
of education of the district has adopted such a resolution. If 4396
the board of education of a school district adopts a resolution 4397
providing that the provisions of division (B) (2) of this section 4398
apply within the district, and if the superintendent of schools 4399
of that district receives information that, during any semester 4400
or term, a child of compulsory school age has been absent 4401
without legitimate excuse from the school the child is supposed 4402
to attend for more than sixty consecutive hours in a single 4403
month or for at least ninety hours in a school year, the 4404
superintendent shall notify the child and the child's parent, 4405
guardian, or custodian, in writing, that the information has 4406
been provided to the superintendent, that as a result of that 4407
information the child's temporary instruction permit or driver's 4408
license will be suspended or the opportunity to obtain such a 4409

permit or license will be denied, and that the child and the 4410
child's parent, guardian, or custodian may ~~appear in person~~ 4411
participate in a hearing at a scheduled date, time, and place- 4412
~~before~~ conducted by the superintendent or a designee to 4413
challenge the information provided to the superintendent. The 4414
hearing may be conducted by electronic means. 4415

The notification to the child and the child's parent, 4416
guardian, or custodian required by division (B) (2) of this 4417
section shall set forth the information received by the 4418
superintendent and shall inform the child and the child's 4419
parent, guardian, or custodian of the scheduled date, time, and- 4420
~~place~~ participation method of the ~~appearance that they may have~~ 4421
hearing before the superintendent or a designee. The date 4422
scheduled for the ~~appearance~~ hearing shall be no earlier than 4423
three and no later than five days after the notification is 4424
given, provided that an extension may be granted upon request of 4425
the child or the child's parent, guardian, or custodian. If an 4426
extension is granted, the superintendent shall schedule a new 4427
date, time, and ~~place~~ method for the ~~appearance~~ hearing and 4428
shall inform the child and the child's parent, guardian, or 4429
custodian of the new date, time, and ~~place~~ method. 4430

If the child and the child's parent, guardian, or 4431
custodian do not appear before the superintendent or a designee 4432
on the scheduled date and ~~at~~ for the scheduled ~~time and place~~ 4433
hearing, or if the child and the child's parent, guardian, or 4434
custodian appear before the superintendent or a designee on the 4435
scheduled date and at the scheduled time ~~and place~~ but the 4436
superintendent or a designee determines that the information the 4437
superintendent received indicating that, during the semester or 4438
term, the child had been absent without legitimate excuse from 4439
the school the child was supposed to attend for more than sixty 4440

consecutive hours or for at least ninety total hours, the 4441
superintendent shall notify the registrar of motor vehicles and 4442
the juvenile judge of the county in which the district is 4443
located that the child has been absent for that period of time 4444
and that the child does not have any legitimate excuse for the 4445
habitual absence. A notification to the registrar required by 4446
this division shall be given in the manner the registrar by rule 4447
requires and a notification to the juvenile judge required by 4448
this division shall be given in writing. Each notification shall 4449
be given within two weeks after the receipt of the information 4450
of the habitual absence from school without legitimate excuse, 4451
or, if the child and the child's parent, guardian, or custodian 4452
appear before the superintendent or a designee to challenge the 4453
information, within two weeks after the ~~appearance~~ hearing. 4454

For purposes of division (B) (2) of this section, a 4455
legitimate excuse for absence from school includes, but is not 4456
limited to, the fact that the child in question has enrolled in 4457
another school or school district in this or another state, the 4458
fact that the child in question was excused from attendance for 4459
any of the reasons specified in section 3321.04 of the Revised 4460
Code, or the fact that the child in question has received an age 4461
and schooling certificate in accordance with section 3331.01 of 4462
the Revised Code. 4463

(3) Whenever a pupil is suspended or expelled from school 4464
pursuant to section 3313.66 of the Revised Code and the reason 4465
for the suspension or expulsion is the use or possession of 4466
alcohol, a drug of abuse, or alcohol and a drug of abuse, the 4467
superintendent of schools of that district may notify the 4468
registrar and the juvenile judge of the county in which the 4469
district is located of such suspension or expulsion. Any such 4470
notification of suspension or expulsion shall be given to the 4471

registrar, in the manner the registrar by rule requires and 4472
shall be given to the juvenile judge in writing. The 4473
notifications shall be given within two weeks after the 4474
suspension or expulsion. 4475

(4) Whenever a pupil is suspended, expelled, removed, or 4476
permanently excluded from a school for misconduct included in a 4477
policy that the board of education of a city, exempted village, 4478
or local school district has adopted under division (A) of 4479
section 3313.661 of the Revised Code, and the misconduct 4480
involves a firearm or a knife or other weapon as defined in that 4481
policy, the superintendent of schools of that district shall 4482
notify the registrar and the juvenile judge of the county in 4483
which the district is located of the suspension, expulsion, 4484
removal, or permanent exclusion. The notification shall be given 4485
to the registrar in the manner the registrar, by rule, requires 4486
and shall be given to the juvenile judge in writing. The 4487
notifications shall be given within two weeks after the 4488
suspension, expulsion, removal, or permanent exclusion. 4489

(C) A notification of withdrawal, habitual absence without 4490
legitimate excuse, suspension, or expulsion given to the 4491
registrar or a juvenile judge under division (B) (1), (2), (3), 4492
or (4) of this section shall contain the name, address, date of 4493
birth, school, and school district of the child. If the 4494
superintendent finds, after giving a notification of withdrawal, 4495
habitual absence without legitimate excuse, suspension, or 4496
expulsion to the registrar and the juvenile judge under division 4497
(B) (1), (2), (3), or (4) of this section, that the notification 4498
was given in error, the superintendent immediately shall notify 4499
the registrar and the juvenile judge of that fact. 4500

Sec. 3321.21. A notice under section 3321.19 or 3321.20 of 4501

the Revised Code, sent by registered mail, regular mail with a 4502
certificate of mailing, or other form of delivery with proof of 4503
delivery, including electronic delivery and electronic proof of 4504
delivery, is a legal notice. 4505

Sec. 3704.03. The director of environmental protection may 4506
do any of the following: 4507

(A) Develop programs for the prevention, control, and 4508
abatement of air pollution; 4509

(B) Advise, consult, contract, and cooperate with any 4510
governmental or private agency in the furtherance of the 4511
purposes of this chapter; 4512

(C) Encourage, participate in, or conduct studies, 4513
investigations, and research relating to air pollution, collect 4514
and disseminate information, and conduct education and training 4515
programs relating to the causes, prevention, control, and 4516
abatement of air pollution; 4517

(D) Adopt, modify, and rescind rules prescribing ambient 4518
air quality standards for the state as a whole or for various 4519
areas of the state that are consistent with and no more 4520
stringent than the national ambient air quality standards in 4521
effect under the federal Clean Air Act; 4522

(E) Adopt, modify, suspend, and rescind rules for the 4523
prevention, control, and abatement of air pollution, including 4524
rules prescribing for the state as a whole or for various areas 4525
of the state emission standards for air contaminants, and other 4526
necessary rules for the purpose of achieving and maintaining 4527
compliance with ambient air quality standards in all areas 4528
within the state as expeditiously as practicable, but not later 4529
than any deadlines applicable under the federal Clean Air Act; 4530

rules for the prevention or control of the emission of hazardous 4531
or toxic air contaminants; rules prescribing fugitive dust 4532
limitations and standards that are related, on an areawide 4533
basis, to attainment and maintenance of ambient air quality 4534
standards; rules prescribing shade, density, or opacity 4535
limitations and standards for emissions, provided that with 4536
regard to air contaminant sources for which there are 4537
particulate matter emission standards in addition to a shade, 4538
density, or opacity rule, upon demonstration by such a source of 4539
compliance with those other standards, the shade, density, or 4540
opacity rule shall provide for establishment of a shade, 4541
density, or opacity limitation for that source that does not 4542
require the source to reduce emissions below the level specified 4543
by those other standards; rules for the prevention or control of 4544
odors and air pollution nuisances; rules that prevent 4545
significant deterioration of air quality to the extent required 4546
by the federal Clean Air Act; rules for the protection of 4547
visibility as required by the federal Clean Air Act; and rules 4548
prescribing open burning limitations and standards. In adopting, 4549
modifying, suspending, or rescinding any such rules, the 4550
director, to the extent consistent with the federal Clean Air 4551
Act, shall hear and give consideration to evidence relating to 4552
all of the following: 4553

(1) Conditions calculated to result from compliance with 4554
the rules, the overall cost within this state of compliance with 4555
the rules, and their relation to benefits to the people of the 4556
state to be derived from that compliance; 4557

(2) The quantity and characteristics of air contaminants, 4558
the frequency and duration of their presence in the ambient air, 4559
and the dispersion and dilution of those contaminants; 4560

(3) Topography, prevailing wind directions and velocities, 4561
physical conditions, and other factors that may or may combine 4562
to affect air pollution. 4563

Consistent with division (K) of section 3704.036 of the 4564
Revised Code, the director shall consider alternative emission 4565
limits proposed by the owner or operator of an air contaminant 4566
source that is subject to an emission limit established in rules 4567
adopted under this division and shall accept those alternative 4568
emission limits that the director determines to be equivalent to 4569
emission limits established in rules adopted under this 4570
division. 4571

(F) (1) Adopt, modify, suspend, and rescind rules 4572
consistent with the purposes of this chapter prohibiting the 4573
location, installation, construction, or modification of any air 4574
contaminant source or any machine, equipment, device, apparatus, 4575
or physical facility intended primarily to prevent or control 4576
the emission of air contaminants unless an installation permit 4577
therefor has been obtained from the director or the director's 4578
authorized representative. 4579

(2) (a) Applications for installation permits shall be 4580
accompanied by plans, specifications, construction schedules, 4581
and such other pertinent information and data, including data on 4582
ambient air quality impact and a demonstration of best available 4583
technology, as the director may require. Installation permits 4584
shall be issued for a period specified by the director and are 4585
transferable. The director shall specify in each permit the 4586
applicable emission standards and that the permit is conditioned 4587
upon payment of the applicable fees as required by section 4588
3745.11 of the Revised Code and upon the right of the director's 4589
authorized representatives to enter upon the premises of the 4590

person to whom the permit has been issued, at any reasonable 4591
time and subject to safety requirements of the person in control 4592
of the premises, for the purpose of determining compliance with 4593
such standards, this chapter, the rules adopted thereunder, and 4594
the conditions of any permit, variance, or order issued 4595
thereunder. Each proposed new or modified air contaminant source 4596
shall provide such notice of its proposed installation or 4597
modification to other states as is required under the federal 4598
Clean Air Act. Installation permits shall include the 4599
authorization to operate sources installed and operated in 4600
accordance with terms and conditions of the installation permits 4601
for a period not to exceed one year from commencement of 4602
operation, which authorization shall constitute an operating 4603
permit under division (G) of this section and rules adopted 4604
under it. 4605

No installation permit shall be required for activities 4606
that are subject to and in compliance with a plant-wide 4607
applicability limit issued by the director in accordance with 4608
rules adopted under this section. 4609

No installation permit shall be issued except in 4610
accordance with all requirements of this chapter and rules 4611
adopted thereunder. No application shall be denied or permit 4612
revoked or modified without a written order stating the findings 4613
upon which denial, revocation, or modification is based. A copy 4614
of the order shall be sent to the applicant or permit holder by 4615
certified mail. 4616

(b) An air contaminant source that is the subject of an 4617
installation permit shall be installed or modified in accordance 4618
with the permit not later than eighteen months after the 4619
permit's effective date at which point the permit shall 4620

terminate unless one of the following applies: 4621

(i) The owner or operator has undertaken a continuing 4622
program of installation or modification during the eighteen- 4623
month period. 4624

(ii) The owner or operator has entered into a binding 4625
contractual obligation to undertake and complete within a 4626
reasonable period of time a continuing program of installation 4627
or modification of the air contaminant source during the 4628
eighteen-month period. 4629

(iii) The director has extended the date by which the air 4630
contaminant source that is the subject of the installation 4631
permit must be installed or modified. 4632

(iv) The installation permit is the subject of an appeal 4633
by a party other than the owner or operator of the air 4634
contaminant source that is the subject of the installation 4635
permit, in which case the date of termination of the permit is 4636
not later than eighteen months after the effective date of the 4637
permit plus the number of days between the date in which the 4638
permit was appealed and the date on which all appeals concerning 4639
the permit have been resolved. 4640

(v) The installation permit has been superseded by a 4641
subsequent installation permit, in which case the original 4642
installation permit terminates on the effective date of the 4643
superseding installation permit. 4644

Division (F) (2) (b) of this section applies to an 4645
installation permit that has not terminated as of ~~the effective~~ 4646
~~date of this amendment~~ October 16, 2009. 4647

The director may adopt rules in accordance with Chapter 4648
119. of the Revised Code for the purpose of establishing 4649

additional requirements that are necessary for the 4650
implementation of division (F) (2) (b) of this section. 4651

(3) Not later than two years after August 3, 2006, the 4652
director shall adopt a rule in accordance with Chapter 119. of 4653
the Revised Code specifying that a permit to install is required 4654
only for new or modified air contaminant sources that emit any 4655
of the following air contaminants: 4656

(a) An air contaminant or precursor of an air contaminant 4657
for which a national ambient air quality standard has been 4658
adopted under the federal Clean Air Act; 4659

(b) An air contaminant for which the air contaminant 4660
source is regulated under the federal Clean Air Act; 4661

(c) An air contaminant that presents, or may present, 4662
through inhalation or other routes of exposure, a threat of 4663
adverse human health effects, including, but not limited to, 4664
substances that are known to be, or may reasonably be 4665
anticipated to be, carcinogenic, mutagenic, teratogenic, or 4666
neurotoxic, that cause reproductive dysfunction, or that are 4667
acutely or chronically toxic, or a threat of adverse 4668
environmental effects whether through ambient concentrations, 4669
bioaccumulation, deposition, or otherwise, and that is 4670
identified in the rule by chemical name and chemical abstract 4671
service number. 4672

The director may modify the rule adopted under division 4673
(F) (3) (c) of this section for the purpose of adding or deleting 4674
air contaminants. For each air contaminant that is contained in 4675
or deleted from the rule adopted under division (F) (3) (c) of 4676
this section, the director shall include in a notice 4677
accompanying any proposed or final rule an explanation of the 4678

director's determination that the air contaminant meets the 4679
criteria established in that division and should be added to, or 4680
no longer meets the criteria and should be deleted from, the 4681
list of air contaminants. The explanation shall include an 4682
identification of the scientific evidence on which the director 4683
relied in making the determination. Until adoption of the rule 4684
under division (F) (3) (c) of this section, nothing shall affect 4685
the director's authority to issue, deny, modify, or revoke 4686
permits to install under this chapter and rules adopted under 4687
it. 4688

(4) (a) Applications for permits to install new or modified 4689
air contaminant sources shall contain sufficient information 4690
regarding air contaminants for which the director may require a 4691
permit to install to determine conformity with the environmental 4692
protection agency's document entitled "Review of New Sources of 4693
Air Toxics Emissions, Option A," dated May 1986, which the 4694
director shall use to evaluate toxic emissions from new or 4695
modified air contaminant sources. The director shall make copies 4696
of the document available to the public upon request at no cost 4697
and post the document on the environmental protection agency's 4698
web site. Any inconsistency between the document and division 4699
(F) (4) of this section shall be resolved in favor of division 4700
(F) (4) of this section. 4701

(b) The maximum acceptable ground level concentration of 4702
an air contaminant shall be calculated in accordance with the 4703
document entitled "Review of New Sources of Air Toxics 4704
Emissions, Option A." Modeling shall be conducted to determine 4705
the increase in the ground level concentration of an air 4706
contaminant beyond the facility's boundary caused by the 4707
emissions from a new or modified source that is the subject of 4708
an application for a permit to install. Modeling shall be based 4709

on the maximum hourly rate of emissions from the source using 4710
information including, but not limited to, any emission control 4711
devices or methods, operational restrictions, stack parameters, 4712
and emission dispersion devices or methods that may affect 4713
ground level concentrations, either individually or in 4714
combination. The director shall determine whether the activities 4715
for which a permit to install is sought will cause an increase 4716
in the ground level concentration of one or more relevant air 4717
contaminants beyond the facility's boundary by an amount in 4718
excess of the maximum acceptable ground level concentration. In 4719
making the determination as to whether the maximum acceptable 4720
ground level concentration will be exceeded, the director shall 4721
give consideration to the modeling conducted under division (F) 4722
(4) (b) of this section and other relevant information submitted 4723
by the applicant. 4724

(c) If the modeling conducted under division (F) (4) (b) of 4725
this section with respect to an application for a permit to 4726
install demonstrates that the maximum ground level concentration 4727
from a new or modified source will be greater than or equal to 4728
eighty per cent, but less than one hundred per cent of the 4729
maximum acceptable ground level concentration for an air 4730
contaminant, the director may establish terms and conditions in 4731
the permit to install for the air contaminant source that will 4732
require the owner or operator of the air contaminant source to 4733
maintain emissions of that air contaminant commensurate with the 4734
modeled level, which shall be expressed as allowable emissions 4735
per day. In order to calculate the allowable emissions per day, 4736
the director shall multiply the hourly emission rate modeled 4737
under division (F) (4) (b) of this section to determine the ground 4738
level concentration by the operating schedule that has been 4739
identified in the permit to install application. Terms and 4740

conditions imposed under division (F) (4) (c) of this section are 4741
not federally enforceable requirements and, if included in a 4742
Title V permit, shall be placed in the portion of the permit 4743
that is only enforceable by the state. 4744

(d) If the modeling conducted under division (F) (4) (b) of 4745
this section with respect to an application for a permit to 4746
install demonstrates that the maximum ground level concentration 4747
from a new or modified source will be less than eighty per cent 4748
of the maximum acceptable ground level concentration, the owner 4749
or operator of the source annually shall report to the director, 4750
on a form prescribed by the director, whether operations of the 4751
source are consistent with the information regarding the 4752
operations that was used to conduct the modeling with regard to 4753
the permit to install application. The annual report to the 4754
director shall be in lieu of an emission limit or other permit 4755
terms and conditions imposed pursuant to division (F) (4) of this 4756
section. The director may consider any significant departure 4757
from the operations of the source described in the permit to 4758
install application that results in greater emissions than the 4759
emissions rate modeled to determine the ground level 4760
concentration as a modification and require the owner or 4761
operator to submit a permit to install application for the 4762
increased emissions. The requirements established in division 4763
(F) (4) (d) of this section are not federally enforceable 4764
requirements and, if included in a Title V permit, shall be 4765
placed in the portion of the permit that is only enforceable by 4766
the state. 4767

(e) Division (F) (4) of this section and the document 4768
entitled "Review of New Sources of Air Toxics Emissions, Option 4769
A" shall not be included in the state implementation plan under 4770
section 110 of the federal Clean Air Act and do not apply to an 4771

air contaminant source that is subject to a maximum achievable 4772
control technology standard or residual risk standard under 4773
section 112 of the federal Clean Air Act, to a particular air 4774
contaminant identified under 40 C.F.R. 51.166, division (b) (23), 4775
for which the director has determined that the owner or operator 4776
of the source is required to install best available control 4777
technology for that particular air contaminant, or to a 4778
particular air contaminant for which the director has determined 4779
that the source is required to meet the lowest achievable 4780
emission rate, as defined in 40 C.F.R. part 51, Appendix S, for 4781
that particular air contaminant. 4782

(f) (i) Division (F) (4) of this section and the document 4783
entitled "Review of New Sources of Air Toxics Emissions, Option 4784
A" do not apply to parking lots, storage piles, storage tanks, 4785
transfer operations, grain silos, grain dryers, emergency 4786
generators, gasoline dispensing operations, air contaminant 4787
sources that emit air contaminants solely from the combustion of 4788
fossil fuels, or the emission of wood dust, sand, glass dust, 4789
coal dust, silica, and grain dust. 4790

(ii) Notwithstanding division (F) (4) (f) (i) of this 4791
section, the director may require an individual air contaminant 4792
source that is within one of the source categories identified in 4793
division (F) (4) (f) (i) of this section to submit information in 4794
an application for a permit to install a new or modified source 4795
in order to determine the source's conformity to the document if 4796
the director has information to conclude that the particular new 4797
or modified source will potentially cause an increase in ground 4798
level concentration beyond the facility's boundary that exceeds 4799
the maximum acceptable ground level concentration as set forth 4800
in the document. 4801

(iii) The director may adopt rules in accordance with 4802
Chapter 119. of the Revised Code that are consistent with the 4803
purposes of this chapter and that add to or delete from the 4804
source category exemptions established in division (F) (4) (f) (i) 4805
of this section. 4806

(5) Not later than one year after August 3, 2006, the 4807
director shall adopt rules in accordance with Chapter 119. of 4808
the Revised Code specifying activities that do not, by 4809
themselves, constitute beginning actual construction activities 4810
related to the installation or modification of an air 4811
contaminant source for which a permit to install is required 4812
such as the grading and clearing of land, on-site storage of 4813
portable parts and equipment, and the construction of 4814
foundations or buildings that do not themselves emit air 4815
contaminants. The rules also shall allow specified initial 4816
activities that are part of the installation or modification of 4817
an air contaminant source, such as the installation of 4818
electrical and other utilities for the source, prior to issuance 4819
of a permit to install, provided that the owner or operator of 4820
the source has filed a complete application for a permit to 4821
install, the director or the director's designee has determined 4822
that the application is complete, and the owner or operator of 4823
the source has notified the director that this activity will be 4824
undertaken prior to the issuance of a permit to install. Any 4825
activity that is undertaken by the source under those rules 4826
shall be at the risk of the owner or operator. The rules shall 4827
not apply to activities that are precluded prior to permit 4828
issuance under section 111, section 112, Part C of Title I, and 4829
Part D of Title I of the federal Clean Air Act. 4830

(G) Adopt, modify, suspend, and rescind rules prohibiting 4831
the operation or other use of any new, modified, or existing air 4832

contaminant source unless an operating permit has been obtained 4833
from the director or the director's authorized representative, 4834
or the air contaminant source is being operated in compliance 4835
with the conditions of a variance issued pursuant to division 4836
(H) of this section. Applications for operating permits shall be 4837
accompanied by such plans, specifications, and other pertinent 4838
information as the director may require. Operating permits may 4839
be issued for a period determined by the director not to exceed 4840
ten years, are renewable, and are transferable. The director 4841
shall specify in each operating permit that the permit is 4842
conditioned upon payment of the applicable fees as required by 4843
section 3745.11 of the Revised Code and upon the right of the 4844
director's authorized representatives to enter upon the premises 4845
of the person to whom the permit has been issued, at any 4846
reasonable time and subject to safety requirements of the person 4847
in control of the premises, for the purpose of determining 4848
compliance with this chapter, the rules adopted thereunder, and 4849
the conditions of any permit, variance, or order issued 4850
thereunder. Operating permits may be denied or revoked for 4851
failure to comply with this chapter or the rules adopted 4852
thereunder. An operating permit shall be issued only upon a 4853
showing satisfactory to the director or the director's 4854
representative that the air contaminant source is being operated 4855
in compliance with applicable emission standards and other rules 4856
or upon submission of a schedule of compliance satisfactory to 4857
the director for a source that is not in compliance with all 4858
applicable requirements at the time of permit issuance, provided 4859
that the compliance schedule shall be consistent with and at 4860
least as stringent as that contained in any judicial consent 4861
decree or administrative order to which the air contaminant 4862
source is subject. The rules shall provide for the issuance of 4863
conditional operating permits for such reasonable periods as the 4864

director may determine to allow the holder of an installation 4865
permit, who has constructed, installed, located, or modified a 4866
new air contaminant source in accordance with the provisions of 4867
an installation permit, to make adjustments or modifications 4868
necessary to enable the new air contaminant source to comply 4869
with applicable emission standards and other rules. Terms and 4870
conditions of operating permits issued pursuant to this division 4871
shall be federally enforceable for the purpose of establishing 4872
the potential to emit of a stationary source and shall be 4873
expressly designated as federally enforceable. Any such 4874
federally enforceable restrictions on a source's potential to 4875
emit shall include both an annual limit and a short-term limit 4876
of not more than thirty days for each pollutant to be restricted 4877
together with adequate methods for establishing compliance with 4878
the restrictions. In other respects, operating permits issued 4879
pursuant to this division are enforceable as state law only. No 4880
application shall be denied or permit revoked or modified 4881
without a written order stating the findings upon which denial, 4882
revocation, or modification is based. A copy of the order shall 4883
be sent to the applicant or permit holder by certified mail. 4884

(H) Adopt, modify, and rescind rules governing the 4885
issuance, revocation, modification, or denial of variances that 4886
authorize emissions in excess of the applicable emission 4887
standards. 4888

No variance shall be issued except pursuant to those 4889
rules. The rules shall prescribe conditions and criteria in 4890
furtherance of the purposes of this chapter and consistent with 4891
the federal Clean Air Act governing eligibility for issuance of 4892
variances, which shall include all of the following: 4893

(1) Provisions requiring consistency of emissions 4894

authorized by a variance with timely attainment and maintenance 4895
of ambient air quality standards; 4896

(2) Provisions prescribing the classes and categories of 4897
air contaminants and air contaminant sources for which variances 4898
may be issued; 4899

(3) Provisions defining the circumstances under which an 4900
applicant shall demonstrate that compliance with applicable 4901
emission standards is technically infeasible, economically 4902
unreasonable, or impossible because of conditions beyond the 4903
control of the applicant; 4904

(4) Other provisions prescribed in furtherance of the 4905
goals of this chapter. 4906

The rules shall prohibit the issuance of variances from 4907
any emission limitation that was applicable to a source pursuant 4908
to an installation permit and shall prohibit issuance of 4909
variances that conflict with the federal Clean Air Act. 4910

Applications for variances shall be accompanied by such 4911
information as the director may require. In issuing variances, 4912
the director may order the person to whom a variance is issued 4913
to furnish plans and specifications and such other information 4914
and data, including interim reports, as the director may require 4915
and to proceed to take such action within such time as the 4916
director may determine to be appropriate and reasonable to 4917
prevent, control, or abate the person's existing emissions of 4918
air contaminants. The director shall specify in each variance 4919
that the variance is conditioned upon payment of the applicable 4920
fees as required by section 3745.11 of the Revised Code and upon 4921
the right of the director's authorized representatives to enter 4922
upon the premises of the person to whom the variance has been 4923

issued, at any reasonable time and subject to safety 4924
requirements of the person in control of the premises, for the 4925
purpose of determining compliance with this chapter, the rules 4926
adopted thereunder, and the conditions of any permit, variance, 4927
or order issued thereunder. 4928

The director may hold a public hearing on an application 4929
for a variance or renewal thereof at a location in the county 4930
where the variance is sought. The director shall give not less 4931
than twenty days' notice of the hearing to the applicant by 4932
certified mail or another type of mail accompanied by a 4933
receiptand. The director also shall cause at least one 4934
publication of notice in a newspaper with general circulation in 4935
the county where the variance is sought or may instead provide 4936
public notice by publication on the environmental protection 4937
agency's web site. The director shall keep available for public 4938
inspection at the principal office of the environmental 4939
protection agency a current schedule of pending applications for 4940
variances and a current schedule of pending variance hearings. 4941
The director shall make a complete stenographic record or 4942
electronic record of testimony and other evidence submitted at 4943
the hearing. The director shall make a written determination to 4944
issue, renew, or deny the variance and shall enter the 4945
determination and the basis therefor into the record of the 4946
hearing. The director shall issue, renew, or deny an application 4947
for a variance or renewal thereof, or issue a proposed action 4948
upon the application pursuant to section 3745.07 of the Revised 4949
Code, within six months of the date upon which the director 4950
receives a complete application with all pertinent information 4951
and data required by the director. 4952

Any variance granted pursuant to rules adopted under this 4953
division shall be for a period specified by the director, not to 4954

exceed three years, and may be renewed from time to time on such 4955
terms and for such periods, not to exceed three years each, as 4956
the director determines to be appropriate. A variance may be 4957
revoked, or renewal denied, for failure to comply with 4958
conditions specified in the variance. No variance shall be 4959
issued, denied, revoked, or modified without a written order 4960
stating the findings upon which the issuance, denial, 4961
revocation, or modification is based. A copy of the order shall 4962
be sent to the applicant or variance holder by certified mail. 4963

(I) Require the owner or operator of an air contaminant 4964
source to install, employ, maintain, and operate such emissions, 4965
ambient air quality, meteorological, or other monitoring devices 4966
or methods as the director shall prescribe; to sample those 4967
emissions at such locations, at such intervals, and in such 4968
manner as the director prescribes; to maintain records and file 4969
periodic reports with the director containing information as to 4970
location, size, and height of emission outlets, rate, duration, 4971
and composition of emissions, and any other pertinent 4972
information the director prescribes; and to provide such written 4973
notice to other states as the director shall prescribe. In 4974
requiring monitoring devices, records, and reports, the 4975
director, to the extent consistent with the federal Clean Air 4976
Act, shall give consideration to technical feasibility and 4977
economic reasonableness and allow reasonable time for 4978
compliance. For sources where a specific monitoring, record- 4979
keeping, or reporting requirement is specified for a particular 4980
air contaminant from a particular air contaminant source in an 4981
applicable regulation adopted by the United States environmental 4982
protection agency under the federal Clean Air Act or in an 4983
applicable rule adopted by the director, the director shall not 4984
impose an additional requirement in a permit that is a different 4985

monitoring, record-keeping, or reporting requirement other than 4986
the requirement specified in the applicable regulation or rule 4987
for that air contaminant except as otherwise agreed to by the 4988
owner or operator of the air contaminant source and the 4989
director. If two or more regulations or rules impose different 4990
monitoring, record-keeping, or reporting requirements for the 4991
same air contaminant from the same air contaminant source, the 4992
director may impose permit terms and conditions that consolidate 4993
or streamline the monitoring, record-keeping, or reporting 4994
requirements in a manner that conforms with each applicable 4995
requirement. To the extent consistent with the federal Clean Air 4996
Act and except as otherwise agreed to by the owner or operator 4997
of an air contaminant source and the director, the director 4998
shall not require an operating restriction that has the 4999
practical effect of increasing the stringency of an existing 5000
applicable emission limitation or standard. 5001

(J) Establish, operate, and maintain monitoring stations 5002
and other devices designed to measure air pollution and enter 5003
into contracts with any public or private agency for the 5004
establishment, operation, or maintenance of such stations and 5005
devices; 5006

(K) By rule adopt procedures for giving reasonable public 5007
notice and conducting public hearings on any plans for the 5008
prevention, control, and abatement of air pollution that the 5009
director is required to submit to the federal government; 5010

(L) Through any employee, agent, or authorized 5011
representative of the director or the environmental protection 5012
agency, enter upon private or public property, including 5013
improvements thereon, at any reasonable time, to make 5014
inspections, take samples, conduct tests, and examine records or 5015

reports pertaining to any emission of air contaminants and any 5016
monitoring equipment or methods and to determine if there are 5017
any actual or potential emissions from such premises and, if so, 5018
to determine the sources, amounts, contents, and extent of those 5019
emissions, or to ascertain whether there is compliance with this 5020
chapter, any orders issued or rules adopted thereunder, or any 5021
other determination of the director. The director, at reasonable 5022
times, may have access to and copy any such records. If entry or 5023
inspection authorized by this division is refused, hindered, or 5024
thwarted, the director or the director's authorized 5025
representative may by affidavit apply for, and any judge of a 5026
court of record may issue, an appropriate inspection warrant 5027
necessary to achieve the purposes of this chapter within the 5028
court's territorial jurisdiction. 5029

(M) Accept and administer gifts or grants from the federal 5030
government and from any other source, public or private, for 5031
carrying out any of the functions under this chapter; 5032

(N) Obtain necessary scientific, technical, and laboratory 5033
services; 5034

(O) Establish advisory boards in accordance with section 5035
121.13 of the Revised Code; 5036

(P) Delegate to any city or general health district or 5037
political subdivision of the state any of the director's 5038
enforcement and monitoring powers and duties, other than rule- 5039
making powers, as the director elects to delegate, and in 5040
addition employ, compensate, and prescribe the powers and duties 5041
of such officers, employees, and consultants as are necessary to 5042
enable the director to exercise the authority and perform duties 5043
imposed upon the director by law. Technical and other services 5044
shall be performed, insofar as practical, by personnel of the 5045

environmental protection agency. 5046

(Q) Certify to the government of the United States or any 5047
agency thereof that an industrial air pollution facility is in 5048
conformity with the state program or requirements for control of 5049
air pollution whenever such certificate is required for a 5050
taxpayer pursuant to any federal law or requirements; 5051

(R) Issue, modify, or revoke orders requiring abatement of 5052
or prohibiting emissions that violate applicable emission 5053
standards or other requirements of this chapter and rules 5054
adopted thereunder, or requiring emission control devices or 5055
measures in order to comply with applicable emission standards 5056
or other requirements of this chapter and rules adopted 5057
thereunder. Any such order shall require compliance with 5058
applicable emission standards by a specified date and shall not 5059
conflict with any requirement of the federal Clean Air Act. In 5060
the making of such orders, the director, to the extent 5061
consistent with the federal Clean Air Act, shall give 5062
consideration to, and base the determination on, evidence 5063
relating to the technical feasibility and economic 5064
reasonableness of compliance with such orders and their relation 5065
to benefits to the people of the state to be derived from such 5066
compliance. If, under the federal Clean Air Act, any such order 5067
shall provide for the posting of a bond or surety to secure 5068
compliance with the order as a condition of issuance of the 5069
order, the order shall so provide, but only to the extent 5070
required by the federal Clean Air Act. 5071

(S) To the extent provided by the federal Clean Air Act, 5072
adopt, modify, and rescind rules providing for the 5073
administrative assessment and collection of monetary penalties, 5074
not in excess of those required pursuant to the federal Clean 5075

Air Act, for failure to comply with any emission limitation or 5076
standard, compliance schedule, or other requirement of any rule, 5077
order, permit, or variance issued or adopted under this chapter 5078
or required under the applicable implementation plan whether or 5079
not the source is subject to a federal or state consent decree. 5080
The director may require the submission of compliance schedules, 5081
calculations of penalties for noncompliance, and related 5082
information. Any orders, payments, sanctions, or other 5083
requirements imposed pursuant to rules adopted under this 5084
division shall be in addition to any other permits, orders, 5085
payments, sanctions, or other requirements established under 5086
this chapter and shall not affect any civil or criminal 5087
enforcement proceedings brought under any provision of this 5088
chapter or any other provision of state or local law. This 5089
division does not apply to any requirement of this chapter 5090
regarding the prevention or abatement of odors. 5091

(T) Require new or modified air contaminant sources to 5092
install best available technology, but only in accordance with 5093
this division. With respect to permits issued pursuant to 5094
division (F) of this section beginning three years after August 5095
3, 2006, best available technology for air contaminant sources 5096
and air contaminants emitted by those sources that are subject 5097
to standards adopted under section 112, Part C of Title I, and 5098
Part D of Title I of the federal Clean Air Act shall be 5099
equivalent to and no more stringent than those standards. For an 5100
air contaminant or precursor of an air contaminant for which a 5101
national ambient air quality standard has been adopted under the 5102
federal Clean Air Act, best available technology only shall be 5103
required to the extent required by rules adopted under Chapter 5104
119. of the Revised Code for permit to install applications 5105
filed three or more years after August 3, 2006. 5106

Best available technology requirements established in 5107
rules adopted under this division shall be expressed only in one 5108
of the following ways that is most appropriate for the 5109
applicable source or source categories: 5110

(1) Work practices; 5111

(2) Source design characteristics or design efficiency of 5112
applicable air contaminant control devices; 5113

(3) Raw material specifications or throughput limitations 5114
averaged over a twelve-month rolling period; 5115

(4) Monthly allowable emissions averaged over a twelve- 5116
month rolling period. 5117

Best available technology requirements shall not apply to 5118
an air contaminant source that has the potential to emit, taking 5119
into account air pollution controls installed on the source, 5120
less than ten tons per year of emissions of an air contaminant 5121
or precursor of an air contaminant for which a national ambient 5122
air quality standard has been adopted under the federal Clean 5123
Air Act. In addition, best available technology requirements 5124
established in rules adopted under this division shall not apply 5125
to any existing, new, or modified air contaminant source that is 5126
subject to a plant-wide applicability limit that has been 5127
approved by the director. Further, best available technology 5128
requirements established in rules adopted under this division 5129
shall not apply to general permits issued prior to January 1, 5130
2006, under rules adopted under this chapter. 5131

For permits to install issued three or more years after 5132
August 3, 2006, any new or modified air contaminant source that 5133
has the potential to emit, taking into account air pollution 5134
controls installed on the source, ten or more tons per year of 5135

volatile organic compounds or nitrogen oxides shall meet, at a 5136
minimum, the requirements of any applicable reasonably available 5137
control technology rule in effect as of January 1, 2006, 5138
regardless of the location of the source. 5139

(U) Consistent with section 507 of the federal Clean Air 5140
Act, adopt, modify, suspend, and rescind rules for the 5141
establishment of a small business stationary source technical 5142
and environmental compliance assistance program as provided in 5143
section 3704.18 of the Revised Code; 5144

(V) Provide for emissions trading, marketable permits, 5145
auctions of emission rights, and economic incentives that would 5146
reduce the cost or increase the efficiency of achieving a 5147
specified level of environmental protection; 5148

(W) Provide for the construction of an air contaminant 5149
source prior to obtaining a permit to install pursuant to 5150
division (F) of this section if the applicant demonstrates that 5151
the source will be installed to comply with all applicable 5152
emission limits and will not adversely affect public health or 5153
safety or the environment and if the director determines that 5154
such an action will avoid an unreasonable hardship on the owner 5155
or operator of the source. Any such determination shall be 5156
consistent with the federal Clean Air Act. 5157

(X) Exercise all incidental powers, including adoption of 5158
rules, required to carry out this chapter. 5159

The environmental protection agency shall develop a plan 5160
to control air pollution resulting from state-operated 5161
facilities and property. 5162

Sec. 3734.02. (A) The director of environmental 5163
protection, in accordance with Chapter 119. of the Revised Code, 5164

shall adopt and may amend, suspend, or rescind rules having 5165
uniform application throughout the state governing solid waste 5166
facilities and the inspections of and issuance of permits and 5167
licenses for all solid waste facilities in order to ensure that 5168
the facilities will be located, maintained, and operated, and 5169
will undergo closure and post-closure care, in a sanitary manner 5170
so as not to create a nuisance, cause or contribute to water 5171
pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 5172
or 40 C.F.R. 257.3-8, as amended. The rules may include, without 5173
limitation, financial assurance requirements for closure and 5174
post-closure care and corrective action and requirements for 5175
taking corrective action in the event of the surface or 5176
subsurface discharge or migration of explosive gases or leachate 5177
from a solid waste facility, or of ground water contamination 5178
resulting from the transfer or disposal of solid wastes at a 5179
facility, beyond the boundaries of any area within a facility 5180
that is operating or is undergoing closure or post-closure care 5181
where solid wastes were disposed of or are being disposed of. 5182
The rules shall not concern or relate to personnel policies, 5183
salaries, wages, fringe benefits, or other conditions of 5184
employment of employees of persons owning or operating solid 5185
waste facilities. The director, in accordance with Chapter 119. 5186
of the Revised Code, shall adopt and may amend, suspend, or 5187
rescind rules governing the issuance, modification, revocation, 5188
suspension, or denial of variances from the director's solid 5189
waste rules, including, without limitation, rules adopted under 5190
this chapter governing the management of scrap tires. 5191

Variances shall be issued, modified, revoked, suspended, 5192
or rescinded in accordance with this division, rules adopted 5193
under it, and Chapter 3745. of the Revised Code. The director 5194
may order the person to whom a variance is issued to take such 5195

action within such time as the director may determine to be 5196
appropriate and reasonable to prevent the creation of a nuisance 5197
or a hazard to the public health or safety or the environment. 5198
Applications for variances shall contain such detail plans, 5199
specifications, and information regarding objectives, 5200
procedures, controls, and other pertinent data as the director 5201
may require. The director shall grant a variance only if the 5202
applicant demonstrates to the director's satisfaction that 5203
construction and operation of the solid waste facility in the 5204
manner allowed by the variance and any terms or conditions 5205
imposed as part of the variance will not create a nuisance or a 5206
hazard to the public health or safety or the environment. In 5207
granting any variance, the director shall state the specific 5208
provision or provisions whose terms are to be varied and also 5209
shall state specific terms or conditions imposed upon the 5210
applicant in place of the provision or provisions. 5211

The director may hold a public hearing on an application 5212
for a variance or renewal of a variance at a location in the 5213
county where the operations that are the subject of the 5214
application for the variance are conducted. The director shall 5215
give not less than twenty days' notice of the hearing to the 5216
applicant by certified mail or by another type of mail 5217
accompanied by a receipt~~and~~. The director shall publish at 5218
least one notice of the hearing in a newspaper with general 5219
circulation in the county where the hearing is to be held~~or may~~ 5220
instead provide public notice by publication on the 5221
environmental protection agency's web site. The director shall 5222
make available for public inspection at the principal office of 5223
the environmental protection agency a current list of pending 5224
applications for variances and a current schedule of pending 5225
variance hearings. The director shall make a complete 5226

stenographic record or electronic record of testimony and other 5227
evidence submitted at the hearing. 5228

Within ten days after the hearing, the director shall make 5229
a written determination to issue, renew, or deny the variance 5230
and shall enter the determination and the basis for it into the 5231
record of the hearing. The director shall issue, renew, or deny 5232
an application for a variance or renewal of a variance within 5233
six months of the date upon which the director receives a 5234
complete application with all pertinent information and data 5235
required. No variance shall be issued, revoked, modified, or 5236
denied until the director has considered the relative interests 5237
of the applicant, other persons and property affected by the 5238
variance, and the general public. Any variance granted under 5239
this division shall be for a period specified by the director 5240
and may be renewed from time to time on such terms and for such 5241
periods as the director determines to be appropriate. No 5242
application shall be denied and no variance shall be revoked or 5243
modified without a written order stating the findings upon which 5244
the denial, revocation, or modification is based. A copy of the 5245
order shall be sent to the applicant or variance holder by 5246
certified mail or by another type of mail accompanied by a 5247
receipt. 5248

(B) The director shall prescribe and furnish the forms 5249
necessary to administer and enforce this chapter. The director 5250
may cooperate with and enter into agreements with other state, 5251
local, or federal agencies to carry out the purposes of this 5252
chapter. The director may exercise all incidental powers 5253
necessary to carry out the purposes of this chapter. 5254

(C) Except as provided in this division and divisions (N) 5255
(2) and (3) of this section, no person shall establish a new 5256

solid waste facility or infectious waste treatment facility, or 5257
modify an existing solid waste facility or infectious waste 5258
treatment facility, without submitting an application for a 5259
permit with accompanying detail plans, specifications, and 5260
information regarding the facility and method of operation and 5261
receiving a permit issued by the director, except that no permit 5262
shall be required under this division to install or operate a 5263
solid waste facility for sewage sludge treatment or disposal 5264
when the treatment or disposal is authorized by a current permit 5265
issued under Chapter 3704. or 6111. of the Revised Code. 5266

No person shall continue to operate a solid waste facility 5267
for which the director has disapproved plans and specifications 5268
required to be filed by an order issued under division (A) (3) of 5269
section 3734.05 of the Revised Code, after the date prescribed 5270
for commencement of closure of the facility in the order issued 5271
under division (A) (4) of that section denying the permit 5272
application or approval. 5273

On and after the effective date of the rules adopted under 5274
division (A) of this section and division (D) of section 3734.12 5275
of the Revised Code governing solid waste transfer facilities, 5276
no person shall establish a new, or modify an existing, solid 5277
waste transfer facility without first submitting an application 5278
for a permit with accompanying engineering detail plans, 5279
specifications, and information regarding the facility and its 5280
method of operation to the director and receiving a permit 5281
issued by the director. 5282

No person shall establish a new compost facility or 5283
continue to operate an existing compost facility that accepts 5284
exclusively source separated yard wastes without submitting a 5285
completed registration for the facility to the director in 5286

accordance with rules adopted under divisions (A) and (N) (3) of 5287
this section. 5288

This division does not apply to a generator of infectious 5289
wastes that does any of the following: 5290

(1) Treats, by methods, techniques, and practices 5291
established by rules adopted under division (B) (2) (a) of section 5292
3734.021 of the Revised Code, any of the following: 5293

(a) Infectious wastes that are generated on any premises 5294
that are owned or operated by the generator; 5295

(b) Infectious wastes that are generated by a generator 5296
who has staff privileges at a hospital as defined in section 5297
3727.01 of the Revised Code; 5298

(c) Infectious wastes that are generated in providing care 5299
to a patient by an emergency medical services organization as 5300
defined in section 4765.01 of the Revised Code. 5301

(2) Holds a license or renewal of a license to operate a 5302
crematory facility issued under Chapter 4717. and a permit 5303
issued under Chapter 3704. of the Revised Code; 5304

(3) Treats or disposes of dead animals or parts thereof, 5305
or the blood of animals, and is subject to any of the following: 5306

(a) Inspection under the "Federal Meat Inspection Act," 81 5307
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 5308

(b) Chapter 918. of the Revised Code; 5309

(c) Chapter 953. of the Revised Code. 5310

(D) Neither this chapter nor any rules adopted under it 5311
apply to single-family residential premises; to infectious 5312
wastes generated by individuals for purposes of their own care 5313

or treatment; to the temporary storage of solid wastes, other 5314
than scrap tires, prior to their collection for disposal; to the 5315
storage of one hundred or fewer scrap tires unless they are 5316
stored in such a manner that, in the judgment of the director or 5317
the board of health of the health district in which the scrap 5318
tires are stored, the storage causes a nuisance, a hazard to 5319
public health or safety, or a fire hazard; or to the collection 5320
of solid wastes, other than scrap tires, by a political 5321
subdivision or a person holding a franchise or license from a 5322
political subdivision of the state; to composting, as defined in 5323
section 1511.01 of the Revised Code, conducted in accordance 5324
with section 1511.022 of the Revised Code; or to any person who 5325
is licensed to transport raw rendering material to a compost 5326
facility pursuant to section 953.23 of the Revised Code. 5327

(E) (1) As used in this division: 5328

(a) "On-site facility" means a facility that stores, 5329
treats, or disposes of hazardous waste that is generated on the 5330
premises of the facility. 5331

(b) "Off-site facility" means a facility that stores, 5332
treats, or disposes of hazardous waste that is generated off the 5333
premises of the facility and includes such a facility that is 5334
also an on-site facility. 5335

(c) "Satellite facility" means any of the following: 5336

(i) An on-site facility that also receives hazardous waste 5337
from other premises owned by the same person who generates the 5338
waste on the facility premises; 5339

(ii) An off-site facility operated so that all of the 5340
hazardous waste it receives is generated on one or more premises 5341
owned by the person who owns the facility; 5342

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E) (3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

5374

1	2	3
A TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
B Storage facility using:		
C Containers	On-site, off-site, and satellite	\$500
D Tanks	On-site, off-site, and satellite	500
E Waste pile	On-site, off-site, and satellite	3,000
F Surface impoundment	On-site and satellite	8,000
G	Off-site	10,000
H Disposal facility using:		
I Deep well injection	On-site and satellite	15,000
J	Off-site	25,000
K Landfill	On-site and satellite	25,000
L	Off-site	40,000
M Land application	On-site and satellite	2,500
N	Off-site	5,000
O Surface impoundment	On-site and satellite	10,000
P	Off-site	20,000

Q Treatment facility using:

R	Tanks	On-site, off-site, and satellite	700
S	Surface impoundment	On-site and satellite	8,000
T		Off-site	10,000
U	Incinerator	On-site and satellite	5,000
V		Off-site	10,000
W	Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of 5375
hazardous waste by deep well injection and that pays the annual 5376
permit fee established in section 6111.046 of the Revised Code 5377
is not subject to the permit fee established in this division 5378
for disposal facilities using deep well injection unless the 5379
director determines that the facility is not in compliance with 5380
applicable requirements established under this chapter and rules 5381
adopted under it. 5382

In determining the annual permit fee required by this 5383
section, the director shall not require additional payments for 5384
multiple units of the same method of storage, treatment, or 5385
disposal or for individual units that are used for both storage 5386
and treatment. A facility using more than one method of storage, 5387
treatment, or disposal shall pay the permit fee indicated by the 5388
schedule for each such method. 5389

The director shall not require the payment of that portion 5390
of an annual permit fee of any permit holder that would apply to 5391
a hazardous waste management unit for which a permit has been 5392

issued, but for which construction has not yet commenced. Once 5393
construction has commenced, the director shall require the 5394
payment of a part of the appropriate fee indicated by the 5395
schedule that bears the same relationship to the total fee that 5396
the number of days remaining until the next anniversary date at 5397
which payment of the annual permit fee is due bears to three 5398
hundred sixty-five. 5399

The director, by rules adopted in accordance with Chapters 5400
119. and 3745. of the Revised Code, shall prescribe procedures 5401
for collecting the annual permit fee established by this 5402
division and may prescribe other requirements necessary to carry 5403
out this division. 5404

(3) The prohibition against establishing or operating a 5405
hazardous waste facility without a hazardous waste facility 5406
installation and operation permit does not apply to either of 5407
the following: 5408

(a) A facility that is operating in accordance with a 5409
permit renewal issued under division (H) of section 3734.05 of 5410
the Revised Code, a revision issued under division (I) of that 5411
section as it existed prior to August 20, 1996, or a 5412
modification issued by the director under division (I) of that 5413
section on and after August 20, 1996; 5414

(b) Except as provided in division (J) of section 3734.05 5415
of the Revised Code, a facility that will operate or is 5416
operating in accordance with a permit by rule, or that is not 5417
subject to permit requirements, under rules adopted by the 5418
director. In accordance with Chapter 119. of the Revised Code, 5419
the director shall adopt, and subsequently may amend, suspend, 5420
or rescind, rules for the purposes of division (E) (3) (b) of this 5421
section. Any rules so adopted shall be consistent with and 5422

equivalent to regulations pertaining to interim status adopted 5423
under the "Resource Conservation and Recovery Act of 1976," 90 5424
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 5425
provided in this chapter. 5426

If a modification is requested or proposed for a facility 5427
described in division (E) (3) (a) or (b) of this section, division 5428
(I) (7) of section 3734.05 of the Revised Code applies. 5429

(F) No person shall store, treat, or dispose of hazardous 5430
waste identified or listed under this chapter and rules adopted 5431
under it, regardless of whether generated on or off the premises 5432
where the waste is stored, treated, or disposed of, or transport 5433
or cause to be transported any hazardous waste identified or 5434
listed under this chapter and rules adopted under it to any 5435
other premises, except at or to any of the following: 5436

(1) A hazardous waste facility operating under a permit 5437
issued in accordance with this chapter; 5438

(2) A facility in another state operating under a license 5439
or permit issued in accordance with the "Resource Conservation 5440
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 5441
amended; 5442

(3) A facility in another nation operating in accordance 5443
with the laws of that nation; 5444

(4) A facility holding a permit issued pursuant to Title I 5445
of the "Marine Protection, Research, and Sanctuaries Act of 5446
1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended; 5447

(5) A hazardous waste facility as described in division 5448
(E) (3) (a) or (b) of this section. 5449

(G) The director, by order, may exempt any person 5450

generating, collecting, storing, treating, disposing of, or 5451
transporting solid wastes, infectious wastes, or hazardous 5452
waste, or processing solid wastes that consist of scrap tires, 5453
in such quantities or under such circumstances that, in the 5454
determination of the director, are unlikely to adversely affect 5455
the public health or safety or the environment from any 5456
requirement to obtain a registration certificate, permit, or 5457
license or comply with the manifest system or other requirements 5458
of this chapter. Such an exemption shall be consistent with and 5459
equivalent to any regulations adopted by the administrator of 5460
the United States environmental protection agency under the 5461
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 5462
42 U.S.C.A. 6921, as amended, except as otherwise provided in 5463
this chapter. 5464

(H) No person shall engage in filling, grading, 5465
excavating, building, drilling, or mining on land where a 5466
hazardous waste facility, or a solid waste facility, was 5467
operated without prior authorization from the director, who 5468
shall establish the procedure for granting such authorization by 5469
rules adopted in accordance with Chapter 119. of the Revised 5470
Code. 5471

A public utility that has main or distribution lines above 5472
or below the land surface located on an easement or right-of-way 5473
across land where a solid waste facility was operated may engage 5474
in any such activity within the easement or right-of-way without 5475
prior authorization from the director for purposes of performing 5476
emergency repair or emergency replacement of its lines; of the 5477
poles, towers, foundations, or other structures supporting or 5478
sustaining any such lines; or of the appurtenances to those 5479
structures, necessary to restore or maintain existing public 5480
utility service. A public utility may enter upon any such 5481

easement or right-of-way without prior authorization from the 5482
director for purposes of performing necessary or routine 5483
maintenance of those portions of its existing lines; of the 5484
existing poles, towers, foundations, or other structures 5485
sustaining or supporting its lines; or of the appurtenances to 5486
any such supporting or sustaining structure, located on or above 5487
the land surface on any such easement or right-of-way. Within 5488
twenty-four hours after commencing any such emergency repair, 5489
replacement, or maintenance work, the public utility shall 5490
notify the director or the director's authorized representative 5491
of those activities and shall provide such information regarding 5492
those activities as the director or the director's 5493
representative may request. Upon completion of the emergency 5494
repair, replacement, or maintenance activities, the public 5495
utility shall restore any land of the solid waste facility 5496
disturbed by those activities to the condition existing prior to 5497
the commencement of those activities. 5498

(I) No owner or operator of a hazardous waste facility, in 5499
the operation of the facility, shall cause, permit, or allow the 5500
emission therefrom of any particulate matter, dust, fumes, gas, 5501
mist, smoke, vapor, or odorous substance that, in the opinion of 5502
the director, unreasonably interferes with the comfortable 5503
enjoyment of life or property by persons living or working in 5504
the vicinity of the facility, or that is injurious to public 5505
health. Any such action is hereby declared to be a public 5506
nuisance. 5507

(J) Notwithstanding any other provision of this chapter, 5508
in the event the director finds an imminent and substantial 5509
danger to public health or safety or the environment that 5510
creates an emergency situation requiring the immediate 5511
treatment, storage, or disposal of hazardous waste, the director 5512

may issue a temporary emergency permit to allow the treatment, 5513
storage, or disposal of the hazardous waste at a facility that 5514
is not otherwise authorized by a hazardous waste facility 5515
installation and operation permit to treat, store, or dispose of 5516
the waste. The emergency permit shall not exceed ninety days in 5517
duration and shall not be renewed. The director shall adopt, and 5518
may amend, suspend, or rescind, rules in accordance with Chapter 5519
119. of the Revised Code governing the issuance, modification, 5520
revocation, and denial of emergency permits. 5521

(K) Except for infectious wastes generated by a person who 5522
produces fewer than fifty pounds of infectious wastes at a 5523
premises during any one month, no owner or operator of a 5524
sanitary landfill shall knowingly accept for disposal, or 5525
dispose of, any infectious wastes that have not been treated to 5526
render them noninfectious. 5527

(L) The director, in accordance with Chapter 119. of the 5528
Revised Code, shall adopt, and may amend, suspend, or rescind, 5529
rules having uniform application throughout the state 5530
establishing a training and certification program that shall be 5531
required for employees of boards of health who are responsible 5532
for enforcing the solid waste and infectious waste provisions of 5533
this chapter and rules adopted under them and for persons who 5534
are responsible for the operation of solid waste facilities or 5535
infectious waste treatment facilities. The rules shall provide 5536
all of the following, without limitation: 5537

(1) The program shall be administered by the director and 5538
shall consist of a course on new solid waste and infectious 5539
waste technologies, enforcement procedures, and rules; 5540

(2) The course shall be offered on an annual basis; 5541

(3) Those persons who are required to take the course 5542
under division (L) of this section shall do so triennially; 5543

(4) Persons who successfully complete the course shall be 5544
certified by the director; 5545

(5) Certification shall be required for all employees of 5546
boards of health who are responsible for enforcing the solid 5547
waste or infectious waste provisions of this chapter and rules 5548
adopted under them and for all persons who are responsible for 5549
the operation of solid waste facilities or infectious waste 5550
treatment facilities; 5551

(6) (a) All employees of a board of health who, on the 5552
effective date of the rules adopted under this division, are 5553
responsible for enforcing the solid waste or infectious waste 5554
provisions of this chapter and the rules adopted under them 5555
shall complete the course and be certified by the director not 5556
later than January 1, 1995; 5557

(b) All employees of a board of health who, after the 5558
effective date of the rules adopted under division (L) of this 5559
section, become responsible for enforcing the solid waste or 5560
infectious waste provisions of this chapter and rules adopted 5561
under them and who do not hold a current and valid certification 5562
from the director at that time shall complete the course and be 5563
certified by the director within two years after becoming 5564
responsible for performing those activities. 5565

No person shall fail to obtain the certification required 5566
under this division. 5567

(M) The director shall not issue a permit under section 5568
3734.05 of the Revised Code to establish a solid waste facility, 5569
or to modify a solid waste facility operating on December 21, 5570

1988, in a manner that expands the disposal capacity or 5571
geographic area covered by the facility, that is or is to be 5572
located within the boundaries of a state park established or 5573
dedicated under Chapter 1546. of the Revised Code, a state park 5574
purchase area established under section 1546.06 of the Revised 5575
Code, any unit of the national park system, or any property that 5576
lies within the boundaries of a national park or recreation 5577
area, but that has not been acquired or is not administered by 5578
the secretary of the United States department of the interior, 5579
located in this state, or any candidate area located in this 5580
state and identified for potential inclusion in the national 5581
park system in the edition of the "national park system plan" 5582
submitted under paragraph (b) of section 8 of "The Act of August 5583
18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current 5584
at the time of filing of the application for the permit, unless 5585
the facility or proposed facility is or is to be used 5586
exclusively for the disposal of solid wastes generated within 5587
the park or recreation area and the director determines that the 5588
facility or proposed facility will not degrade any of the 5589
natural or cultural resources of the park or recreation area. 5590
The director shall not issue a variance under division (A) of 5591
this section and rules adopted under it, or issue an exemption 5592
order under division (G) of this section, that would authorize 5593
any such establishment or expansion of a solid waste facility 5594
within the boundaries of any such park or recreation area, state 5595
park purchase area, or candidate area, other than a solid waste 5596
facility exclusively for the disposal of solid wastes generated 5597
within the park or recreation area when the director determines 5598
that the facility will not degrade any of the natural or 5599
cultural resources of the park or recreation area. 5600

(N) (1) The rules adopted under division (A) of this 5601

section, other than those governing variances, do not apply to 5602
scrap tire collection, storage, monocell, monofill, and recovery 5603
facilities. Those facilities are subject to and governed by 5604
rules adopted under sections 3734.70 to 3734.73 of the Revised 5605
Code, as applicable. 5606

(2) Division (C) of this section does not apply to scrap 5607
tire collection, storage, monocell, monofill, and recovery 5608
facilities. The establishment and modification of those 5609
facilities are subject to sections 3734.75 to 3734.78 and 5610
section 3734.81 of the Revised Code, as applicable. 5611

(3) The director may adopt, amend, suspend, or rescind 5612
rules under division (A) of this section creating an alternative 5613
system for authorizing the establishment, operation, or 5614
modification of a solid waste compost facility in lieu of the 5615
requirement that a person seeking to establish, operate, or 5616
modify a solid waste compost facility apply for and receive a 5617
permit under division (C) of this section and section 3734.05 of 5618
the Revised Code and a license under division (A)(1) of that 5619
section. The rules may include requirements governing, without 5620
limitation, the classification of solid waste compost 5621
facilities, the submittal of operating records for solid waste 5622
compost facilities, and the creation of a registration or 5623
notification system in lieu of the issuance of permits and 5624
licenses for solid waste compost facilities. The rules shall 5625
specify the applicability of divisions (A)(1) and (2)(a) of 5626
section 3734.05 of the Revised Code to a solid waste compost 5627
facility. 5628

(O)(1) As used in this division, "secondary aluminum 5629
waste" means waste material or byproducts, when disposed of, 5630
containing aluminum generated from secondary aluminum smelting 5631

operations and consisting of dross, salt cake, baghouse dust 5632
associated with aluminum recycling furnace operations, or dry- 5633
milled wastes. 5634

(2) The owner or operator of a sanitary landfill shall not 5635
dispose of municipal solid waste that has been commingled with 5636
secondary aluminum waste. 5637

(3) The owner or operator of a sanitary landfill may 5638
dispose of secondary aluminum waste, but only in a monocell or 5639
monofill that has been permitted for that purpose in accordance 5640
with this chapter and rules adopted under it. 5641

(P) (1) As used in divisions (P) and (Q) of this section: 5642

(a) "Natural background" means two picocuries per gram or 5643
the actual number of picocuries per gram as measured at an 5644
individual solid waste facility, subject to verification by the 5645
director of health. 5646

(b) "Drilling operation" includes a production operation 5647
as defined in section 1509.01 of the Revised Code. 5648

(2) The owner or operator of a solid waste facility shall 5649
not accept for transfer or disposal technologically enhanced 5650
naturally occurring radioactive material if that material 5651
contains or is contaminated with radium-226, radium-228, or any 5652
combination of radium-226 and radium-228 at concentrations equal 5653
to or greater than five picocuries per gram above natural 5654
background. 5655

(3) The owner or operator of a solid waste facility may 5656
receive and process for purposes other than transfer or disposal 5657
technologically enhanced naturally occurring radioactive 5658
material that contains or is contaminated with radium-226, 5659
radium-228, or any combination of radium-226 and radium-228 at 5660

concentrations equal to or greater than five picocuries per gram 5661
above natural background, provided that the owner or operator 5662
has obtained and maintains all other necessary authorizations, 5663
including any authorization required by rules adopted by the 5664
director of health under section 3748.04 of the Revised Code. 5665

(4) The director of environmental protection may adopt 5666
rules in accordance with Chapter 119. of the Revised Code 5667
governing the receipt, acceptance, processing, handling, 5668
management, and disposal by solid waste facilities of material 5669
that contains or is contaminated with radioactive material, 5670
including, without limitation, technologically enhanced 5671
naturally occurring radioactive material that contains or is 5672
contaminated with radium-226, radium-228, or any combination of 5673
radium-226 and radium-228 at concentrations less than five 5674
picocuries per gram above natural background. Rules adopted by 5675
the director may include at a minimum both of the following: 5676

(a) Requirements in accordance with which the owner or 5677
operator of a solid waste facility must monitor leachate and 5678
ground water for radium-226, radium-228, and other 5679
radionuclides; 5680

(b) Requirements in accordance with which the owner or 5681
operator of a solid waste facility must develop procedures to 5682
ensure that technologically enhanced naturally occurring 5683
radioactive material accepted at the facility neither contains 5684
nor is contaminated with radium-226, radium-228, or any 5685
combination of radium-226 and radium-228 at concentrations equal 5686
to or greater than five picocuries per gram above natural 5687
background. 5688

(Q) Notwithstanding any other provision of this section, 5689
the owner or operator of a solid waste facility shall not 5690

receive, accept, process, handle, manage, or dispose of 5691
technologically enhanced naturally occurring radioactive 5692
material associated with drilling operations without first 5693
obtaining representative analytical results to determine 5694
compliance with divisions (P) (2) and (3) of this section and 5695
rules adopted under it. 5696

Sec. 3734.021. (A) Infectious wastes shall be segregated, 5697
managed, treated, and disposed of in accordance with rules 5698
adopted under this section. 5699

(B) The director of environmental protection, in 5700
accordance with Chapter 119. of the Revised Code, shall adopt 5701
rules necessary or appropriate to protect human health or safety 5702
or the environment that do both of the following: 5703

(1) Establish standards for generators of infectious 5704
wastes that include, without limitation, the following 5705
requirements and authorizations that: 5706

(a) All generators of infectious wastes: 5707

(i) Either treat all specimen cultures and cultures of 5708
viable infectious agents on the premises where they are 5709
generated to render them noninfectious by methods, techniques, 5710
or practices prescribed by rules adopted under division (B) (2) 5711
(a) of this section before they are transported off that 5712
premises for disposal or ensure that such wastes are treated to 5713
render them noninfectious at an infectious waste treatment 5714
facility off that premises prior to disposal of the wastes; 5715

(ii) Transport and dispose of infectious wastes, if a 5716
generator produces fewer than fifty pounds of infectious wastes 5717
during any one month that are subject to and packaged and 5718
labeled in accordance with federal requirements, in the same 5719

manner as solid wastes. Such generators who treat specimen 5720
cultures and cultures of viable infectious agents on the 5721
premises where they are generated shall not be considered 5722
treatment facilities as "treatment" and "facility" are defined 5723
in section 3734.01 of the Revised Code. 5724

(iii) Dispose of infectious wastes subject to and treated 5725
in accordance with rules adopted under division (B) (1) (a) (i) of 5726
this section in the same manner as solid wastes; 5727

(iv) May take wastes generated in providing care to a 5728
patient by an emergency medical services organization, as 5729
defined in section 4765.01 of the Revised Code, to and leave 5730
them at a hospital, as defined in section 3727.01 of the Revised 5731
Code, for treatment at a treatment facility owned or operated by 5732
the hospital or, in conjunction with infectious wastes generated 5733
by the hospital, at another treatment facility regardless of 5734
whether the wastes were generated in providing care to the 5735
patient at the scene of an emergency or during the 5736
transportation of the patient to a hospital; 5737

(v) May take wastes generated by an individual for 5738
purposes of the individual's own care or treatment to and leave 5739
them at a hospital, as defined in section 3727.01 of the Revised 5740
Code, for treatment at a treatment facility owned or operated by 5741
the hospital or, in conjunction with infectious wastes generated 5742
by the hospital, at another treatment facility. 5743

(b) Each generator of fifty pounds or more of infectious 5744
wastes during any one month: 5745

(i) Register with the environmental protection agency as a 5746
generator of infectious wastes and obtain a registration 5747
certificate. The fee for issuance of a generator registration 5748

certificate is one hundred forty dollars payable at the time of 5749
application. The registration certificate applies to all the 5750
premises owned or operated by the generator in this state where 5751
infectious wastes are generated and shall list the address of 5752
each such premises. If a generator owns or operates facilities 5753
for the treatment of infectious wastes it generates, the 5754
certificate shall list the address and method of treatment used 5755
at each such facility. 5756

A generator registration certificate is valid for three 5757
years from the date of issuance and shall be renewed for a term 5758
of three years upon the generator's submission of an application 5759
for renewal and payment of a one hundred forty dollar renewal 5760
fee. 5761

The rules may establish a system of staggered renewal 5762
dates with approximately one-third of such certificates subject 5763
to renewal each year. The applicable renewal date shall be 5764
prescribed on each registration certificate. Registration fees 5765
shall be prorated according to the time remaining in the 5766
registration cycle to the nearest year. 5767

The registration and renewal fees collected under division 5768
(B) (1) (b) (i) of this section shall be deposited in the state 5769
treasury to the credit of the waste management fund created in 5770
section 3734.061 of the Revised Code. 5771

(ii) Segregate infectious wastes from other wastes at the 5772
point of generation. Nothing in this section and rules adopted 5773
under it prohibits a generator of infectious wastes from 5774
designating and managing any wastes, in addition to those 5775
defined as infectious wastes under section 3734.01 of the 5776
Revised Code, as infectious wastes. After designating any such 5777
other wastes as infectious, the generator shall manage those 5778

wastes in compliance with the requirements of this chapter and 5779
rules adopted under it applicable to the management of 5780
infectious wastes. 5781

(iii) Either treat the infectious wastes that it generates 5782
at a facility owned or operated by the generator by methods, 5783
techniques, or practices prescribed by rules adopted under 5784
division (B) (2) (a) of this section to render them noninfectious, 5785
or designate the wastes for treatment off that premises at an 5786
infectious waste treatment facility holding a license issued 5787
under division (B) of section 3734.05 of the Revised Code, at an 5788
infectious waste treatment facility that is located in another 5789
state that is in compliance with applicable state and federal 5790
laws, or at a treatment facility authorized by rules adopted 5791
under division (B) (2) (d) of this section, prior to disposal of 5792
the wastes. After being treated to render them noninfectious, 5793
the wastes shall be disposed of at a solid waste disposal 5794
facility holding a license issued under division (A) of section 5795
3734.05 of the Revised Code or at a disposal facility in another 5796
state that is in compliance with applicable state and federal 5797
laws. 5798

(iv) Not compact or grind any type of infectious wastes 5799
prior to treatment in accordance with rules adopted under 5800
division (B) (2) (a) of this section; 5801

(v) May discharge untreated liquid or semiliquid 5802
infectious wastes consisting of blood, blood products, body 5803
fluids, and excreta into a disposal system, as defined in 5804
section 6111.01 of the Revised Code, unless the discharge of 5805
those wastes into a disposal system is inconsistent with the 5806
terms and conditions of the permit for the system issued under 5807
Chapter 6111. of the Revised Code; 5808

(vi) May transport or cause to be transported infectious 5809
wastes that have been treated to render them noninfectious in 5810
the same manner as solid wastes are transported. 5811

(2) Establish standards for owners and operators of 5812
infectious waste treatment facilities that include, without 5813
limitation, the following requirements and authorizations that: 5814

(a) Require treatment of all wastes received to be 5815
performed in accordance with methods, techniques, and practices 5816
approved by the director; 5817

(b) Govern the location, design, construction, and 5818
operation of infectious waste treatment facilities. The rules 5819
adopted under division (B) (2) (b) of this section shall require 5820
that a new infectious waste incineration facility be located so 5821
that the incinerator unit and all areas where infectious wastes 5822
are handled on the premises where the facility is proposed to be 5823
located are at least three hundred feet inside the property line 5824
of the tract of land on which the facility is proposed to be 5825
located and are at least one thousand feet from any domicile, 5826
school, prison, or jail that is in existence on the date on 5827
which the application for the permit to establish the 5828
incinerator is submitted under division (B) (2) (b) of section 5829
3734.05 of the Revised Code. 5830

(c) Establish quality control and testing procedures to 5831
ensure compliance with the rules adopted under division (B) (2) 5832
(b) of this section; 5833

(d) Authorize infectious wastes to be treated at a 5834
facility that holds a license or renewal of a license to operate 5835
a crematory facility issued under Chapter 4717., and a permit 5836
issued under Chapter 3704., of the Revised Code to the extent 5837

that the treatment of those wastes is consistent with that 5838
permit and its terms and conditions. The rules adopted under 5839
divisions (B) (2) (b) and (c) of this section do not apply to a 5840
facility holding such a license and permit. 5841

In adopting the rules required by divisions (B) (2) (a) to 5842
(d) of this section, the director shall consider and, to the 5843
maximum feasible extent, utilize existing standards and 5844
guidelines established by professional and governmental 5845
organizations having expertise in the fields of infection 5846
control and infectious wastes management. 5847

(e) Require shipping papers to accompany shipments of 5848
wastes that have been treated to render them noninfectious. The 5849
shipping papers shall include only the following elements: 5850

(i) The name of the owner or operator of the facility 5851
where the wastes were treated and the address of the treatment 5852
facility; 5853

(ii) A certification by the owner or operator of the 5854
treatment facility where the wastes were treated indicating that 5855
the wastes have been treated by the methods, techniques, and 5856
practices prescribed in rules adopted under division (B) (2) (a) 5857
of this section. 5858

(C) This section and rules adopted under it do not apply 5859
to the treatment or disposal of wastes consisting of dead 5860
animals or parts thereof, or the blood of animals: 5861

(1) By the owner of the animal after slaughter by the 5862
owner on the owner's premises to obtain meat for consumption by 5863
the owner and the members of the owner's household; 5864

(2) In accordance with Chapter 941. of the Revised Code; 5865
or 5866

(3) By persons who are subject to any of the following: 5867

(a) Inspection under the "Federal Meat Inspection Act," 81 5868
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 5869

(b) Chapter 918. of the Revised Code; 5870

(c) Chapter 953. of the Revised Code. 5871

(D) As used in this section, "generator" means a person 5872
who produces infectious wastes at a specific premises. 5873

(E) Rules adopted under this section shall not concern or 5874
relate to personnel policies, salaries, wages, fringe benefits, 5875
or other conditions of employment of employees of persons owning 5876
or operating infectious waste treatment facilities. 5877

(F) (1) The director, in accordance with Chapter 119. of 5878
the Revised Code, shall adopt rules governing the issuance, 5879
modification, revocation, suspension, and denial of variances 5880
from the rules adopted under division (B) of this section. 5881
Variances shall be issued, modified, revoked, suspended, or 5882
denied in accordance with division (F) of this section, rules 5883
adopted under it, and Chapter 3745. of the Revised Code. 5884

(2) A person who desires to obtain a variance or renew a 5885
variance from the rules adopted under division (B) of this 5886
section shall submit to the director an application as 5887
prescribed by the director. The application shall contain detail 5888
plans, specifications, and information regarding objectives, 5889
procedures, controls, and any other information that the 5890
director may require. The director shall issue, renew, or deny a 5891
variance or renewal of a variance within six months of the date 5892
on which the director receives a complete application with all 5893
required information and data. 5894

(3) The director may hold a public hearing on an 5895
application submitted under division (F) of this section for a 5896
variance at a location in the county in which the operations 5897
that are the subject of the application for a variance or 5898
renewal of variance are conducted. Not less than twenty days 5899
before the hearing, the director shall provide to the applicant 5900
notice of the hearing by certified mail or by another type of 5901
mail that is accompanied by a receipt and shall publish notice 5902
of the hearing at least one time in a newspaper of general 5903
circulation in the county in which the hearing is to be held or 5904
may instead provide public notice by publication on the 5905
environmental protection agency's web site. The director shall 5906
make a complete stenographic record or electronic record of 5907
testimony and other evidence submitted at the hearing. Not later 5908
than ten days after the hearing, the director shall make a 5909
written determination to issue, renew, or deny the variance and 5910
shall enter the determination and the basis for it into the 5911
record of the hearing. 5912

(4) A variance shall not be issued, modified, revoked, or 5913
denied under division (F) of this section until the director has 5914
considered the relative interests of the applicant, other 5915
persons and property that will be affected by the variance, and 5916
the general public. The director shall grant a variance only if 5917
the applicant demonstrates to the director's satisfaction that 5918
the requested action will not create a nuisance or a hazard to 5919
the health or safety of the public or to the environment. In 5920
granting a variance, the director shall state the specific 5921
provision or provisions whose terms are to be varied and also 5922
shall state specific terms or conditions imposed on the 5923
applicant in place of the provision or provisions. 5924

(5) A variance granted under division (F) of this section 5925

shall be for a period specified by the director and may be 5926
renewed from time to time on terms and for periods that the 5927
director determines to be appropriate. The director may order 5928
the person to whom a variance has been issued to take action 5929
within the time that the director determines to be appropriate 5930
and reasonable to prevent the creation of a nuisance or a hazard 5931
to the health or safety of the public or to the environment. 5932

(6) An application submitted under division (F) of this 5933
section shall not be denied and a variance shall not be revoked 5934
or modified under that division without a written order of the 5935
director stating the findings on which the denial, revocation, 5936
or modification is based. A copy of the order shall be sent to 5937
the applicant or holder of a variance by certified mail or by 5938
another type of mail that is accompanied by a receipt. 5939

(7) The director shall make available for public 5940
inspection at the principal office of the environmental 5941
protection agency a current list of pending applications for 5942
variances submitted under division (F) of this section and a 5943
current schedule of pending variance hearings under it. 5944

Sec. 3734.575. (A) The board of county commissioners of a 5945
county solid waste management district and the board of 5946
directors of a joint solid waste management district that is 5947
levying fees or amended fees or receiving fee revenue under 5948
division (B) of section 3734.57; section 3734.571, 3734.572, or 5949
3734.573; or division (A), (B), or (D) of section 3734.574 of 5950
the Revised Code, within thirty days after the end of each 5951
calendar quarter, shall submit to the director of environmental 5952
protection a report containing all of the following information 5953
for that preceding quarter: 5954

(1) The specific fees levied by the district; 5955

(2) Revenues received by the district during the quarter 5956
from each of those sources, as applicable; 5957

(3) All district planning account balances; 5958

(4) The amount and use of revenues spent; 5959

(5) A certification statement that the information in the 5960
report is true and accurate. 5961

A board shall submit each report on forms prescribed by 5962
the director and ~~by computer disk as in a manner~~ prescribed by 5963
~~him the director~~. A board is responsible for the accuracy of the 5964
information contained in each report and for providing it to the 5965
director not later than the deadline established in this 5966
division. 5967

Annually by not earlier than the first day of April, the 5968
director shall submit a compilation of the individual district 5969
reports received during the preceding calendar year to the 5970
speaker of the house of representatives and the president of the 5971
senate. In submitting the compilation, the director's sole 5972
responsibility shall be to compile the information submitted by 5973
the boards under this division. 5974

(B) If changes in the 1994 budget of a county or joint 5975
district result from the required change in the fees levied by 5976
the district under division (B) of section 3734.57 of the 5977
Revised Code, the levying of the fees under section 3734.573 of 5978
the Revised Code, or the levying of fees under division (A) or 5979
(B) of section 3734.574 of the Revised Code, the board of county 5980
commissioners or directors of the district shall include a 5981
description of the changes in the annual report of the district 5982
required to be submitted to the director pursuant to rules 5983
adopted under section 3734.50 of the Revised Code. 5984

Sec. 3745.019. (A) Notwithstanding any provision of the 5985
Revised Code or Administrative Code requiring the director of 5986
environmental protection to provide public notice by publication 5987
in one or more newspapers, including one or more newspapers of 5988
general circulation, the director may instead provide public 5989
notice by publication on the environmental protection agency's 5990
official web site. 5991

(B) Notwithstanding any provision of the Revised Code or 5992
Administrative Code requiring the director of environmental 5993
protection to deliver a document or notice by certified mail, 5994
the director may instead deliver the document or notice by any 5995
method capable of documenting the intended recipient's receipt 5996
of the document or notice. 5997

Sec. 3746.09. (A) A person who proposes to enter into or 5998
who is participating in the voluntary action program under this 5999
chapter and rules adopted under it, in accordance with this 6000
section and rules adopted under division (B)(10) of section 6001
3746.04 of the Revised Code, may apply to the director of 6002
environmental protection for a variance from applicable 6003
standards otherwise established in this chapter and rules 6004
adopted under it. The application for a variance shall be 6005
prepared by a certified professional. The director shall issue a 6006
variance from those applicable standards only if the application 6007
makes all of the following demonstrations to the director's 6008
satisfaction: 6009

(1) Either or both of the following: 6010

(a) It is technically infeasible to comply with the 6011
applicable standards otherwise established at the property named 6012
in the application; 6013

(b) The costs of complying with the applicable standards 6014
otherwise established at the property substantially exceed the 6015
economic benefits. 6016

(2) The proposed alternative standard or set of standards 6017
and terms and conditions set forth in the application will 6018
result in an improvement of environmental conditions at the 6019
property and ensure that public health and safety will be 6020
protected. 6021

(3) The establishment of and compliance with the 6022
alternative standard or set of standards and terms and 6023
conditions are necessary to promote, protect, preserve, or 6024
enhance employment opportunities or the reuse of the property 6025
named in the application. 6026

A variance issued under this section shall state the 6027
specific standard or standards whose terms are being varied and 6028
shall set forth the specific alternative standard or set of 6029
standards and the terms and conditions imposed on the applicant 6030
in their place. A variance issued under this section shall 6031
include only standards and terms and conditions proposed by the 6032
applicant in the application, except that the director may 6033
impose any additional or alternative terms and conditions that 6034
the director determines to be necessary to ensure that public 6035
health and safety will be protected. If the director finds that 6036
compliance with any standard or term or condition proposed by 6037
the applicant will not protect public health and safety and that 6038
the imposition of additional or alternative terms and conditions 6039
will not ensure that public health or safety will be protected, 6040
the director shall disapprove the application and shall include 6041
in the order of denial the specific findings on which the denial 6042
was based. 6043

(B) Variances shall be issued or denied in accordance with 6044
this section, rules adopted under division (B) (10) of section 6045
3746.04 of the Revised Code, and Chapter 3745. of the Revised 6046
Code. Upon determining that an application for a variance is 6047
complete, the director shall schedule a public meeting on the 6048
application to be held within ninety days after the director 6049
determines that the application is complete in the county in 6050
which is located the property to which the application pertains. 6051

(C) Not less than thirty days before the date scheduled 6052
for the public meeting on an application for a variance, the 6053
director shall publish notice of the public meeting and that the 6054
director will receive written comments on the application for a 6055
period of forty-five days commencing on the date of the 6056
publication of the notice. The notice shall contain all of the 6057
following information, at a minimum: 6058

(1) The address of the property to which the application 6059
pertains; 6060

(2) A brief summary of the alternative standards and terms 6061
and conditions proposed by the applicant; 6062

(3) The date, time, and location of the public meeting. 6063

The notice shall be published in a newspaper of general 6064
circulation in the county in which the property is located and, 6065
if the property is located in close proximity to the boundary of 6066
the county with an adjacent county, as determined by the 6067
director, shall be published in a newspaper of general 6068
circulation in the adjacent county. Concurrently with the 6069
publication of the notice of the public meeting, the director 6070
shall mail notice of the application, comment period, and public 6071
meeting to the owner of each parcel of land that is adjacent to 6072

the affected property and to the legislative authority of the 6073
municipal corporation or township, and county, in which the 6074
affected property is located. The notices mailed to the adjacent 6075
land owners and legislative authorities shall contain the same 6076
information as the published notice. 6077

(D) At the public meeting on an application for a 6078
variance, the applicant, or a representative of the applicant 6079
who is knowledgeable about the affected property and the 6080
application, shall present information regarding the application 6081
and the basis of the request for the variance and shall respond 6082
to questions from the public regarding the affected property and 6083
the application. A representative of the environmental 6084
protection agency who is familiar with the affected property and 6085
the application shall attend the public meeting to hear the 6086
public's comments and to respond to questions from the public 6087
regarding the affected property and the application. A 6088
stenographic record or electronic record of the proceedings at 6089
the public meeting shall be kept and shall be made a part of the 6090
administrative record regarding the application. 6091

(E) Within ninety days after conducting the public meeting 6092
on an application for a variance under division (D) of this 6093
section, the director shall issue a proposed action to the 6094
applicant in accordance with section 3745.07 of the Revised Code 6095
that indicates the director's intent with regard to the issuance 6096
or denial of the application. When considering whether to issue 6097
or deny the application or whether to impose terms and 6098
conditions of the variance that are in addition or alternative 6099
to those proposed by the applicant, the director shall consider 6100
comments on the application made by the public at the public 6101
meeting and written comments on the application received from 6102
the public. 6103

Sec. 3752.11. (A) As used in this section:

(1) "Reporting facility" means a reporting facility at which all regulated operations have been temporarily or permanently discontinued.

(2) "Abandoned by the owner" means either of the following that occurs on or after ~~the effective date of this section~~ July 1, 1996:

(a) All of the fee owners of a reporting facility have indicated ~~affirmately~~ affirmatively in writing to the holder of the first mortgage on the real property at the facility that they, and all tenants claiming possession under those owners, have abandoned all rights of possession to the reporting facility;

(b) The first mortgage loan on the real property at the reporting facility is in default, the property is not occupied by any tenants, and the holder of the first ~~morgage~~ mortgage has been unable to contact the mortgagor under the mortgage regarding the default within the earlier of ninety days after the default or sixty days after the first time the first mortgage holder has attempted unsuccessfully to contact the mortgagor following the default if the first mortgage holder is unable to contact the mortgagor within the sixty-day period.

(3) "Default" means the failure of the mortgagor to make any payment to the holder of the first mortgage required by the terms of the mortgage documents that is not cured by the mortgagor within any applicable cure periods, deferred with the consent of the holder of the first mortgage, or waived by the holder of the first mortgage.

(4) "Contact" means actual person to person, telephonic,

or similar direct voice conversation between the holder of the 6133
first mortgage and the mortgagor or written correspondence from 6134
the mortgagor to the holder of the first mortgage by mail,-- 6135
~~telegram, telefax~~ any other method capable of documenting the 6136
intended recipient's receipt of the document or notice, or 6137
similar means of communication. 6138

(B) Not later than fifteen days after a reporting facility 6139
has been abandoned by the owner, the holder of the first 6140
mortgage on real property at the reporting facility shall do 6141
both of the following: 6142

(1) Secure against unauthorized entry each building or 6143
structure at the facility where regulated operations were 6144
conducted and that contains or is contaminated with regulated 6145
substances and each outdoor location of operation. The holder 6146
shall secure each such building, structure, or outdoor location 6147
of operation by boarding windows, doors, and other potential 6148
means of entry, by providing security personnel, or by other 6149
methods prescribed in rules adopted under section 3752.03 of the 6150
Revised Code. Within that period, the holder also shall post 6151
about each such building, structure, or outdoor location of 6152
operation in publicly visible locations warning signs that 6153
prohibit trespassing and state that the building, structure, or 6154
outdoor location of operation contains or is contaminated with 6155
regulated substances that may endanger public health or safety 6156
if released into the environment. The holder shall continue the 6157
security measures, and maintain the warning signs, as required 6158
at each such building, structure, or outdoor location of 6159
operation until title to the facility has been transferred or 6160
until the holder files a release of the mortgage with the county 6161
recorder of the county in which the facility is located. 6162
Promptly after discovering that any of the entry barriers or 6163

warning signs installed pursuant to division (B)(1) of this 6164
section have been damaged, lost, or removed, the holder shall 6165
repair or replace them in order to maintain the security of the 6166
building, structure, or outdoor location of operation. 6167

(2) Submit to the director of environmental protection, 6168
the local emergency planning committee of the emergency planning 6169
district in which the facility is located, and the fire 6170
department having jurisdiction where the facility is located a 6171
notice of the abandonment of the facility by the owner and of 6172
the holder's compliance with division (B)(1) of this section. 6173
The holder shall submit the notice on a form prescribed by the 6174
director. 6175

(C) Within thirty days before the date when the holder of 6176
a mortgage will cease to maintain security and warning signs at 6177
a reporting facility pursuant to the filing of a release of the 6178
mortgage as provided in division (B)(1) of this section, the 6179
holder shall so notify the director, the local emergency 6180
planning committee of the emergency planning district in which 6181
the facility is located, and the fire department having 6182
jurisdiction where the facility is located. The holder shall 6183
submit the notice on a form prescribed by the director. 6184

(D) Actions undertaken by a holder of a mortgage under 6185
division (B) of this section, and the undertaking of any other 6186
activities relating to protecting and securing the facility, do 6187
not cause the holder to be an owner, operator, or mortgagee in 6188
possession of the facility or subject the holder to this chapter 6189
or any other provision of state law imposing liability or 6190
responsibility for the cleanup, removal, or remediation of 6191
regulated substances, provided that all activities not specified 6192
in that division shall be performed in compliance with the 6193

applicable requirements of Chapters 3704., 3714., 3734., 3737., 6194
3750., 3751., 6109., and 6111. of the Revised Code and rules 6195
adopted under them. 6196

(E) The holder of a mortgage who proceeds in good faith 6197
under divisions (B) and (C) of this section is not liable to the 6198
owner of the facility or the mortgagor, as appropriate, for 6199
damages suffered by the owner or mortgagor due to actions taken 6200
by the holder under those divisions. 6201

(F) Nothing in this section prevents the holder of a first 6202
mortgage from applying to the court for the appointment of a 6203
receiver. If a receiver is appointed, the receiver shall succeed 6204
to the obligations of the holder of the first mortgage under 6205
divisions (B) and (C) of this section. 6206

(G) No person shall fail to comply with this section. 6207

Sec. 3772.031. (A)(1) The general assembly finds that the 6208
exclusion or ejection of certain persons from casino facilities 6209
and from sports gaming is necessary to effectuate the intents 6210
and purposes of this chapter and Chapter 3775. of the Revised 6211
Code and to maintain strict and effective regulation of casino 6212
gaming and sports gaming. 6213

(2) The commission, by rule, shall provide for a list of 6214
persons who are to be excluded or ejected from a casino facility 6215
and a list of persons who are to be excluded or ejected from a 6216
sports gaming facility and from participating in the play or 6217
operation of sports gaming in this state. Persons included on an 6218
exclusion list shall be identified by name and physical 6219
description. The commission shall publish the exclusion lists on 6220
its web site, and shall transmit a copy of the exclusion lists 6221
periodically to casino operators and sports gaming proprietors, 6222

as applicable, as they are initially issued and thereafter as 6223
they are revised from time to time. 6224

(3) A casino operator shall take steps necessary to ensure 6225
that all its key employees and casino gaming employees are aware 6226
of and understand the casino exclusion list and its function, 6227
and that all its key employees and casino gaming employees are 6228
kept aware of the content of the casino exclusion list as it is 6229
issued and thereafter revised from time to time. 6230

(4) A sports gaming proprietor shall take steps necessary 6231
to ensure that its appropriate agents and employees are aware of 6232
and understand the sports gaming exclusion list and its 6233
function, and that all its appropriate agents and employees are 6234
kept aware of the content of the sports gaming exclusion list as 6235
it is issued and thereafter revised from time to time. 6236

(B) The casino exclusion list may include any person whose 6237
presence in a casino facility is determined by the commission to 6238
pose a threat to the interests of the state, to achieving the 6239
intents and purposes of this chapter, or to the strict and 6240
effective regulation of casino gaming. The sports gaming 6241
exclusion list may include any person whose presence in a sports 6242
gaming facility or whose participation in the play or operation 6243
of sports gaming in this state is determined by the commission 6244
to pose a threat to the interests of the state, to achieving the 6245
intents and purposes of Chapter 3775. of the Revised Code, or to 6246
the strict and effective regulation of sports gaming. In 6247
determining whether to include a person on an exclusion list, 6248
the commission may consider: 6249

(1) Any prior conviction of a crime that is a felony under 6250
the laws of this state, another state, or the United States, a 6251
crime involving moral turpitude, or a violation of the gaming 6252

laws of this state, another state, or the United States; and 6253

(2) A violation, or a conspiracy to violate, any provision 6254
of this chapter or Chapter 3775. of the Revised Code, as 6255
applicable, that consists of: 6256

(a) A failure to disclose an interest in a gaming facility 6257
or a sports gaming-related person or entity for which the person 6258
must obtain a license; 6259

(b) Purposeful evasion of taxes or fees; 6260

(c) A notorious or unsavory reputation that would 6261
adversely affect public confidence and trust that casino gaming 6262
or sports gaming is free from criminal or corruptive elements; 6263
or 6264

(d) A violation of an order of the commission or of any 6265
other governmental agency that warrants exclusion or ejection of 6266
the person from a casino facility, from a sports gaming 6267
facility, or from participating in the play or operation of 6268
sports gaming in this state. 6269

(3) If the person has pending charges or indictments for a 6270
gaming or gambling crime or a crime related to the integrity of 6271
gaming operations in any state; 6272

(4) If the person's conduct or reputation is such that the 6273
person's presence within a casino facility or in the sports 6274
gaming industry in this state may call into question the honesty 6275
and integrity of the casino gaming or sports gaming operations 6276
or interfere with the orderly conduct of the casino gaming or 6277
sports gaming operations; 6278

(5) If the person is a career or professional offender 6279
whose presence in a casino facility or in the sports gaming 6280

industry in this state would be adverse to the interest of 6281
licensed gaming in this state; 6282

(6) If the person has a known relationship or connection 6283
with a career or professional offender whose presence in a 6284
casino facility or in the sports gaming industry in this state 6285
would be adverse to the interest of licensed gaming in this 6286
state; 6287

(7) If the commission has suspended the person's gaming 6288
privileges; 6289

(8) If the commission has revoked the person's licenses 6290
related to this chapter or Chapter 3775. of the Revised Code; 6291

(9) If the commission determines that the person poses a 6292
threat to the safety of patrons or employees of a casino 6293
facility or a sports gaming facility; 6294

(10) If the person has a history of conduct involving the 6295
disruption of gaming operations within a casino facility or in 6296
the sports gaming industry in this state. 6297

Race, color, creed, national origin or ancestry, or sex 6298
are not grounds for placing a person on an exclusion list. 6299

(C) The commission shall notify a person of the 6300
commission's intent to include such person on one or both 6301
exclusion lists. The notice shall be provided by personal 6302
service, by certified mail to the person's last known address, 6303
by commercial carrier utilizing a method of delivery that 6304
provides confirmation of delivery, or, if service cannot be 6305
accomplished by personal service ~~or~~, certified mail, or 6306
commercial carrier, by publication daily for two weeks in a 6307
newspaper of general circulation within the county in which the 6308
person resides and in a newspaper of general circulation within 6309

each county in which a casino facility or sports gaming 6310
facility, as applicable, is located. 6311

(D) (1) Except as otherwise provided in this section, a 6312
person who receives notice of intent to include the person on an 6313
exclusion list is entitled, upon the person's request, to an 6314
adjudication hearing under Chapter 119. of the Revised Code, in 6315
which the person may demonstrate why the person should not be 6316
included on the exclusion list or lists. The person shall 6317
request such an adjudication hearing not later than thirty days 6318
after the person receives the notice by personal service ~~or~~, 6319
certified mail, or commercial carrier, or not later than thirty 6320
days after the last newspaper publication of the notice. 6321

(2) If the person does not request a hearing in accordance 6322
with division (D) (1) of this section, the commission may, but is 6323
not required to, conduct an adjudication hearing under Chapter 6324
119. of the Revised Code. The commission may reopen an 6325
adjudication under this section at any time. 6326

(3) If the adjudication hearing, order, or any appeal 6327
thereof under Chapter 119. of the Revised Code results in an 6328
order that the person should not be included on the exclusion 6329
list or lists, the commission shall publish a revised exclusion 6330
list that does not include the person. The commission also shall 6331
notify casino operators or sports gaming proprietors, as 6332
applicable, that the person has been removed from the exclusion 6333
list or lists. A casino operator shall take all steps necessary 6334
to ensure its key employees and casino gaming employees are made 6335
aware that the person has been removed from the casino exclusion 6336
list. A sports gaming proprietor shall take all steps necessary 6337
to ensure its appropriate agents and employees are made aware 6338
that the person has been removed from the sports gaming 6339

exclusion list.

6340

(E) This section does not apply to any voluntary exclusion
list created as part of a voluntary exclusion program under this
chapter or Chapter 3775. of the Revised Code.

6341

6342

6343

Sec. 3772.04. (A) (1) If the commission concludes that an
applicant, licensee, or other person subject to the commission's
jurisdiction under this chapter should be fined or penalized, or
that a license required by this chapter or Chapter 3775. of the
Revised Code should be limited, conditioned, restricted,
suspended, revoked, denied, or not renewed, the commission may,
and if so requested by the licensee, applicant, or other person,
shall, conduct a hearing in an adjudication under Chapter 119.
of the Revised Code. After notice and opportunity for a hearing,
the commission may fine or penalize the applicant, licensee, or
other person or limit, condition, restrict, suspend, revoke,
deny, or not renew a license under rules adopted by the
commission. The commission may reopen an adjudication under this
section at any time.

6344

6345

6346

6347

6348

6349

6350

6351

6352

6353

6354

6355

6356

6357

(2) The commission shall appoint a hearing examiner to
conduct the hearing in the adjudication. A party to the
adjudication may file written objections to the hearing
examiner's report and recommendations not later than the
thirtieth day after they are served upon the party or the
party's attorney or other representative of record. The
commission shall not take up the hearing examiner's report and
recommendations earlier than the thirtieth day after the hearing
examiner's report and recommendations were submitted to the
commission.

6358

6359

6360

6361

6362

6363

6364

6365

6366

6367

(3) If the commission finds that a person fails or has
failed to meet any requirement under this chapter or Chapter

6368

6369

3775. of the Revised Code or a rule adopted thereunder, or 6370
violates or has violated this chapter or Chapter 3775. of the 6371
Revised Code or a rule adopted thereunder, the commission may 6372
issue an order: 6373

(a) Limiting, conditioning, restricting, suspending, 6374
revoking, denying, or not renewing, a license issued under this 6375
chapter or Chapter 3775. of the Revised Code; 6376

(b) Requiring a casino facility to exclude a licensee from 6377
the casino facility or requiring a casino facility not to pay to 6378
the licensee any remuneration for services or any share of 6379
profits, income, or accruals on the licensee's investment in the 6380
casino facility; or 6381

(c) Fining a licensee or other person according to the 6382
penalties adopted by the commission. 6383

(4) An order may be judicially reviewed under section 6384
119.12 of the Revised Code. 6385

(B) Without in any manner limiting the authority of the 6386
commission to impose the level and type of discipline the 6387
commission considers appropriate, the commission may take into 6388
consideration the following: 6389

(1) If the licensee knew or reasonably should have known 6390
that the action complained of was a violation of any law, rule, 6391
or condition on the licensee's license; 6392

(2) If the licensee has previously been disciplined by the 6393
commission; 6394

(3) If the licensee has previously been subject to 6395
discipline by the commission concerning the violation of any 6396
law, rule, or condition of the licensee's license; 6397

(4) If the licensee reasonably relied upon professional 6398
advice from a lawyer, doctor, accountant, or other recognized 6399
professional that was relevant to the action resulting in the 6400
violation; 6401

(5) If the licensee or the licensee's employer had a 6402
reasonably constituted and functioning compliance program; 6403

(6) If the imposition of a condition requiring the 6404
licensee to establish and implement a written self-enforcement 6405
and compliance program would assist in ensuring the licensee's 6406
future compliance with all statutes, rules, and conditions of 6407
the license; 6408

(7) If the licensee realized a pecuniary gain from the 6409
violation; 6410

(8) If the amount of any fine or other penalty imposed 6411
would result in disgorgement of any gains unlawfully realized by 6412
the licensee; 6413

(9) If the violation was caused by an officer or employee 6414
of the licensee, the level of authority of the individual who 6415
caused the violation; 6416

(10) If the individual who caused the violation acted 6417
within the scope of the individual's authority as granted by the 6418
licensee; 6419

(11) The adequacy of any training programs offered by the 6420
licensee or the licensee's employer that were relevant to the 6421
activity that resulted in the violation; 6422

(12) If the licensee's action substantially deviated from 6423
industry standards and customs; 6424

(13) The extent to which the licensee cooperated with the 6425

commission during the investigation of the violation; 6426

(14) If the licensee has initiated remedial measures to 6427
prevent similar violations; 6428

(15) The magnitude of penalties imposed on other licensees 6429
for similar violations; 6430

(16) The proportionality of the penalty in relation to the 6431
misconduct; 6432

(17) The extent to which the amount of any fine imposed 6433
would punish the licensee for the conduct and deter future 6434
violations; 6435

(18) Any mitigating factors offered by the licensee; and 6436

(19) Any other factors the commission considers relevant. 6437

(C) For the purpose of conducting any study or 6438
investigation, the commission may direct that public hearings be 6439
held at a time and place, prescribed by the commission, in 6440
accordance with section 121.22 of the Revised Code. The 6441
commission shall give notice of all public hearings in such 6442
manner as will give actual notice to all interested parties. 6443

(D) (1) For the purpose of conducting the hearing in an 6444
adjudication under division (A) of this section, or in the 6445
discharge of any duties imposed by this chapter or Chapter 3775. 6446
of the Revised Code, the commission may require that testimony 6447
be given under oath and administer such oath, issue subpoenas 6448
compelling the attendance of witnesses and the production of any 6449
papers, books, and accounts, directed to the sheriffs of the 6450
counties where such witnesses or papers, books, and accounts are 6451
found and cause the deposition of any witness. The subpoenas 6452
shall be served and returned in the same manner as subpoenas in 6453

criminal cases are served and returned. The fees of sheriffs 6454
shall be the same as those allowed by the court of common pleas 6455
in criminal cases. 6456

(2) In the event of the refusal of any person without good 6457
cause to comply with the terms of a subpoena issued by the 6458
commission or refusal to testify on matters about which the 6459
person may lawfully be questioned, the prosecuting attorney of 6460
the county in which such person resides, upon the petition of 6461
the commission, may bring a proceeding for contempt against such 6462
person in the court of common pleas of that county. 6463

(3) Witnesses shall be paid the fees and mileage provided 6464
for in section 119.094 of the Revised Code. 6465

(4) All fees and mileage expenses incurred at the request 6466
of a party shall be paid in advance by the party. 6467

(E) When conducting a public hearing, the commission shall 6468
not limit the number of speakers who may testify. However, the 6469
commission may set reasonable time limits on the length of an 6470
individual's testimony or the total amount of time allotted to 6471
proponents and opponents of an issue before the commission. 6472

(F) The commission may rely, in whole or in part, upon 6473
investigations, conclusions, or findings of other casino gaming 6474
or sports gaming commissions, as applicable, or other government 6475
regulatory bodies in connection with licensing, investigations, 6476
or other matters relating to an applicant or licensee under this 6477
chapter. 6478

(G) Notwithstanding anything to the contrary in this 6479
chapter or Chapter 3775. of the Revised Code, and except with 6480
respect to a license issued under this chapter to a casino 6481
operator, management company, or holding company, the executive 6482

director may issue an emergency order for the suspension, 6483
limitation, or conditioning of any license, registration, 6484
approval, or certificate issued, approved, granted, or otherwise 6485
authorized by the commission under Chapter 3772. or 3775. of the 6486
Revised Code or the rules adopted thereunder, requiring the 6487
inclusion of persons on the casino exclusion list or sports 6488
gaming exclusion list provided for under section 3772.031 of the 6489
Revised Code or Chapter 3775. of the Revised Code and the rules 6490
adopted thereunder, and requiring a casino facility not to pay a 6491
licensee, registrant, or approved or certified person any 6492
remuneration for services or any share of profits, income, or 6493
accruals on that person's investment in the casino facility. 6494

(1) An emergency order may be issued when the executive 6495
director finds either of the following: 6496

(a) A licensee, registrant, or approved or certified 6497
person has been charged with a violation of any of the criminal 6498
laws of this state, another state, or the federal government; 6499

(b) Such an action is necessary to prevent a violation of 6500
this chapter or Chapter 3775. of the Revised Code or a rule 6501
adopted thereunder. 6502

(2) An emergency order issued under division (G) of this 6503
section shall state the reasons for the commission's action, 6504
cite the law or rule directly involved, and state that the party 6505
will be afforded a hearing if the party requests it within 6506
thirty days after the time of mailing or personal delivery of 6507
the order. 6508

(3) (a) Not later than the next business day after the 6509
issuance of the emergency order, the order shall be sent by 6510
registered or certified mail, return receipt requested, or by 6511

commercial carrier utilizing any form of delivery requiring a 6512
signed receipt, to the party at the party's last known mailing 6513
address appearing in the commission's records or personally 6514
delivered at any time to the party by an employee or agent of 6515
the commission. 6516

(b) A copy of the order shall be mailed or an electronic 6517
copy provided to the attorney or other representative of record 6518
representing the party. 6519

(c) If the order sent by registered or certified mail or 6520
by commercial carrier is returned because the party fails to 6521
claim the order, the commission shall send the order by ordinary 6522
mail to the party at the party's last known address and shall 6523
obtain a certificate of mailing. Service by ordinary mail is 6524
complete when the certificate of mailing is obtained unless the 6525
order is returned showing failure of delivery. 6526

(d) If the order sent by commercial carrier or registered, 6527
certified, or ordinary mail is returned for failure of delivery, 6528
the commission shall either make personal delivery of the order 6529
by an employee or agent of the commission or cause a summary of 6530
the substantive provisions of the order to be published once a 6531
week for three consecutive weeks in a newspaper of general 6532
circulation in the county where the last known address of the 6533
party is located. 6534

(i) Failure of delivery occurs only when a mailed order is 6535
returned by the postal authorities or commercial carrier marked 6536
undeliverable, address or addressee unknown, or forwarding 6537
address unknown or expired. 6538

(ii) When service is completed by publication, a proof of 6539
publication affidavit, with the first publication of the summary 6540

set forth in the affidavit, shall be mailed by ordinary mail to 6541
the party at the party's last known address and the order shall 6542
be deemed received as of the date of the last publication. 6543

(e) Refusal of delivery of the order sent by mail or 6544
personally delivered to the party is not failure of delivery and 6545
service is deemed to be complete. 6546

(4) The emergency order shall be effective immediately 6547
upon service of the order on the party. The emergency order 6548
shall remain effective until further order of the executive 6549
director or the commission. 6550

(5) The commission may, and if so requested by the person 6551
affected by the emergency order shall, promptly conduct a 6552
hearing in an adjudication under Chapter 119. of the Revised 6553
Code. 6554

Sec. 3772.11. (A) A person may apply to the commission for 6555
a casino operator, management company, or holding company 6556
license to conduct casino gaming at a casino facility as 6557
provided in this chapter. The application shall be ~~made under~~ 6558
~~oath~~ certified as true on forms provided by the commission and 6559
shall contain information as prescribed by rule, including, but 6560
not limited to, all of the following: 6561

(1) The name, business address, business telephone number, 6562
social security number, and, where applicable, the federal tax 6563
identification number of any applicant; 6564

(2) The identity of every person having a greater than 6565
five per cent direct or indirect interest in the applicant 6566
casino facility for which the license is sought; 6567

(3) An identification of any business, including the state 6568
of incorporation or registration if applicable, in which an 6569

applicant, or the spouse or children of an applicant, has an 6570
equity interest of more than five per cent; 6571

(4) The name of any casino operator, management company, 6572
holding company, and gaming-related vendor in which the 6573
applicant has an equity interest of at least five per cent; 6574

(5) If an applicant has ever applied for or has been 6575
granted any gaming license or certificate issued by a licensing 6576
authority in Ohio or any other jurisdiction that has been 6577
denied, restricted, suspended, revoked, or not renewed and a 6578
statement describing the facts and circumstances concerning the 6579
application, denial, restriction, suspension, revocation, or 6580
nonrenewal, including the licensing authority, the date each 6581
action was taken, and the reason for each action; 6582

(6) If an applicant has ever filed or had filed against it 6583
a civil or administrative action or proceeding in bankruptcy, 6584
including the date of filing, the name and location of the 6585
court, the case caption, the docket number, and the disposition; 6586

(7) The name and business telephone number of any attorney 6587
representing an applicant in matters before the commission; 6588

(8) Information concerning the amount, type of tax, the 6589
taxing agency, and times involved, if the applicant has filed or 6590
been served with a complaint or notice filed with a public body 6591
concerning a delinquency in the payment of or a dispute over a 6592
filing concerning the payment of a tax required under federal, 6593
state, or local law; 6594

(9) A description of any proposed casino gaming operation 6595
and related casino enterprises, including the type of casino 6596
facility, location, expected economic benefit to the community, 6597
anticipated or actual number of employees, any statement from an 6598

applicant regarding compliance with federal and state 6599
affirmative action guidelines, projected or actual admissions, 6600
projected or actual gross receipts, and scientific market 6601
research; 6602

(10) Financial information in the manner and form 6603
prescribed by the commission; 6604

(11) If an applicant has directly made a political 6605
contribution, loan, donation, or other payment of one hundred 6606
dollars or more to a statewide office holder, a member of the 6607
general assembly, a local government official elected in a 6608
jurisdiction where a casino facility is located, or a ballot 6609
issue not more than one year before the date the applicant filed 6610
the application and all information relating to the 6611
contribution, loan, donation, or other payment; 6612

(12) Any criminal conviction; and 6613

(13) Other information required by the commission under 6614
rules adopted by the commission. 6615

(B) Any holding company or management company, its 6616
directors, executive officers, members, managers, and any 6617
shareholder who holds more than five per cent ownership interest 6618
of a holding company or management company shall be required to 6619
submit the same information as required by an applicant under 6620
this section. 6621

Sec. 3772.12. (A) A person may apply for a gaming-related 6622
vendor license. All applications shall be ~~made under~~ 6623
~~oath~~certified as true. 6624

(B) A person who holds a gaming-related vendor's license 6625
is authorized to sell or lease, and to contract to sell or 6626
lease, equipment and supplies to any licensee involved in the 6627

ownership or management of a casino facility. 6628

(C) Gambling supplies and equipment shall not be 6629
distributed unless supplies and equipment conform to standards 6630
adopted in rules adopted by the commission. 6631

Sec. 3772.13. (A) No person may be employed as a key 6632
employee of a casino operator, management company, or holding 6633
company unless the person is the holder of a valid key employee 6634
license issued by the commission. 6635

(B) No person may be employed as a key employee of a 6636
gaming-related vendor unless that person is either the holder of 6637
a valid key employee license issued by the commission, or the 6638
person, at least five business days prior to the first day of 6639
employment as a key employee, has filed a notification of 6640
employment with the commission and subsequently files a 6641
completed application for a key employee license within the 6642
first thirty days of employment as a key employee. 6643

(C) Each applicant shall, before the issuance of any key 6644
employee license, produce information, documentation, and 6645
assurances as are required by this chapter and rules adopted 6646
thereunder. In addition, each applicant shall, in writing, 6647
authorize the examination of all bank accounts and records as 6648
may be deemed necessary by the commission. 6649

(D) To be eligible for a key employee license, the 6650
applicant shall be at least twenty-one years of age and shall 6651
meet the criteria set forth by rule by the commission. 6652

(E) Each application for a key employee license shall be 6653
on a form prescribed by the commission and shall contain all 6654
information required by the commission. The applicant shall set 6655
forth in the application if the applicant has been issued prior 6656

gambling-related licenses; if the applicant has been licensed in 6657
any other state under any other name, and, if so, the name under 6658
which the license was issued and the applicant's age at the time 6659
the license was issued; any criminal conviction the applicant 6660
has had; and if a permit or license issued to the applicant in 6661
any other state has been suspended, restricted, or revoked, and, 6662
if so, the cause and the duration of each action. The applicant 6663
also shall complete a cover sheet for the application on which 6664
the applicant shall disclose the applicant's name, the business 6665
address of the casino operator, management company, holding 6666
company, or gaming-related vendor employing the applicant, the 6667
business address and telephone number of such employer, and the 6668
county, state, and country in which the applicant's residence is 6669
located. 6670

(F) Each applicant shall submit with each application, on 6671
a form provided by the commission, two sets of fingerprints and 6672
a photograph. The commission shall charge each applicant an 6673
application fee set by the commission to cover all actual costs 6674
generated by each licensee and all background checks under this 6675
section and section 3772.07 of the Revised Code. 6676

(G) (1) The casino operator, management company, or holding 6677
company by whom a person is employed as a key employee shall 6678
terminate the person's employment in any capacity requiring a 6679
license under this chapter and shall not in any manner permit 6680
the person to exercise a significant influence over the 6681
operation of a casino facility if: 6682

(a) The person does not apply for and receive a key 6683
employee license within three months of being issued a 6684
provisional license, as established under commission rule. 6685

(b) The person's application for a key employee license is 6686

denied by the commission.

6687

(c) The person's key employee license is revoked by the
commission.

6688

6689

The commission shall notify the casino operator,
management company, or holding company who employs such a person
by certified mail, personal service, common carrier service
utilizing any form of delivery requiring a signed receipt, or by
an electronic means that provides evidence of delivery, of any
such finding, denial, or revocation.

6690

6691

6692

6693

6694

6695

(2) A casino operator, management company, or holding
company shall not pay to a person whose employment is terminated
under division (G) (1) of this section, any remuneration for any
services performed in any capacity in which the person is
required to be licensed, except for amounts due for services
rendered before notice was received under that division. A
contract or other agreement for personal services or for the
conduct of any casino gaming at a casino facility between a
casino operator, management company, or holding company and a
person whose employment is terminated under division (G) (1) of
this section may be terminated by the casino operator,
management company, or holding company without further liability
on the part of the casino operator, management company, or
holding company. Any such contract or other agreement is deemed
to include a term authorizing its termination without further
liability on the part of the casino operator, management
company, or holding company upon receiving notice under division
(G) (1) of this section. That a contract or other agreement does
not expressly include such a term is not a defense in any action
brought to terminate the contract or other agreement, and is not
grounds for relief in any action brought questioning termination

6696

6697

6698

6699

6700

6701

6702

6703

6704

6705

6706

6707

6708

6709

6710

6711

6712

6713

6714

6715

6716

of the contract or other agreement.

6717

(3) A casino operator, management company, or holding company, without having obtained the prior approval of the commission, shall not enter into any contract or other agreement with a person who has been found unsuitable, who has been denied a license, or whose license has been revoked under division (G) (1) of this section, or with any business enterprise under the control of such a person, after the date on which the casino operator, management company, or holding company receives notice under that division.

6718

6719

6720

6721

6722

6723

6724

6725

6726

Sec. 3772.131. (A) All casino gaming employees are required to have a casino gaming employee license. "Casino gaming employee" means the following and their supervisors:

6727

6728

6729

(1) Individuals involved in operating a casino gaming pit, including dealers, shills, clerks, hosts, and junket representatives;

6730

6731

6732

(2) Individuals involved in handling money, including cashiers, change persons, count teams, and coin wrappers;

6733

6734

(3) Individuals involved in operating casino games;

6735

(4) Individuals involved in operating and maintaining slot machines, including mechanics, floor persons, and change and payoff persons;

6736

6737

6738

(5) Individuals involved in security, including guards and game observers;

6739

6740

(6) Individuals with duties similar to those described in divisions (A) (1) to (5) of this section or other persons as the commission determines. "Casino gaming employee" does not include an individual whose duties are related solely to nongaming

6741

6742

6743

6744

activities such as entertainment, hotel operation, maintenance, 6745
or preparing or serving food and beverages. 6746

(B) The commission may issue a casino gaming employee 6747
license to an applicant after it has determined that the 6748
applicant is eligible for a license under rules adopted by the 6749
commission and paid any applicable fee. All applications shall 6750
be ~~made under oath~~certified as true. 6751

(C) To be eligible for a casino gaming employee license, 6752
an applicant shall be at least twenty-one years of age. 6753

(D) Each application for a casino gaming employee license 6754
shall be on a form prescribed by the commission and shall 6755
contain all information required by the commission. The 6756
applicant shall set forth in the application if the applicant 6757
has been issued prior gambling-related licenses; if the 6758
applicant has been licensed in any other state under any other 6759
name, and, if so, the name under which the license was issued 6760
and the applicant's age at the time the license was issued; any 6761
criminal conviction the applicant has had; and if a permit or 6762
license issued to the applicant in any other state has been 6763
suspended, restricted, or revoked, and, if so, the cause and the 6764
duration of each action. 6765

(E) Each applicant shall submit with each application, on 6766
a form provided by the commission, two sets of the applicant's 6767
fingerprints and a photograph. The commission shall charge each 6768
applicant an application fee to cover all actual costs generated 6769
by each licensee and all background checks. 6770

Sec. 3781.08. The board of building standards shall 6771
organize by choosing a ~~chairman~~chairperson who shall serve for 6772
a term of two years. The department of commerce shall provide 6773

and assign to the board of building standards such 6774
~~stenographers,~~ clerks, experts, and other employees as are 6775
required to enable the board to perform the duties and exercise 6776
the powers imposed upon or vested in it by law. 6777

Sec. 3781.11. (A) The rules of the board of building 6778
standards shall: 6779

(1) For nonresidential buildings, provide uniform minimum 6780
standards and requirements, and for residential buildings, 6781
provide standards and requirements that are uniform throughout 6782
the state, for construction and construction materials, 6783
including construction of industrialized units, to make 6784
residential and nonresidential buildings safe and sanitary as 6785
defined in section 3781.06 of the Revised Code; 6786

(2) Formulate such standards and requirements, so far as 6787
may be practicable, in terms of performance objectives, so as to 6788
make adequate performance for the use intended the test of 6789
acceptability; 6790

(3) Permit, to the fullest extent feasible, the use of 6791
materials and technical methods, devices, and improvements, 6792
including the use of industrialized units which tend to reduce 6793
the cost of construction and erection without affecting minimum 6794
requirements for the health, safety, and security of the 6795
occupants or users of buildings or industrialized units and 6796
without preferential treatment of types or classes of materials 6797
or products or methods of construction; 6798

(4) Encourage, so far as may be practicable, the 6799
standardization of construction practices, methods, equipment, 6800
material, and techniques, including methods employed to produce 6801
industrialized units; 6802

(5) Not require any alteration or repair of any part of a 6803
school building owned by a chartered nonpublic school or a city, 6804
local, exempted village, or joint vocational school district and 6805
operated in conjunction with any primary or secondary school 6806
program that is not being altered or repaired if all of the 6807
following apply: 6808

(a) The school building meets all of the applicable 6809
building code requirements in existence at the time of the 6810
construction of the building. 6811

(b) The school building otherwise satisfies the 6812
requirements of section 3781.06 of the Revised Code. 6813

(c) The part of the school building altered or repaired 6814
conforms to all rules of the board existing on the date of the 6815
repair or alteration. 6816

(6) Not require any alteration or repair to any part of a 6817
workshop or factory that is not otherwise being altered, 6818
repaired, or added to if all of the following apply: 6819

(a) The workshop or factory otherwise satisfies the 6820
requirements of section 3781.06 of the Revised Code. 6821

(b) The part of the workshop or factory altered, repaired, 6822
or added conforms to all rules of the board existing on the date 6823
of plan approval of the repair, alteration, or addition. 6824

(B) The rules of the board shall supersede and govern any 6825
order, standard, or rule of the division of industrial 6826
compliance in the department of commerce, division of the state 6827
fire marshal, the department of health, and of counties and 6828
townships, in all cases where such orders, standards, or rules 6829
are in conflict with the rules of the board, except that rules 6830
adopted and orders issued by the state fire marshal pursuant to 6831

Chapter 3743. of the Revised Code prevail in the event of a 6832
conflict. 6833

(C) The construction, alteration, erection, and repair of 6834
buildings including industrialized units, and the materials and 6835
devices of any kind used in connection with them and the heating 6836
and ventilating of them and the plumbing and electric wiring in 6837
them shall conform to the statutes of this state or the rules 6838
adopted and promulgated by the board, and to provisions of local 6839
ordinances not inconsistent therewith. Any building, structure, 6840
or part thereof, constructed, erected, altered, manufactured, or 6841
repaired not in accordance with the statutes of this state or 6842
with the rules of the board, and any building, structure, or 6843
part thereof in which there is installed, altered, or repaired 6844
any fixture, device, and material, or plumbing, heating, or 6845
ventilating system, or electric wiring not in accordance with 6846
such statutes or rules is a public nuisance. 6847

(D) As used in this section: 6848

(1) "Nonpublic school" means a chartered school for which 6849
minimum standards are prescribed by the state board of education 6850
pursuant to division (D) of section 3301.07 of the Revised Code. 6851

(2) "Workshop or factory" includes manufacturing, 6852
mechanical, electrical, mercantile, art, and laundering 6853
establishments, printing, ~~telegraph~~, and telephone offices, 6854
railroad depots, and memorial buildings, but does not include 6855
hotels and tenement and apartment houses. 6856

Sec. 3781.25. As used in sections 3781.25 to 3781.38 of 6857
the Revised Code: 6858

(A) "Protection service" means a notification center, but 6859
not an owner of an individual utility, that exists for the 6860

purpose of receiving notice from persons that prepare plans and 6861
specifications for or that engage in excavation work, that 6862
distributes this information to its members and participants, 6863
and that has registered by March 14, 1989, with the secretary of 6864
state and the public utilities commission of Ohio under former 6865
division (F) of section 153.64 of the Revised Code as it existed 6866
on that date. 6867

(B) "Underground utility facility" includes any item 6868
buried or placed below ground or submerged under water for use 6869
in connection with the storage or conveyance of water or sewage; 6870
electronic, or telephonic, ~~or telegraphic~~ communications; 6871
television signals; electricity; crude oil; petroleum products; 6872
artificial or liquefied petroleum; manufactured, mixed, or 6873
natural gas; synthetic or liquefied natural gas; propane gas; 6874
coal; steam; hot water; or other substances. "Underground 6875
utility facility" includes all operational underground pipes, 6876
sewers, tubing, conduits, cables, valves, lines, wires, worker 6877
access holes, and attachments, owned by any person, firm, or 6878
company. "Underground utility facility" does not include a 6879
private septic system in a one-family or multi-family dwelling 6880
utilized only for that dwelling and not connected to any other 6881
system. 6882

(C) "Utility" means any owner or operator, or an agent of 6883
an owner or operator, of an underground utility facility, 6884
including any public authority, that owns or operates an 6885
underground utility facility. "Utility" does not include the 6886
owners of the following types of real property with respect to 6887
any underground utility facility located on that property: 6888

(1) The owner of a single-family or two-, three-, or four- 6889
unit residential dwelling; 6890

(2) The owner of an apartment complex;	6891
(3) The owner of a commercial or industrial building or	6892
complex of buildings, including but not limited to, factories	6893
and shopping centers;	6894
(4) The owner of a farm;	6895
(5) The owner of an exempt domestic well as defined in	6896
section 1509.01 of the Revised Code.	6897
(D) "Approximate location" means the immediate area within	6898
the perimeter of a proposed excavation site where the	6899
underground utility facilities are located.	6900
(E) "Tolerance zone" means the site of the underground	6901
utility facility including the width of the underground utility	6902
facility plus eighteen inches on each side of the facility.	6903
(F) "Working days" excludes Saturdays, Sundays, and legal	6904
holidays as defined in section 1.14 of the Revised Code and	6905
"hours" excludes hours on Saturdays, Sundays, and legal	6906
holidays.	6907
(G) "Designer" means an engineer, architect, landscape	6908
architect, contractor, surveyor, or other person who develops	6909
plans or designs for real property improvement or any other	6910
activity that will involve excavation.	6911
(H) "Developer" means the person for whom the excavation	6912
is made and who will own or be the lessee of any improvement	6913
that is the object of the excavation.	6914
(I) "Excavation" means the use of hand tools, powered	6915
equipment, or explosives to move earth, rock, or other materials	6916
in order to penetrate or bore or drill into the earth, or to	6917
demolish any structure whether or not it is intended that the	6918

demolition will disturb the earth. "Excavation" includes such 6919
agricultural operations as the installation of drain tile, but 6920
excludes agricultural operations such as tilling that do not 6921
penetrate the earth to a depth of more than twelve inches. 6922
"Excavation" excludes any activity by a governmental entity 6923
which does not penetrate the earth to a depth of more than 6924
twelve inches. "Excavation" excludes coal mining and reclamation 6925
operations regulated under Chapter 1513. of the Revised Code and 6926
rules adopted under it. 6927

(J) "Excavation site" means the area within which 6928
excavation will be performed. 6929

(K) "Excavator" means the person or persons responsible 6930
for making the actual excavation. 6931

(L) "Interstate gas pipeline" means an interstate gas 6932
pipeline subject to the "Natural Gas Pipeline Safety Act of 6933
1968," 82 Stat. 720, 49 U.S.C. 1671, as amended. 6934

(M) "Interstate hazardous liquids pipeline" means an 6935
interstate hazardous liquids pipeline subject to the "Hazardous 6936
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 6937
2002, as amended. 6938

(N) "Special notification requirements" means requirements 6939
for notice to an owner of an interstate hazardous liquids 6940
pipeline or an interstate gas pipeline that must be made prior 6941
to commencing excavation and pursuant to the owner's public 6942
safety program adopted under federal law. 6943

(O) "Commercial excavator" means any excavator, excluding 6944
a utility as defined in this section, that satisfies both of the 6945
following: 6946

(1) For compensation, performs, directs, supervises, or is 6947

responsible for the excavation, construction, improvement, 6948
renovation, repair, or maintenance on a construction project and 6949
holds out or represents oneself as qualified or permitted to act 6950
as such; 6951

(2) Employs tradespersons who actually perform excavation, 6952
construction, improvement, renovation, repair, or maintenance on 6953
a construction project. 6954

(P) "Person" has the same meaning as in section 1.59 of 6955
the Revised Code and also includes a public authority. 6956

(Q) "Positive response system" means an automated system 6957
facilitated by a protection service allowing a utility to 6958
communicate to an excavator the presence or absence of any 6959
conflict between the existing underground utility facilities and 6960
the proposed excavation site. 6961

(R) "One-call notification system" means the software or 6962
communications system used by a protection system to notify its 6963
membership of proposed excavation sites. 6964

(S) "Project" means any undertaking by a private party of 6965
an improvement requiring excavation. 6966

(T) "Public authority" has the same meaning as in section 6967
153.64 of the Revised Code. 6968

(U) "Improvement" means any construction, reconstruction, 6969
improvement, enlargement, alteration, or repair of a building, 6970
highway, drainage system, water system, road, street, alley, 6971
sewer, ditch, sewage disposal plant, water works, and all other 6972
structures or works of any nature. 6973

(V) "Emergency" means an unexpected occurrence causing a 6974
disruption or damage to an underground utility facility that 6975

requires immediate repair or a situation that creates a clear 6976
and imminent danger that demands immediate action to prevent or 6977
mitigate loss of or damage to life, health, property, or 6978
essential public services. 6979

(W) "Nondestructive manner" means using low-impact, low- 6980
risk technologies such as hand tools, or hydro or air vacuum 6981
excavation equipment. 6982

(X) "Cable service provider" has the same meaning as in 6983
section 1332.01 of the Revised Code. 6984

(Y) "Electric cooperative" and "electric utility" have the 6985
same meanings as in section 4928.01 of the Revised Code. 6986

Sec. 3781.29. (A) (1) Except as otherwise provided in 6987
division (A) (2) of this section, within forty-eight hours of 6988
receiving notice under section 3781.28 of the Revised Code, each 6989
utility shall review the status of its facilities within the 6990
excavation site, locate and mark its underground utility 6991
facilities at the excavation site in such a manner as to 6992
indicate their course, and report the appropriate information to 6993
the protection service for its positive response system. If a 6994
utility does not mark its underground utility facilities or 6995
contact the excavator within that time, the utility is deemed to 6996
have given notice that it does not have any facilities at the 6997
excavation site. If the utility cannot accurately mark the 6998
facilities, the utility shall mark them to the best of its 6999
ability, notify the excavator using the positive response system 7000
that the markings may not be accurate, and provide additional 7001
guidance to the excavator in locating the facilities as needed 7002
during the excavation. 7003

(2) In the case of an interstate hazardous liquids 7004

pipeline or an interstate gas pipeline, the owner of the 7005
pipeline shall locate and mark its pipeline within the time 7006
frame established in the public safety program of the owner. 7007

(B) Unless a facility actually is uncovered or probed by 7008
the utility or excavator, any indications of the depth of the 7009
facility shall be treated as estimates only. 7010

(C) (1) Except as provided in division (C) (2) of this 7011
section, a utility shall mark its underground facilities using 7012
the following color codes: 7013

7014

1

2

A	Type of Underground Utility Facility	Color
B	Electric power transmission and distribution	Safety red
C	Gas transmission and distribution	High visibility safety yellow
D	Oil transmission and distribution	High visibility safety yellow
E	Dangerous materials, product lines, and steam lines	High visibility safety yellow
F	Telephone and telegraph systems	Safety alert orange

G	Police and fire communications	Safety alert orange
H	Cable television	Safety alert orange
I	Water systems	Safety precaution blue
J	Slurry systems	Safety precaution purple
K	Sewer lines	Safety green.

(2) All underground facilities shall be marked in 7015
accordance with the Ohio universal marking standards that are on 7016
file with the Ohio utilities protection service. Industry 7017
representatives serving on Ohio damage prevention councils shall 7018
review the marking standards every two years. 7019

(D) Except as otherwise provided in divisions (E) and (F) 7020
of this section, prior to notifying a protection service of the 7021
proposed excavation, an excavator shall define and premark the 7022
approximate location. Proposed construction or excavation 7023
markings shall be made in white through the use of an industry- 7024
recognized method such as chalk-based paint, flags, stakes, or 7025
other method applicable to the specific site and when possible 7026
shall indicate the excavator's identity by name, abbreviation, 7027
or initial. 7028

(E) (1) Before beginning an emergency excavation, or as 7029
soon as possible thereafter, an excavator shall make every 7030
effort to notify a protection service of the excavation. In 7031
providing notification, the excavator shall provide, at a 7032
minimum: 7033

(a) The name of the individual notifying the protection 7034

service; 7035

(b) The name, address, any electronic mail address, and 7036
~~any telephone and facsimile~~ numbers of the excavator; 7037

(c) The specific location of the excavation site; 7038

(d) A description of the excavation. 7039

(2) Upon receiving the information set forth in division 7040
(E) (1) of this section, the protection service shall provide the 7041
excavator with a reference number and a list of utilities that 7042
the protection service intends to notify. The protection service 7043
shall immediately notify each utility that according to the 7044
registration information provided under section 3781.26 of the 7045
Revised Code has facilities located within the designated area 7046
of the emergency excavation. 7047

(3) Any utility notified of an emergency excavation may 7048
inspect all of its underground utility facilities located at the 7049
emergency excavation site and may take any otherwise lawful 7050
action it considers necessary to prevent disturbance to or 7051
interference with its facilities during excavation. 7052

(F) An excavator is not required to premark the 7053
approximate location of an excavation as provided in division 7054
(D) of this section in any of the following situations: 7055

(1) The utility can determine the precise location, 7056
direction, size, and length of the proposed excavation site by 7057
referring to the notification provided by the protection service 7058
pursuant to sections 3781.27 and 3781.28 of the Revised Code. 7059

(2) The excavator and the affected utility have had an on- 7060
site, preconstruction meeting for the purpose of premarking the 7061
excavation site. 7062

(3) The excavation involves replacing a pole that is 7063
within five feet of the location of an existing pole. 7064

(4) Premarking by the excavator would clearly interfere 7065
with pedestrian or vehicular traffic control. 7066

Sec. 3781.342. (A) The underground technical committee may 7067
conduct meetings in person, by teleconference, or by video 7068
conference. 7069

(B) The committee shall establish a primary meeting 7070
location that is open and accessible to the public. 7071

(C) Before convening a meeting by teleconference or video 7072
conference, the committee shall send, via electronic mail, 7073
~~facsimile,~~ or United States postal service, a copy of meeting- 7074
related documents to each committee member. 7075

(D) The minutes of each meeting shall specify who was 7076
attending by teleconference, who was attending by video 7077
conference, and who was physically present. Any vote taken in a 7078
meeting held by teleconference that is not unanimous shall be 7079
recorded as a roll call vote. 7080

Sec. 3904.08. (A) If any individual, after proper 7081
identification, submits a written request to an insurance 7082
institution, agent, or insurance support organization for access 7083
to recorded personal information about the individual that is 7084
reasonably described by the individual and reasonably locatable 7085
and retrievable by the insurance institution, agent, or 7086
insurance support organization, the insurance institution, 7087
agent, or insurance support organization, within thirty business 7088
days from the date such request is received, shall do all of the 7089
following: 7090

(1) Inform the individual of the nature and substance of 7091

such recorded personal information in writing, by telephone, or 7092
by other oral communication, whichever the insurance 7093
institution, agent, or insurance support organization prefers; 7094

(2) Permit the individual to ~~see and copy, in person, _~~ 7095
~~such recorded personal information pertaining to him or to~~ 7096
~~obtain a copy of such recorded personal information by mail, _~~ 7097
~~whichever the individual prefers~~in a manner agreed upon by the 7098
individual and insurance institution, agent, or insurance 7099
support organization, unless such recorded personal information 7100
is in coded form, in which case an accurate translation in plain 7101
language shall be provided in writing; 7102

(3) Disclose to the individual the identity, if recorded, 7103
of those persons to whom the insurance institution, agent, or 7104
insurance support organization has disclosed such personal 7105
information within two years prior to such request, and if the 7106
identity is not recorded, the names of those insurance 7107
institutions, agents, insurance support organizations, or other 7108
persons to whom such information is normally disclosed; 7109

(4) Provide the individual with a summary of the 7110
procedures by which ~~he~~ the individual may request correction, 7111
amendment, or deletion of recorded personal information. 7112

(B) Any personal information provided pursuant to division 7113
(A) of this section shall identify the source of the information 7114
if such source is an institutional source. 7115

(C) Medical record information supplied by a medical care 7116
institution or medical professional and requested under division 7117
(A) of this section, together with the identity of the medical 7118
professional or medical care institution that provided such 7119
information, shall be supplied either directly to the individual 7120

or to a medical professional designated by the individual and 7121
licensed to provide medical care with respect to the condition 7122
to which the information relates, whichever the insurance 7123
institution, agent, or insurance support organization prefers. 7124
If it elects to disclose the information to a medical 7125
professional designated by the individual, the insurance 7126
institution, agent, or insurance support organization shall 7127
notify the individual, at the time of the disclosure, that it 7128
has provided the information to the medical professional. 7129

(D) Except for personal information provided under section 7130
3904.10 of the Revised Code, an insurance institution, agent, or 7131
insurance support organization may charge a reasonable fee to 7132
cover the costs incurred in providing a copy of recorded 7133
personal information to individuals. 7134

(E) The obligations imposed by this section upon an 7135
insurance institution or agent may be satisfied by another 7136
insurance institution or agent authorized to act on its behalf. 7137
With respect to the copying and disclosure of recorded personal 7138
information pursuant to a request under division (A) of this 7139
section, an insurance institution, agent, or insurance support 7140
organization may make arrangements with an insurance support 7141
organization or a consumer reporting agency to copy and disclose 7142
recorded personal information on its behalf. 7143

(F) The rights granted to individuals in this section 7144
extend to all natural persons to the extent information about 7145
them is collected and maintained by an insurance institution, 7146
agent, or insurance support organization in connection with an 7147
insurance transaction. The rights granted to all natural persons 7148
by this division do not extend to information about them that 7149
relates to and is collected in connection with or in reasonable 7150

anticipation of a claim or civil or criminal proceeding 7151
involving them. 7152

(G) This section does not apply to a consumer reporting 7153
agency. 7154

Sec. 4121.19. A full and complete record shall be kept of 7155
all proceedings had before the bureau of workers' compensation 7156
on any investigation, ~~and all testimony shall be taken down by a~~ 7157
~~stenographer appointed by the bureau.~~ 7158

Sec. 4123.512. (A) The claimant or the employer may appeal 7159
an order of the industrial commission made under division (E) of 7160
section 4123.511 of the Revised Code in any injury or 7161
occupational disease case, other than a decision as to the 7162
extent of disability to the court of common pleas of the county 7163
in which the injury was inflicted or in which the contract of 7164
employment was made if the injury occurred outside the state, or 7165
in which the contract of employment was made if the exposure 7166
occurred outside the state. If no common pleas court has 7167
jurisdiction for the purposes of an appeal by the use of the 7168
jurisdictional requirements described in this division, the 7169
appellant may use the venue provisions in the Rules of Civil 7170
Procedure to vest jurisdiction in a court. If the claim is for 7171
an occupational disease, the appeal shall be to the court of 7172
common pleas of the county in which the exposure which caused 7173
the disease occurred. Like appeal may be taken from an order of 7174
a staff hearing officer made under division (D) of section 7175
4123.511 of the Revised Code from which the commission has 7176
refused to hear an appeal. Except as otherwise provided in this 7177
division, the appellant shall file the notice of appeal with a 7178
court of common pleas within sixty days after the date of the 7179
receipt of the order appealed from or the date of receipt of the 7180

order of the commission refusing to hear an appeal of a staff 7181
hearing officer's decision under division (D) of section 7182
4123.511 of the Revised Code. Either the claimant or the 7183
employer may file a notice of an intent to settle the claim 7184
within thirty days after the date of the receipt of the order 7185
appealed from or of the order of the commission refusing to hear 7186
an appeal of a staff hearing officer's decision. The claimant or 7187
employer shall file notice of intent to settle with the 7188
administrator of workers' compensation, and the notice shall be 7189
served on the opposing party and the party's representative. The 7190
filing of the notice of intent to settle extends the time to 7191
file an appeal to one hundred fifty days, unless the opposing 7192
party files an objection to the notice of intent to settle 7193
within fourteen days after the date of the receipt of the notice 7194
of intent to settle. The party shall file the objection with the 7195
administrator, and the objection shall be served on the party 7196
that filed the notice of intent to settle and the party's 7197
representative. The filing of the notice of the appeal with the 7198
court is the only act required to perfect the appeal. 7199

If an action has been commenced in a court of a county 7200
other than a court of a county having jurisdiction over the 7201
action, the court, upon notice by any party or upon its own 7202
motion, shall transfer the action to a court of a county having 7203
jurisdiction. 7204

Notwithstanding anything to the contrary in this section, 7205
if the commission determines under section 4123.522 of the 7206
Revised Code that an employee, employer, or their respective 7207
representatives have not received written notice of an order or 7208
decision which is appealable to a court under this section and 7209
which grants relief pursuant to section 4123.522 of the Revised 7210
Code, the party granted the relief has sixty days from receipt 7211

of the order under section 4123.522 of the Revised Code to file 7212
a notice of appeal under this section. 7213

(B) The notice of appeal shall state the names of the 7214
administrator of workers' compensation, the claimant, and the 7215
employer; the number of the claim; the date of the order 7216
appealed from; and the fact that the appellant appeals 7217
therefrom. 7218

The administrator, the claimant, and the employer shall be 7219
parties to the appeal and the court, upon the application of the 7220
commission, shall make the commission a party. The party filing 7221
the appeal shall serve a copy of the notice of appeal on the 7222
administrator at the central office of the bureau of workers' 7223
compensation in Columbus. The administrator shall notify the 7224
employer that if the employer fails to become an active party to 7225
the appeal, then the administrator may act on behalf of the 7226
employer and the results of the appeal could have an adverse 7227
effect upon the employer's premium rates or may result in a 7228
recovery from the employer if the employer is determined to be a 7229
noncomplying employer under section 4123.75 of the Revised Code. 7230

(C) The attorney general or one or more of the attorney 7231
general's assistants or special counsel designated by the 7232
attorney general shall represent the administrator and the 7233
commission. In the event the attorney general or the attorney 7234
general's designated assistants or special counsel are absent, 7235
the administrator or the commission shall select one or more of 7236
the attorneys in the employ of the administrator or the 7237
commission as the administrator's attorney or the commission's 7238
attorney in the appeal. Any attorney so employed shall continue 7239
the representation during the entire period of the appeal and in 7240
all hearings thereof except where the continued representation 7241

becomes impractical.

7242

(D) Upon receipt of notice of appeal, the clerk of courts shall provide notice to all parties who are appellees and to the commission.

7243

7244

7245

The claimant shall, within thirty days after the filing of the notice of appeal, file a petition containing a statement of facts in ordinary and concise language showing a cause of action to participate or to continue to participate in the fund and setting forth the basis for the jurisdiction of the court over the action. Further pleadings shall be had in accordance with the Rules of Civil Procedure, provided that service of summons on such petition shall not be required and provided that the claimant may not dismiss the complaint without the employer's consent if the employer is the party that filed the notice of appeal to court pursuant to this section. The clerk of the court shall, upon receipt thereof, transmit by certified mail a copy thereof to each party named in the notice of appeal other than the claimant. Any party may file with the clerk prior to the trial of the action a deposition of any physician taken in accordance with the provisions of the Revised Code, which deposition may be read in the trial of the action even though the physician is a resident of or subject to service in the county in which the trial is had. The bureau of workers' compensation shall pay the cost of the ~~stenographic~~ deposition filed in court and of copies of the ~~stenographic~~ deposition for each party from the surplus fund and charge the costs thereof against the unsuccessful party if the claimant's right to participate or continue to participate is finally sustained or established in the appeal. In the event the deposition is taken and filed, the physician whose deposition is taken is not required to respond to any subpoena issued in the trial of the

7246

7247

7248

7249

7250

7251

7252

7253

7254

7255

7256

7257

7258

7259

7260

7261

7262

7263

7264

7265

7266

7267

7268

7269

7270

7271

7272

action. The court, or the jury under the instructions of the 7273
court, if a jury is demanded, shall determine the right of the 7274
claimant to participate or to continue to participate in the 7275
fund upon the evidence adduced at the hearing of the action. 7276

(E) The court shall certify its decision to the commission 7277
and the certificate shall be entered in the records of the 7278
court. Appeals from the judgment are governed by the law 7279
applicable to the appeal of civil actions. 7280

(F) The cost of any legal proceedings authorized by this 7281
section, including an attorney's fee to the claimant's attorney 7282
to be fixed by the trial judge, based upon the effort expended, 7283
in the event the claimant's right to participate or to continue 7284
to participate in the fund is established upon the final 7285
determination of an appeal, shall be taxed against the employer 7286
or the commission if the commission or the administrator rather 7287
than the employer contested the right of the claimant to 7288
participate in the fund. The attorney's fee shall not exceed 7289
five thousand dollars. 7290

(G) If the finding of the court or the verdict of the jury 7291
is in favor of the claimant's right to participate in the fund, 7292
the commission and the administrator shall thereafter proceed in 7293
the matter of the claim as if the judgment were the decision of 7294
the commission, subject to the power of modification provided by 7295
section 4123.52 of the Revised Code. 7296

(H) (1) An appeal from an order issued under division (E) 7297
of section 4123.511 of the Revised Code or any action filed in 7298
court in a case in which an award of compensation or medical 7299
benefits has been made shall not stay the payment of 7300
compensation or medical benefits under the award, or payment for 7301
subsequent periods of total disability or medical benefits 7302

during the pendency of the appeal. If, in a final administrative 7303
or judicial action, it is determined that payments of 7304
compensation or benefits, or both, made to or on behalf of a 7305
claimant should not have been made, the amount thereof shall be 7306
charged to the surplus fund account under division (B) of 7307
section 4123.34 of the Revised Code. In the event the employer 7308
is a state risk, the amount shall not be charged to the 7309
employer's experience, and the administrator shall adjust the 7310
employer's account accordingly. In the event the employer is a 7311
self-insuring employer, the self-insuring employer shall deduct 7312
the amount from the paid compensation the self-insuring employer 7313
reports to the administrator under division (L) of section 7314
4123.35 of the Revised Code. If an employer is a state risk and 7315
has paid an assessment for a violation of a specific safety 7316
requirement, and, in a final administrative or judicial action, 7317
it is determined that the employer did not violate the specific 7318
safety requirement, the administrator shall reimburse the 7319
employer from the surplus fund account under division (B) of 7320
section 4123.34 of the Revised Code for the amount of the 7321
assessment the employer paid for the violation. 7322

(2) (a) Notwithstanding a final determination that payments 7323
of benefits made to or on behalf of a claimant should not have 7324
been made, the administrator or self-insuring employer shall 7325
award payment of medical or vocational rehabilitation services 7326
submitted for payment after the date of the final determination 7327
if all of the following apply: 7328

(i) The services were approved and were rendered by the 7329
provider in good faith prior to the date of the final 7330
determination. 7331

(ii) The services were payable under division (I) of 7332

section 4123.511 of the Revised Code prior to the date of the 7333
final determination. 7334

(iii) The request for payment is submitted within the time 7335
limit set forth in section 4123.52 of the Revised Code. 7336

(b) Payments made under division (H) (1) of this section 7337
shall be charged to the surplus fund account under division (B) 7338
of section 4123.34 of the Revised Code. If the employer of the 7339
employee who is the subject of a claim described in division (H) 7340
(2) (a) of this section is a state fund employer, the payments 7341
made under that division shall not be charged to the employer's 7342
experience. If that employer is a self-insuring employer, the 7343
self-insuring employer shall deduct the amount from the paid 7344
compensation the self-insuring employer reports to the 7345
administrator under division (L) of section 4123.35 of the 7346
Revised Code. 7347

(c) Division (H) (2) of this section shall apply only to a 7348
claim under this chapter or Chapter 4121., 4127., or 4131. of 7349
the Revised Code arising on or after July 29, 2011. 7350

(3) A self-insuring employer may elect to pay compensation 7351
and benefits under this section directly to an employee or an 7352
employee's dependents by filing an application with the bureau 7353
of workers' compensation not more than one hundred eighty days 7354
and not less than ninety days before the first day of the 7355
employer's next six-month coverage period. If the self-insuring 7356
employer timely files the application, the application is 7357
effective on the first day of the employer's next six-month 7358
coverage period, provided that the administrator shall compute 7359
the employer's assessment for the surplus fund account due with 7360
respect to the period during which that application was filed 7361
without regard to the filing of the application. On and after 7362

the effective date of the employer's election, the self-insuring 7363
employer shall pay directly to an employee or to an employee's 7364
dependents compensation and benefits under this section 7365
regardless of the date of the injury or occupational disease, 7366
and the employer shall receive no money or credits from the 7367
surplus fund account on account of those payments and shall not 7368
be required to pay any amounts into the surplus fund account on 7369
account of this section. The election made under this division 7370
is irrevocable. 7371

(I) All actions and proceedings under this section which 7372
are the subject of an appeal to the court of common pleas or the 7373
court of appeals shall be preferred over all other civil actions 7374
except election causes, irrespective of position on the 7375
calendar. 7376

This section applies to all decisions of the commission or 7377
the administrator on November 2, 1959, and all claims filed 7378
thereafter are governed by sections 4123.511 and 4123.512 of the 7379
Revised Code. 7380

Any action pending in common pleas court or any other 7381
court on January 1, 1986, under this section is governed by 7382
former sections 4123.514, 4123.515, 4123.516, and 4123.519 and 7383
section 4123.522 of the Revised Code. 7384

Sec. 4123.52. (A) The jurisdiction of the industrial 7385
commission and the authority of the administrator of workers' 7386
compensation over each case is continuing, and the commission 7387
may make such modification or change with respect to former 7388
findings or orders with respect thereto, as, in its opinion is 7389
justified. No modification or change nor any finding or award in 7390
respect of any claim shall be made with respect to disability, 7391
compensation, dependency, or benefits, after five years from the 7392

date of injury in the absence of medical benefits being provided 7393
under this chapter or in the absence of payment of compensation 7394
under section 4123.57, 4123.58, or division (A) or (B) of 7395
section 4123.56 of the Revised Code or wages in lieu of 7396
compensation in a manner so as to satisfy the requirements of 7397
section 4123.84 of the Revised Code, in which event the 7398
modification, change, finding, or award shall be made within 7399
five years from the date of the last medical services being 7400
rendered or the date of the last payment of compensation or from 7401
the date of death, nor unless written notice of claim for the 7402
specific part or parts of the body injured or disabled has been 7403
given as provided in section 4123.84 or 4123.85 of the Revised 7404
Code. The commission shall not make any modification, change, 7405
finding, or award which shall award compensation for a back 7406
period in excess of two years prior to the date of filing 7407
application therefor. 7408

(B) Notwithstanding division (A) of this section, and 7409
except as otherwise provided in a rule that shall be adopted by 7410
the administrator, with the advice and consent of the bureau of 7411
workers' compensation board of directors, neither the 7412
administrator nor the commission shall make any finding or award 7413
for payment of medical or vocational rehabilitation services 7414
submitted for payment more than one year after the date the 7415
services were rendered or more than one year after the date the 7416
services became payable under division (I) of section 4123.511 7417
of the Revised Code, whichever is later. No medical or 7418
vocational rehabilitation provider shall bill a claimant for 7419
services rendered if the administrator or commission is 7420
prohibited from making that payment under this division. 7421

(C) Division (B) of this section does not apply to 7422
requests made by the centers for medicare and medicaid services 7423

in the United States department of health and human services for 7424
reimbursement of conditional payments made pursuant to section 7425
1395y(b) (2) of title 42, United States Code (commonly known as 7426
the "Medicare Secondary Payer Act"). 7427

(D) This section does not affect the right of a claimant 7428
to compensation accruing subsequent to the filing of any such 7429
application, provided the application is filed within the time 7430
limit provided in this section. 7431

(E) This section does not deprive the commission of its 7432
continuing jurisdiction to determine the questions raised by any 7433
application for modification of award which has been filed with 7434
the commission after June 1, 1932, and prior to the expiration 7435
of the applicable period but in respect to which no award has 7436
been granted or denied during the applicable period. 7437

(F) The commission may, by general rules, provide for the 7438
destruction of files of cases in which no further action may be 7439
taken. 7440

(G) The commission and administrator of workers' 7441
compensation each may, by general rules, provide for the 7442
retention and destruction of all other records in their 7443
possession or under their control pursuant to section 121.211 7444
and sections 149.34 to 149.36 of the Revised Code. The bureau of 7445
workers' compensation may purchase or rent required equipment 7446
for the document retention media, as determined necessary to 7447
preserve the records. Photographs, microphotographs, microfilm, 7448
films, or other direct or electronic document retention media, 7449
when properly identified, have the same effect as the original 7450
record and may be offered in like manner and may be received as 7451
evidence in proceedings before the industrial commission, staff 7452
hearing officers, and district hearing officers, and in any 7453

court where the original record could have been introduced. 7454

Sec. 4125.03. (A) The professional employer organization 7455
with whom a shared employee is coemployed shall do all of the 7456
following: 7457

(1) Pay wages associated with a shared employee pursuant 7458
to the terms and conditions of compensation in the professional 7459
employer organization agreement between the professional 7460
employer organization and the client employer; 7461

(2) Pay all related payroll taxes associated with a shared 7462
employee independent of the terms and conditions contained in 7463
the professional employer organization agreement between the 7464
professional employer organization and the client employer; 7465

(3) Maintain workers' compensation coverage, pay all 7466
workers' compensation premiums and manage all workers' 7467
compensation claims, filings, and related procedures associated 7468
with a shared employee in compliance with Chapters 4121. and 7469
4123. of the Revised Code, except that when shared employees 7470
include family farm officers, ordained ministers, or corporate 7471
officers of the client employer, payroll reports shall include 7472
the entire amount of payroll associated with those persons; 7473

(4) Provide written notice to each shared employee it 7474
assigns to perform services to a client employer of the 7475
relationship between and the responsibilities of the 7476
professional employer organization and the client employer; 7477

(5) Maintain complete records separately listing the 7478
manual classifications of each client employer and the payroll 7479
reported to each manual classification for each client employer 7480
for each payroll reporting period during the time period covered 7481
in the professional employer organization agreement; 7482

(6) Maintain a record of workers' compensation claims for 7483
each client employer; 7484

(7) Make periodic reports, as determined by the 7485
administrator of workers' compensation, of client employers and 7486
total workforce to the administrator; 7487

(8) Report individual client employer payroll, claims, and 7488
classification data under a separate and unique subaccount to 7489
the administrator; 7490

(9) Within fourteen days after receiving notice from the 7491
bureau of workers' compensation that a refund or rebate will be 7492
applied to workers' compensation premiums, provide a copy of 7493
that notice to any client employer to whom that notice is 7494
relevant. 7495

(B) The professional employer organization with whom a 7496
shared employee is coemployed shall provide a list of all of the 7497
following information to the client employer upon the written 7498
request of the client employer: 7499

(1) All workers' compensation claims, premiums, and 7500
payroll associated with that client employer; 7501

(2) Compensation and benefits paid and reserves 7502
established for each claim listed under division (B) (1) of this 7503
section; 7504

(3) Any other information available to the professional 7505
employer organization from the bureau of workers' compensation 7506
regarding that client employer. 7507

(C) (1) A professional employer organization shall provide 7508
the information required under division (B) of this section in 7509
writing to the requesting client employer within forty-five days 7510

after receiving a written request from the client employer. 7511

(2) For purposes of division (C) of this section, a 7512
professional employer organization has provided the required 7513
information to the client employer when ~~the~~ any of the following 7514
occur: 7515

(a) The information is received by the United States 7516
postal service ~~or when the;~~ 7517

(b) The information is personally delivered, in writing, 7518
directly to the client employer; 7519

(c) The information is delivered by electronic mail to the 7520
client employer. 7521

(D) Except as provided in section 4125.08 of the Revised 7522
Code and unless otherwise agreed to in the professional employer 7523
organization agreement, the professional employer organization 7524
with whom a shared employee is coemployed has a right of 7525
direction and control over each shared employee assigned to a 7526
client employer's location. However, a client employer shall 7527
retain sufficient direction and control over a shared employee 7528
as is necessary to do any of the following: 7529

(1) Conduct the client employer's business, including 7530
training and supervising shared employees; 7531

(2) Ensure the quality, adequacy, and safety of the goods 7532
or services produced or sold in the client employer's business; 7533

(3) Discharge any fiduciary responsibility that the client 7534
employer may have; 7535

(4) Comply with any applicable licensure, regulatory, or 7536
statutory requirement of the client employer. 7537

(E) Unless otherwise agreed to in the professional 7538
employer organization agreement, liability for acts, errors, and 7539
omissions shall be determined as follows: 7540

(1) A professional employer organization shall not be 7541
liable for the acts, errors, and omissions of a client employer 7542
or a shared employee when those acts, errors, and omissions 7543
occur under the direction and control of the client employer. 7544

(2) A client employer shall not be liable for the acts, 7545
errors, and omissions of a professional employer organization or 7546
a shared employee when those acts, errors, and omissions occur 7547
under the direction and control of the professional employer 7548
organization. 7549

(F) Nothing in divisions (D) and (E) of this section shall 7550
be construed to limit any liability or obligation specifically 7551
agreed to in the professional employer organization agreement. 7552

Sec. 4141.09. (A) There is hereby created an unemployment 7553
compensation fund to be administered by the state without 7554
liability on the part of the state beyond the amounts paid into 7555
the fund and earned by the fund. The unemployment compensation 7556
fund shall consist of all contributions, payments in lieu of 7557
contributions described in sections 4141.241 and 4141.242 of the 7558
Revised Code, reimbursements of the federal share of extended 7559
benefits described in section 4141.301 of the Revised Code, 7560
collected under sections 4141.01 to 4141.56 of the Revised Code, 7561
and the amount required under division (A) (4) of section 4141.35 7562
of the Revised Code, together with all interest earned upon any 7563
moneys deposited with the secretary of the treasury of the 7564
United States to the credit of the account of this state in the 7565
unemployment trust fund established and maintained pursuant to 7566
section 904 of the "Social Security Act," any property or 7567

securities acquired through the use of moneys belonging to the 7568
fund, and all earnings of such property or securities. The 7569
unemployment compensation fund shall be used to pay benefits, 7570
shared work compensation as defined in section 4141.50 of the 7571
Revised Code, and refunds as provided by such sections and for 7572
no other purpose. 7573

(B) The treasurer of state shall be the custodian of the 7574
unemployment compensation fund and shall administer such fund in 7575
accordance with the directions of the director of job and family 7576
services. All disbursements therefrom shall be paid by the 7577
treasurer of state on warrants drawn by the director. Such 7578
warrants may ~~bear the facsimile~~ have the signature of the 7579
director printed thereon and that of a deputy or other employee 7580
of the director charged with the duty of keeping the account of 7581
the unemployment compensation fund and with the preparation of 7582
warrants for the payment of benefits to the persons entitled 7583
thereto. Moneys in the clearing and benefit accounts shall not 7584
be commingled with other state funds, except as provided in 7585
division (C) of this section, but shall be maintained in 7586
separate accounts on the books of the depository bank. Such 7587
money shall be secured by the depository bank to the same extent 7588
and in the same manner as required by sections 135.01 to 135.21 7589
of the Revised Code; and collateral pledged for this purpose 7590
shall be kept separate and distinct from any collateral pledged 7591
to secure other funds of this state. All sums recovered for 7592
losses sustained by the unemployment compensation fund shall be 7593
deposited therein. The treasurer of state shall be liable on the 7594
treasurer's official bond for the faithful performance of the 7595
treasurer's duties in connection with the unemployment 7596
compensation fund, such liability to exist in addition to any 7597
liability upon any separate bond. 7598

(C) The treasurer of state shall maintain within the 7599
unemployment compensation fund three separate accounts which 7600
shall be a clearing account, a trust fund account, and a benefit 7601
account. All moneys payable to the unemployment compensation 7602
fund, upon receipt by the director, shall be forwarded to the 7603
treasurer of state, who shall immediately deposit them in the 7604
clearing account. Refunds of contributions, or payments in lieu 7605
of contributions, payable pursuant to division (E) of this 7606
section may be paid from the clearing account upon warrants 7607
signed by a deputy or other employee of the director charged 7608
with the duty of keeping the record of the clearing account and 7609
with the preparation of warrants for the payment of refunds to 7610
persons entitled thereto. After clearance thereof, all moneys in 7611
the clearing account shall be deposited with the secretary of 7612
the treasury of the United States to the credit of the account 7613
of this state in the unemployment trust fund established and 7614
maintained pursuant to section 904 of the "Social Security Act," 7615
in accordance with requirements of the "Federal Unemployment Tax 7616
Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 3304(a)(3), any law 7617
in this state relating to the deposit, administration, release, 7618
or disbursement of moneys in the possession or custody of this 7619
state to the contrary notwithstanding. The benefit account shall 7620
consist of all moneys requisitioned from this state's account in 7621
the unemployment trust fund. Federal funds may be deposited, at 7622
the director's discretion, into the benefit account. Any funds 7623
deposited into the benefit account shall be disbursed solely for 7624
payment of benefits under a federal program administered by this 7625
state and for no other purpose. Moneys in the clearing and 7626
benefit accounts may be deposited by the treasurer of state, 7627
under the direction of the director, in any bank or public 7628
depository in which general funds of the state may be deposited, 7629
but no public deposit insurance charge or premium shall be paid 7630

out of the fund.

7631

(D) Moneys shall be requisitioned from this state's
account in the unemployment trust fund solely for the payment of
benefits and in accordance with regulations prescribed by the
director. The director shall requisition from the unemployment
trust fund such amounts, not exceeding the amount standing to
this state's account therein, as are deemed necessary for the
payment of benefits for a reasonable future period. Upon receipt
thereof, the treasurer of state shall deposit such moneys in the
benefit account. Expenditures of such money in the benefit
account and refunds from the clearing account shall not require
specific appropriations or other formal release by state
officers of money in their custody. Any balance of moneys
requisitioned from the unemployment trust fund which remains
unclaimed or unpaid in the benefit account after the expiration
of the period for which such sums were requisitioned shall
either be deducted from estimates for and may be utilized for
the payment of benefits during succeeding periods, or, in the
discretion of the director, shall be redeposited with the
secretary of the treasury of the United States to the credit of
this state's account in the unemployment trust fund, as provided
in division (C) of this section. Unclaimed or unpaid federal
funds redeposited with the secretary of the treasury of the
United States shall be credited to the appropriate federal
account.

7632
7633
7634
7635
7636
7637
7638
7639
7640
7641
7642
7643
7644
7645
7646
7647
7648
7649
7650
7651
7652
7653
7654
7655

(E) No claim for an adjustment or a refund on
contribution, payment in lieu of contributions, interest, or
forfeiture alleged to have been erroneously or illegally
assessed or collected, or alleged to have been collected without
authority, and no claim for an adjustment or a refund of any sum
alleged to have been excessive or in any manner wrongfully

7656
7657
7658
7659
7660
7661

collected shall be allowed unless an application, in writing, 7662
therefor is made within four years from the date on which such 7663
payment was made. If the director determines that such 7664
contribution, payment in lieu of contributions, interest, or 7665
forfeiture, or any portion thereof, was erroneously collected, 7666
the director shall allow such employer to make an adjustment 7667
thereof without interest in connection with subsequent 7668
contribution payments, or payments in lieu of contributions, by 7669
the employer, or the director may refund said amount, without 7670
interest, from the clearing account of the unemployment 7671
compensation fund, except as provided in division (B) of section 7672
4141.11 of the Revised Code. For like cause and within the same 7673
period, adjustment or refund may be so made on the director's 7674
own initiative. An overpayment of contribution, payment in lieu 7675
of contributions, interest, or forfeiture for which an employer 7676
has not made application for refund prior to the date of sale of 7677
the employer's business shall accrue to the employer's successor 7678
in interest. 7679

An application for an adjustment or a refund, or any 7680
portion thereof, that is rejected is binding upon the employer 7681
unless, within thirty days after the mailing of a written notice 7682
of rejection to the employer's last known address, or, in the 7683
absence of mailing of such notice, within thirty days after the 7684
delivery of such notice, the employer files an application for a 7685
review and redetermination setting forth the reasons therefor. 7686
The director shall promptly examine the application for review 7687
and redetermination, and if a review is granted, the employer 7688
shall be promptly notified thereof, and shall be granted an 7689
opportunity for a prompt hearing. 7690

(F) If the director finds that contributions have been 7691
paid to the director in error, and that such contributions 7692

should have been paid to a department of another state or of the 7693
United States charged with the administration of an unemployment 7694
compensation law, the director may upon request by such 7695
department or upon the director's own initiative transfer to 7696
such department the amount of such contributions, less any 7697
benefits paid to claimants whose wages were the basis for such 7698
contributions. The director may request and receive from such 7699
department any contributions or adjusted contributions paid in 7700
error to such department which should have been paid to the 7701
director. 7702

(G) In accordance with section 303(c)(3) of the Social 7703
Security Act, and section 3304(a)(17) of the Internal Revenue 7704
Code of 1954 for continuing certification of Ohio unemployment 7705
compensation laws for administrative grants and for tax credits, 7706
any interest required to be paid on advances under Title XII of 7707
the Social Security Act shall be paid in a timely manner and 7708
shall not be paid, directly or indirectly, by an equivalent 7709
reduction in the Ohio unemployment taxes or otherwise, by the 7710
state from amounts in the unemployment compensation fund. 7711

(H) The treasurer of state, under the direction of the 7712
director and in accordance with the "Cash Management Improvement 7713
Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall 7714
deposit amounts of interest earned by the state on funds in the 7715
benefit account established pursuant to division (C) of this 7716
section into the unemployment trust fund. 7717

(I) The treasurer of state, under the direction of the 7718
director, shall deposit federal funds received by the director 7719
for training and administration and for payment of benefits, job 7720
search, relocation, transportation, and subsistence allowances 7721
pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 7722

2101, as amended; the "North American Free Trade Agreement 7723
Implementation Act," 107 Stat. 2057 (1993), 19 U.S.C.A. 3301, as 7724
amended; and the "Trade Act of 2002," 116 Stat. 993, 19 U.S.C.A. 7725
3801, as amended, into the Trade Act training and administration 7726
account, which is hereby created for the purpose of making 7727
payments specified under those acts. The treasurer of state, 7728
under the direction of the director, may transfer funds from the 7729
Trade Act training and administration account to the benefit 7730
account for the purpose of making any payments directly to 7731
claimants for benefits, job search, relocation, transportation, 7732
and subsistence allowances, as specified by those acts. 7733

Sec. 4141.47. (A) There is hereby created the auxiliary 7734
services personnel unemployment compensation fund, which shall 7735
not be a part of the state treasury. The fund shall consist of 7736
moneys paid into the fund pursuant to section 3317.06 of the 7737
Revised Code. The treasurer of state shall administer it in 7738
accordance with the directions of the director of job and family 7739
services. The director shall establish procedures under which 7740
school districts that are charged and have paid for unemployment 7741
benefits as reimbursing employers pursuant to this chapter for 7742
personnel employed pursuant to section 3317.06 of the Revised 7743
Code may apply for and receive reimbursement for those payments 7744
under this section. School districts are not entitled to 7745
reimbursement for any delinquency charges, except as otherwise 7746
provided by law. In the case of school districts electing to pay 7747
contributions under section 4141.242 of the Revised Code, the 7748
director shall establish procedures for reimbursement of the 7749
district from the fund of contributions made on wages earned by 7750
any auxiliary service personnel. 7751

(B) In the event of the termination of the auxiliary 7752
services program established pursuant to section 3317.06 of the 7753

Revised Code, and after the director has made reimbursement to 7754
school districts for all possible unemployment compensation 7755
claims of persons who were employed pursuant to section 3317.06 7756
of the Revised Code, the director shall certify that fact to the 7757
treasurer of state, who shall then transfer all unexpended 7758
moneys in the auxiliary services personnel unemployment 7759
compensation fund to the general revenue fund. In the event the 7760
auxiliary services personnel unemployment compensation fund 7761
contains insufficient moneys to pay all valid claims by school 7762
districts for reimbursement pursuant to this section, the 7763
director shall estimate the total additional amount necessary to 7764
meet the liabilities of the fund and submit a request to the 7765
general assembly for an appropriation of that amount of money 7766
from the general revenue fund to the auxiliary services 7767
personnel unemployment compensation fund. 7768

(C) All disbursements from the auxiliary services 7769
personnel unemployment compensation fund shall be paid by the 7770
treasurer of state on warrants drawn by the director. The 7771
warrants may ~~bear~~ have the ~~facsimile~~ signature of the director 7772
printed thereon or that of a deputy or other employee of the 7773
director charged with the duty of keeping the account of the 7774
fund. Moneys in the fund shall be maintained in a separate 7775
account on the books of the depository bank. The money shall be 7776
secured by the depository bank to the same extent and in the 7777
same manner as required by Chapter 135. of the Revised Code. All 7778
sums recovered for losses sustained by the fund shall be 7779
deposited therein. The treasurer of state is liable on the 7780
treasurer of state's official bond for the faithful performance 7781
of the treasurer of state's duties in connection with the fund. 7782

(D) All necessary and proper expenses incurred in 7783
administering this section shall be paid to the director from 7784

the auxiliary services personnel unemployment compensation fund. 7785
For this purpose, there is hereby created in the state treasury 7786
the auxiliary services program administrative fund. The 7787
treasurer of state, pursuant to the warrant procedures specified 7788
in division (C) of this section, shall advance moneys as 7789
requested by the director from the auxiliary services personnel 7790
unemployment compensation fund to the auxiliary services program 7791
administrative fund. The director periodically may request the 7792
advance of such moneys as in the treasurer of state's opinion 7793
are needed to meet anticipated administrative expenses and may 7794
make disbursements from the auxiliary services program 7795
administrative fund to pay those expenses. 7796

(E) Upon receipt of a certification from the department of 7797
education regarding a refund to a board of education pursuant to 7798
section 3317.06 of the Revised Code, the director shall issue a 7799
refund in the amount certified to the board from the auxiliary 7800
services personnel unemployment compensation fund. 7801

Sec. 4167.10. (A) In order to carry out the purposes of 7802
this chapter, the administrator of workers' compensation or the 7803
administrator's designee shall, as provided in this section, 7804
enter without delay during normal working hours and at other 7805
reasonable times, to inspect and investigate any plant, 7806
facility, establishment, construction site, or any other area, 7807
workplace, or environment where work is being performed by a 7808
public employee of a public employer, and any place of 7809
employment and all pertinent conditions, structures, machines, 7810
apparatus, devices, equipment, and materials therein, and 7811
question privately any public employer, administrator, 7812
department head, operator, agent, or public employee. The 7813
authority to inspect and investigate includes the taking of 7814
environmental samples, the taking and obtaining of photographs 7815

related to the purposes of the inspection or investigation, the 7816
examination of records required to be kept under section 4167.11 7817
of the Revised Code and other documents and records relevant to 7818
the inspection and investigation, the issuance of subpoenas, and 7819
the conducting of tests and other studies reasonably calculated 7820
to serve the purposes of implementing and enforcing this 7821
chapter. Except as provided in this section, the administrator 7822
or the administrator's designee shall conduct scheduled 7823
inspections and investigations only pursuant to rules adopted 7824
under section 4167.02 of the Revised Code, a request to do so by 7825
a public employee or public employee representative, or the 7826
notification the administrator receives pursuant to division (B) 7827
of section 4167.06 of the Revised Code and only if the 7828
administrator or the administrator's designee complies with this 7829
section. The administrator or the administrator's designee shall 7830
conduct all requested or required inspections within a 7831
reasonable amount of time following receipt of the request or 7832
notification. 7833

(B) (1) Any public employee or public employee 7834
representative who believes that a violation of an Ohio 7835
employment risk reduction standard exists that threatens 7836
physical harm, or that an imminent danger exists, may request an 7837
inspection by giving written notice to the administrator or the 7838
administrator's designee of the violation or danger. The notice 7839
shall set forth with reasonable particularity the grounds for 7840
the notice, and shall be signed by the public employee or public 7841
employee representative. The names of individual public 7842
employees making the notice or referred to therein shall not 7843
appear in the copy provided to the public employer pursuant to 7844
division (B) (2) of this section and shall be kept confidential. 7845

(2) If, upon receipt of a notification pursuant to 7846

division (B) (1) of this section, the administrator determines 7847
that there are no reasonable grounds to believe that a violation 7848
or danger exists, the administrator shall inform the public 7849
employee or public employee representative in writing of the 7850
determination. If, upon receipt of a notification, the 7851
administrator determines that there are reasonable grounds to 7852
believe that a violation or danger exists, the administrator 7853
shall, within one week, excluding Saturdays, Sundays, and any 7854
legal holiday as defined in section 1.14 of the Revised Code, 7855
after receipt of the notification, notify the public employer, 7856
by certified mail, return receipt requested, of the alleged 7857
violation or danger. The notice provided to the public employer 7858
or the public employer's agent shall inform the public employer 7859
of the alleged violation or danger and that the administrator or 7860
the administrator's designee will investigate and inspect the 7861
public employer's workplace as provided in this section. The 7862
public employer must respond to the administrator, in a method 7863
determined by the administrator, concerning the alleged 7864
violation or danger, within thirty days after receipt of the 7865
notice. If the public employer does not correct the violation or 7866
danger within the thirty-day period or if the public employer 7867
fails to respond within that time period, the administrator or 7868
the administrator's designee shall investigate and inspect the 7869
public employer's workplace as provided in this section. The 7870
administrator or the administrator's designee shall not conduct 7871
any inspection prior to the end of the thirty-day period unless 7872
requested or permitted by the public employer. The administrator 7873
may, at any time upon the request of the public employer, 7874
inspect and investigate any violation or danger alleged to exist 7875
at the public employer's place of employment. 7876

(3) The authority of the administrator or the 7877

administrator's designee to investigate and inspect a premises 7878
pursuant to a public employee or public employee representative 7879
notification is not limited to the alleged violation or danger 7880
contained in the notification. The administrator or the 7881
administrator's designee may investigate and inspect any other 7882
area of the premises where there is reason to believe that a 7883
violation or danger exists. In addition, if the administrator or 7884
the administrator's designee detects any obvious or apparent 7885
violation at any temporary place of employment while en route to 7886
the premises to be inspected or investigated, and that violation 7887
presents a substantial probability that the condition or 7888
practice could result in death or serious physical harm, the 7889
administrator or the administrator's designee may use any of the 7890
enforcement mechanisms provided in this section to correct or 7891
remove the condition or practice. 7892

(4) If, during an inspection or investigation, the 7893
administrator or the administrator's designee finds any 7894
condition or practice in any place of employment that presents a 7895
substantial probability that the condition or practice could 7896
result in death or serious physical harm, after notifying the 7897
employer of the administrator's intent to issue an order, the 7898
administrator shall issue an order, or the administrator's 7899
designee shall issue an order after consultation ~~either by~~ 7900
~~telephone or in person~~ with the administrator and upon the 7901
recommendation of the administrator, which prohibits the 7902
employment of any public employee or any continuing operation or 7903
process under such condition or practice until necessary steps 7904
are taken to correct or remove the condition or practice. The 7905
order shall not be effective for more than fifteen days, unless 7906
a court of competent jurisdiction otherwise orders as provided 7907
in section 4167.14 of the Revised Code. 7908

(C) In making any inspections or investigations under this 7909
chapter, the administrator or the administrator's designee may 7910
administer oaths and require, by subpoena, the attendance and 7911
testimony of witnesses and the production of evidence under 7912
oath. Witnesses shall receive the fees and mileage provided for 7913
under section 119.094 of the Revised Code. In the case of 7914
contumacy, failure, or refusal of any person to comply with an 7915
order or any subpoena lawfully issued, or upon the refusal of 7916
any witness to testify to any matter regarding which the witness 7917
may lawfully be interrogated, a judge of the court of common 7918
pleas of any county in this state, on the application of the 7919
administrator or the administrator's designee, shall issue an 7920
order requiring the person to appear and to produce evidence if, 7921
as, and when so ordered, and to give testimony relating to the 7922
matter under investigation or in question. The court may punish 7923
any failure to obey the order of the court as a contempt 7924
thereof. 7925

(D) If, upon inspection or investigation, the 7926
administrator or the administrator's designee believes that a 7927
public employer has violated any requirement of this chapter or 7928
any rule, Ohio employment risk reduction standard, or order 7929
adopted or issued pursuant thereto, the administrator or the 7930
administrator's designee shall, with reasonable promptness, 7931
issue a citation to the public employer. The citation shall be 7932
in writing and describe with particularity the nature of the 7933
alleged violation, including a reference to the provision of 7934
law, Ohio employment risk reduction standard, rule, or order 7935
alleged to have been violated. In addition, the citation shall 7936
fix a time for the abatement of the violation, as provided in 7937
division (H) of this section. The administrator may prescribe 7938
procedures for the issuance of a notice with respect to minor 7939

violations and for enforcement of minor violations that have no 7940
direct or immediate relationship to safety or health. 7941

(E) Upon receipt of any citation under this section, the 7942
public employer shall immediately post the citation, or a copy 7943
thereof, at or near each place an alleged violation referred to 7944
in the citation occurred. 7945

(F) The administrator may not issue a citation under this 7946
section after the expiration of six months following the final 7947
occurrence of any violation. 7948

(G) If the administrator issues a citation pursuant to 7949
this section, the administrator shall mail the citation to the 7950
public employer by certified mail, return receipt requested. The 7951
public employer has fourteen days after receipt of the citation 7952
within which to notify the administrator that the employer 7953
wishes to contest the citation. If the employer notifies the 7954
administrator within the fourteen days that the employer wishes 7955
to contest the citation, or if within fourteen days after the 7956
issuance of a citation a public employee or public employee 7957
representative files notice that the time period fixed in the 7958
citation for the abatement of the violation is unreasonable, the 7959
administrator shall hold an adjudication hearing in accordance 7960
with Chapter 119. of the Revised Code. 7961

(H) In establishing the time limits in which a public 7962
employer must abate a violation under this section, the 7963
administrator shall consider the costs to the public employer, 7964
the size and financial resources of the public employer, the 7965
severity of the violation, the technological feasibility of the 7966
public employer's ability to comply with requirements of the 7967
citation, the possible present and future detriment to the 7968
health and safety of any public employee for failure of the 7969

public employer to comply with requirements of the citation, and 7970
such other factors as the administrator determines appropriate. 7971
The administrator may, after considering the above factors, 7972
permit the public employer to comply with the citation over a 7973
period of up to two years and may extend that period an 7974
additional one year, as the administrator determines 7975
appropriate. 7976

(I) Any public employer may request the administrator to 7977
conduct an employment risk reduction inspection of the public 7978
employer's place of employment. The administrator or the 7979
administrator's designee shall conduct the inspection within a 7980
reasonable amount of time following the request. Neither the 7981
administrator nor any other person may use any information 7982
obtained from the inspection for a period not to exceed three 7983
years in any proceeding for a violation of this chapter or any 7984
rule or order issued thereunder nor in any other action in any 7985
court in this state. 7986

Sec. 4301.17. (A) (1) Subject to local option as provided 7987
in sections 4301.32 to 4301.40 of the Revised Code, five state 7988
liquor stores or agencies may be established in each county. One 7989
additional store may be established in any county for each 7990
twenty thousand of population of that county or major fraction 7991
thereof in excess of the first forty thousand, according to the 7992
last preceding federal decennial census or according to the 7993
population estimates certified by the department of development 7994
between decennial censuses. A person engaged in a mercantile 7995
business may act as the agent for the division of liquor control 7996
for the sale of spirituous liquor in a municipal corporation, in 7997
the unincorporated area of a township, or in an area designated 7998
and approved as a resort area under section 4303.262 of the 7999
Revised Code. The division shall fix the compensation for such 8000

an agent in the manner it considers best, but the compensation 8001
shall not exceed seven per cent of the gross sales made by the 8002
agent in any one year. 8003

(2) The division shall adopt rules in accordance with 8004
Chapter 119. of the Revised Code governing the allocation and 8005
equitable distribution of agency store contracts. The division 8006
shall comply with the rules when awarding a contract under 8007
division (A) (1) of this section. 8008

(3) Pursuant to an agency store's contract, an agency 8009
store may be issued a D-1 permit to sell beer, a D-2 permit to 8010
sell wine and mixed beverages, and a D-5 permit to sell beer, 8011
wine, mixed beverages, and spirituous liquor. 8012

(4) Pursuant to an agency store's contract, an agency 8013
store may be issued a D-3 permit to sell spirituous liquor if 8014
the agency store contains at least ten thousand square feet of 8015
sales floor area. A D-3 permit issued to an agency store shall 8016
not be transferred to a new location. The division shall revoke 8017
any D-3 permit issued to an agency store under division (A) (4) 8018
of this section if the agent no longer operates the agency 8019
store. The division shall not issue a D-3a permit to an agency 8020
store. 8021

(5) An agency store to which a D-8 permit has been issued 8022
may allow the sale of tasting samples of spirituous liquor in 8023
accordance with section 4301.171 of the Revised Code. 8024

(6) An agency store may sell beer, wine, mixed beverages, 8025
and spirituous liquor only between the hours of nine a.m. and 8026
eleven p.m. 8027

(B) When an agency contract is proposed, when an existing 8028
agency contract is assigned, when an existing agency proposes to 8029

relocate, or when an existing agency is relocated and assigned, 8030
before entering into any contract, consenting to any assignment, 8031
or consenting to any relocation, the division shall notify the 8032
legislative authority of the municipal corporation in which the 8033
agency store is to be located, or the board of county 8034
commissioners and the board of township trustees of the county 8035
and the township in which the agency store is to be located if 8036
the agency store is to be located outside the corporate limits 8037
of a municipal corporation, of the proposed contract, 8038
assignment, or relocation, and an opportunity shall be provided 8039
officials or employees of the municipal corporation or county 8040
and township for a complete hearing upon the advisability of 8041
entering into the contract or consenting to the assignment or 8042
relocation. When the division sends notice to the legislative 8043
authority of the political subdivision, the division shall 8044
notify, ~~by certified mail or by personal service,~~ the chief 8045
peace officer of the political subdivision, who may appear and 8046
testify, either in person or through a representative, at any 8047
hearing held on the advisability of entering into the contract 8048
or consenting to the assignment or relocation. 8049

If the proposed agency store, the assignment of an agency 8050
contract, or the relocation of an agency store would be located 8051
within five hundred feet of a school, church, library, public 8052
playground, or township park, the division shall not enter into 8053
an agency contract until it has provided notice of the proposed 8054
contract to the authorities in control of the school, church, 8055
library, public playground, or township park and has provided 8056
those authorities with an opportunity for a complete hearing 8057
upon the advisability of entering into the contract. If an 8058
agency store so located is operating under an agency contract, 8059
the division may consent to relocation of the agency store or to 8060

the assignment of that contract to operate an agency store at 8061
the same location. The division may also consent to the 8062
assignment of an existing agency contract simultaneously with 8063
the relocation of the agency store. In any such assignment or 8064
relocation, the assignee and the location shall be subject to 8065
the same requirements that the existing location met at the time 8066
that the contract was first entered into as well as any 8067
additional requirements imposed by the division in rules adopted 8068
by the superintendent of liquor control. The division shall not 8069
consent to an assignment or relocation of an agency store until 8070
it has notified the authorities in control of the school, 8071
church, library, public playground, or township park and has 8072
provided those authorities with an opportunity for a complete 8073
hearing upon the advisability of consenting to the assignment or 8074
relocation. 8075

Any hearing provided for in this division shall be held in 8076
the central office of the division, except that upon written 8077
request of the legislative authority of the municipal 8078
corporation, the board of county commissioners, the board of 8079
township trustees, or the authorities in control of the school, 8080
church, library, public playground, or township park, the 8081
hearing shall be held in the county seat of the county where the 8082
proposed agency store is to be located. 8083

(C) All agency contracts entered into by the division 8084
pursuant to this section shall be in writing and shall contain a 8085
clause providing for the termination of the contract at will by 8086
the division upon its giving ninety days' notice in writing to 8087
the agent of its intention to do so. Any agency contract may 8088
include a clause requiring the agent to report to the 8089
appropriate law enforcement agency the name and address of any 8090
individual under twenty-one years of age who attempts to make an 8091

illegal purchase. 8092

The division shall issue a C-1 and C-2 permit to each 8093
agent who prior to November 1, 1994, had not been issued both of 8094
these permits, notwithstanding the population quota restrictions 8095
contained in section 4303.29 of the Revised Code or in any rule 8096
of the liquor control commission and notwithstanding the 8097
requirements of section 4303.31 of the Revised Code. The 8098
location of a C-1 or C-2 permit issued to such an agent shall 8099
not be transferred. The division shall revoke any C-1 or C-2 8100
permit issued to an agent under this paragraph if the agent no 8101
longer operates an agency store. 8102

The division may enter into agreements with the department 8103
of development to implement a minority loan program to provide 8104
low-interest loans to minority business enterprises, as defined 8105
in section 122.71 of the Revised Code, that are awarded liquor 8106
agency contracts or assignments. 8107

(D) If the division closes a state liquor store and 8108
replaces that store with an agency store, any employees of the 8109
division employed at that state liquor store who lose their jobs 8110
at that store as a result shall be given preference by the agent 8111
who operates the agency store in filling any vacancies that 8112
occur among the agent's employees, if that preference does not 8113
conflict with the agent's obligations pursuant to a collective 8114
bargaining agreement. 8115

If the division closes a state liquor store and replaces 8116
the store with an agency store, any employees of the division 8117
employed at the state liquor store who lose their jobs at that 8118
store as a result may displace other employees as provided in 8119
sections 124.321 to 124.328 of the Revised Code. If an employee 8120
cannot displace other employees and is laid off, the employee 8121

shall be reinstated in another job as provided in sections 8122
124.321 to 124.328 of the Revised Code, except that the 8123
employee's rights of reinstatement in a job at a state liquor 8124
store shall continue for a period of two years after the date of 8125
the employee's layoff and shall apply to jobs at state liquor 8126
stores located in the employee's layoff jurisdiction and any 8127
layoff jurisdiction adjacent to the employee's layoff 8128
jurisdiction. 8129

(E) The division shall require every agent to give bond 8130
with surety to the satisfaction of the division, in the amount 8131
the division fixes, conditioned for the faithful performance of 8132
the agent's duties as prescribed by the division. 8133

Sec. 4301.30. (A) All fees collected by the division of 8134
liquor control shall be deposited in the state treasury to the 8135
credit of the undivided liquor permit fund, which is hereby 8136
created, at the time prescribed under section 4301.12 of the 8137
Revised Code. Each payment shall be accompanied by a statement 8138
showing separately the amount collected for each class of 8139
permits in each municipal corporation and in each township 8140
outside the limits of any municipal corporation in such 8141
township. 8142

(B) (1) An amount equal to forty-five per cent of the fund 8143
shall be paid from the fund into the state liquor regulatory 8144
fund, which is hereby created in the state treasury. The state 8145
liquor regulatory fund shall be used to pay the operating 8146
expenses of the division of liquor control in administering and 8147
enforcing Title XLIII of the Revised Code and the operating 8148
expenses of the liquor control commission. Investment earnings 8149
of the fund shall be credited to the fund. 8150

(2) Whenever, in the judgment of the director of budget 8151

and management, the amount of money that is in the state liquor 8152
regulatory fund is in excess of the amount that is needed to pay 8153
the operating expenses of the division in administering and 8154
enforcing Title XLIII of the Revised Code and the operating 8155
expenses of the commission, the director shall credit the excess 8156
amount to the general revenue fund. 8157

(C) Twenty per cent of the undivided liquor permit fund 8158
shall be paid into the statewide treatment and prevention fund, 8159
which is hereby created in the state treasury. This amount shall 8160
be appropriated by the general assembly, together with an amount 8161
equal to one and one-half per cent of the gross profit of the 8162
division of liquor control derived under division (B) (4) of 8163
section 4301.10 of the Revised Code, to the department of mental 8164
health and addiction services. In planning for the allocation of 8165
and in allocating these amounts for the purposes of Chapter 8166
5119. of the Revised Code, the department shall comply with the 8167
nondiscrimination provisions of Title VI of the Civil Rights Act 8168
of 1964, and any rules adopted under that act. 8169

(D) Thirty-five per cent of the undivided liquor permit 8170
fund shall be distributed by the superintendent of liquor 8171
control at quarterly calendar periods as follows: 8172

(1) To each municipal corporation, the aggregate amount 8173
shown by the statements to have been collected from permits in 8174
the municipal corporation, for the use of the general fund of 8175
the municipal corporation; 8176

(2) To each township, the aggregate amount shown by the 8177
statements to have been collected from permits in its territory, 8178
outside the limits of any municipal corporation located in the 8179
township, for the use of the general fund of the township, or 8180
for fire protection purposes, including buildings and equipment 8181

in the township or in an established fire district within the 8182
township, to the extent that the funds are derived from liquor 8183
permits within the territory comprising such fire district. 8184

(E) For the purpose of the distribution required by this 8185
section, E, H, and D permits covering boats or vessels are 8186
deemed to have been issued in the municipal corporation or 8187
township wherein the owner or operator of the vehicle, boat, 8188
vessel, or dining car equipment to which the permit relates has 8189
the owner's or operator's principal office or place of business 8190
within the state. 8191

(F) If the ~~liquor control commission~~ division determines 8192
that the police or other officers of any municipal corporation 8193
or township entitled to share in distributions under this 8194
section are refusing or culpably neglecting to enforce this 8195
chapter and Chapter 4303. of the Revised Code, or the penal laws 8196
of this state relating to the manufacture, importation, 8197
transportation, distribution, and sale of beer and intoxicating 8198
liquors, or if the prosecuting officer of a municipal 8199
corporation or a municipal court fails to comply with the 8200
request of the ~~commission~~ division authorized by division (A) (4) 8201
of section 4301.10 of the Revised Code, the ~~commission~~ division, 8202
by certified mail or by electronic means as determined by the 8203
superintendent to provide proper notice under the laws of this 8204
state, may notify the chief executive officer of the municipal 8205
corporation or the board of township trustees of the township of 8206
the failure and require the immediate cooperation of the 8207
responsible officers of the municipal corporation or township 8208
with the division ~~of liquor control~~ in the enforcement of those 8209
chapters and penal laws. Within thirty days after the notice is 8210
served, the ~~commission~~ division shall determine whether the 8211
requirement has been complied with. If the ~~commission~~ division 8212

determines that the requirement has not been complied with, it 8213
may ~~issue an order to the superintendent to~~ withhold the 8214
distributive share of the municipal corporation or township- 8215
~~until further order of the commission.~~ This action of the 8216
~~commission division~~ is reviewable within thirty days thereafter 8217
in the court of common pleas of Franklin county. 8218

(G) All fees collected by the division of liquor control 8219
from the issuance or renewal of B-2a, S-1, and S-2 permits, and 8220
paid by B-2a, S-1, and S-2 permit holders who do not also hold 8221
A-1 or A-1c permits or A-2 or A-2f permits, shall be deposited 8222
in the state treasury to the credit of the state liquor 8223
regulatory fund. Once during each fiscal year, an amount equal 8224
to fifty per cent of the fees collected shall be paid from the 8225
state liquor regulatory fund into the general revenue fund. 8226

Sec. 4303.24. All application processing fees shall be 8227
remitted to the division of liquor control when applications are 8228
filed. The pendency, priority, or validity of an application for 8229
a permit or duplicate permit received by the division shall not 8230
be affected because the division did not issue the permit 8231
applied for or the applicant failed to appeal to the liquor 8232
control commission. 8233

The division, prior to the granting of a permit or 8234
duplicate permit applied for, shall notify, by certified mail, 8235
the applicant or the applicant's authorized agent. The applicant 8236
or the applicant's authorized agent, within thirty days after 8237
the mailing of that notice, shall pay to the division the entire 8238
amount of ~~the any unpaid~~ requisite permit fee required by 8239
sections 4303.02 to 4303.231 or, in the case of a duplicate 8240
permit, section 4303.30 of the Revised Code, if the permit or 8241
duplicate permit is issued during the first six months of the 8242

year the permit or duplicate permit covers, or one-half of the 8243
amount of the requisite permit fee, if the permit or duplicate 8244
permit is issued during the last six months of the year the 8245
permit or duplicate permit covers. If the notice is returned 8246
because of failure or refusal of delivery, the division shall 8247
send another notice, by regular mail or by electronic means as 8248
determined by the division to provide proper notice under the 8249
laws of this state, to the applicant or the applicant's agent. 8250
If the applicant fails to pay the applicable amount of that 8251
requisite permit fee within ~~those~~ thirty days of the mailing of 8252
the last notice, the division shall cancel the applicant's 8253
application. 8254

All other fees shall be paid at the time and in the manner 8255
prescribed by the division. The liquor control commission may 8256
adopt rules requiring reports or returns for the purpose of 8257
determining the amounts of additional permit fees. 8258

Sec. 4507.081. (A) Upon the expiration of a restricted 8259
license issued under division (D) (3) of section 4507.08 of the 8260
Revised Code and submission of a statement as provided in 8261
division (C) of this section, the registrar of motor vehicles 8262
may issue a driver's license to the person to whom the 8263
restricted license was issued. A driver's license issued under 8264
this section, unless otherwise suspended or canceled, shall be 8265
effective for one year. 8266

(B) A driver's license issued under this section may be 8267
renewed annually, for no more than three consecutive years, 8268
whenever the person to whom the license has been issued submits 8269
to the registrar, ~~by certified mail and~~ no sooner than thirty 8270
days prior to the expiration date of the license or renewal 8271
thereof, a statement as provided in division (C) of this 8272

section. A renewal of a driver's license, unless the license is 8273
otherwise suspended or canceled, shall be effective for one year 8274
following the expiration date of the license or renewal thereof, 8275
~~and shall be evidenced by a validation sticker. The renewal~~ 8276
~~validation sticker shall be in a form prescribed by the~~ 8277
~~registrar and shall be affixed to the license.~~ 8278

(C) No person may be issued a driver's license under this 8279
section, and no such driver's license may be renewed, unless the 8280
person presents a signed statement from a licensed physician 8281
that the person's condition either is dormant or is under 8282
effective medical control, that the control has been maintained 8283
continuously for at least one year prior to the date on which 8284
application for the license is made, and that, if continued 8285
medication is prescribed to control the condition, the person 8286
may be depended upon to take the medication. 8287

The statement shall be made on a form provided by the 8288
registrar, ~~shall be in not less than duplicate,~~ and shall 8289
contain any other information the registrar considers necessary. 8290
~~The duplicate copy of the statement may be retained by the~~ 8291
~~person requesting the license renewal and, when in the person's~~ 8292
~~immediate possession and used in conjunction with the original~~ 8293
~~license, shall entitle the person to operate a motor vehicle~~ 8294
~~during a period of no more than thirty days following the date~~ 8295
~~of submission of the statement to the registrar, except when the~~ 8296
~~registrar denies the request for the license renewal and so~~ 8297
~~notifies the person.~~ 8298

(D) Whenever the registrar receives a statement indicating 8299
that the condition of a person to whom a driver's license has 8300
been issued under this section no longer is dormant or under 8301
effective medical control, the registrar shall cancel the 8302

person's driver's license. 8303

(E) Nothing in this section shall require a person 8304
submitting a signed statement from a licensed physician to 8305
obtain a medical examination prior to the submission of the 8306
statement. 8307

(F) Any person whose driver's license has been canceled 8308
under this section may apply for a subsequent restricted license 8309
according to the provisions of section 4507.08 of the Revised 8310
Code. 8311

Sec. 4508.021. (A) As used in this section: 8312

(1) "State agency" has the same meaning as in section 1.60 8313
of the Revised Code. 8314

(2) "Electronic medium" means a ~~video cassette tape, CD-~~ 8315
~~ROM, interactive videodisc, web site, electronic mail~~ 8316
communication, compact disc media, or other electronic format 8317
~~used to convey information to students through electronic~~ 8318
means which information is sent or conveyed. 8319

(B) The classroom instruction required by division (C) of 8320
section 4508.02 of the Revised Code shall include the 8321
dissemination of information regarding anatomical gifts and 8322
anatomical gift procedures or a presentation and discussion of 8323
such gifts and procedures in accordance with this section. The 8324
second chance trust fund advisory committee created under 8325
section 2108.35 of the Revised Code shall approve any brochure, 8326
written material, or electronic medium used by a driver training 8327
school to provide information to students regarding anatomical 8328
gifts and anatomical gift procedures. However, the committee 8329
shall not approve any such brochure, written material, or 8330
electronic medium that contains religious content for use in a 8331

driver education course conducted by a school district or 8332
educational service center. 8333

(C) (1) If any brochure or other written material approved 8334
by the committee under division (B) of this section is made 8335
available to a driver training school at no cost, the instructor 8336
shall provide such brochure or material to students. 8337

(2) If any electronic medium that is less than twenty 8338
minutes in length and that is approved by the committee under 8339
division (B) of this section is made available to a driver 8340
training school at no cost, the instructor shall show the 8341
electronic medium to students, provided that the school 8342
maintains operable viewing equipment. If more than one such 8343
electronic medium is made available to a school in accordance 8344
with this division, the instructor shall select one electronic 8345
medium from among those received by the school to show to 8346
students. 8347

(3) If no electronic medium is shown to students as 8348
specified in division (C) (2) of this section, the instructor 8349
shall organize a classroom presentation and discussion regarding 8350
anatomical gifts and anatomical gift procedures. The instructor 8351
may arrange for the presentation to be conducted by an employee 8352
of the department of health or any other state agency, an 8353
employee or volunteer of the second chance trust fund, an 8354
employee or volunteer of any organization involved in the 8355
procurement of organ donations, an organ donor, an organ 8356
recipient, an employee or volunteer of a tissue or eye bank, or 8357
a tissue or corneal transplant recipient, provided that no such 8358
person charges a fee to the school for the presentation. 8359
However, no such presentation that contains religious content 8360
shall be made to students of a driver education course conducted 8361

by a school district or educational service center. Students 8362
shall be granted the opportunity to ask questions on anatomical 8363
gifts and anatomical gift procedures during the presentation and 8364
discussion. 8365

Nothing in this section shall prohibit an instructor from 8366
also organizing a classroom presentation and discussion 8367
regarding anatomical gifts and anatomical gift procedures in 8368
accordance with this division if the instructor shows an 8369
electronic medium to students pursuant to division (C) (2) of 8370
this section. 8371

(D) No student shall be required to participate in any 8372
instruction in anatomical gifts or anatomical gift procedures 8373
conducted under this section upon written notification from the 8374
student's parent or guardian, or the student if the student is 8375
over eighteen years of age, that such instruction conflicts with 8376
the religious convictions of the student or the student's parent 8377
or guardian. If a student is excused from such instruction, the 8378
instructor shall give the student an alternative assignment. 8379

Sec. 4509.101. (A) (1) No person shall operate, or permit 8380
the operation of, a motor vehicle in this state, unless proof of 8381
financial responsibility is maintained continuously throughout 8382
the registration period with respect to that vehicle, or, in the 8383
case of a driver who is not the owner, with respect to that 8384
driver's operation of that vehicle. 8385

(2) Whoever violates division (A) (1) of this section shall 8386
be subject to the following civil penalties: 8387

(a) Subject to divisions (A) (2) (b) and (c) of this 8388
section, a class (F) suspension of the person's driver's 8389
license, commercial driver's license, temporary instruction 8390

permit, probationary license, or nonresident operating privilege 8391
for the period of time specified in division (B) (6) of section 8392
4510.02 of the Revised Code and impoundment of the person's 8393
license. The court may grant limited driving privileges to the 8394
person, but only if the person presents proof of financial 8395
responsibility and is enrolled in a reinstatement fee payment 8396
plan pursuant to section 4510.10 of the Revised Code. 8397

(b) If, within five years of the violation, the person's 8398
operating privileges are again suspended and the person's 8399
license again is impounded for a violation of division (A) (1) of 8400
this section, a class C suspension of the person's driver's 8401
license, commercial driver's license, temporary instruction 8402
permit, probationary license, or nonresident operating privilege 8403
for the period of time specified in division (B) (3) of section 8404
4510.02 of the Revised Code. The court may grant limited driving 8405
privileges to the person only if the person presents proof of 8406
financial responsibility and has complied with division (A) (5) 8407
of this section, and no court may grant limited driving 8408
privileges for the first fifteen days of the suspension. 8409

(c) If, within five years of the violation, the person's 8410
operating privileges are suspended and the person's license is 8411
impounded two or more times for a violation of division (A) (1) 8412
of this section, a class B suspension of the person's driver's 8413
license, commercial driver's license, temporary instruction 8414
permit, probationary license, or nonresident operating privilege 8415
for the period of time specified in division (B) (2) of section 8416
4510.02 of the Revised Code. The court may grant limited driving 8417
privileges to the person only if the person presents proof of 8418
financial responsibility and has complied with division (A) (5) 8419
of this section, except that no court may grant limited driving 8420
privileges for the first thirty days of the suspension. 8421

(d) In addition to the suspension of an owner's license 8422
under division (A) (2) (a), (b), or (c) of this section, the 8423
suspension of the rights of the owner to register the motor 8424
vehicle and the impoundment of the owner's certificate of 8425
registration and license plates until the owner complies with 8426
division (A) (5) of this section. 8427

The clerk of court shall waive the cost of filing a 8428
petition for limited driving privileges if, pursuant to section 8429
2323.311 of the Revised Code, the petitioner applies to be 8430
qualified as an indigent litigant and the court approves the 8431
application. 8432

(3) A person to whom this state has issued a certificate 8433
of registration for a motor vehicle or a license to operate a 8434
motor vehicle or who is determined to have operated any motor 8435
vehicle or permitted the operation in this state of a motor 8436
vehicle owned by the person shall be required to verify the 8437
existence of proof of financial responsibility covering the 8438
operation of the motor vehicle or the person's operation of the 8439
motor vehicle under either of the following circumstances: 8440

(a) The person or a motor vehicle owned by the person is 8441
involved in a traffic accident that requires the filing of an 8442
accident report under section 4509.06 of the Revised Code. 8443

(b) The person receives a traffic ticket indicating that 8444
proof of the maintenance of financial responsibility was not 8445
produced upon the request of a peace officer or state highway 8446
patrol trooper made in accordance with division (D) (2) of this 8447
section. 8448

(4) An order of the registrar that suspends and impounds a 8449
license or registration, or both, shall state the date on or 8450

before which the person is required to surrender the person's 8451
license or certificate of registration and license plates. The 8452
person is deemed to have surrendered the license or certificate 8453
of registration and license plates, in compliance with the 8454
order, if the person does either of the following: 8455

(a) On or before the date specified in the order, 8456
~~personally delivers the license or certificate of registration~~ 8457
~~and license plates, or causes the delivery of the items,~~ to the 8458
registrar; 8459

(b) Mails the license or certificate of registration and 8460
license plates to the registrar in an envelope or container 8461
bearing a postmark showing a date no later than the date 8462
specified in the order. 8463

(5) Except as provided in division (L) of this section, 8464
the registrar shall not restore any operating privileges or 8465
registration rights suspended under this section, return any 8466
license, certificate of registration, or license plates 8467
impounded under this section, or reissue license plates under 8468
section 4503.232 of the Revised Code, if the registrar destroyed 8469
the impounded license plates under that section, or reissue a 8470
license under section 4510.52 of the Revised Code, if the 8471
registrar destroyed the suspended license under that section, 8472
unless the rights are not subject to suspension or revocation 8473
under any other law and unless the person, in addition to 8474
complying with all other conditions required by law for 8475
reinstatement of the operating privileges or registration 8476
rights, complies with all of the following: 8477

(a) Pays to the registrar or an eligible deputy registrar 8478
a financial responsibility reinstatement fee of one hundred 8479
dollars for the first violation of division (A)(1) of this 8480

section, three hundred dollars for a second violation of that 8481
division, and six hundred dollars for a third or subsequent 8482
violation of that division; 8483

(b) If the person has not voluntarily surrendered the 8484
license, certificate, or license plates in compliance with the 8485
order, pays to the registrar or an eligible deputy registrar a 8486
financial responsibility nonvoluntary compliance fee in an 8487
amount, not to exceed fifty dollars, determined by the 8488
registrar; 8489

(c) Files and continuously maintains proof of financial 8490
responsibility under sections 4509.44 to 4509.65 of the Revised 8491
Code; 8492

(d) Pays a deputy registrar a service fee of ten dollars 8493
to compensate the deputy registrar for services performed under 8494
this section. The deputy registrar shall retain eight dollars of 8495
the service fee and shall transmit the reinstatement fee, any 8496
nonvoluntary compliance fee, and two dollars of the service fee 8497
to the registrar in the manner the registrar shall determine. 8498

(B) (1) Every party required to file an accident report 8499
under section 4509.06 of the Revised Code also shall include 8500
with the report a document described in division (G) (1) (a) of 8501
this section or shall present proof of financial responsibility 8502
through use of an electronic wireless communications device as 8503
permitted by division (G) (1) (b) of this section. 8504

If the registrar determines, within forty-five days after 8505
the report is filed, that an operator or owner has violated 8506
division (A) (1) of this section, the registrar shall do all of 8507
the following: 8508

(a) Order the impoundment, with respect to the motor 8509

vehicle involved, required under division (A) (2) (d) of this 8510
section, of the certificate of registration and license plates 8511
of any owner who has violated division (A) (1) of this section; 8512

(b) Order the suspension required under division (A) (2) 8513
(a), (b), or (c) of this section of the license of any operator 8514
or owner who has violated division (A) (1) of this section; 8515

(c) Record the name and address of the person whose 8516
certificate of registration and license plates have been 8517
impounded or are under an order of impoundment, or whose license 8518
has been suspended or is under an order of suspension; the 8519
serial number of the person's license; the serial numbers of the 8520
person's certificate of registration and license plates; and the 8521
person's social security account number, if assigned, or, where 8522
the motor vehicle is used for hire or principally in connection 8523
with any established business, the person's federal taxpayer 8524
identification number. The information shall be recorded in such 8525
a manner that it becomes a part of the person's permanent 8526
record, and assists the registrar in monitoring compliance with 8527
the orders of suspension or impoundment. 8528

(d) Send written notification to every person to whom the 8529
order pertains, at the person's last known address as shown on 8530
the records of the bureau. The person, within ten days after the 8531
date of the mailing of the notification, shall surrender to the 8532
registrar, in a manner set forth in division (A) (4) of this 8533
section, any certificate of registration and registration plates 8534
under an order of impoundment, or any license under an order of 8535
suspension. 8536

(2) The registrar shall issue any order under division (B) 8537
(1) of this section without a hearing. Any person adversely 8538
affected by the order, within ten days after the issuance of the 8539

order, may request an administrative hearing before the 8540
registrar, who shall provide the person with an opportunity for 8541
a hearing in accordance with this paragraph. A request for a 8542
hearing does not operate as a suspension of the order. The scope 8543
of the hearing shall be limited to whether the person in fact 8544
demonstrated to the registrar proof of financial responsibility 8545
in accordance with this section. The registrar shall determine 8546
the date, time, and place of any hearing, provided that the 8547
hearing shall be held, and an order issued or findings made, 8548
within thirty days after the registrar receives a request for a 8549
hearing. If requested by the person in writing, the registrar 8550
may designate as the place of hearing the county seat of the 8551
county in which the person resides or a place within fifty miles 8552
of the person's residence. The person shall pay the cost of the 8553
hearing before the registrar, if the registrar's order of 8554
suspension or impoundment is upheld. 8555

(C) Any order of suspension or impoundment issued under 8556
this section or division (B) of section 4509.37 of the Revised 8557
Code may be terminated at any time if the registrar determines 8558
upon a showing of proof of financial responsibility that the 8559
operator or owner of the motor vehicle was in compliance with 8560
division (A)(1) of this section at the time of the traffic 8561
offense, motor vehicle inspection, or accident that resulted in 8562
the order against the person. A determination may be made 8563
without a hearing. This division does not apply unless the 8564
person shows good cause for the person's failure to present 8565
satisfactory proof of financial responsibility to the registrar 8566
prior to the issuance of the order. 8567

(D) (1) (a) For the purpose of enforcing this section, every 8568
peace officer is deemed an agent of the registrar. 8569

(b) Any peace officer who, in the performance of the peace officer's duties as authorized by law, becomes aware of a person whose license is under an order of suspension, or whose certificate of registration and license plates are under an order of impoundment, pursuant to this section, may confiscate the license, certificate of registration, and license plates, and return them to the registrar.

(2) A peace officer shall request the owner or operator of a motor vehicle to produce proof of financial responsibility in a manner described in division (G) of this section at the time the peace officer acts to enforce the traffic laws of this state and during motor vehicle inspections conducted pursuant to section 4513.02 of the Revised Code.

(3) A peace officer shall indicate on every traffic ticket whether the person receiving the traffic ticket produced proof of the maintenance of financial responsibility in response to the officer's request under division (D)(2) of this section. The peace officer shall inform every person who receives a traffic ticket and who has failed to produce proof of the maintenance of financial responsibility that the person must submit proof to the traffic violations bureau with any payment of a fine and costs for the ticketed violation or, if the person is to appear in court for the violation, the person must submit proof to the court.

(4) (a) If a person who has failed to produce proof of the maintenance of financial responsibility appears in court for a ticketed violation, the court may permit the defendant to present evidence of proof of financial responsibility to the court at such time and in such manner as the court determines to be necessary or appropriate. In a manner prescribed by the

registrar, the clerk of courts shall provide the registrar with 8600
the identity of any person who fails to submit proof of the 8601
maintenance of financial responsibility pursuant to division (D) 8602
(3) of this section. 8603

(b) If a person who has failed to produce proof of the 8604
maintenance of financial responsibility also fails to submit 8605
that proof to the traffic violations bureau with payment of a 8606
fine and costs for the ticketed violation, the traffic 8607
violations bureau, in a manner prescribed by the registrar, 8608
shall notify the registrar of the identity of that person. 8609

(5) (a) Upon receiving notice from a clerk of courts or 8610
traffic violations bureau pursuant to division (D) (4) of this 8611
section, the registrar shall order the suspension of the license 8612
of the person required under division (A) (2) (a), (b), or (c) of 8613
this section and the impoundment of the person's certificate of 8614
registration and license plates required under division (A) (2) 8615
(d) of this section, effective thirty days after the date of the 8616
mailing of notification. The registrar also shall notify the 8617
person that the person must present the registrar with proof of 8618
financial responsibility in accordance with this section, 8619
surrender to the registrar the person's certificate of 8620
registration, license plates, and license, or submit a statement 8621
subject to section 2921.13 of the Revised Code that the person 8622
did not operate or permit the operation of the motor vehicle at 8623
the time of the offense. Notification shall be in writing and 8624
shall be sent to the person at the person's last known address 8625
as shown on the records of the bureau of motor vehicles. The 8626
person, within fifteen days after the date of the mailing of 8627
notification, shall present proof of financial responsibility, 8628
surrender the certificate of registration, license plates, and 8629
license to the registrar in a manner set forth in division (A) 8630

(4) of this section, or submit the statement required under this 8631
section together with other information the person considers 8632
appropriate. 8633

If the registrar does not receive proof or the person does 8634
not surrender the certificate of registration, license plates, 8635
and license, in accordance with this division, the registrar 8636
shall permit the order for the suspension of the license of the 8637
person and the impoundment of the person's certificate of 8638
registration and license plates to take effect. 8639

(b) In the case of a person who presents, within the 8640
fifteen-day period, proof of financial responsibility, the 8641
registrar shall terminate the order of suspension and the 8642
impoundment of the registration and license plates required 8643
under division (A) (2) (d) of this section and shall send written 8644
notification to the person, at the person's last known address 8645
as shown on the records of the bureau. 8646

(c) Any person adversely affected by the order of the 8647
registrar under division (D) (5) (a) or (b) of this section, 8648
within ten days after the issuance of the order, may request an 8649
administrative hearing before the registrar, who shall provide 8650
the person with an opportunity for a hearing in accordance with 8651
this paragraph. A request for a hearing does not operate as a 8652
suspension of the order. The scope of the hearing shall be 8653
limited to whether, at the time of the hearing, the person 8654
presents proof of financial responsibility covering the vehicle 8655
and whether the person is eligible for an exemption in 8656
accordance with this section or any rule adopted under it. The 8657
registrar shall determine the date, time, and place of any 8658
hearing; ~~provided, that the hearing shall be held, and an order~~ 8659
~~issued or findings made, within thirty days after the registrar~~ 8660

~~receives a request for a hearing. The hearing may be held~~ 8661
~~remotely.~~ If requested by the person in writing, the registrar 8662
may designate as the place of hearing the county seat of the 8663
county in which the person resides or a place within fifty miles 8664
of the person's residence. Such person shall pay the cost of the 8665
hearing before the registrar, if the registrar's order of 8666
suspension or impoundment under division (D)(5)(a) or (b) of 8667
this section is upheld. 8668

(6) A peace officer may charge an owner or operator of a 8669
motor vehicle with a violation of section 4510.16 of the Revised 8670
Code when the owner or operator fails to show proof of the 8671
maintenance of financial responsibility pursuant to a peace 8672
officer's request under division (D)(2) of this section, if a 8673
check of the owner or operator's driving record indicates that 8674
the owner or operator, at the time of the operation of the motor 8675
vehicle, is required to file and maintain proof of financial 8676
responsibility under section 4509.45 of the Revised Code for a 8677
previous violation of this chapter. 8678

(7) Any forms used by law enforcement agencies in 8679
administering this section shall be prescribed, supplied, and 8680
paid for by the registrar. 8681

(8) No peace officer, law enforcement agency employing a 8682
peace officer, or political subdivision or governmental agency 8683
that employs a peace officer shall be liable in a civil action 8684
for damages or loss to persons arising out of the performance of 8685
any duty required or authorized by this section. 8686

(9) As used in this section, "peace officer" has the 8687
meaning set forth in section 2935.01 of the Revised Code. 8688

(E) All fees, except court costs, fees paid to a deputy 8689

registrar, and those portions of the financial responsibility 8690
reinstatement fees as otherwise specified in this division, 8691
collected under this section shall be paid into the state 8692
treasury to the credit of the public safety - highway purposes 8693
fund established in section 4501.06 of the Revised Code and used 8694
to cover costs incurred by the bureau in the administration of 8695
this section and sections 4503.20, 4507.212, and 4509.81 of the 8696
Revised Code, and by any law enforcement agency employing any 8697
peace officer who returns any license, certificate of 8698
registration, and license plates to the registrar pursuant to 8699
division (C) of this section. 8700

Of each financial responsibility reinstatement fee the 8701
registrar collects pursuant to division (A) (5) (a) of this 8702
section or receives from a deputy registrar under division (A) 8703
(5) (d) of this section, the registrar shall deposit twenty-five 8704
dollars of each one-hundred-dollar reinstatement fee, fifty 8705
dollars of each three-hundred-dollar reinstatement fee, and one 8706
hundred dollars of each six-hundred-dollar reinstatement fee 8707
into the state treasury to the credit of the indigent defense 8708
support fund created by section 120.08 of the Revised Code. 8709

(F) Chapter 119. of the Revised Code applies to this 8710
section only to the extent that any provision in that chapter is 8711
not clearly inconsistent with this section. 8712

(G) (1) (a) The registrar, court, traffic violations bureau, 8713
or peace officer may require proof of financial responsibility 8714
to be demonstrated by use of a standard form prescribed by the 8715
registrar. If the use of a standard form is not required, a 8716
person may demonstrate proof of financial responsibility under 8717
this section by presenting to the traffic violations bureau, 8718
court, registrar, or peace officer any of the following 8719

documents or a copy of the documents: 8720

(i) A financial responsibility identification card as 8721
provided in section 4509.103 of the Revised Code; 8722

(ii) A certificate of proof of financial responsibility on 8723
a form provided and approved by the registrar for the filing of 8724
an accident report required to be filed under section 4509.06 of 8725
the Revised Code; 8726

(iii) A policy of liability insurance, a declaration page 8727
of a policy of liability insurance, or liability bond, if the 8728
policy or bond complies with section 4509.20 or sections 4509.49 8729
to 4509.61 of the Revised Code; 8730

(iv) A bond or certification of the issuance of a bond as 8731
provided in section 4509.59 of the Revised Code; 8732

(v) A certificate of deposit of money or securities as 8733
provided in section 4509.62 of the Revised Code; 8734

(vi) A certificate of self-insurance as provided in 8735
section 4509.72 of the Revised Code. 8736

(b) A person also may present proof of financial 8737
responsibility under this section to the traffic violations 8738
bureau, court, registrar, or peace officer through use of an 8739
electronic wireless communications device as specified under 8740
section 4509.103 of the Revised Code. 8741

(2) If a person fails to demonstrate proof of financial 8742
responsibility in a manner described in division (G)(1) of this 8743
section, the person may demonstrate proof of financial 8744
responsibility under this section by any other method that the 8745
court or the bureau, by reason of circumstances in a particular 8746
case, may consider appropriate. 8747

(3) A motor carrier certificated by the interstate 8748
commerce commission or by the public utilities commission may 8749
demonstrate proof of financial responsibility by providing a 8750
statement designating the motor carrier's operating authority 8751
and averring that the insurance coverage required by the 8752
certificating authority is in full force and effect. 8753

(4) (a) A finding by the registrar or court that a person 8754
is covered by proof of financial responsibility in the form of 8755
an insurance policy or surety bond is not binding upon the named 8756
insurer or surety or any of its officers, employees, agents, or 8757
representatives and has no legal effect except for the purpose 8758
of administering this section. 8759

(b) The preparation and delivery of a financial 8760
responsibility identification card or any other document 8761
authorized to be used as proof of financial responsibility and 8762
the generation and delivery of proof of financial responsibility 8763
to an electronic wireless communications device that is 8764
displayed on the device as text or images does not do any of the 8765
following: 8766

(i) Create any liability or estoppel against an insurer or 8767
surety, or any of its officers, employees, agents, or 8768
representatives; 8769

(ii) Constitute an admission of the existence of, or of 8770
any liability or coverage under, any policy or bond; 8771

(iii) Waive any defenses or counterclaims available to an 8772
insurer, surety, agent, employee, or representative in an action 8773
commenced by an insured or third-party claimant upon a cause of 8774
action alleged to have arisen under an insurance policy or 8775
surety bond or by reason of the preparation and delivery of a 8776

document for use as proof of financial responsibility or the 8777
generation and delivery of proof of financial responsibility to 8778
an electronic wireless communications device. 8779

(c) Whenever it is determined by a final judgment in a 8780
judicial proceeding that an insurer or surety, which has been 8781
named on a document or displayed on an electronic wireless 8782
communications device accepted by a court or the registrar as 8783
proof of financial responsibility covering the operation of a 8784
motor vehicle at the time of an accident or offense, is not 8785
liable to pay a judgment for injuries or damages resulting from 8786
such operation, the registrar, notwithstanding any previous 8787
contrary finding, shall forthwith suspend the operating 8788
privileges and registration rights of the person against whom 8789
the judgment was rendered as provided in division (A) (2) of this 8790
section. 8791

(H) In order for any document or display of text or images 8792
on an electronic wireless communications device described in 8793
division (G) (1) of this section to be used for the demonstration 8794
of proof of financial responsibility under this section, the 8795
document or words or images shall state the name of the insured 8796
or obligor, the name of the insurer or surety company, and the 8797
effective and expiration dates of the financial responsibility, 8798
and designate by explicit description or by appropriate 8799
reference all motor vehicles covered which may include a 8800
reference to fleet insurance coverage. 8801

(I) For purposes of this section, "owner" does not include 8802
a licensed motor vehicle leasing dealer as defined in section 8803
4517.01 of the Revised Code, but does include a motor vehicle 8804
renting dealer as defined in section 4549.65 of the Revised 8805
Code. Nothing in this section or in section 4509.51 of the 8806

Revised Code shall be construed to prohibit a motor vehicle 8807
renting dealer from entering into a contractual agreement with a 8808
person whereby the person renting the motor vehicle agrees to be 8809
solely responsible for maintaining proof of financial 8810
responsibility, in accordance with this section, with respect to 8811
the operation, maintenance, or use of the motor vehicle during 8812
the period of the motor vehicle's rental. 8813

(J) The purpose of this section is to require the 8814
maintenance of proof of financial responsibility with respect to 8815
the operation of motor vehicles on the highways of this state, 8816
so as to minimize those situations in which persons are not 8817
compensated for injuries and damages sustained in motor vehicle 8818
accidents. The general assembly finds that this section contains 8819
reasonable civil penalties and procedures for achieving this 8820
purpose. 8821

(K) Nothing in this section shall be construed to be 8822
subject to section 4509.78 of the Revised Code. 8823

(L) (1) The registrar may terminate any suspension imposed 8824
under this section and not require the owner to comply with 8825
divisions (A) (5) (a), (b), and (c) of this section if the 8826
registrar with or without a hearing determines that the owner of 8827
the vehicle has established by clear and convincing evidence 8828
that all of the following apply: 8829

(a) The owner customarily maintains proof of financial 8830
responsibility. 8831

(b) Proof of financial responsibility was not in effect 8832
for the vehicle on the date in question for one of the following 8833
reasons: 8834

(i) The vehicle was inoperable. 8835

(ii) The vehicle is operated only seasonally, and the date 8836
in question was outside the season of operation. 8837

(iii) A person other than the vehicle owner or driver was 8838
at fault for the lapse of proof of financial responsibility 8839
through no fault of the owner or driver. 8840

(iv) The lapse of proof of financial responsibility was 8841
caused by excusable neglect under circumstances that are not 8842
likely to recur and do not suggest a purpose to evade the 8843
requirements of this chapter. 8844

(2) The registrar may grant an owner or driver relief for 8845
a reason specified in division (L)(1)(b)(iii) or (iv) of this 8846
section only if the owner or driver has not previously been 8847
granted relief under division (L)(1)(b)(iii) or (iv) of this 8848
section. 8849

(M) The registrar shall adopt rules in accordance with 8850
Chapter 119. of the Revised Code that are necessary to 8851
administer and enforce this section. The rules shall include 8852
procedures for the surrender of license plates upon failure to 8853
maintain proof of financial responsibility and provisions 8854
relating to reinstatement of registration rights, acceptable 8855
forms of proof of financial responsibility, the use of an 8856
electronic wireless communications device to present proof of 8857
financial responsibility, and verification of the existence of 8858
financial responsibility during the period of registration. 8859

(N) (1) When a person utilizes an electronic wireless 8860
communications device to present proof of financial 8861
responsibility, only the evidence of financial responsibility 8862
displayed on the device shall be viewed by the registrar, peace 8863
officer, employee or official of the traffic violations bureau, 8864

or the court. No other content of the device shall be viewed for 8865
purposes of obtaining proof of financial responsibility. 8866

(2) When a person provides an electronic wireless 8867
communications device to the registrar, a peace officer, an 8868
employee or official of a traffic violations bureau, or the 8869
court, the person assumes the risk of any resulting damage to 8870
the device unless the registrar, peace officer, employee, or 8871
official, or court personnel purposely, knowingly, or recklessly 8872
commits an action that results in damage to the device. 8873

Sec. 4510.03. (A) Every county court judge, mayor of a 8874
mayor's court, and clerk of a court of record shall keep a full 8875
record of every case in which a person is charged with any 8876
violation of any provision of sections 4511.01 to 4511.771 or 8877
4513.01 to 4513.36 of the Revised Code or of any other law or 8878
ordinance regulating the operation of vehicles, streetcars, and 8879
trackless trolleys on highways or streets. 8880

(B) If a person is convicted of or forfeits bail in 8881
relation to a violation of any section listed in division (A) of 8882
this section or a violation of any other law or ordinance 8883
regulating the operation of vehicles, streetcars, and trackless 8884
trolleys on highways or streets, the county court judge, mayor 8885
of a mayor's court, or clerk, within seven days after the 8886
conviction or bail forfeiture, shall prepare and immediately 8887
forward to the bureau of motor vehicles, in a secure electronic 8888
format, an abstract, certified by the preparer to be true and 8889
correct, of the court record covering the case in which the 8890
person was convicted or forfeited bail. Every court of record 8891
also shall forward to the bureau of motor vehicles, in a secure 8892
electronic format, an abstract of the court record as described 8893
in division (C) of this section upon the conviction of any 8894

person of aggravated vehicular homicide or vehicular homicide or 8895
of a felony in the commission of which a vehicle was used. 8896

(C) Each abstract required by this section shall be made 8897
upon a form approved and furnished by the bureau and shall 8898
include the name and address of the person charged, the number 8899
of the person's driver's or commercial driver's license, 8900
probationary driver's license, or temporary instruction permit, 8901
the registration number of the vehicle involved, the nature of 8902
the offense, the date of the offense, the date of hearing, the 8903
plea, the judgment, or whether bail was forfeited, and the 8904
amount of the fine or forfeiture. 8905

Sec. 4510.41. (A) As used in this section: 8906

(1) "Arrested person" means a person who is arrested for a 8907
violation of section 4510.14 or 4511.203 of the Revised Code, or 8908
a municipal ordinance that is substantially equivalent to either 8909
of those sections, and whose arrest results in a vehicle being 8910
seized under division (B) of this section. 8911

(2) "Vehicle owner" means either of the following: 8912

(a) The person in whose name is registered, at the time of 8913
the seizure, a vehicle that is seized under division (B) of this 8914
section; 8915

(b) A person to whom the certificate of title to a vehicle 8916
that is seized under division (B) of this section has been 8917
assigned and who has not obtained a certificate of title to the 8918
vehicle in that person's name, but who is deemed by the court as 8919
being the owner of the vehicle at the time the vehicle was 8920
seized under division (B) of this section. 8921

(3) "Interested party" includes the owner of a vehicle 8922
seized under this section, all lienholders, the arrested person, 8923

the owner of the place of storage at which a vehicle seized 8924
under this section is stored, and the person or entity that 8925
caused the vehicle to be removed. 8926

(B) (1) If a person is arrested for a violation of section 8927
4510.14 or 4511.203 of the Revised Code or a municipal ordinance 8928
that is substantially equivalent to either of those sections, 8929
the arresting officer or another officer of the law enforcement 8930
agency that employs the arresting officer, in addition to any 8931
action that the arresting officer is required or authorized to 8932
take by any other provision of law, shall seize the vehicle that 8933
the person was operating at the time of, or that was involved 8934
in, the alleged offense if the vehicle is registered in the 8935
arrested person's name and its license plates. A law enforcement 8936
agency that employs a law enforcement officer who makes an 8937
arrest of a type that is described in this division and that 8938
involves a rented or leased vehicle that is being rented or 8939
leased for a period of thirty days or less shall notify, within 8940
twenty-four hours after the officer makes the arrest, the lessor 8941
or owner of the vehicle regarding the circumstances of the 8942
arrest and the location at which the vehicle may be picked up. 8943
At the time of the seizure of the vehicle, the law enforcement 8944
officer who made the arrest shall give the arrested person 8945
written notice that the vehicle and its license plates have been 8946
seized; that the vehicle either will be kept by the officer's 8947
law enforcement agency or will be immobilized at least until the 8948
person's initial appearance on the charge of the offense for 8949
which the arrest was made; that, at the initial appearance, the 8950
court in certain circumstances may order that the vehicle and 8951
license plates be released to the arrested person until the 8952
disposition of that charge; that, if the arrested person is 8953
convicted of that charge, the court generally must order the 8954

immobilization of the vehicle and the impoundment of its license 8955
plates or the forfeiture of the vehicle; and that the arrested 8956
person may be charged expenses or charges incurred under this 8957
section and section 4503.233 of the Revised Code for the removal 8958
and storage of the vehicle. 8959

(2) The arresting officer or a law enforcement officer of 8960
the agency that employs the arresting officer shall give written 8961
notice of the seizure under division (B)(1) of this section to 8962
the court that will conduct the initial appearance of the 8963
arrested person on the charges arising out of the arrest. Upon 8964
receipt of the notice, the court promptly shall determine 8965
whether the arrested person is the vehicle owner. If the court 8966
determines that the arrested person is not the vehicle owner, it 8967
promptly shall send by regular mail written notice of the 8968
seizure to the vehicle's registered owner. The written notice 8969
shall contain all of the information required by division (B)(1) 8970
of this section to be in a notice to be given to the arrested 8971
person and also shall specify the date, time, and place of the 8972
arrested person's initial appearance. The notice also shall 8973
inform the vehicle owner that if title to a motor vehicle that 8974
is subject to an order for criminal forfeiture under this 8975
section is assigned or transferred and division (B)(2) or (3) of 8976
section 4503.234 of the Revised Code applies, the court may fine 8977
the arrested person the value of the vehicle. The notice also 8978
shall state that if the vehicle is immobilized under division 8979
(A) of section 4503.233 of the Revised Code, seven days after 8980
the end of the period of immobilization a law enforcement agency 8981
will send the vehicle owner a notice, informing the owner that 8982
if the release of the vehicle is not obtained in accordance with 8983
division (D)(3) of section 4503.233 of the Revised Code, the 8984
vehicle shall be forfeited. The notice also shall inform the 8985

vehicle owner that the owner may be charged expenses or charges 8986
incurred under this section and section 4503.233 of the Revised 8987
Code for the removal and storage of the vehicle. 8988

The written notice that is given to the arrested person 8989
also shall state that if the person is convicted of or pleads 8990
guilty to the offense and the court issues an immobilization and 8991
impoundment order relative to that vehicle, division (D)(4) of 8992
section 4503.233 of the Revised Code prohibits the vehicle from 8993
being sold during the period of immobilization without the prior 8994
approval of the court. 8995

(3) At or before the initial appearance, the vehicle owner 8996
may file a motion requesting the court to order that the vehicle 8997
and its license plates be released to the vehicle owner. Except 8998
as provided in this division and subject to the payment of 8999
expenses or charges incurred in the removal and storage of the 9000
vehicle, the court, in its discretion, then may issue an order 9001
releasing the vehicle and its license plates to the vehicle 9002
owner. Such an order may be conditioned upon such terms as the 9003
court determines appropriate, including the posting of a bond in 9004
an amount determined by the court. If the arrested person is not 9005
the vehicle owner and if the vehicle owner is not present at the 9006
arrested person's initial appearance, and if the court believes 9007
that the vehicle owner was not provided with adequate notice of 9008
the initial appearance, the court, in its discretion, may allow 9009
the vehicle owner to file a motion within seven days of the 9010
initial appearance. If the court allows the vehicle owner to 9011
file such a motion after the initial appearance, the extension 9012
of time granted by the court does not extend the time within 9013
which the initial appearance is to be conducted. If the court 9014
issues an order for the release of the vehicle and its license 9015
plates, a copy of the order shall be made available to the 9016

vehicle owner. If the vehicle owner presents a copy of the order 9017
to the law enforcement agency that employs the law enforcement 9018
officer who arrested the arrested person, the law enforcement 9019
agency promptly shall release the vehicle and its license plates 9020
to the vehicle owner upon payment by the vehicle owner of any 9021
expenses or charges incurred in the removal or storage of the 9022
vehicle. 9023

(4) A vehicle seized under division (B)(1) of this section 9024
either shall be towed to a place specified by the law 9025
enforcement agency that employs the arresting officer to be 9026
safely kept by the agency at that place for the time and in the 9027
manner specified in this section or shall be otherwise 9028
immobilized for the time and in the manner specified in this 9029
section. ~~A law enforcement officer of that agency shall remove~~ 9030
~~the identification license plates of the vehicle, and they shall~~ 9031
~~be safely kept by the agency for the time and in the manner~~ 9032
~~specified in this section. The license plates shall remain on~~ 9033
~~the seized vehicle unless otherwise ordered by the court.~~ No 9034
vehicle that is seized and either towed or immobilized pursuant 9035
to this division shall be considered contraband for purposes of 9036
Chapter 2981. of the Revised Code. The vehicle shall not be 9037
immobilized at any place other than a commercially operated 9038
private storage lot, a place owned by a law enforcement or other 9039
government agency, or a place to which one of the following 9040
applies: 9041

(a) The place is leased by or otherwise under the control 9042
of a law enforcement or other government agency. 9043

(b) The place is owned by the arrested person, the 9044
arrested person's spouse, or a parent or child of the arrested 9045
person. 9046

(c) The place is owned by a private person or entity, and, 9047
prior to the immobilization, the private entity or person that 9048
owns the place, or the authorized agent of that private entity 9049
or person, has given express written consent for the 9050
immobilization to be carried out at that place. 9051

(d) The place is a public street or highway on which the 9052
vehicle is parked in accordance with the law. 9053

(C) (1) A vehicle seized under division (B) (1) of this 9054
section shall be safely kept at the place to which it is towed 9055
or otherwise moved by the law enforcement agency that employs 9056
the arresting officer until the initial appearance of the 9057
arrested person relative to the charge in question. The license 9058
plates ~~of shall remain on the seized vehicle that are removed~~ 9059
~~pursuant to division (B) (1) of this section shall be safely kept~~ 9060
~~by the law enforcement agency that employs the arresting officer~~ 9061
~~until at least the initial appearance of the arrested person~~ 9062
~~relative to the charge in question unless otherwise ordered by~~ 9063
~~the court.~~ 9064

(2) (a) At the initial appearance or not less than seven 9065
days prior to the date of final disposition, the court shall 9066
notify the arrested person that, if title to a motor vehicle 9067
that is subject to an order for criminal forfeiture under this 9068
section is assigned or transferred and division (B) (2) or (3) of 9069
section 4503.234 of the Revised Code applies, the court may fine 9070
the arrested person the value of the vehicle. If, at the initial 9071
appearance, the arrested person pleads guilty to the violation 9072
of section 4510.14 or 4511.203 of the Revised Code, or a 9073
municipal ordinance that is substantially equivalent to either 9074
of those sections or pleads no contest to and is convicted of 9075
the violation, the following sentencing provisions apply: 9076

(i) If the person violated section 4510.14 of the Revised Code or a municipal ordinance that is substantially equivalent to that section, the court shall impose sentence upon the person as provided by law or ordinance; the court shall order the immobilization of the vehicle the arrested person was operating at the time of, or that was involved in, the offense if registered in the arrested person's name and the impoundment of its license plates under sections 4503.233 and 4510.14 of the Revised Code or the criminal forfeiture to the state of the vehicle if registered in the arrested person's name under sections 4503.234 and 4510.14 of the Revised Code, whichever is applicable; and the vehicle and its license plates shall not be returned or released to the arrested person.

(ii) If the person violated section 4511.203 of the Revised Code or a municipal ordinance that is substantially equivalent to that section, the court shall impose sentence upon the person as provided by law or ordinance; the court may order the immobilization of the vehicle the arrested person was operating at the time of, or that was involved in, the offense if registered in the arrested person's name and the impoundment of its license plates under section 4503.233 and section 4511.203 of the Revised Code or the criminal forfeiture to the state of the vehicle if registered in the arrested person's name under section 4503.234 and section 4511.203 of the Revised Code, whichever is applicable; and the vehicle and its license plates shall not be returned or released to the arrested person.

(b) If, at any time, the charge that the arrested person violated section 4510.14 or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to either of those sections is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its

license plates immediately be released to the person. 9108

(D) If a vehicle and its license plates are seized under 9109
division (B)(1) of this section and are not returned or released 9110
to the arrested person pursuant to division (C) of this section, 9111
the vehicle and its license plates shall be retained until the 9112
final disposition of the charge in question. Upon the final 9113
disposition of that charge, the court shall do whichever of the 9114
following is applicable: 9115

(1) If the arrested person is convicted of or pleads 9116
guilty to the violation of section 4510.14 of the Revised Code 9117
or a municipal ordinance that is substantially equivalent to 9118
that section, the court shall impose sentence upon the person as 9119
provided by law or ordinance and shall order the immobilization 9120
of the vehicle the person was operating at the time of, or that 9121
was involved in, the offense if it is registered in the arrested 9122
person's name and the impoundment of its license plates under 9123
sections 4503.233 and 4510.14 of the Revised Code or the 9124
criminal forfeiture of the vehicle if it is registered in the 9125
arrested person's name under sections 4503.234 and 4510.14 of 9126
the Revised Code, whichever is applicable. 9127

(2) If the arrested person is convicted of or pleads 9128
guilty to the violation of section 4511.203 of the Revised Code, 9129
or a municipal ordinance that is substantially equivalent to 9130
that section, the court shall impose sentence upon the person as 9131
provided by law or ordinance and may order the immobilization of 9132
the vehicle the person was operating at the time of, or that was 9133
involved in, the offense if it is registered in the arrested 9134
person's name and the impoundment of its license plates under 9135
section 4503.233 and section 4511.203 of the Revised Code or the 9136
criminal forfeiture of the vehicle if it is registered in the 9137

arrested person's name under section 4503.234 and section 9138
4511.203 of the Revised Code, whichever is applicable. 9139

(3) If the arrested person is found not guilty of the 9140
violation of section 4510.14 or 4511.203 of the Revised Code, or 9141
a municipal ordinance that is substantially equivalent to either 9142
of those sections, the court shall order that the vehicle and 9143
its license plates immediately be released to the arrested 9144
person. 9145

(4) If the charge that the arrested person violated 9146
section 4510.14 or 4511.203 of the Revised Code, or a municipal 9147
ordinance that is substantially equivalent to either of those 9148
sections is dismissed for any reason, the court shall order that 9149
the vehicle and its license plates immediately be released to 9150
the arrested person. 9151

(5) If the impoundment of the vehicle was not authorized 9152
under this section, the court shall order that the vehicle and 9153
its license plates be returned immediately to the arrested 9154
person or, if the arrested person is not the vehicle owner, to 9155
the vehicle owner and shall order that the state or political 9156
subdivision of the law enforcement agency served by the law 9157
enforcement officer who seized the vehicle pay all expenses and 9158
charges incurred in its removal and storage. 9159

(E) If a vehicle is seized under division (B) (2) of this 9160
section, the time between the seizure of the vehicle and either 9161
its release to the arrested person pursuant to division (C) of 9162
this section or the issuance of an order of immobilization of 9163
the vehicle under section 4503.233 of the Revised Code shall be 9164
credited against the period of immobilization ordered by the 9165
court. 9166

(F) (1) Except as provided in division (D) (4) of this 9167
section, the arrested person may be charged expenses or charges 9168
incurred in the removal and storage of the immobilized vehicle. 9169
The court with jurisdiction over the case, after notice to all 9170
interested parties, including lienholders, and after an 9171
opportunity for them to be heard, if the court finds that the 9172
arrested person does not intend to seek release of the vehicle 9173
at the end of the period of immobilization under section 9174
4503.233 of the Revised Code or that the arrested person is not 9175
or will not be able to pay the expenses and charges incurred in 9176
its removal and storage, may order that title to the vehicle be 9177
transferred, in order of priority, first into the name of the 9178
person or entity that removed it, next into the name of a 9179
lienholder, or lastly into the name of the owner of the place of 9180
storage. 9181

Any lienholder that receives title under a court order 9182
shall do so on the condition that it pay any expenses or charges 9183
incurred in the vehicle's removal and storage. If the person or 9184
entity that receives title to the vehicle is the person or 9185
entity that removed it, the person or entity shall receive title 9186
on the condition that it pay any lien on the vehicle. The court 9187
shall not order that title be transferred to any person or 9188
entity other than the owner of the place of storage if the 9189
person or entity refuses to receive the title. Any person or 9190
entity that receives title either may keep title to the vehicle 9191
or may dispose of the vehicle in any legal manner that it 9192
considers appropriate, including assignment of the certificate 9193
of title to the motor vehicle to a salvage dealer or a scrap 9194
metal processing facility. The person or entity shall not 9195
transfer the vehicle to the person who is the vehicle's 9196
immediate previous owner. 9197

If the person or entity that receives title assigns the 9198
motor vehicle to a salvage dealer or scrap metal processing 9199
facility, the person or entity shall send the assigned 9200
certificate of title to the motor vehicle to the clerk of the 9201
court of common pleas of the county in which the salvage dealer 9202
or scrap metal processing facility is located. The person or 9203
entity shall mark the face of the certificate of title with the 9204
words "FOR DESTRUCTION" and shall deliver a photocopy of the 9205
certificate of title to the salvage dealer or scrap metal 9206
processing facility for its records. 9207

(2) Whenever a court issues an order under division (F) (1) 9208
of this section, the court also shall order removal of the 9209
license plates from the vehicle and cause them to be sent to the 9210
registrar if they have not already been sent to the registrar. 9211
Thereafter, no further proceedings shall take place under this 9212
section or under section 4503.233 of the Revised Code. 9213

(3) Prior to initiating a proceeding under division (F) (1) 9214
of this section, and upon payment of the fee under division (B) 9215
of section 4505.14, any interested party may cause a search to 9216
be made of the public records of the bureau of motor vehicles or 9217
the clerk of the court of common pleas, to ascertain the 9218
identity of any lienholder of the vehicle. The initiating party 9219
shall furnish this information to the clerk of the court with 9220
jurisdiction over the case, and the clerk shall provide notice 9221
to the arrested person, any lienholder, and any other interested 9222
parties listed by the initiating party, at the last known 9223
address supplied by the initiating party, by certified mail, or, 9224
at the option of the initiating party, by personal service or 9225
ordinary mail. 9226

Sec. 4735.13. (A) Every real estate broker licensed under 9227

this chapter shall have and maintain a definite place of 9228
business in this state. A post office box address is not a 9229
definite place of business for purposes of this section. The 9230
license of a real estate broker shall be prominently displayed 9231
in the office or place of business of the broker, and no license 9232
shall authorize the licensee to do business except from the 9233
location specified in it. If the broker maintains more than one 9234
place of business within the state, the broker shall apply for 9235
and procure a duplicate license for each branch office 9236
maintained by the broker. Each branch office shall be in the 9237
charge of a licensed broker or salesperson. The branch office 9238
license shall be prominently displayed at the branch office 9239
location. 9240

(B) The license of each real estate salesperson shall be 9241
electronically mailed to and remain in the possession of the 9242
licensed broker with whom the salesperson is or is to be 9243
associated until the licensee places the license on inactive or 9244
resigned status or until the salesperson leaves the brokerage or 9245
is terminated. The broker shall keep a copy of each 9246
salesperson's license in a way that it can, and shall on 9247
request, be made immediately available for public inspection at 9248
the office or place of business of the broker. Except as 9249
provided in divisions (G) and (H) of this section, immediately 9250
upon the salesperson's leaving the association or termination of 9251
the association of a real estate salesperson with the broker, 9252
the broker shall ~~return the salesperson's license to~~ notify the 9253
superintendent of real estate by electronic mail to the division 9254
of real estate's general electronic mail address. The broker 9255
shall keep a copy of the written notification for three years 9256
after it is sent. 9257

The failure of a broker to ~~return the license~~ notify the 9258

superintendent of real estate in writing of a real estate 9259
salesperson or broker who leaves or who is terminated, via 9260
~~certified electronic mail return receipt requested~~, within three 9261
business days of the receipt of a written request from the 9262
superintendent for ~~the return of the license~~such notification, 9263
is prima-facie evidence of misconduct under division (A) (6) of 9264
section 4735.18 of the Revised Code. 9265

(C) A licensee shall notify the superintendent in writing 9266
within fifteen days of any of the following occurrences: 9267

(1) The licensee is convicted of a felony. 9268

(2) The licensee is convicted of a crime involving moral 9269
turpitude. 9270

(3) The licensee is found to have violated any federal, 9271
state, or municipal civil rights law pertaining to 9272
discrimination in housing. 9273

(4) The licensee is found to have engaged in a 9274
discriminatory practice pertaining to housing accommodations 9275
described in division (H) of section 4112.02 of the Revised 9276
Code. 9277

(5) The licensee is the subject of an order by the 9278
department of commerce, the department of insurance, or the 9279
department of agriculture revoking or permanently surrendering 9280
any professional license, certificate, or registration. 9281

(6) The licensee is the subject of an order by any 9282
government agency concerning real estate, financial matters, or 9283
the performance of fiduciary duties with respect to any license, 9284
certificate, or registration. 9285

If a licensee fails to notify the superintendent within 9286

the required time, the superintendent immediately may suspend 9287
the license of the licensee. 9288

Any court that convicts a licensee of a violation of any 9289
municipal civil rights law pertaining to housing discrimination 9290
also shall notify the Ohio civil rights commission within 9291
fifteen days of the conviction. 9292

(D) In case of any change of business location, a broker 9293
shall give notice to the superintendent, on a form prescribed by 9294
the superintendent, within thirty days after the change of 9295
location, whereupon the superintendent shall issue new licenses 9296
for the unexpired period without charge. If a broker changes a 9297
business location without giving the required notice and without 9298
receiving new licenses that action is prima-facie evidence of 9299
misconduct under division (A) (6) of section 4735.18 of the 9300
Revised Code. 9301

(E) If a real estate broker desires to associate with 9302
another real estate broker in the capacity of a real estate 9303
salesperson, the broker shall apply to the superintendent to 9304
deposit the broker's real estate broker's license with the 9305
superintendent and for the issuance of a real estate 9306
salesperson's license. The application shall be made on a form 9307
prescribed by the superintendent and shall be accompanied by the 9308
recommendation of the real estate broker with whom the applicant 9309
intends to become associated and a fee of thirty-four dollars 9310
for the real estate salesperson's license. One dollar of the fee 9311
shall be credited to the real estate education and research 9312
fund. If the superintendent is satisfied that the applicant is 9313
honest and truthful, has not been convicted of a disqualifying 9314
offense as determined in accordance with section 9.79 of the 9315
Revised Code, and has not been finally adjudged by a court to 9316

have violated any municipal, state, or federal civil rights laws 9317
relevant to the protection of purchasers or sellers of real 9318
estate, and that the association of the real estate broker and 9319
the applicant will be in the public interest, the superintendent 9320
shall grant the application and issue a real estate 9321
salesperson's license to the applicant. Any license so deposited 9322
with the superintendent shall be subject to this chapter. A 9323
broker who intends to deposit the broker's license with the 9324
superintendent, as provided in this section, shall give written 9325
notice of this fact in a format prescribed by the superintendent 9326
to all salespersons associated with the broker when applying to 9327
place the broker's license on deposit. 9328

(F) If a real estate broker desires to become a member or 9329
officer of a partnership, association, limited liability 9330
company, limited liability partnership, or corporation that is 9331
or intends to become a licensed real estate broker, the broker 9332
shall notify the superintendent of the broker's intentions. The 9333
notice of intention shall be on a form prescribed by the 9334
superintendent and shall be accompanied by a fee of thirty-four 9335
dollars. One dollar of the fee shall be credited to the real 9336
estate education and research fund. 9337

A licensed real estate broker who is a member or officer 9338
of a partnership, association, limited liability company, 9339
limited liability partnership, or corporation shall only act as 9340
a real estate broker for such partnership, association, limited 9341
liability company, limited liability partnership, or 9342
corporation. 9343

(G) (1) If a real estate broker or salesperson enters the 9344
armed forces, the broker or salesperson may place the broker's 9345
or salesperson's license on deposit with the Ohio real estate 9346

commission. The licensee shall not be required to renew the 9347
license until the renewal date that follows the date of 9348
discharge from the armed forces. Any license deposited with the 9349
commission shall be subject to this chapter. 9350

Any licensee whose license is on deposit under this 9351
division and who fails to meet the continuing education 9352
requirements of section 4735.141 of the Revised Code because the 9353
licensee is in the armed forces shall satisfy the commission 9354
that the licensee has complied with the continuing education 9355
requirements within twelve months of the licensee's first 9356
birthday after discharge or within the amount of time equal to 9357
the total number of months the licensee spent on active duty, 9358
whichever is greater. The licensee shall submit proper 9359
documentation of active duty service and the length of that 9360
active duty service to the superintendent. The extension shall 9361
not exceed the total number of months that the licensee served 9362
in active duty. The superintendent shall notify the licensee of 9363
the licensee's obligations under section 4735.141 of the Revised 9364
Code at the time the licensee applies for reactivation of the 9365
licensee's license. 9366

(2) If a licensee is a spouse of a member of the armed 9367
forces and the spouse's service resulted in the licensee's 9368
absence from this state, both of the following apply: 9369

(a) The licensee shall not be required to renew the 9370
license until the renewal date that follows the date of the 9371
spouse's discharge from the armed forces. 9372

(b) If the licensee fails to meet the continuing education 9373
requirements of section 4735.141 of the Revised Code, the 9374
licensee shall satisfy the commission that the licensee has 9375
complied with the continuing education requirements within 9376

twelve months after the licensee's first birthday after the 9377
spouse's discharge or within the amount of time equal to the 9378
total number of months the licensee's spouse spent on active 9379
duty, whichever is greater. The licensee shall submit proper 9380
documentation of the spouse's active duty service and the length 9381
of that active duty service. This extension shall not exceed the 9382
total number of months that the licensee's spouse served in 9383
active duty. 9384

(3) In the case of a licensee as described in division (G) 9385
(2) of this section, who holds the license through a reciprocity 9386
agreement with another state, the spouse's service shall have 9387
resulted in the licensee's absence from the licensee's state of 9388
residence for the provisions of that division to apply. 9389

(4) As used in this division, "armed forces" means the 9390
armed forces of the United States or reserve component of the 9391
armed forces of the United States including the Ohio national 9392
guard or the national guard of any other state. 9393

(H) If a licensed real estate salesperson submits an 9394
application to the superintendent to leave the association of 9395
one broker to associate with a different broker, the broker 9396
possessing the licensee's license need not ~~return the~~ 9397
~~salesperson's license to notify~~ the superintendent pursuant to 9398
division (B) of this section. The superintendent may process the 9399
application regardless of whether the licensee's license is 9400
returned to the superintendent or the superintendent is notified 9401
pursuant to division (B) of this section. 9402

Sec. 4735.14. (A) Each license issued under this chapter, 9403
shall be valid without further recommendation or examination 9404
until it is placed in an inactive or resigned status, is revoked 9405
or suspended, or such license expires by operation of law. 9406

(B) Except for a licensee who has placed the licensee's
license in resigned status pursuant to section 4735.142 of the
Revised Code, each licensed broker, brokerage, or salesperson
shall file, on or before the date the Ohio real estate
commission has adopted by rule for that licensee in accordance
with division (A)(2)(f) of section 4735.10 of the Revised Code,
a notice of renewal on a form prescribed by the superintendent
of real estate. The notice of renewal shall be ~~mailed~~sent by
the superintendent two months prior to the filing deadline to
the ~~personal residence~~electronic mail address of each broker or
salesperson that is on file with the division. If the licensee
is a partnership, association, limited liability company,
limited liability partnership, or corporation, the notice of
renewal shall be ~~mailed~~sent by the superintendent two months
prior to the filing deadline to the brokerage's business
electronic mail address on file with the division. A licensee
shall not renew the licensee's license any earlier than two
months prior to the filing deadline.

(C) Except as otherwise provided in division (B) of this
section, the license of any real estate broker, brokerage, or
salesperson that fails to file a notice of renewal on or before
the filing deadline of each ensuing year shall be suspended
automatically without the taking of any action by the
superintendent. A suspended license may be reactivated within
twelve months of the date of suspension, provided that the
renewal fee plus a penalty fee of fifty per cent of the renewal
fee is paid to the superintendent. Failure to reactivate the
license as provided in this division shall result in automatic
revocation of the license without the taking of any action by
the superintendent. No person, partnership, association,
corporation, limited liability company, or limited partnership

shall engage in any act or acts for which a real estate license 9438
is required while that entity's license is placed in an inactive 9439
or resigned status, or is suspended, or revoked. The commission 9440
shall adopt rules in accordance with Chapter 119. of the Revised 9441
Code to provide to licensees notice of suspension or revocation 9442
or both. 9443

(D) Each licensee shall notify the superintendent of a 9444
change in personal residence address within thirty days after 9445
the change of location. A licensee's failure to notify the 9446
superintendent of a change in personal residence address does 9447
not negate the requirement to file the license renewal by the 9448
required deadline established by the commission by rule under 9449
division (A) (2) (f) of section 4735.10 of the Revised Code. Each 9450
licensee shall maintain a valid electronic mail address on file 9451
with the division and notify the superintendent of any change in 9452
electronic mail address within thirty days after the change. 9453

(E) The superintendent shall not renew a license if the 9454
licensee fails to comply with section 4735.141 of the Revised 9455
Code or is otherwise not in compliance with this chapter. 9456

(F) The superintendent shall make notice of successful 9457
renewal available electronically to licensees as soon as 9458
practicable, but not later than thirty days after receipt by the 9459
division of a complete application and renewal fee. This notice 9460
shall serve as a notice of renewal for purposes of section 9461
4745.02 of the Revised Code. 9462

Sec. 5107.161. Before a county department of job and 9463
family services sanctions an assistance group under section 9464
5107.16 of the Revised Code, the state department of job and 9465
family services shall provide the assistance group written 9466
notice of the sanction in accordance with rules adopted under 9467

section 5107.05 of the Revised Code. The written notice shall 9468
include a provision printed in bold type face that informs the 9469
assistance group that, not later than fifteen calendar days 9470
after the state department mailed the written notice to the 9471
assistance group, the assistance group may request, for the 9472
purpose of explaining why the assistance group believes it 9473
should not be sanctioned, a state hearing under division (B) of 9474
section 5101.35 of the Revised Code which, at the assistance 9475
group's request, may be preceded by a ~~face-to-face~~ county 9476
conference with the county department. The written notice shall 9477
include either the telephone number of an Ohio works first 9478
ombudsperson provided for under section 329.07 of the Revised 9479
Code or the toll-free telephone number of the state department 9480
of job and family services that the assistance group may call to 9481
obtain the telephone number of an Ohio works first ombudsperson. 9482

Sec. 5120.14. (A) If a person who was convicted of or 9483
pleaded guilty to an offense escapes from a correctional 9484
institution in this state under the control of the department of 9485
rehabilitation and correction or otherwise escapes from the 9486
custody of the department, the department immediately after the 9487
escape shall report the escape, by telephone and in writing, to 9488
all local law enforcement agencies with jurisdiction in the 9489
county in which the institution from which the escape was made 9490
or to which the person was sentenced is located, to all local 9491
law enforcement agencies with jurisdiction in the county in 9492
which the person was convicted or pleaded guilty to the offense 9493
for which the escaped person was sentenced, to the state highway 9494
patrol, to the prosecuting attorney of the county in which the 9495
institution from which the escape was made or to which the 9496
person was sentenced is located, to the prosecuting attorney of 9497
the county in which the person was convicted or pleaded guilty 9498

to the offense for which the escaped person was sentenced, to a 9499
newspaper of general circulation in the county in which the 9500
institution from which the escape was made or to which the 9501
person was sentenced is located, and to a newspaper of general 9502
circulation in each county in which the escaped person was 9503
indicted for an offense for which, at the time of the escape, 9504
the escaped person had been sentenced to that institution. The 9505
written notice may be by ~~either facsimile transmission,~~ 9506
electronic mail, or mail. A failure to comply with this 9507
requirement is a violation of section 2921.22 of the Revised 9508
Code. 9509

(B) Upon the apprehension of the escaped person, the 9510
department shall give notice of the apprehension by telephone 9511
and in writing to the persons who were given notice of the 9512
escape under division (A) of this section. 9513

Sec. 5165.193. (A) The department of medicaid may, 9514
pursuant to rules authorized by this section, conduct an 9515
exception review of resident assessment data submitted by a 9516
nursing facility provider under section 5165.191 of the Revised 9517
Code. The department may conduct an exception review based on 9518
the findings of a medicaid certification survey conducted by the 9519
department of health, a risk analysis, or prior performance of 9520
the provider. 9521

Exception reviews shall be conducted ~~at the nursing~~ 9522
~~facility~~ by appropriate health professionals under contract with 9523
or employed by the department. The professionals may review 9524
resident assessment forms and supporting documentation, conduct 9525
interviews, and observe residents to identify any patterns or 9526
trends of inaccurate resident assessments and resulting 9527
inaccurate case-mix scores. 9528

(B) If an exception review is conducted before the 9529
effective date of a nursing facility's rate for direct care 9530
costs that is based on the resident assessment data being 9531
reviewed and the review results in findings that exceed 9532
tolerance levels specified in the rules authorized by this 9533
section, the department, in accordance with those rules, may use 9534
the findings to redetermine individual resident case-mix scores, 9535
the nursing facility's case-mix score for the quarter, and the 9536
nursing facility's annual average case-mix score. The department 9537
may use the nursing facility's redetermined quarterly and annual 9538
average case-mix scores to determine the nursing facility's rate 9539
for direct care costs for the appropriate calendar quarter or 9540
quarters. 9541

(C) The department shall prepare a written summary of any 9542
exception review finding that is made after the effective date 9543
of a nursing facility's rate for direct care costs that is based 9544
on the resident assessment data that was reviewed. Where the 9545
provider is pursuing judicial or administrative remedies in good 9546
faith regarding the finding, the department shall not withhold 9547
from the provider's current payments any amounts the department 9548
claims to be due from the provider pursuant to section 5165.41 9549
of the Revised Code. 9550

(D) (1) The medicaid director shall adopt rules under 9551
section 5165.02 of the Revised Code as necessary to implement 9552
this section. The rules shall establish an exception review 9553
program that does all of the following: 9554

(a) Requires each exception review to comply with Title 9555
XVIII and Title XIX; 9556

(b) Requires a written summary for each exception review 9557
that states whether resident assessment forms have been 9558

completed accurately; 9559

(c) Prohibits each health professional who conducts an 9560
exception review from doing either of the following: 9561

(i) During the period of the professional's contract or 9562
employment with the department, having or being committed to 9563
acquire any direct or indirect financial interest in the 9564
ownership, financing, or operation of nursing facilities in this 9565
state; 9566

(ii) Reviewing any provider that has been a client of the 9567
professional. 9568

(2) For the purposes of division (D)(1)(c)(i) of this 9569
section, employment of a member of a health professional's 9570
family by a nursing facility that the professional does not 9571
review does not constitute a direct or indirect financial 9572
interest in the ownership, financing, or operation of the 9573
nursing facility. 9574

Sec. 5165.86. The department of medicaid, the department 9575
of health, and any contracting agency shall deliver a written 9576
notice, statement, or order to a nursing facility under sections 9577
5165.60 to 5165.66 and 5165.69 to 5165.89 of the Revised Code by 9578
certified mail~~or~~, hand delivery, or other means reasonably 9579
calculated to provide prompt actual notice. If the notice, 9580
statement, or order is mailed, it shall be addressed to the 9581
administrator of the facility as indicated in the department's 9582
or agency's records. If it is hand delivered, it shall be 9583
delivered to a person at the facility who would appear to the 9584
average prudent person to have authority to accept it. 9585

Delivery of written notice by a nursing facility to the 9586
department of health, the department of medicaid, or a 9587

contracting agency under sections 5165.60 to 5165.89 of the 9588
Revised Code shall be by certified mail ~~or, hand delivery, or~~ 9589
other means reasonably calculated to provide prompt actual 9590
notice to the appropriate department or the agency. 9591

Sec. 5166.303. A home care attendant shall do all of the 9592
following: 9593

(A) Maintain a clinical record for each consumer to whom 9594
the attendant provides home care attendant services in a manner 9595
that protects the consumer's privacy; 9596

(B) Participate in a face-to-face visit every ninety days 9597
with all of the following to monitor the health and welfare of 9598
each of the consumers to whom the attendant provides home care 9599
attendant services: 9600

(1) The consumer; 9601

(2) The consumer's authorized representative, if any; 9602

(3) A registered nurse who agrees to answer any questions 9603
that the attendant, consumer, or authorized representative has 9604
about consumer care needs, medications, and other issues. 9605

(C) Document the activities of each visit required by 9606
division (B) of this section in the consumer's clinical record 9607
with the assistance of the registered nurse. 9608

(D) The face-to-face visit requirement in division (B) of 9609
this section may be satisfied by telephone or electronically if 9610
permitted by rules adopted under section 5166.02 of the Revised 9611
Code. 9612

Sec. 5168.08. (A) Before or during each program year, the 9613
department of medicaid shall ~~mail-issue~~ to each hospital ~~by-~~ 9614
~~certified mail, return receipt requested,~~ the preliminary 9615

determination of the amount that the hospital is assessed under 9616
section 5168.06 of the Revised Code during the program year. The 9617
preliminary determination of a hospital's assessment shall be 9618
calculated for a cost-reporting period that is specified in 9619
rules adopted under section 5168.02 of the Revised Code. 9620

The department shall consult with hospitals each year when 9621
determining the date on which it will ~~mail-issue~~ the preliminary 9622
determinations in order to minimize hospitals' cash flow 9623
difficulties. 9624

If no hospital submits a request for reconsideration under 9625
division (B) of this section, the preliminary determination 9626
constitutes the final reconciliation of each hospital's 9627
assessment under section 5168.06 of the Revised Code. The final 9628
reconciliation is subject to adjustments under division (D) of 9629
this section. 9630

(B) Not later than fourteen days after the preliminary 9631
determinations are ~~mailed-issued~~, any hospital may submit to the 9632
department a written request to reconsider the preliminary 9633
determinations. The request shall be accompanied by written 9634
materials setting forth the basis for the reconsideration. If 9635
one or more hospitals submit a request, the department shall 9636
hold a public hearing not later than thirty days after the 9637
preliminary determinations are ~~mailed-issued~~ to reconsider the 9638
preliminary determinations. The department shall ~~mail-issue~~ to 9639
each hospital a written notice of the date, time, and place of 9640
the hearing at least ten days prior to the hearing. On the basis 9641
of the evidence submitted to the department or presented at the 9642
public hearing, the department shall reconsider and may adjust 9643
the preliminary determinations. The result of the 9644
reconsideration is the final reconciliation of the hospital's 9645

assessment under section 5168.06 of the Revised Code. The final 9646
reconciliation is subject to adjustments under division (D) of 9647
this section. 9648

(C) The department shall ~~mail-issue~~ to each hospital a 9649
written notice of its assessment for the program year under the 9650
final reconciliation. A hospital may appeal the final 9651
reconciliation of its assessment to the court of common pleas of 9652
Franklin county. While a judicial appeal is pending, the 9653
hospital shall pay, in accordance with the schedules required by 9654
division (B) of section 5168.06 of the Revised Code, any amount 9655
of its assessment that is not in dispute into the hospital care 9656
assurance program fund created in section 5168.11 of the Revised 9657
Code. 9658

(D) In the course of any program year, the department may 9659
adjust the assessment rate or rates established in rules 9660
pursuant to section 5168.06 of the Revised Code or adjust the 9661
amounts of intergovernmental transfers required under section 9662
5168.07 of the Revised Code and, as a result of the adjustment, 9663
adjust each hospital's assessment and intergovernmental 9664
transfer, to reflect refinements made by the United States 9665
centers for medicare and medicaid services during that program 9666
year to the limits it prescribed under the "Social Security 9667
Act," section 1923(f), 42 U.S.C. 1396r-4(f). When adjusted, the 9668
assessment rate or rates must comply with division (A) of 9669
section 5168.06 of the Revised Code. An adjusted 9670
intergovernmental transfer must comply with division (A) of 9671
section 5168.07 of the Revised Code. The department shall notify 9672
hospitals of adjustments made under this division and adjust for 9673
the remainder of the program year the installments paid by 9674
hospitals under sections 5168.06 and 5168.07 of the Revised Code 9675
in accordance with rules adopted under section 5168.02 of the 9676

Revised Code.

9677

Sec. 5168.22. (A) Before or during each assessment program 9678
year, the department of medicaid shall ~~mail-issue~~ to each 9679
hospital ~~by certified mail, return receipt requested,~~ the 9680
preliminary determination of the amount that the hospital is 9681
assessed under section 5168.21 of the Revised Code for the 9682
assessment program year. Except as provided in division (B) of 9683
this section, the preliminary determination becomes the final 9684
determination for the assessment program year fifteen days after 9685
the preliminary determination is ~~mailed-issued~~ to the hospital. 9686

(B) A hospital may request that the department reconsider 9687
the preliminary determination ~~mailed-issued~~ to the hospital 9688
under division (A) of this section by submitting to the 9689
department a written request for a reconsideration not later 9690
than fourteen days after the hospital's preliminary 9691
determination is ~~mailed-issued~~ to the hospital. The request must 9692
be accompanied by written materials setting forth the basis for 9693
the reconsideration. On receipt of the timely request, the 9694
department shall reconsider the preliminary determination and 9695
may adjust the preliminary determination on the basis of the 9696
written materials accompanying the request. The result of the 9697
reconsideration is the final determination of the hospital's 9698
assessment under section 5168.21 of the Revised Code for the 9699
assessment program year. 9700

(C) The department shall ~~mail-issue~~ to each hospital a 9701
written notice of the final determination of its assessment for 9702
the assessment program year. A hospital may appeal the final 9703
determination to the court of common pleas of Franklin county. 9704
While a judicial appeal is pending, the hospital shall pay, in 9705
accordance with section 5168.23 of the Revised Code, any amount 9706

of its assessment that is not in dispute.

9707

Sec. 5168.23. Each hospital shall pay the amount it is
assessed under section 5168.21 of the Revised Code in accordance
with a payment schedule the department of medicaid shall
establish for each assessment program year. The department shall
consult with the Ohio hospital association before establishing
the payment schedule for any assessment program year. The
department shall include the payment schedule in each
preliminary determination notice the department ~~mails~~issues to
hospitals under division (A) of section 5168.22 of the Revised
Code.

9708
9709
9710
9711
9712
9713
9714
9715
9716
9717

Sec. 5525.01. Before entering into a contract, the
director of transportation ~~shall~~may advertise for bids for two
consecutive weeks in one newspaper of general circulation
published in the county in which the improvement or part thereof
is located, but if there is no such newspaper then in one
newspaper having general circulation in an adjacent county. In
the alternative, the director may advertise for bids as provided
in section 7.16 of the Revised Code. The director ~~may~~shall
advertise for bids in such other publications as the director
considers advisable. Such notices shall state that plans and
specifications for the improvement are on file in the office of
the director and the district deputy director of the district in
which the improvement or part thereof is located and the time
within which bids therefor will be received.

9718
9719
9720
9721
9722
9723
9724
9725
9726
9727
9728
9729
9730
9731

Each bidder shall be required to file with the bidder's
bid a bid guaranty in the form of a certified check, a cashier's
check, or an electronic funds transfer to the treasurer of state
that is evidenced by a receipt or by a certification to the
director of transportation in a form prescribed by the director

9732
9733
9734
9735
9736

that an electronic funds transfer has been made to the treasurer 9737
of state, for an amount equal to five per cent of the bidder's 9738
bid, but in no event more than fifty thousand dollars, or a bid 9739
bond for ten per cent of the bidder's bid, payable to the 9740
director, which check, transferred sum, or bond shall be 9741
forthwith returned to the bidder in case the contract is awarded 9742
to another bidder, or, in case of a successful bidder, when the 9743
bidder has entered into a contract and furnished the bonds 9744
required by section 5525.16 of the Revised Code. In the event 9745
the contract is awarded to a bidder, and the bidder fails or 9746
refuses to furnish the bonds as required by section 5525.16 of 9747
the Revised Code, the check, transferred sum, or bid bond filed 9748
with the bidder's bid shall be forfeited as liquidated damages. 9749
No bidder shall be required either to file a signed contract 9750
with the bidder's bid, to enter into a contract, or to furnish 9751
the contract performance bond and the payment bond required by 9752
that section until the bids have been opened and the bidder has 9753
been notified by the director that the bidder is awarded the 9754
contract. 9755

The director shall permit a bidder to withdraw the 9756
bidder's bid from consideration, without forfeiture of the 9757
check, transferred sum, or bid bond filed with the bid, 9758
providing a written request together with a sworn statement of 9759
the grounds for such withdrawal is delivered within forty-eight 9760
hours after the time established for the receipt of bids, and if 9761
the price bid was substantially lower than the other bids, 9762
providing the bid was submitted in good faith, and the reason 9763
for the price bid being substantially lower was a clerical 9764
mistake evident on the face of the bid, as opposed to a judgment 9765
mistake, and was actually due to an unintentional and 9766
substantial arithmetic error or an unintentional omission of a 9767

substantial quantity of work, labor, or material made directly 9768
in the compilation of the bid. In the event the director decides 9769
the conditions for withdrawal have not been met, the director 9770
may award the contract to such bidder. If such bidder does not 9771
then enter into a contract and furnish the contract bond as 9772
required by law, the director may declare forfeited the check, 9773
transferred sum, or bid bond as liquidated damages and award the 9774
contract to the next higher bidder or reject the remaining bids 9775
and readvertise the project for bids. Such bidder, within thirty 9776
days, may appeal the decision of the director to the court of 9777
common pleas of Franklin county and the court may affirm or 9778
reverse the decision of the director and may order the director 9779
to refund the amount of the forfeiture. At the hearing before 9780
the common pleas court evidence may be introduced for and 9781
against the decision of the director. The decision of the common 9782
pleas court may be appealed as in other cases. 9783

There is hereby created the ODOT letting fund, which shall 9784
be in the custody of the treasurer of state but shall not be 9785
part of the state treasury. All certified checks and cashiers' 9786
checks received with bidders' bids, and all sums transferred to 9787
the treasurer of state by electronic funds transfer in 9788
connection with bidders' bids, under this section shall be 9789
credited to the fund. All such bid guaranties shall be held in 9790
the fund until a determination is made as to the final 9791
disposition of the money. If the department determines that any 9792
such bid guaranty is no longer required to be held, the amount 9793
of the bid guaranty shall be returned to the appropriate bidder. 9794
If the department determines that a bid guaranty under this 9795
section shall be forfeited, the amount of the bid guaranty shall 9796
be transferred or, in the case of money paid on a forfeited 9797
bond, deposited into the state treasury, to the credit of the 9798

highway operating fund. Any investment earnings of the ODOT 9799
letting fund shall be distributed as the treasurer of state 9800
considers appropriate. 9801

The director shall require all bidders to furnish the 9802
director, upon such forms as the director may prescribe, 9803
detailed information with respect to all pending work of the 9804
bidder, whether with the department of transportation or 9805
otherwise, together with such other information as the director 9806
considers necessary. 9807

In the event a bidder fails to submit anything required to 9808
be submitted with the bid and then fails or refuses to so submit 9809
such at the request of the director, the failure or refusal 9810
constitutes grounds for the director, in the director's 9811
discretion, to declare as forfeited the bid guaranty submitted 9812
with the bid. 9813

The director may reject any or all bids. Except in regard 9814
to contracts for environmental remediation and specialty work 9815
for which there are no classes of work set out in the rules 9816
adopted by the director, if the director awards the contract, 9817
the director shall award it to the lowest competent and 9818
responsible bidder as defined by rules adopted by the director 9819
under section 5525.05 of the Revised Code, who is qualified to 9820
bid under sections 5525.02 to 5525.09 of the Revised Code. In 9821
regard to contracts for environmental remediation and specialty 9822
work for which there are no classes of work set out in the rules 9823
adopted by the director, the director shall competitively bid 9824
the projects in accordance with this chapter and shall award the 9825
contracts to the lowest and best bidder. 9826

The award for all projects competitively let by the 9827
director under this section shall be made within ten days after 9828

the date on which the bids are opened, and the successful bidder 9829
shall enter into a contract and furnish a contract performance 9830
bond and a payment bond, as provided for in section 5525.16 of 9831
the Revised Code, within ten days after the bidder is notified 9832
that the bidder has been awarded the contract. 9833

The director may insert in any contract awarded under this 9834
chapter a clause providing for value engineering change 9835
proposals, under which a contractor who has been awarded a 9836
contract may propose a change in the plans and specifications of 9837
the project that saves the department time or money on the 9838
project without impairing any of the essential functions and 9839
characteristics of the project such as service life, 9840
reliability, economy of operation, ease of maintenance, safety, 9841
and necessary standardized features. If the director adopts the 9842
value engineering proposal, the savings from the proposal shall 9843
be divided between the department and the contractor according 9844
to guidelines established by the director, provided that the 9845
contractor shall receive at least fifty per cent of the savings 9846
from the proposal. The adoption of a value engineering proposal 9847
does not invalidate the award of the contract or require the 9848
director to rebid the project. 9849

Sec. 5703.37. (A) (1) Except as provided in division (B) of 9850
this section, whenever service of a notice or order is required 9851
in the manner provided in this section, a copy of the notice or 9852
order shall be served upon the person affected thereby either by 9853
personal service, by certified mail, or by a delivery service 9854
authorized under section 5703.056 of the Revised Code that 9855
notifies the tax commissioner of the date of delivery. 9856

(2) In lieu of serving a copy of a notice or order through 9857
one of the means provided in division (A) (1) of this section, 9858

the commissioner may serve a notice or order upon the person 9859
affected thereby through alternative means as provided in this 9860
section, including, but not limited to, delivery by secure 9861
electronic mail as provided in division (F) of this section. 9862
Delivery by such means satisfies the requirements for delivery 9863
under this section. 9864

(B) (1) (a) If certified mail is returned because of an 9865
undeliverable address, the commissioner shall first utilize 9866
reasonable means to ascertain a new last known address, 9867
including the use of a change of address service offered by the 9868
United States postal service or an authorized delivery service 9869
under section 5703.056 of the Revised Code. If, after using 9870
reasonable means, the commissioner is unable to ascertain a new 9871
last known address, the assessment is final for purposes of 9872
section 131.02 of the Revised Code sixty days after the notice 9873
or order sent by certified mail is first returned to the 9874
commissioner, and the commissioner shall certify the notice or 9875
order, if applicable, to the attorney general for collection 9876
under section 131.02 of the Revised Code. 9877

(b) Notwithstanding certification to the attorney general 9878
under division (B) (1) (a) of this section, once the commissioner 9879
or attorney general, or the designee of either, makes an initial 9880
contact with the person to whom the notice or order is directed, 9881
the person may protest an assessment by filing a petition for 9882
reassessment within sixty days after the initial contact. The 9883
certification of an assessment under division (B) (1) (a) of this 9884
section is prima-facie evidence that delivery is complete and 9885
that the notice or order is served. 9886

(2) If mailing of a notice or order by certified mail is 9887
returned for some cause other than an undeliverable address or 9888

if a person does not access an electronic notice or order within 9889
the time provided in division (F) of this section, the 9890
commissioner shall resend the notice or order by ordinary mail. 9891
The notice or order shall show the date the commissioner sends 9892
the notice or order and include the following statement: 9893

"This notice or order is deemed to be served on the 9894
addressee under applicable law ten days from the date this 9895
notice or order was mailed by the commissioner as shown on the 9896
notice or order, and all periods within which an appeal may be 9897
filed apply from and after that date." 9898

Unless the mailing is returned because of an undeliverable 9899
address, the mailing of that information is prima-facie evidence 9900
that delivery of the notice or order was completed ten days 9901
after the commissioner sent the notice or order by ordinary mail 9902
and that the notice or order was served. 9903

If the ordinary mail is subsequently returned because of 9904
an undeliverable address, the commissioner shall proceed under 9905
division (B)(1)(a) of this section. A person may challenge the 9906
presumption of delivery and service under this division in 9907
accordance with division (C) of this section. 9908

(C)(1) A person disputing the presumption of delivery and 9909
service under division (B) of this section bears the burden of 9910
proving by a preponderance of the evidence that the address to 9911
which the notice or order was sent was not an address with which 9912
the person was associated at the time the commissioner 9913
originally mailed the notice or order by certified mail. For the 9914
purposes of this section, a person is associated with an address 9915
at the time the commissioner originally mailed the notice or 9916
order if, at that time, the person was residing, receiving legal 9917
documents, or conducting business at the address; or if, before 9918

that time, the person had conducted business at the address and, 9919
when the notice or order was mailed, the person's agent or the 9920
person's affiliate was conducting business at the address. For 9921
the purposes of this section, a person's affiliate is any other 9922
person that, at the time the notice or order was mailed, owned 9923
or controlled at least twenty per cent, as determined by voting 9924
rights, of the addressee's business. 9925

(2) If the person elects to protest an assessment 9926
certified to the attorney general for collection, the person 9927
must do so within sixty days after the attorney general's 9928
initial contact with the person. The attorney general may enter 9929
into a compromise with the person under sections 131.02 and 9930
5703.06 of the Revised Code if the person does not file a 9931
petition for reassessment with the commissioner. 9932

(D) Nothing in this section prohibits the commissioner or 9933
the commissioner's designee from delivering a notice or order by 9934
personal service. 9935

(E) Collection actions taken pursuant to section 131.02 of 9936
the Revised Code upon any assessment being challenged under 9937
division (B)(1)(b) of this section shall be stayed upon the 9938
pendency of an appeal under this section. If a petition for 9939
reassessment is filed pursuant to this section on a claim that 9940
has been certified to the attorney general for collection, the 9941
claim shall be uncertified. 9942

~~(F)~~ (F)(1) The commissioner may serve a notice or order 9943
upon the person affected by the notice or order or that person's 9944
authorized representative through secure electronic means ~~only~~ 9945
~~with the person's consent~~ associated with the person's or 9946
representative's last known address. The commissioner must 9947
inform the recipient, electronically or by mail, that a notice 9948

or order is available for electronic review and provide 9949
instructions to access and print the notice or order. The types 9950
of electronic notification the commissioner may use include 9951
electronic mail, text message, or any other form of electronic 9952
communication. The recipient's electronic access of the notice 9953
or order satisfies the requirements for delivery under this 9954
section. If the recipient fails to access the notice or order 9955
electronically within ten business days, then the commissioner 9956
shall inform the recipient a second time, electronically or by 9957
mail, that a notice or order is available for electronic review 9958
and provide instructions to access and print the notice or 9959
order. If the recipient fails to access the notice or order 9960
electronically within ten business days of the second 9961
notification, the notice or order shall be served upon the 9962
person through the means provided in division (B) (2) of this 9963
section. 9964

(2) The tax commissioner shall establish a system to issue 9965
notification of assessments to taxpayers through secure 9966
electronic means. 9967

(G) As used in this section: 9968

(1) "Last known address" means the address the department 9969
has at the time the document is originally sent by certified 9970
mail, or any address the department can ascertain using 9971
reasonable means such as the use of a change of address service 9972
offered by the United States postal service or an authorized 9973
delivery service under section 5703.056 of the Revised Code. For 9974
documents sent by secure electronic means, "last known address" 9975
means an electronic mode of communication that is identified on 9976
a form prescribed by the commissioner for such purpose or that 9977
is associated with the person or the authorized representative 9978

of the person on the Ohio business gateway, as defined in 9979
section 718.01 of the Revised Code, as of the date the 9980
notification was sent. 9981

(2) "Undeliverable address" means an address to which the 9982
United States postal service or an authorized delivery service 9983
under section 5703.056 of the Revised Code is not able to 9984
deliver a notice or order, except when the reason for 9985
nondelivery is because the addressee fails to acknowledge or 9986
accept the notice or order. 9987

Sec. 5709.83. (A) Except as otherwise provided in division 9988
(B) or (C) of this section, prior to taking formal action to 9989
adopt or enter into any instrument granting a tax exemption 9990
under section 725.02, 1728.06, 5709.40, 5709.41, 5709.45, 9991
5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 9992
5709.88 of the Revised Code or formally approving an agreement 9993
under section 3735.671 of the Revised Code, or prior to 9994
forwarding an application for a tax exemption for residential 9995
property under section 3735.67 of the Revised Code to the county 9996
auditor, the legislative authority of the political subdivision 9997
or housing officer shall notify the board of education of each 9998
city, local, exempted village, or joint vocational school 9999
district in which the proposed tax-exempted property is located. 10000
The notice shall include a copy of the instrument or 10001
application. The notice shall be delivered not later than 10002
fourteen days prior to the day the legislative authority takes 10003
formal action to adopt or enter into the instrument, or not 10004
later than fourteen days prior to the day the housing officer 10005
forwards the application to the county auditor. If the board of 10006
education comments on the instrument or application to the 10007
legislative authority or housing officer, the legislative 10008
authority or housing officer shall consider the comments. If the 10009

board of education of the city, local, exempted village, or 10010
joint vocational school district so requests, the legislative 10011
authority or the housing officer shall meet ~~in person~~ with a 10012
representative designated by the board of education to discuss 10013
the terms of the instrument or application. 10014

(B) The notice otherwise required to be provided to boards 10015
of education under division (A) of this section is not required 10016
if the board has adopted a resolution waiving its right to 10017
receive such notices, and that resolution remains in effect. If 10018
a board of education adopts such a resolution, the board shall 10019
cause a copy of the resolution to be certified to the 10020
legislative authority. If the board of education rescinds such a 10021
resolution, it shall certify notice of the rescission to the 10022
legislative authority. A board of education may adopt such a 10023
resolution with respect to any one or more counties, townships, 10024
or municipal corporations situated in whole or in part within 10025
the school district. 10026

(C) If a legislative authority is required to provide 10027
notice to a city, local, or exempted village school district of 10028
its intent to adopt or enter into any instrument granting a tax 10029
exemption as required by section 3735.671, 5709.40, 5709.41, 10030
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 10031
Revised Code, the legislative authority, before adopting a 10032
resolution or ordinance or entering into an agreement under that 10033
section, shall notify the board of education of each joint 10034
vocational school district in which the property to be exempted 10035
is located using the same time requirements for the notice that 10036
applies to notices to city, local, and exempted village school 10037
districts. The content of the notice and procedures for 10038
responding to the notice are the same as required in division 10039
(A) of this section. 10040

Sec. 5736.041. The tax commissioner shall prepare and 10041
maintain a list of suppliers holding a license issued under 10042
section 5736.06 of the Revised Code that has not been revoked or 10043
canceled under section 5736.07 of the Revised Code. The list 10044
shall contain the names and addresses of all such suppliers and 10045
each supplier's account number for the tax imposed under section 10046
5736.02 of the Revised Code. ~~The list shall be open to public~~ 10047
~~inspection in the office of the commissioner.~~ The commissioner 10048
~~may~~ shall post the list on the department of taxation's web 10049
site. 10050

Sec. 5751.40. (A) As used in this section and division (F) 10051
(2) (z) of section 5751.01 of the Revised Code: 10052

(1) "Qualifying distribution center receipts" means 10053
receipts of a supplier from qualified property that is delivered 10054
to a qualified distribution center, multiplied by a quantity 10055
that equals one minus the Ohio delivery percentage. If the 10056
qualified distribution center is a refining facility, "supplier" 10057
includes all dealers, brokers, processors, sellers, vendors, 10058
cosigners, and distributors of qualified property. 10059

(2) "Qualified property" means tangible personal property 10060
delivered to a qualified distribution center that is shipped to 10061
that qualified distribution center solely for further shipping 10062
by the qualified distribution center to another location in this 10063
state or elsewhere or, in the case of gold, silver, platinum, or 10064
palladium delivered to a refining facility solely for refining 10065
to a grade and fineness acceptable for delivery to a registered 10066
commodities exchange. "Further shipping" includes storing and 10067
repackaging property into smaller or larger bundles, so long as 10068
the property is not subject to further manufacturing or 10069
processing. "Refining" is limited to extracting impurities from 10070

gold, silver, platinum, or palladium through smelting or some 10071
other process at a refining facility. 10072

(3) "Qualified distribution center" means a warehouse, a 10073
facility similar to a warehouse, or a refining facility in this 10074
state that, for the qualifying year, is operated by a person 10075
that is not part of a combined taxpayer group and that has a 10076
qualifying certificate. All warehouses or facilities similar to 10077
warehouses that are operated by persons in the same taxpayer 10078
group and that are located within one mile of each other shall 10079
be treated as one qualified distribution center. All refining 10080
facilities that are operated by persons in the same taxpayer 10081
group and that are located in the same or adjacent counties may 10082
be treated as one qualified distribution center. 10083

(4) "Qualifying year" means the calendar year to which the 10084
qualifying certificate applies. 10085

(5) "Qualifying period" means the period of the first day 10086
of July of the second year preceding the qualifying year through 10087
the thirtieth day of June of the year preceding the qualifying 10088
year. 10089

(6) "Qualifying certificate" means the certificate issued 10090
by the tax commissioner after the operator of a distribution 10091
center files an annual application with the commissioner under 10092
division (B) of this section. 10093

(7) "Ohio delivery percentage" means the proportion of the 10094
total property delivered to a destination inside Ohio from the 10095
qualified distribution center during the qualifying period 10096
compared with total deliveries from such distribution center 10097
everywhere during the qualifying period. 10098

(8) "Refining facility" means one or more buildings 10099

located in a county in the Appalachian region of this state as 10100
defined by section 107.21 of the Revised Code and utilized for 10101
refining or smelting gold, silver, platinum, or palladium to a 10102
grade and fineness acceptable for delivery to a registered 10103
commodities exchange. 10104

(9) "Registered commodities exchange" means a board of 10105
trade, such as New York mercantile exchange, inc. or commodity 10106
exchange, inc., designated as a contract market by the commodity 10107
futures trading commission under the "Commodity Exchange Act," 7 10108
U.S.C. 1 et seq., as amended. 10109

(10) "Ineligible operator's supplier tax liability" means 10110
an amount equal to the tax liability of all suppliers of a 10111
distribution center had the distribution center not been issued 10112
a qualifying certificate for the qualifying year. Ineligible 10113
operator's supplier tax liability shall not include interest or 10114
penalties. 10115

(B) For purposes of division (B) of this section, 10116
"supplier" excludes any person that is part of the consolidated 10117
elected taxpayer group, if applicable, of the operator of the 10118
qualified distribution center. 10119

(1) An application for a qualifying certificate to be a 10120
qualified distribution center shall be filed, and an annual fee 10121
paid, for each qualified distribution center on or before the 10122
first day of September before the qualifying year or within 10123
forty-five days after the distribution center opens, whichever 10124
is later. The applicant must substantiate to the commissioner's 10125
satisfaction that, for the qualifying period, all persons 10126
operating the distribution center have more than fifty per cent 10127
of the cost of the qualified property shipped to a location such 10128
that it would be situated outside this state under the provisions 10129

of division (E) of section 5751.033 of the Revised Code. The 10130
applicant must also substantiate that the distribution center 10131
cumulatively had costs from its suppliers equal to or exceeding 10132
five hundred million dollars during the qualifying period. 10133

The commissioner may require an applicant to have an 10134
independent certified public accountant certify that the 10135
calculation of the minimum thresholds required for a qualified 10136
distribution center by the operator of a distribution center has 10137
been made in accordance with generally accepted accounting 10138
principles. The commissioner shall issue or deny the issuance of 10139
a certificate within sixty days after the receipt of the 10140
application. A denial is subject to appeal under section 5717.02 10141
of the Revised Code. If the operator files a timely appeal under 10142
section 5717.02 of the Revised Code, the operator shall be 10143
granted a qualifying certificate effective for the remainder of 10144
the qualifying year or until the appeal is finalized, whichever 10145
is earlier. If the operator does not prevail in the appeal, the 10146
operator shall pay the ineligible operator's supplier tax 10147
liability. 10148

(2) If the distribution center is new and was not open for 10149
the entire qualifying period, the operator of the distribution 10150
center may request that the commissioner grant a qualifying 10151
certificate. If the certificate is granted and it is later 10152
determined that more than fifty per cent of the qualified 10153
property during that year was not shipped to a location such 10154
that it would be situated outside of this state under the 10155
provisions of division (E) of section 5751.033 of the Revised 10156
Code or if it is later determined that the person that operates 10157
the distribution center had average monthly costs from its 10158
suppliers of less than forty million dollars during that year, 10159
then the operator of the distribution center shall pay the 10160

ineligible operator's supplier tax liability. 10161

(3) The commissioner may grant a qualifying certificate to 10162
a distribution center that does not qualify as a qualified 10163
distribution center for an entire qualifying period if the 10164
operator of the distribution center demonstrates that the 10165
business operations of the distribution center have changed or 10166
will change such that the distribution center will qualify as a 10167
qualified distribution center within thirty-six months after the 10168
date the operator first applies for a certificate. If, at the 10169
end of that thirty-six-month period, the business operations of 10170
the distribution center have not changed such that the 10171
distribution center qualifies as a qualified distribution 10172
center, the operator of the distribution center shall pay the 10173
ineligible operator's supplier tax liability for each year that 10174
the distribution center received a certificate but did not 10175
qualify as a qualified distribution center. For each year the 10176
distribution center receives a certificate under division (B) (3) 10177
of this section, the distribution center shall pay all 10178
applicable fees required under this section and shall submit an 10179
updated business plan showing the progress the distribution 10180
center made toward qualifying as a qualified distribution center 10181
during the preceding year. 10182

(4) An operator may appeal a determination under division 10183
(B) (2) or (3) of this section that the ineligible operator is 10184
liable for the operator's supplier tax liability as a result of 10185
not qualifying as a qualified distribution center, as provided 10186
in section 5717.02 of the Revised Code. 10187

(C) (1) When filing an application for a qualifying 10188
certificate under division (B) (1) of this section, the operator 10189
of a qualified distribution center also shall provide 10190

documentation, as the commissioner requires, for the 10191
commissioner to ascertain the Ohio delivery percentage. The 10192
commissioner, upon issuing the qualifying certificate, also 10193
shall certify the Ohio delivery percentage. The operator of the 10194
qualified distribution center may appeal the commissioner's 10195
certification of the Ohio delivery percentage in the same manner 10196
as an appeal is taken from the denial of a qualifying 10197
certificate under division (B)(1) of this section. 10198

(2) In the case where the distribution center is new and 10199
not open for the entire qualifying period, the operator shall 10200
make a good faith estimate of an Ohio delivery percentage for 10201
use by suppliers in their reports of taxable gross receipts for 10202
the remainder of the qualifying period. The operator of the 10203
facility shall disclose to the suppliers that such Ohio delivery 10204
percentage is an estimate and is subject to recalculation. By 10205
the due date of the next application for a qualifying 10206
certificate, the operator shall determine the actual Ohio 10207
delivery percentage for the estimated qualifying period and 10208
proceed as provided in division (C)(1) of this section with 10209
respect to the calculation and recalculation of the Ohio 10210
delivery percentage. The supplier is required to file, within 10211
sixty days after receiving notice from the operator of the 10212
qualified distribution center, amended reports for the impacted 10213
calendar quarter or quarters or calendar year, whichever the 10214
case may be. Any additional tax liability or tax overpayment 10215
shall be subject to interest but shall not be subject to the 10216
imposition of any penalty so long as the amended returns are 10217
timely filed. 10218

(3) The operator of a distribution center that receives a 10219
qualifying certificate under division (B)(3) of this section 10220
shall make a good faith estimate of the Ohio delivery percentage 10221

that the operator estimates will apply to the distribution 10222
center at the end of the thirty-six-month period after the 10223
operator first applied for a qualifying certificate under that 10224
division. The result of the estimate shall be multiplied by a 10225
factor of one and seventy-five one-hundredths. The product of 10226
that calculation shall be the Ohio delivery percentage used by 10227
suppliers in their reports of taxable gross receipts for each 10228
qualifying year that the distribution center receives a 10229
qualifying certificate under division (B) (3) of this section, 10230
except that, if the product is less than five per cent, the Ohio 10231
delivery percentage used shall be five per cent and that, if the 10232
product exceeds forty-nine per cent, the Ohio delivery 10233
percentage used shall be forty-nine per cent. 10234

(D) Qualifying certificates and Ohio delivery percentages 10235
issued by the commissioner shall be ~~open to public inspection~~ 10236
~~and shall be~~ timely published ~~by the commissioner~~ on the 10237
department of taxation's web site and shall be accessible on 10238
that web site for at least four years after the date of 10239
issuance. A supplier relying in good faith on a certificate 10240
issued under this section shall not be subject to tax on the 10241
qualifying distribution center receipts under this section and 10242
division (F) (2) (z) of section 5751.01 of the Revised Code. An 10243
operator receiving a qualifying certificate is liable for the 10244
ineligible operator's supplier tax liability for each year the 10245
operator received a certificate but did not qualify as a 10246
qualified distribution center. 10247

(E) The tax commissioner shall determine an ineligible 10248
operator's supplier tax liability based on information that the 10249
commissioner may request from the operator of the distribution 10250
center. An operator shall provide a list of all suppliers of the 10251
distribution center and the corresponding costs of qualified 10252

property for the qualifying year at issue within sixty days of a 10253
request by the commissioner under this division. 10254

(F) The annual fee for a qualifying certificate shall be 10255
one hundred thousand dollars for each qualified distribution 10256
center. If a qualifying certificate is not issued, the annual 10257
fee is subject to refund after the exhaustion of all appeals 10258
provided for in division (B) (1) of this section. The first one 10259
hundred thousand dollars of the annual application fees 10260
collected each calendar year shall be credited to the revenue 10261
enhancement fund. The remainder of the annual application fees 10262
collected shall be distributed in the same manner required under 10263
section 5751.20 of the Revised Code. 10264

(G) The tax commissioner may require that adequate 10265
security be posted by the operator of the distribution center on 10266
appeal when the commissioner disagrees that the applicant has 10267
met the minimum thresholds for a qualified distribution center 10268
as set forth in this section. 10269

Section 2. That existing sections 127.15, 173.03, 753.19, 10270
1121.38, 1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 1571.05, 10271
1571.08, 1571.10, 1571.14, 1571.15, 1571.16, 1707.02, 1707.04, 10272
1707.042, 1707.091, 1707.11, 1707.43, 1733.16, 2941.401, 10273
3111.23, 3301.05, 3302.04, 3310.521, 3313.41, 3313.818, 3314.21, 10274
3319.081, 3319.11, 3319.16, 3319.291, 3319.311, 3321.13, 10275
3321.21, 3704.03, 3734.02, 3734.021, 3734.575, 3746.09, 3752.11, 10276
3772.031, 3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 3781.08, 10277
3781.11, 3781.25, 3781.29, 3781.342, 3904.08, 4121.19, 4123.512, 10278
4123.52, 4125.03, 4141.09, 4141.47, 4167.10, 4301.17, 4301.30, 10279
4303.24, 4507.081, 4508.021, 4509.101, 4510.03, 4510.41, 10280
4735.13, 4735.14, 5107.161, 5120.14, 5165.193, 5165.86, 10281
5166.303, 5168.08, 5168.22, 5168.23, 5525.01, 5703.37, 5709.83, 10282

5736.041, and 5751.40 of the Revised Code are hereby repealed. 10283

Section 3. That section 5123.195 of the Revised Code is 10284
hereby repealed. 10285

Section 4. The amendment by this act of sections 5168.22 10286
and 5168.23 of the Revised Code does not supersede the repeal of 10287
those sections on October 1, 2023, as prescribed by Section 10288
610.20 of H.B. 110 of the 134th General Assembly. 10289

The amendment by this act of section 5168.08 of the 10290
Revised Code does not supersede the repeal of this section on 10291
October 16, 2023, as prescribed by Section 610.20 of H.B. 110 of 10292
the 134th General Assembly. 10293

Section 5. The General Assembly, applying the principle 10294
stated in division (B) of section 1.52 of the Revised Code that 10295
amendments are to be harmonized if reasonably capable of 10296
simultaneous operation, finds that the following sections, 10297
presented in this act as composites of the sections as amended 10298
by the acts indicated, are the resulting versions of the 10299
sections in effect prior to the effective date of the sections 10300
as presented in this act: 10301

Section 3302.04 of the Revised Code as amended by both 10302
H.B. 82 and H.B. 110 of the 134th General Assembly. 10303

Section 4509.101 of the Revised Code as amended by both 10304
H.B. 62 and H.B. 158 of the 133rd General Assembly. 10305