

AN ACT

To amend sections 505.82, 1514.10, 1517.01, 1517.02, 1517.021, 1517.11, 1531.04, 1546.01, 1546.02, 1546.04, 1547.68, 1547.73, 1547.75, 1547.81, 1547.82, 1547.83, 1547.84, 1547.85, 1547.86, 3714.03, and 4501.24; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1547.81 (1517.14), 1547.82 (1517.15), 1547.83 (1517.16), 1547.84 (1517.17), 1547.85 (1517.18), and 1547.86 (1517.19); and to enact section 5.2321 of the Revised Code to revise the law governing the designation of wild, scenic, and recreational rivers and to revise boating law to encourage boating safety.

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

SECTION 1. That sections 505.82, 1514.10, 1517.01, 1517.02, 1517.021, 1517.11, 1531.04, 1546.01, 1546.02, 1546.04, 1547.68, 1547.73, 1547.75, 1547.81, 1547.82, 1547.83, 1547.84, 1547.85, 1547.86, 3714.03, and 4501.24 be amended; sections 1547.81 (1517.14), 1547.82 (1517.15), 1547.83 (1517.16), 1547.84 (1517.17), 1547.85 (1517.18), and 1547.86 (1517.19) be amended for the purpose of adopting new section numbers as indicated in parentheses; and section 5.2321 of the Revised Code be enacted to read as follows:

Sec. 5.2321. The month of April is designated as "Powerboat Safety Month" to emphasize the dangers of carbon monoxide poisoning that can occur on a powerboat. During the month of April, or more often as determined by the director of natural resources, the department of natural resources shall disseminate information to the public about all of the following:

(A) Carbon monoxide is colorless, odorless, and deadly.

(B) Gasoline-powered engines on boats, including onboard generators, produce carbon monoxide, which may poison or kill a person who breathes in too much of it.

(C) Symptoms of carbon monoxide poisoning are flu-like, so they often go unheeded until it is too late.

(D) It is advised that a powerboat owner install and maintain a working carbon monoxide detector on the owner's boat.

(E) A powerboat owner should keep carbon monoxide from accumulating at deadly concentrations and make sure that outlets are never blocked.

(F) A powerboat owner should always dock, beach, or anchor at least twenty feet from the nearest boat that is running a generator or engine.

(G) Open air boating may reduce, but does not eliminate, the risk of carbon monoxide poisoning and death.

Sec. 505.82. (A) If a board of township trustees by a unanimous vote or, in the event of the unavoidable absence of one trustee, by an affirmative vote of two trustees adopts a resolution declaring that an emergency exists that threatens life or property within the unincorporated territory of the township or that such an emergency is imminent, the board may exercise the powers described in divisions (A)(1) and (2) and (B) of this section during the emergency for a period of time not exceeding six months following the adoption of the resolution. The resolution shall state the specific time period for which the emergency powers are in effect.

(1) If an owner of an undedicated road or stream bank in the unincorporated territory of the township has not provided for the removal of snow, ice, debris, or other obstructions from the road or bank, the board may provide for that removal. Prior to providing for the removal, the board shall give, or make a good faith attempt to give, oral notice to the owner or owners of the road or bank of the board's intent to clear the road or bank and to impose a service charge for doing so. The board shall establish just and equitable service charges for the removal to be paid, except as provided in division (B) of this section, by the owners of the road or bank.

The board shall keep a record of the costs incurred by the township in removing snow, ice, debris, or other obstructions from the road or bank. The service charges shall be based on these costs and shall be in an amount sufficient to recover these costs. If there is more than one owner of the road or bank, the board, except as provided in division (B) of this section, shall allocate the service charges among the owners on an equitable basis. The board shall notify, in writing, each owner of the road or bank of the amount of the service charges and shall certify the charges to the county auditor. The service charges shall constitute a lien upon the property. The auditor shall place the service charges on a special duplicate to be collected as other taxes and returned to the township general fund.

(2) The board may contract for the immediate acquisition, replacement, or repair of equipment needed for the emergency situation, without following the competitive bidding requirements of section 5549.21 or any other section of the Revised Code.

(B) In lieu of collecting service charges from owners for the removal of snow or ice from an undedicated road by the board of township trustees as provided in division (A)(1) of this section, the board may enter into a contract with a developer whereby the developer agrees to pay the service charges for the snow and ice removal instead of the owners.

(C) The removal of snow, ice, debris, or other obstructions from an undedicated road by a board of township trustees acting pursuant to a resolution adopted under division (A) of this section does not constitute approval or acceptance of the undedicated road.

(D) As used in this section, "undedicated road" means a road that has not been approved and accepted by the board of county commissioners and is not a part of the state, county, or township road systems as provided in section 5535.01 of the Revised Code.

(E) Nothing in this section shall be construed to waive the requirement under section ~~1547.82-1517.15~~ of the Revised Code that approval of plans be obtained from the director of natural

resources or the director's representative prior to modifying or causing the modification of the channel of any watercourse ~~in that is a wild, scenic, or recreational river area~~ outside the limits of a municipal corporation.

Sec. 1514.10. No person shall:

(A)(1) Engage in surface mining without a permit;

(2) Engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief of the division of mineral resources management. A person who, on March 15, 2002, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this chapter until the existing permit expires.

(B) Exceed the limits of a surface or in-stream mining permit or amendment to a permit by mining land contiguous to an area of land affected under a permit or amendment, which contiguous land is not under a permit or amendment;

(C) Purposely misrepresent or omit any material fact in an application for a surface or in-stream mining permit or amendment, an annual or final report, or any hearing or investigation conducted by the chief or the reclamation commission;

(D) Fail to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve a performance standard required in division (A)(10) of section 1514.02 of the Revised Code, or violate any other requirement of this chapter, a rule adopted thereunder, or an order of the chief;

(E) Conduct surface excavations of minerals within any of the following:

(1) One hundred twenty feet horizontal distance outward from the highwater mark on each bank of ~~an area a~~ watercourse designated as a wild, scenic, or recreational river ~~area~~ under sections ~~1547.81 to 1547.86~~ 1517.14 to 1517.19 of the Revised Code or of a portion of a ~~river~~ watercourse designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

(F) Conduct any surface mining activity within any of the following:

(1) Seventy-five feet horizontal distance outward from the highwater mark on each bank of ~~an area a~~ watercourse designated as a wild, scenic, or recreational river ~~area~~ under sections ~~1547.81 to 1547.86~~ 1517.14 to 1517.19 of the Revised Code or of a portion of a ~~river~~ watercourse designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

A person who has been issued a surface mining permit prior to March 15, 2002 may continue to operate under that permit and shall not be subject to the prohibitions established in divisions (E) and (F) of this section until the permit is renewed.

The number of square miles of surface area that a watercourse drains shall be determined by consulting the "gazetteer of Ohio streams," which is a portion of the Ohio water plan inventory published in 1960 by the division of water in the department of natural resources, or its successor, if any.

(G) Engage in any part of a process that is followed in the production of minerals from the bottom of the channel of a watercourse in any of the following circumstances or areas:

(1) In ~~an area a watercourse~~ designated as a wild, scenic, or recreational river ~~area~~ under sections ~~1547.81 to 1547.86-1517.14 to 1517.19~~ of the Revised Code, in a portion of a ~~river watercourse~~ designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within one-half mile upstream of any portion of ~~such an area a watercourse designated as a wild, scenic, or recreational river or component;~~

(2) During periods other than periods of low flow, as determined by rules adopted under section 1514.08 of the Revised Code;

(3) During critical fish or mussel spawning seasons as determined by the chief of the division of wildlife under Chapter 1531. of the Revised Code and rules adopted under it;

(4) In an area known to possess critical spawning habitat for a species of fish or mussel that is on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code.

Division (G) of this section does not apply to the activities described in divisions (M)(1) and (2) of section 1514.01 of the Revised Code.

Sec. 1517.01. As used in ~~Chapter 1517. of the Revised Code~~this chapter:

(A) "Natural area" means an area of land or water which either retains to some degree or has re-established its natural character, although it need not be completely undisturbed, or has unusual flora, fauna, geological, archeological, scenic, or similar features of scientific or educational interest.

(B) "Nature preserve" means an area which is formally dedicated under section 1517.05 of the Revised Code.

(C) "Recreational river" means a watercourse declared a recreational river by the director of natural resources under section 1517.14 of the Revised Code and includes those watercourses or

sections of watercourses that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

(D) "Scenic river" means a watercourse or a section of watercourse declared a scenic river by the director under section 1517.14 of the Revised Code to which both of the following apply:

(1) It is free of impoundments constructed by humans for at least seventy-five per cent of the length of the watercourse or section of the watercourse or it is combined with another section of a watercourse that has been designated a wild river.

(2) It has shorelines or watersheds that are largely primitive and undeveloped, but accessible in places by roads.

(E) "Scenic river lands" means any area of land or water within a wild, scenic, or recreational river watershed that is owned by the department of natural resources and administered by the division of natural areas and preserves for the purpose of protecting the natural character and water quality of a wild, scenic, or recreational river.

(F) "Watercourse" means a substantially natural channel that is at least five miles in length with recognized banks and a bottom in which the flow of water occurs.

(G) "Wild river" means a watercourse declared a wild river by the director under section 1517.14 of the Revised Code and includes those watercourses or sections of watercourses that are free of impoundments constructed by humans and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America.

Sec. 1517.02. (A) There is hereby created in the department of natural resources the division of natural areas and preserves, which shall be administered by the chief of the division of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

(B) The chief shall administer a system of nature preserves. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas that represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

(C) The chief shall administer a system of wild, scenic, and recreational rivers. The chief may—shall supervise, operate, protect, and maintain wild, scenic, and recreational rivers, as designated by the director of natural resources; with the approval of the director of natural resources, cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river systems; and participate in watershed planning activities with other states, local or federal agencies, or other state agencies.

~~(D)~~ The chief shall do the following:

~~(A)~~ ~~(1)~~ Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;

~~(B)~~ ~~(2)~~ Formulate policies for the selection of natural areas of unusual significance suitable for registration;

~~(C)~~ ~~(3)~~ Formulate policies for the dedication of areas as nature preserves;

~~(D)~~ ~~(4)~~ Formulate policies for the declaration of wild, scenic, and recreational rivers;

~~(5)~~ Prepare and maintain surveys and inventories of wild, scenic, and recreational rivers and natural areas; and assist the division of wildlife in preparing and maintaining surveys and inventories of rare and endangered species of plants and animals, and other unique natural features. The information shall be entered in the Ohio natural heritage database, established under section 1531.04 of the Revised Code.

~~(E)~~ ~~(6)~~ Adopt rules ~~for the~~ in accordance with Chapter 119. of the Revised Code establishing all of the following:

~~(a)~~ Requirements governing the use, visitation, and protection of nature preserves and natural areas owned or managed through easement, license, or lease by the department and administered by the division in accordance with Chapter 119. of the Revised Code;

~~(F)~~ ~~(b)~~ Requirements governing the use, visitation, and protection of scenic river lands and of publicly owned lands that are administered by the division that are within the watersheds of wild, scenic, and recreational rivers;

~~(c)~~ Fees and charges for conducting stream impact reviews of any planned or proposed construction, modification, renovation, or development project that is subject to approval under section 1517.15 of the Revised Code and may potentially impact a designated wild, scenic, or recreational river. Such fees and charges shall be credited to the natural areas and preserves fund created in section 1517.11 of the Revised Code.

~~(7)~~ Provide facilities and improvements within the state system of nature preserves, wild, scenic, and recreational rivers, scenic river lands, and publicly owned lands that are administered by the division and are within the watersheds of those rivers that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

~~(G)~~ ~~(8)~~ Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas, scenic river lands, and publicly owned lands that are administered by the division and are within the watersheds of wild, scenic, and recreational rivers for their visitation and use;

~~(H)~~ ~~(9)~~ Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves, wild, scenic, and recreational rivers, scenic river lands, and publicly owned lands that are administered by the division and are within the watersheds of those rivers;

~~(I)~~ ~~(10)~~ Establish an appropriate system for marking nature preserves, wild, scenic, and

recreational rivers, scenic river lands, and publicly owned lands that are administered by the division and are within the watersheds of those rivers;

~~(J)~~ (11) Provide wild, scenic, and recreational river conservation education;

(12) Provide for protection, restoration, habitat enhancement, and clean-up projects in wild, scenic, and recreational rivers, scenic river lands, and publicly owned lands that are administered by the division and are within the watersheds of those rivers;

(13) Publish and submit to the governor and the general assembly a biennial report of ~~the~~:

(a) The status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation;

(b) The status and condition of each wild, scenic, and recreational river and activities conducted within each river corridor.

~~(E)~~ The chief, in carrying out sections 1517.14 to 1517.19 of the Revised Code, may accept, receive, and expend donations, gifts, devises, or bequests of money, lands, or other properties as authorized under section 9.20 of the Revised Code. If the donations, gifts, devises, and bequests are monetary in nature, the money shall be credited to the scenic rivers protection fund created in section 4501.24 of the Revised Code.

Sec. 1517.021. No person shall violate any rule adopted pursuant to division ~~(E)~~ ~~(D)~~ ~~(6)~~ of section 1517.02 of the Revised Code.

Sec. 1517.11. There is hereby created in the state treasury the natural areas and preserves fund, which shall consist of moneys transferred into it under section 5747.113 of the Revised Code and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in that section.

Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of natural areas and preserves solely for the following purposes:

(A) The acquisition of new or expanded natural areas and nature preserves and scenic river lands;

(B) Facility development in natural areas and nature preserves and scenic river lands;

(C) Special projects, including, but not limited to, biological inventories, research grants, and the production of interpretive material related to natural areas and nature preserves and scenic river lands;

(D) Routine maintenance for health and safety purposes.

Money in the fund also may be used for the purposes of administering a system of wild, scenic, and recreational rivers, scenic river lands, and facilities or improvements associated with such rivers and lands.

Moneys appropriated from the fund shall not be used to fund salaries of permanent employees or administrative costs.

All investment earnings of the fund shall be credited to the fund.

Sec. ~~1547.81~~ 1517.14. (A) ~~The director of natural resources or the director's representative~~ may create, wild, scenic, and recreational rivers. ~~The chief of the division of natural areas and preserves shall~~ supervise, operate, protect, and maintain wild, scenic, and recreational river areas ~~rivers so created~~. In creating wild, scenic, and recreational river areas ~~rivers~~, the director shall classify each such ~~area~~ watercourse as either a wild river area, a scenic river area, or a recreational river area. ~~The director or the director's representative chief~~ may prepare and maintain a plan for the establishment, development, use, and administration of those ~~areas~~ rivers as a part of the comprehensive state plans for water management and outdoor recreation. ~~The director or the director's representative chief, with the approval of the director,~~ may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas ~~systems~~.

(B) ~~The director may propose for establishment as to create a~~ wild, scenic, or recreational river area that consists of a part or parts of any watercourse in this state, ~~with adjacent lands,~~ that in the director's judgment possesses water conservation, scenic, fish, wildlife, historic, or outdoor recreation values that should be preserved. ~~The area shall include lands adjacent to the watercourse in sufficient width to preserve, protect, and develop the natural character of the watercourse, but shall not include any lands more than one thousand feet from the normal waterlines of the watercourse unless an additional width is necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values.~~

(C)(1) ~~The director shall publish the intention to declare an area a~~ watercourse a wild, scenic, or recreational river ~~area~~ at least once in a newspaper of general circulation in each county, any part ~~of through which is within the area, and~~ the watercourse flows. ~~The director also shall send written notice of the intention to the legislative authority of each county, township, and municipal corporation and to each conservancy district established under Chapter 6101. of the Revised Code, any part of through which is within the area~~ the watercourse flows, and to the director of transportation, the director of development, the director of administrative services, and the director of environmental protection. The notices shall include a copy of a map and description of the ~~area~~ watercourse to be designated.

(2) The director of natural resources shall post the intention to declare a watercourse a wild, scenic, or recreational river on the division of natural areas and preserves' web site on the date of the initial publication under division (C)(1) of this section.

(3) Any person having an interest in the proposed declaration may file written comments to the proposal within sixty days of the last date of publication or dispatch of written notice as required under division (C)(1) of this section. The director shall post on the division's web site the last date by which written comments may be filed.

(4) After thirty-sixty days from the last date of publication or dispatch of written notice as required in under division (C)(1) of this section, the director shall may enter a declaration in the director's journal that the area watercourse is a wild river area, scenic river area, or recreational river area. When so entered, the ~~area~~ watercourse is a wild, scenic, or recreational river area, as

applicable. The director, after ~~thirty-sixty~~ days' notice as prescribed in this section, may terminate the status of ~~an area a watercourse as a wild river area, scenic river area, or recreational river area~~ by an entry in the director's journal.

~~(D) Declaration by the director that an area is of a watercourse as a wild, scenic, or recreational river area does not authorize do either of the following:~~

~~(1) Affect private property rights or authorize the director, chief of the division of natural areas and preserves, or any governmental agency or political subdivision to restrict the use of private land by the owner thereof or any person acting under the landowner's authority adjacent to the river or to enter upon the private land and does not expand;~~

~~(2) Expand or abridge the regulatory authority of any governmental agency or political subdivision over the area river.~~

~~(E) The director may enter into a lease or other agreement with a political subdivision to administer all or part of a wild, scenic, or recreational river area and may acquire real property or any estate, right, or interest therein in order to provide for the protection and public recreational use of a wild, scenic, or recreational river area. The director may enter into a lease or other agreement with a political subdivision to administer all or part of any publicly owned land that is administered by the division and that is within the watershed of a wild, scenic, or recreational river.~~

~~The chief of the division of parks and watercraft or the chief's representative may participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of wild, scenic, and recreational river areas.~~

~~(F) A wild, scenic, or recreational river that was declared as such by the director of natural resources under Chapter 1547. of the Revised Code prior to the effective date of this amendment retains its declaration as a wild, scenic, or recreational river for purposes of sections 1517.14 to 1517.19 of the Revised Code on and after that date.~~

~~Sec. 1547.82 1517.15. No state department, state agency, or political subdivision shall build or enlarge any highway, road, or structure or modify or cause the modification of the channel of any watercourse within a one thousand feet of a wild, scenic, or recreational river area outside the limits of a municipal corporation without first having obtained approval of the plans for the highway, road, or structure or channel modification from the director of natural resources or the director's representative. The state department, state agency, or political subdivision, with the approval of the director or the director's representative, may so build, enlarge, or modify beyond one thousand feet on publicly owned land if necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values. The court of common pleas having jurisdiction, upon petition by the director, shall enjoin work on any highway, road, or structure or channel modification for which such approval has not been obtained.~~

~~Sec. 1547.83 1517.16. (A) The chief of the division of parks and watercraft shall administer the state programs for wild river areas, scenic river areas, and recreational river areas. The chief natural areas and preserves may accept and administer state and federal financial assistance for the~~

maintenance, protection, and administration of wild, scenic, and recreational ~~river areas-rivers and scenic river lands~~ and for construction of facilities ~~within those areas~~ on publicly owned lands that are administered by the division and are within the watersheds of those rivers. ~~The~~

The chief, with the approval of the director of natural resources, may expend for the purpose of administering the state programs for wild, scenic, and recreational ~~river areas-rivers~~ money that is appropriated;

(1) Appropriated by the general assembly for that purpose, ~~money that is in;~~

(2) In the scenic rivers protection fund created in section 4501.24 of the Revised Code, ~~and money that is in;~~

(3) In the natural areas and preserves fund created in section 1517.11 of the Revised Code;

(4) In the waterways safety fund created in section 1547.75 of the Revised Code, including money generated by the waterways conservation assessment fee levied by sections 1547.54 and 1547.542 of the Revised Code, as determined to be necessary by the division of parks and watercraft and the division of natural areas and preserves not to exceed six hundred fifty thousand dollars per fiscal year. ~~The chief may condition any expenditures, maintenance activities, or construction of facilities on the adoption and enforcement of adequate floodplain zoning or land use rules.~~

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

~~The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.~~

(C) Notwithstanding any provision of this section to the contrary, any expenditures made pursuant to this section shall be made only on lands, or portions thereof, owned by the department of natural resources and administered by the division of natural areas and preserves or on other lands, when agreed to, in writing, by the owner of the lands within the watershed of the wild, scenic, or recreational river, or portion thereof.

~~Sec. 1547.84~~ 1517.17. The chief of the division of natural areas and preserves, with the approval of the director of natural resources, shall appoint an advisory council for each wild, scenic, or recreational river ~~area.~~ Each advisory council shall be composed of not more than ten persons who are representative of local government and local organizations and interests in the ~~vicinity of the wild, scenic, or recreational river area, who watershed.~~ Each person shall serve without compensation. The chief ~~of the division of watercraft~~ or the chief's representative shall serve as an ex officio member of each council.

The initial members appointed to each council shall serve for terms of not more than three years, with the terms of not more than four members of any council ending in the same year. Thereafter, terms of office shall be for three years commencing on the first day of February and ending on the last day of January.

Each council shall advise the chief on the acquisition of land and easements and on the lands

and waters that should be ~~included-protected~~ in a wild, scenic, or recreational river ~~area-watershed~~ or a proposed wild, scenic, or recreational river ~~areawatershed~~, facilities therein, and other aspects of establishment and administration of the ~~area-wild, scenic, or recreational river~~ that may affect the local interest.

An advisory council for a wild, scenic, or recreational river that was created by the director under Chapter 1547. of the Revised Code prior to the effective date of this amendment continues to be the advisory council for the applicable wild, scenic, or recreational river for purposes of sections 1517.14 to 1517.19 of the Revised Code on and after that date.

Sec. ~~1547.85~~ 1517.18. The chief of the division of natural areas and preserves, with the approval of the director of natural resources, may participate in the federal program for the protection of certain selected rivers that are located within the boundaries of the state as provided in the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1271 et seq., as amended. The director may authorize the chief ~~of the division of parks and watercraft~~ to participate in any other federal program established for the purpose of protecting, conserving, or developing recreational access to waters in this state that possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.

Sec. ~~1547.86~~ 1517.19. Any action taken by the chief of the division of ~~parks and watercraft~~ natural areas and preserves under sections ~~1547.81 to 1547.86~~ 1517.14 to 1517.19 of the Revised Code shall not be deemed in conflict with certain powers and duties conferred on and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections 721.04 to 721.11 of the Revised Code.

Sec. 1531.04. The division of wildlife, at the direction of the chief of the division, shall do all of the following:

(A) Plan, develop, and institute programs and policies based on the best available information, including biological information derived from professionally accepted practices in wildlife and fisheries management, with the approval of the director of natural resources;

(B) Have and take the general care, protection, and supervision of the wildlife in the state parks known as Lake St. Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, Guilford Lake, such part of Pymatuning reservoir as lies in this state, and all other state parks and lands owned by the state or in which it is interested or may acquire or become interested, except lands and lakes the care and supervision of which are vested in some other officer, body, board, association, or organization;

(C) Enforce by proper legal action or proceeding the laws of the state and division rules for the protection, preservation, propagation, and management of wild animals and sanctuaries and refuges for the propagation of those wild animals, and adopt and carry into effect such measures as it considers necessary in the performance of its duties;

(D) Promote, educate, and inform the citizens of the state about conservation and the values of fishing, hunting, and trapping, with the approval of the director;

(E) Prepare and maintain surveys and inventories of rare and endangered species of plants and animals and other unique natural features. The information shall be stored in the Ohio natural heritage database, established pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. The database shall include information submitted under section 1517.02 of the Revised Code. Information regarding sensitive site locations of species that are listed pursuant to section 1518.01 of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature.

Sec. 1546.01. As used in this chapter and Chapter 1547. of the Revised Code:

"Canoe" means a paddlecraft that is normally an open, narrow vessel of shallow draft, typically pointed at both ends and propelled by its occupants through the use of paddles while kneeling or sitting on a raised seat, including a flat-backed canoe and a racing canoe.

"Coast guard approved" means bearing an approval number assigned by the United States coast guard.

"Conditional approval" means a personal flotation device approval that has one or more conditions with which the user must comply in order for the device to be considered appropriate for meeting the requirements for personal flotation devices for the vessel on which it is being used.

"Diver's flag" means a red flag not less than one foot square having a diagonal white stripe extending from the masthead to the opposite lower corner that when displayed indicates that divers are in the water.

"Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

"Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

"Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability.

"Impoundment" means the reservoir created by a dam or other artificial barrier across a watercourse that causes water to be stored deeper than and generally beyond the banks of the natural channel of the watercourse during periods of normal flow, but does not include water stored behind rock piles, rock riffle dams, and low channel dams where the depth of water is less than ten feet above the channel bottom and is essentially confined within the banks of the natural channel during periods of normal stream flow.

"Inflatable watercraft" means any vessel constructed of rubber, canvas, or other material that is designed to be inflated with any gaseous substance, constructed with two or more air cells, and operated as a vessel. An inflatable watercraft propelled by a motor is a powercraft. An inflatable watercraft propelled by a sail is a sailboat. An inflatable watercraft propelled by human muscular effort utilizing a paddle or pole is a paddlecraft. An inflatable watercraft propelled by human muscular effort utilizing an oar with the aid of a fulcrum provided by oarlocks, tholepins, crutches, or similar arrangements is a rowboat.

"In operation" in reference to a vessel means that the vessel is being navigated or otherwise used on the waters in this state.

"Kayak" means a paddlecraft that is typically pointed at both ends and is propelled by human muscular effort by one or more seated individuals who use a double-bladed paddle, including an open kayak with an open deck for operator seating, an enclosed kayak designed to enclose an occupant within a cockpit, a tandem kayak designed for multiple occupants, and a racing kayak.

"Law enforcement vessel" means any vessel used in law enforcement or under the command of a law enforcement officer.

"Muffler" means an acoustical suppression device or system that is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

"Navigable waters" means waters that come under the jurisdiction of the department of the army of the United States and any waterways within or adjacent to this state, except inland lakes having neither a navigable inlet nor outlet.

"No wake" has the same meaning as "idle speed."

"Operator" includes any person who uses, navigates, employs, or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state.

"Owner" includes any person, other than a secured party, who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to use or possess the vessel, including a person entitled to use or possess a vessel subject to a security interest in another person, but does not include a lessee under a lease not intended as a security.

"Paddlecraft" means any type of canoe, kayak, paddleboard, or other vessel powered only by its occupants using a single or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, tholepins, crutches, or similar mechanisms.

"Performance type" means the in-water performance classification of a personal flotation device as determined by the United States coast guard.

"Person" includes any legal entity defined as a person in section 1.59 of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof.

"Personal flotation device" means a United States coast guard approved personal safety device designed to provide buoyancy to support a person in the water.

"Personal watercraft" means a vessel, less than sixteen feet in length, that is propelled by a water-jet pump or other machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

"Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device.

~~"Recreational river area" means an area declared a recreational river area by the director under this chapter and includes those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.~~

"Rowboat" means an open vessel, other than a paddlecraft, that is designed to be rowed and that is propelled by human muscular effort by oars and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel. "Rowboat" includes a racing shell and a rowing skull regardless of length or construction.

"Rules" means rules adopted by the chief of the division of parks and watercraft under this chapter or Chapter 1547. of the Revised Code, unless the context indicates otherwise.

"Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.

A vessel with sail as its primary method of propulsion and mechanical propulsion as its secondary method of propulsion is an auxiliary sail.

Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation.

~~"Scenic river area" means an area declared a scenic river area by the director under this chapter and includes those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.~~

"Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

"Throwable personal flotation device" means a device that is intended to be thrown to a person in the water. "Throwable personal flotation device" includes a personal flotation device marked as "Type IV" or "Type V with Type IV performance." "Throwable personal flotation device" does not include a wearable personal flotation device unless it is specifically marked otherwise.

"Towed watersport" means any activity that involves being towed by or riding in the wake of a recreational vessel, including both of the following:

(1) Riding or attempting to ride on one or more water skis, a wakeboard, a surfboard, an inflatable device, or any other device manufactured or used for the purpose of being towed by a recreational vessel;

(2) Engaging or attempting to engage in barefoot skiing or parasailing.

"Type one personal flotation device" means a device that is designed to turn an unconscious

person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

"Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

"Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

"Type four personal flotation device" means a device that is designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

"Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, any of the following:

(1) A designation that states the device is approved only for use while participating in specific activities;

(2) A designation that states the device is approved only for use by an operator or passenger of specific types of vessels;

(3) A designation that states the device is specifically approved as a substitute for the type of personal flotation device required for use while engaged in certain activities or as an operator or passenger of a vessel.

"Vessel" includes every description of craft, including nondisplacement craft, multimodal craft, and submersibles, being used or capable of being used as a means of transportation on water.

"Visible" means visible on a dark night with clear atmosphere.

"Watercourse" means a substantially natural channel with recognized banks and bottom in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length.

"Watercraft" means any of the following when used or capable of being used for transportation on the water:

(1) A vessel operated by machinery either permanently or temporarily affixed;

(2) A sailboat other than a sailboard;

(3) An inflatable, manually propelled vessel that is required by federal law to have a hull identification number meeting the requirements of the United States coast guard;

(4) A canoe, kayak, pedalboat, or rowboat;

(5) Any of the following multimodal craft being operated on waters in this state:

(a) An amphibious vehicle;

(b) A submersible;

(c) An airboat or hovercraft.

(6) A vessel that has been issued a certificate of documentation with a recreational endorsement under 46 C.F.R. 67.

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code.

Watercraft subject to section 1547.54 of the Revised Code are divided into five classes as follows:

Class A: Less than sixteen feet in length;

Class 1: At least sixteen feet, but less than twenty-six feet in length;

Class 2: At least twenty-six feet, but less than forty feet in length;

Class 3: At least forty feet, but less than sixty-five feet in length;

Class 4: At least sixty-five feet in length.

"Watercraft dealer" means any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business that is used primarily for the selling, displaying, offering for sale, or dealing of vessels. "Watercraft dealer" does not include a person who is a marine salvage dealer or any other person who dismantles, salvages, or rebuilds vessels using used parts.

"Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating.

"Wearable personal flotation device" means a device that is intended to be worn or otherwise attached to a person's body. "Wearable personal flotation device" includes a personal flotation device marked as "Type I," "Type II," "Type III," "Type V with Type II performance," or "Type V with Type III performance."

~~"Wild river area" means an area declared a wild river area by the director of natural resources under this chapter and includes those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America.~~

Sec. 1546.02. (A) There is hereby created in the department of natural resources the division of parks and watercraft. The division shall do all of the following:

(1) Administer and enforce all laws relative to the identification, numbering, registration, titling, use, and operation of vessels operated on the waters in this state;

(2) Promote, and educate and inform the citizens of the state about, conservation, navigation, safety practices, and the benefits of recreational boating;

(3) Provide for and assist in the development, maintenance, and operation of marine recreational facilities, docks, launching facilities, and harbors for the benefit of public navigation, recreation, or commerce if the chief of the division determines that they are in the best interests of the state;

~~(4) Provide wild, scenic, and recreational river area conservation education and provide for corridor protection, restoration, habitat enhancement, and clean-up projects in those areas;~~

~~(5)~~ Coordinate and plan trails in accordance with section 1519.03 of the Revised Code;

~~(6)~~ ~~(5)~~ Administer any state or federally funded grant program that is related to natural resources and recreation as considered necessary by the director of natural resources.

(B) The division shall create, supervise, operate, protect, and maintain, and promote the use by the public of, a system of state parks ~~and wild, scenic, and recreational river areas~~. As part of that responsibility, the division shall control and manage all lands and waters dedicated and set apart for state park purposes. The division shall do all of the following regarding those lands and waters:

(1) Protect and maintain them;

(2) Make alterations and improvements;

(3) Construct and maintain dikes, wharves, landings, docks, dams, and other works;

(4) Construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public.

Sec. 1546.04. (A) Except as provided in this section, the chief of the division of parks and watercraft, with the approval of the director of natural resources, shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including rules:

(1) Governing opening and closing times and dates of state parks;

(2) Establishing fees and charges for use of facilities in state parks;

(3) Governing camps, camping, and fees for camps and camping;

(4) Governing the application for and rental of, rental fees for, and the use of cottages;

(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds and parking on those lands;

(6) Governing all advertising within state parks and requirements for the operation of places selling tangible personal property and food service sales on lands and waters under the control of the division. The rules shall establish uniform requirements for those operations and sales.

(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft over waters under the control of the division and establishing reasonable fees for the construction of, and annual use permits for, those structures and devices;

(8) Governing state beaches, swimming, inflatable devices, and fees for them;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason;

(11) Governing natural resources officers in all parks and bodies of water and lands adjacent to those bodies under the supervision and control of the division as are necessary to the proper management of such parks and bodies of water.

(B) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

(C) The chief, with the approval of the director of natural resources, may adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Requirements governing the administration of state parks;

(2) Requirements considered necessary by the chief to supplement the identification, operation, titling, use, registration, and numbering of watercraft or vessels as provided in Chapters 1547. and 1548. of the Revised Code;

(3) Requirements governing the navigation of vessels on waters in this state, including rules regarding steering and sailing, the conduct of vessels in sight of one another or in restricted visibility, lights and shapes of lights used on vessels, and sound and light signals. As the chief considers necessary, the chief shall ensure that those rules are consistent with and equivalent to the regulations and interpretive rulings governing inland waters adopted or issued under the "Inland Navigational Rules Act of 1980," 94 Stat. 3415, 33 U.S.C. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 2073.

~~(4) Requirements governing the use, visitation, protection, and administration of wild, scenic, and recreational river areas;~~

~~(5) Requirements and procedures governing vessel safety inspection checkpoints, including procedures that comply with statutory and constitutional provisions governing searches and seizures by law enforcement officers;~~

~~(6)~~ (5) Fees and charges for all of the following:

(a) Boating skill development classes and other educational classes;

(b) Law enforcement services provided at special events when the services are in addition to normal enforcement duties;

(c) Inspections of vessels or motors conducted under Chapter 1547. or Chapter 1548. of the Revised Code;

~~(d) The conducting of stream impact reviews of any planned or proposed construction, modification, renovation, or development project that may potentially impact a watercourse within a designated wild, scenic, or recreational river area.~~

(D) The chief shall not adopt rules under this section establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

Sec. 1547.68. To assist political subdivisions, conservancy districts, state departments, or nonprofit organizations in establishing or participating in boating safety education programs, the division of parks and watercraft, with the approval of the director of natural resources, may expend moneys appropriated by the general assembly for those purposes and, additionally, moneys from the waterways safety fund established in section 1547.75 of the Revised Code determined to be

necessary by the division, but not to exceed ten per cent of all moneys accruing to the fund. In no case shall a grant to any one political subdivision, conservancy district, state department, or nonprofit organization total more than ~~thirty-sixty~~ thousand dollars in a calendar year. Moneys so allocated may be used for personnel salaries and training, materials, supplies, equipment, and related expenses needed to conduct boating education programs.

The division shall disburse the moneys as provided in this section in accordance with its determination of need in the enforcement of this chapter and rules or for the establishment of or participation in a boating safety education program. The division shall disburse moneys only on a cost share basis. A grantee shall provide at least twenty-five per cent of the total program cost and may do so with cash, in-kind services or contributions, or a combination. The cost share shall be allocated by a political subdivision, conservancy district, state department, or nonprofit organization for those purposes.

Sec. 1547.73. There is hereby created in the division of parks and watercraft a waterways safety council composed of five members appointed by the governor with the advice and consent of the senate. Not more than three of such appointees shall belong to the same political party. Terms of office shall be for five years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The chief of the division of parks and watercraft shall act as secretary of the council. In the event of the death, removal, resignation, or incapacity of a member of the council, the governor, with the advice and consent of the senate, shall appoint a successor to fill the unexpired term who shall hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any appointed member of the council for misfeasance, nonfeasance, or malfeasance in office.

The council may:

(A) Advise with and recommend to the chief as to plans and programs for the construction, maintenance, repair, and operation of refuge harbors and other projects for the harboring, mooring, docking, and storing of light draft vessels as provided in sections 1547.71 and 1547.72 of the Revised Code;

(B) Advise with and recommend to the chief as to the methods of coordinating the shore erosion projects of the department of natural resources with the refuge of light draft vessel harbor projects;

~~(C) Advise with and recommend to the chief as to plans and programs for the acquisition, protection, construction, maintenance, and administration of wild river areas, scenic river areas, and recreational river areas;~~

~~(D) Consider and make recommendations upon any matter which is brought to its attention by any person or that the chief may submit to it;~~

~~(E)~~(D) Submit to the governor biennially recommendations for amendments to the laws of the state relative to refuge and light draft vessel harbor projects.

Before entering upon the discharge of official duties, each member of the council shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the council shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties from the waterways safety fund as provided in section 1547.75 of the Revised Code.

The council shall, by a majority vote of all its members, adopt and amend bylaws.

To be eligible for appointment as a member of the council, a person shall be a citizen of the United States and an elector of the state and possess a knowledge of and have an interest in small boat operations.

The council shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the council provide, or at the behest of a majority of its members. Notices of all meetings shall be given in such manner as the bylaws provide. The council shall choose annually from among its members a chairperson to preside over its meetings. A majority of the members of the council shall constitute a quorum. No advice shall be given or recommendation made without a majority of the members of the council concurring therein.

Sec. 1547.75. There is hereby created in the state treasury the waterways safety fund. The fund shall consist of money credited to it under this chapter and Chapters 1546. and 1548. of the Revised Code. The fund shall be used for boating-related activities under those chapters and for purposes specified in section 1517.16 of the Revised Code.

Sec. 3714.03. (A) As used in this section:

(1) "Aquifer system" means one or more geologic units or formations that are wholly or partially saturated with water and are capable of storing, transmitting, and yielding significant amounts of water to wells or springs.

(2) "Category 3 wetland" means a wetland that supports superior habitat or hydrological or recreational functions as determined by an appropriate wetland evaluation methodology acceptable to the director of environmental protection. "Category 3 wetland" includes a wetland with high levels of diversity, a high proportion of native species, and high functional values and includes, but is not limited to, a wetland that contains or provides habitat for threatened or endangered species. "Category 3 wetland" may include high quality forested wetlands, including old growth forested wetlands, mature forested riparian wetlands, vernal pools, bogs, fens, and wetlands that are scarce regionally.

(3) "Natural area" means either of the following:

(a) ~~An area~~ A watercourse designated by the director of natural resources as a wild, scenic, or recreational river under section ~~1547.81~~ 1517.14 of the Revised Code;

(b) An area designated by the United States department of the interior as a national wild,

scenic, or recreational river.

(4) "Occupied dwelling" means a residential dwelling and also includes a place of worship as defined in section 5104.01 of the Revised Code, a child care center as defined in that section, a hospital as defined in section 3727.01 of the Revised Code, a nursing home as defined in that section, a school, and a restaurant or other eating establishment. "Occupied dwelling" does not include a dwelling owned or controlled by the owner or operator of a construction and demolition debris facility to which the siting criteria established under this section are being applied.

(5) "Residential dwelling" means a building used or intended to be used in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence.

(B) Neither the director of environmental protection nor any board of health shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when any portion of the facility is proposed to be located in either of the following locations:

(1) Within the boundaries of a one-hundred-year flood plain, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or operator has obtained an exemption from division (B)(1) of this section in accordance with section 3714.04 of the Revised Code. If no such maps have been prepared, the boundaries of a one-hundred-year flood plain shall be determined by the applicant for a permit based upon standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

(2) Within the boundaries of a sole source aquifer designated by the administrator of the United States environmental protection agency under the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

(C) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the horizontal limits of construction and demolition debris placement at the new facility are proposed to be located in any of the following locations:

(1) Within one hundred feet of a perennial stream as defined by the United States geological survey seven and one-half minute quadrangle map or a category 3 wetland;

(2) Within one hundred feet of the facility's property line;

(3)(a) Except as provided in division (C)(3)(b) of this section, within five hundred feet of a residential or public water supply well.

(b) Division (C)(3)(a) of this section does not apply to a residential well under any of the circumstances specified in divisions (C)(3)(b)(i) to (iii) of this section as follows:

(i) The well is controlled by the owner or operator of the construction and demolition debris

facility.

(ii) The well is hydrologically separated from the horizontal limits of construction and demolition debris placement.

(iii) The well is at least three hundred feet upgradient from the horizontal limits of construction and demolition debris placement and division (D) of this section does not prohibit the issuance of the permit to install.

(4) Within five hundred feet of a park created or operated pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041 of the Revised Code, a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, a national recreation area, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any area located in this state that is recommended by the secretary for study for potential inclusion in the national park system in accordance with "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;

(5) Within five hundred feet of a natural area, any area established by the department of natural resources as a state wildlife area under Chapter 1531. of the Revised Code and rules adopted under it, any area that is formally dedicated as a nature preserve under section 1517.05 of the Revised Code, or any area designated by the United States department of the interior as a national wildlife refuge;

(6) Within five hundred feet of a lake or reservoir of one acre or more that is hydrogeologically connected to ground water. For purposes of division (C)(6) of this section, a lake or reservoir does not include a body of water constructed and used for purposes of surface water drainage or sediment control.

(7) Within five hundred feet of a state forest purchased or otherwise acquired under Chapter 1503. of the Revised Code;

(8) Within five hundred feet of an occupied dwelling unless written permission is given by the owner of the dwelling.

(D) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the limits of construction and demolition debris placement at the new facility are proposed to have an isolation distance of less than five feet from the uppermost aquifer system that consists of material that has a maximum hydraulic conductivity of 1×10^{-5} cm/sec and all of the geologic material comprising the isolation distance has a hydraulic conductivity equivalent to or less than 1×10^{-6} cm/sec.

(E) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the road that is designated by the owner or operator as the main hauling road at the facility to and from the limits of construction and demolition debris placement is proposed to be located within five hundred feet

of an occupied dwelling unless written permission is given by the owner of the occupied dwelling.

(F) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility unless the new facility will have all of the following:

(1) Access roads that shall be constructed in a manner that allows use in all weather conditions and will withstand the anticipated degree of use and minimize erosion and generation of dust;

(2) Surface water drainage and sediment controls that are required by the director;

(3) If the facility is proposed to be located in an area in which an applicable zoning resolution allows residential construction, vegetated earthen berms or an equivalent barrier with a minimum height of six feet separating the facility from adjoining property.

(G)(1) The siting criteria established in this section shall be applied to an application for a permit to install at the time that the application is submitted to the director or a board of health, as applicable. Circumstances related to the siting criteria that change after the application is submitted shall not be considered in approving or disapproving the application.

(2) The siting criteria established in this section by this amendment do not apply to an expansion of a construction and demolition debris facility that was in operation prior to December 22, 2005, onto property within the property boundaries identified in the application for the initial license for that facility or any subsequent license issued for that facility up to and including the license issued for that facility for calendar year 2005. The siting criteria established in this section prior to December 22, 2005, apply to such an expansion.

Sec. 4501.24. There is hereby created in the state treasury the scenic rivers protection fund. The fund shall consist of the donations to the fund received by the department of natural resources under section 1517.02 of the Revised Code and the contributions not to exceed forty dollars that are paid to the registrar of motor vehicles by applicants who voluntarily choose to obtain scenic rivers license plates pursuant to section 4503.56 of the Revised Code.

The donations and contributions deposited in the fund shall be used by the department to help finance ~~wild, scenic, and recreational river areas~~ conservation, education, ~~corridor~~ protection, restoration, and habitat enhancement and clean-up projects ~~along within the watersheds of wild, scenic, and recreational rivers in those areas~~. The chief of the division of ~~parks and watercraft in the department~~ natural areas and preserves may expend money in the fund for the acquisition of ~~wild, scenic, and recreational river areas~~ lands, for the maintenance, protection, and administration of ~~such areas~~ wild, scenic, and recreational rivers, and for the construction of facilities within ~~those areas~~ scenic river lands and any other publicly owned lands that are administered by the division and are within the watersheds of those rivers. All investment earnings of the fund shall be credited to the fund.

As used in this section, "~~wild river areas~~," "scenic river lands," "~~scenic river areas~~," and "~~recreational river areas~~" have the same meanings as in section ~~1546.01-1517.01~~ of the Revised

Code.

SECTION 2. That existing sections 505.82, 1514.10, 1517.01, 1517.02, 1517.021, 1517.11, 1531.04, 1546.01, 1546.02, 1546.04, 1547.68, 1547.73, 1547.75, 1547.81, 1547.82, 1547.83, 1547.84, 1547.85, 1547.86, 3714.03, and 4501.24 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 156

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____