

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 18**

**Senator Wilson**

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**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

**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 the proposed total depth of the well;	326 327
(b) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected.	328 329 330
(7) The type of drilling equipment to be used;	331
(8) (a) An identification, to the best of the owner's knowledge, of each proposed source of ground water and surface water that will be used in the production operations of the well. The identification of each proposed source of water shall indicate if the water will be withdrawn from the Lake Erie watershed or the Ohio river watershed. In addition, the owner shall provide, to the best of the owner's knowledge, the proposed estimated rate and volume of the water withdrawal for the production operations. If recycled water will be used in the production operations, the owner shall provide the estimated volume of recycled water to be used. The owner shall submit to the chief an update of any of the information that is required by division (A) (8) (a) of this section if any of that information changes before the chief issues a permit for the application.	332 333 334 335 336 337 338 339 340 341 342 343 344 345
(b) Except as provided in division (A) (8) (c) of this section, for an application for a permit to drill a new well within an urbanized area, the results of sampling of water wells within three hundred feet of the proposed well prior to commencement of drilling. In addition, the owner shall include a list that identifies the location of each water well where the owner of the property on which the water well is located denied	346 347 348 349 350 351 352

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, shafts, and wells, and keeping acid or other toxic drainage from entering ground and surface waters. 1044  
1045  
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 professional standards.	1219 1220
(i) All other provisions of this chapter are met.	1221
(22) Meet such other criteria as are necessary to achieve reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site;	1222 1223 1224 1225
(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;	1226 1227 1228 1229 1230
(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion;	1231 1232 1233 1234 1235
(25) Restore on the permit area streams and wetlands affected by mining operations unless the chief approves restoration off the permit area without a permit required by section 1513.07 or 1513.074 of the Revised Code, instead of restoration on the permit area, of a stream or wetland or a portion of a stream or wetland, provided that the chief first makes all of the following written determinations:	1236 1237 1238 1239 1240 1241 1242
(a) A hydrologic and engineering assessment of the affected lands, submitted by the operator, demonstrates that restoration on the permit area is not possible.	1243 1244 1245
(b) The proposed mitigation plan under which mitigation activities described in division (A) (25) (c) of this section will	1246 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 capability for completion of the proposed use;	1306 1307
(vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use;	1308 1309 1310
(vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.	1311 1312 1313 1314
(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs.	1315 1316
(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use.	1317 1318 1319 1320 1321 1322
(e) All other requirements of this chapter will be met.	1323
(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:	1324 1325
(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion.	1326 1327 1328
(b) The reclaimed area is stable.	1329
(c) The resulting plateau or rolling contour drains inward from the out slopes except at specified points.	1330 1331
(d) No damage will be done to natural watercourses.	1332

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

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

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

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

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

(1) The operator shall ensure that when performing coal mining on steep slopes, no debris, abandoned or disabled

equipment, spoil material, or waste mineral matter is placed on 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 1444  
performance security release under this section has been filed 1445  
with the chief, the operator shall submit a copy of an 1446  
advertisement placed at least once a week for four successive 1447  
weeks in a newspaper of general circulation in the locality of 1448  
the coal mining operation. The advertisement shall be considered 1449  
part of any performance security release application and shall 1450  
contain a notification of the precise location of the land 1451

affected, the number of acres, the permit number and the date 1452  
approved, the amount of the performance security filed and the 1453  
portion sought to be released, the type and appropriate dates of 1454  
reclamation work performed, and a description of the results 1455  
achieved as they relate to the operator's approved reclamation 1456  
plan and, if applicable, the operator's pollution abatement 1457  
plan. In addition, as part of any performance security release 1458  
application, the applicant shall submit copies of the letters 1459  
sent to adjoining property owners, local governmental bodies, 1460  
planning agencies, and sewage and water treatment authorities or 1461  
water companies in the locality in which the coal mining and 1462  
reclamation activities took place, notifying them of the 1463  
applicant's intention to seek release from the performance 1464  
security. 1465

(2) Upon receipt of a copy of the advertisement and 1466  
request for release of a performance security under division (F) 1467  
(3) (c) of this section, the chief, within thirty days, shall 1468  
conduct an inspection and evaluation of the reclamation work 1469  
involved. The evaluation shall consider, among other things, the 1470  
degree of difficulty to complete any remaining reclamation, 1471  
whether pollution of surface and subsurface water is occurring, 1472  
the probability of continuation or future occurrence of the 1473  
pollution, and the estimated cost of abating the pollution. The 1474  
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 operator believes that part of the boundary of the mine is within two thousand linear feet of a well that is drilled through the horizon of the coal mine and into or through the storage stratum or strata of the reservoir within the boundary of the reservoir or within its protective area, the reservoir operator shall plug or recondition the well as in this section prescribed, unless it is agreed in a conference or is ordered by the chief of the division of oil and gas resources management after a hearing, as provided in section 1571.10 of the Revised Code, that the well referred to in the notice is not such a well as is described in division (B) of section 1571.03 of the Revised Code.

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

Whenever the operator of a coal mine considers that the use of a well such as in this section described, if used for injecting gas into, or storing gas in, or removing gas from, a gas storage reservoir, would be hazardous to the safety of persons or property on or in the vicinity of the premises of the coal mine or the reservoir or well, the coal mine operator may file with the division objections to the use of the well for such purposes, and a request that a conference be held as

provided in section 1571.10 of the Revised Code, to discuss and 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 time of abandonment and the well owner's or operator's post office address;	1821 1822 1823
(3) The location of the well as to township and county and the name of the owner of the surface upon which the well is drilled, with the address thereof;	1824 1825 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 drilled;	1831 1832
(9) The depth of each seam of coal drilled through;	1833
(10) A detailed report as to how the well was plugged, giving in particular the manner in which the coal and various sands were plugged, and the date of the plugging of the well, including therein the names of those who witnessed the plugging of the well.	1834 1835 1836 1837 1838
The report shall be signed by the operator or the operator's agent who plugged the well and verified by the oath of the party so signing. For the purposes of this section, a deputy mine inspector may take acknowledgements and administer oaths to the parties signing the report.	1839 1840 1841 1842 1843
Whenever, in compliance with this division, a well is to be reconditioned by a reservoir operator, the operator shall	1844 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 2264  
format. 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 2279  
mail or electronic format of the making of the order appealed 2280  
from. No appeal bond shall be required to make either an appeal 2281  
on questions of law or an appeal on questions of law and fact 2282  
effective. 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 section is not payable out of the proceeds of a general tax, the security is exempt only if, at the time of its first sale in this state, there is no default in the payment of any of the interest or principal of the security, and there are no adjudications or pending suits adversely affecting its validity.

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

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

(E) (1) A security is exempt if it meets any of the following requirements:

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

(b) The security is listed, or authorized for listing, on a national securities exchange or system, or on a tier or segment of such exchange or system, designated by the securities and exchange commission in rule 146(b) promulgated under section

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 control bid to offerees in this state shall knowingly do any of the following:

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

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

(3) Engage in any manipulative act or practice.

(B) Any person who makes or opposes a control bid to offerees in this state, or who realizes any profit which inures to and is recoverable by a corporation, formed in this state, pursuant to section 1707.043 of the Revised Code, is conclusively presumed to have designated the secretary of state as its agent for the service of process in any action or proceeding under this chapter. Upon receipt of any such process, together with an affidavit showing the last known address of the person who made or opposed the control bid or who realized such profit, the secretary of state shall forthwith give notice ~~by telegraph of the fact of the service of process and forward a copy of such process to such address by certified mail, return receipt requested.~~ This section does not affect any right to serve process in any other manner permitted by law.

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



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 2651  
circular and notification filed with the securities and exchange 2652  
commission; 2653

(2) If the division of securities by rule or otherwise 2654  
requires, a copy of the articles of incorporation and code of 2655  
regulations or bylaws, or their substantial equivalents, as 2656  
currently in effect, a copy of any agreements with or among 2657  
underwriters, a copy of any indenture or other instrument 2658  
governing the issuance of the security to be registered, and a 2659  
specimen or copy of the security; 2660

(3) If the division of securities requests, any other 2661  
information, or copies of any other documents, filed with the 2662  
securities and exchange commission; 2663

(4) An undertaking by the issuer to forward to the 2664  
division, promptly and in any event not later than the first 2665  
business day after the day they are forwarded to or thereafter 2666  
are filed with the securities and exchange commission, whichever 2667  
occurs first, all amendments to the federal prospectus, offering 2668  
circular, notification form, or other documents filed with the 2669  
securities and exchange commission, other than an amendment that 2670  
merely delays the effective date; 2671

(5) A filing fee of one hundred dollars. 2672

(C) A registration statement filed under this section 2673  
becomes effective either at the moment the federal registration 2674  
statement becomes effective or at the time the offering may 2675  
otherwise be commenced in accordance with the rules, 2676  
regulations, or orders of the securities and exchange 2677  
commission, if all of the following conditions are satisfied: 2678

(1) No stop order is in effect, no proceeding is pending 2679  
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 2709  
the final federal registration statement amendment that includes 2710  
a statement of the offering price, underwriting and selling 2711  
discounts or commissions, amount of proceeds, conversion rates, 2712  
call prices, and other matters dependent upon the offering 2713  
price. 2714

If the division fails to receive the required notice and 2715  
required copies of the price amendment, the division may enter a 2716  
provisional stop order retroactively denying effectiveness to 2717  
the registration statement or suspending its effectiveness until 2718

there is compliance with this division, provided the division 2719  
promptly notifies the issuer or its representative by telephone 2720  
~~or telegram~~, and promptly confirms by letter ~~or telegram~~ when it 2721  
notifies by telephone, of the entry of the order. If the issuer 2722  
or its representative proves compliance with the requirements of 2723  
this division as to notice and price amendment filing, the stop 2724  
order is void as of the time of its entry. The division may by 2725  
rule or otherwise waive either or both of the conditions 2726  
specified in divisions (C) (2) and (3) of this section. If the 2727  
federal registration statement becomes effective, or if the 2728  
offering may otherwise be commenced in accordance with the 2729  
rules, regulations, or orders of the securities and exchange 2730  
commission, before all of the conditions specified in divisions 2731  
(C) and (D) of this section are satisfied and they are not 2732  
waived by the division the registration statement becomes 2733  
effective as soon as all of the conditions are satisfied. 2734

If the issuer advises the division of the date when the 2735  
federal registration statement is expected to become effective, 2736  
or when the offering may otherwise be commenced in accordance 2737  
with the rules, regulations, or orders of the securities and 2738  
exchange commission, the division shall promptly advise the 2739  
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  
begins on July 1, 2012, when a school district or building has  
been notified by the department pursuant to section 3302.03 of  
the Revised Code that the district or building is under an  
academic watch or in a state of academic emergency, the district  
or building shall be subject to any rules establishing  
intervention in academic watch or emergency school districts or  
buildings.

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

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

(2) For the 2012-2013 school year, and for each school  
year thereafter, the department may initiate a site evaluation  
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 3045  
satisfactory improvement of the district or applicable buildings 3046  
or fails to submit to the department any information required 3047  
under rules established by the state board of education, prior 3048  
to approving a three year continuous improvement plan under 3049  
rules established by the state board of education, the 3050  
department shall conduct a site evaluation of the school 3051  
district or applicable buildings to determine whether the school 3052  
district is in compliance with minimum standards established by 3053  
law or rule. 3054~~

~~(4) Division (D) (4) of this section does not apply to any 3055  
school district after June 30, 2008. Site evaluations conducted 3056  
under divisions (D) (1), (2), and (3) of this section shall 3057  
include, but not be limited to, the following: 3058~~

~~(a) Determining whether teachers are assigned to subject 3059  
areas for which they are licensed or certified; 3060~~

~~(b) Determining pupil teacher ratios; 3061~~

~~(c) Examination of compliance with minimum instruction 3062  
time requirements for each school day and for each school year; 3063~~

~~(d) Determining whether materials and equipment necessary 3064  
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 applicable, with respect to any building formerly subject to one of those divisions until the building makes adequate yearly progress for two consecutive school years.

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

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

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

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

(a) Withhold a portion of the funds the district is entitled to receive under Title I, Part A of the "Elementary and

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 education shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this section.

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

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

The property may be donated to an eligible nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use school district property available to these organizations. The resolution shall include guidelines and procedures the board considers to be necessary to implement the

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

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

(c) In the ~~third~~ 2022-2023 school year ~~after the enactment-~~ 3479  
~~date of this section~~ and every school year thereafter, the 3480  
program shall apply to any public school in which fifty per cent 3481  
or more of the students enrolled in the school during the 3482  
previous school year were eligible under federal requirements 3483  
for free or reduced-price breakfasts or lunches. 3484

(2) The district superintendent or building principal, in 3485

consultation with the building staff, shall determine the model 3486  
for serving breakfast under the program. Each breakfast served 3487  
under the program shall comply with federal meal patterns and 3488  
nutritional standards and with section 3313.814 of the Revised 3489  
Code. A school district board of education may make a charge in 3490  
accordance with federal requirements for each meal to cover all 3491  
or part of the costs incurred in operating the program. 3492

(B) The department shall publish a list of public schools 3493  
that meet the conditions of division (A) of this section. The 3494  
department shall offer technical assistance to school districts 3495  
and schools regarding the implementation of a school breakfast 3496  
program that complies with this section and the submission of 3497  
claims for reimbursement under the federal school breakfast 3498  
program. 3499

(C) (1) The department shall monitor each school 3500  
participating in the program and ensure that each participating 3501  
school complies with the requirements of this section. 3502

(2) If the board of education of a school district 3503  
determines that, for financial reasons, a school under the 3504  
board's control cannot comply with the requirements of this 3505  
section or the board already has a successful breakfast program 3506  
or partnership in place, the district board may choose not to 3507  
comply with those requirements. 3508

(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 3954  
the fifteenth day of June" prevail over any conflicting 3955  
provisions of a collective bargaining agreement entered into on 3956  
or after ~~the effective date of this amendment~~ March 22, 2013. 3957

**Sec. 3319.16.** The contract of any teacher employed by the 3958  
board of education of any city, exempted village, local, county, 3959  
or joint vocational school district may not be terminated except 3960

for good and just cause. Notwithstanding any provision to the 3961  
contrary in Chapter 4117. of the Revised Code, the provisions of 3962  
this section relating to the grounds for termination of the 3963  
contract of a teacher prevail over any conflicting provisions of 3964  
a collective bargaining agreement entered into after ~~the~~ 3965  
~~effective date of this amendment~~ October 16, 2009. 3966

Before terminating any contract, the employing board shall 3967  
furnish the teacher a written notice signed by its treasurer of 3968  
its intention to consider the termination of the teacher's 3969  
contract with full specification of the grounds for such 3970  
consideration. The board shall not proceed with formal action to 3971  
terminate the contract until after the tenth day after receipt 3972  
of the notice by the teacher. Within ten days after receipt of 3973  
the notice from the treasurer of the board, the teacher may file 3974  
with the treasurer a written demand for a hearing before the 3975  
board or before a referee, and the board shall set a time for 3976  
the hearing which shall be within thirty days from the date of 3977  
receipt of the written demand, and the treasurer shall give the 3978  
teacher at least twenty days' notice in writing of the time and 3979  
place of the hearing. If a referee is demanded by either the 3980  
teacher or board, the treasurer also shall give twenty days' 3981  
notice to the superintendent of public instruction. No hearing 3982  
shall be held during the summer vacation without the teacher's 3983  
consent. The hearing shall be private unless the teacher 3984  
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 Revised Code is grounds for termination of a teacher contract under this section.

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

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

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

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

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

(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 4082  
investigation pursuant to division (F) of section 109.57 of the 4083  
Revised Code and that authorizes that bureau to forward the 4084  
fingerprints to the federal bureau of investigation for purposes 4085  
of obtaining any criminal records that the federal bureau 4086  
maintains on the person. 4087

(2) If both of the following conditions apply to a person 4088  
subject to a criminal records check under this section, the 4089  
state board shall require the person to submit one complete set 4090  
of fingerprints and written permission that authorizes the 4091  
superintendent of public instruction to forward the fingerprints 4092  
to the bureau of criminal identification and investigation so 4093  
that bureau may forward the fingerprints to the federal bureau 4094  
of investigation for purposes of obtaining any criminal records 4095  
that the federal bureau maintains on the person: 4096

(a) Under this section or any former version of this 4097  
section, the state board or the superintendent of public 4098  
instruction previously requested the superintendent of the 4099  
bureau of criminal identification and investigation to determine 4100  
whether the bureau has any information, gathered pursuant to 4101  
division (A) of section 109.57 of the Revised Code, on the 4102  
person. 4103

(b) The person presents proof that the person has been a 4104  
resident of this state for the five-year period immediately 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 4198  
different durations, the person shall be subject to divisions 4199  
(A) to (C) of this section only when applying for renewal of the 4200  
certificate, license, or permit that is of the longest duration. 4201  
Prior to renewing any certificate, license, or permit with a 4202

shorter duration, the state board or the superintendent of 4203  
public instruction shall determine whether the department of 4204  
education has received any information about the person pursuant 4205  
to section 109.5721 of the Revised Code, but the person shall 4206  
not be subject to divisions (A) to (C) of this section as long 4207  
as the person's certificate, license, or permit with the longest 4208  
duration is valid. 4209

(2) If the certificates, licenses, or permits are of the 4210  
same duration but do not expire in the same year, the person 4211  
shall designate one of the certificates, licenses, or permits as 4212  
the person's primary certificate, license, or permit and shall 4213  
notify the department of that designation. The person shall be 4214  
subject to divisions (A) to (C) of this section only when 4215  
applying for renewal of the person's primary certificate, 4216  
license, or permit. Prior to renewing any certificate, license, 4217  
or permit that is not the person's primary certificate, license, 4218  
or permit, the state board or the superintendent of public 4219  
instruction shall determine whether the department has received 4220  
any information about the person pursuant to section 109.5721 of 4221  
the Revised Code, but the person shall not be subject to 4222  
divisions (A) to (C) of this section as long as the person's 4223  
primary certificate, license, or permit is valid. 4224

(3) If the certificates, licenses, or permits are of the 4225  
same duration and expire in the same year and the person applies 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, guardian, or custodian required by division (B) (2) of this section shall set forth the information received by the superintendent and shall inform the child and the child's parent, guardian, or custodian of the scheduled date, time, and ~~place~~ participation method of the ~~appearance that they may have~~ hearing before the superintendent or a designee. The date scheduled for the ~~appearance~~ hearing shall be no earlier than three and no later than five days after the notification is given, provided that an extension may be granted upon request of the child or the child's parent, guardian, or custodian. If an extension is granted, the superintendent shall schedule a new date, time, and ~~place~~ method for the ~~appearance~~ hearing and shall inform the child and the child's parent, guardian, or custodian of the new date, time, and ~~place~~ method.

If the child and the child's parent, guardian, or custodian do not appear before the superintendent or a designee on the scheduled date and ~~at~~ for the scheduled ~~time and place~~ hearing, or if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee on the scheduled date and at the scheduled time ~~and place~~ but the superintendent or a designee determines that the information the superintendent received indicating that, during the semester or term, the child had been absent without legitimate excuse from the school the child was supposed to attend for more than sixty consecutive hours or for at least ninety total hours, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located that the child has been absent for that period of time and that the child does not have any legitimate excuse for the habitual absence. A notification to the registrar required by

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 applicant shall demonstrate that compliance with applicable emission standards is technically infeasible, economically unreasonable, or impossible because of conditions beyond the control of the applicant;

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

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

Applications for variances shall be accompanied by such information as the director may require. In issuing variances, the director may order the person to whom a variance is issued to furnish plans and specifications and such other information and data, including interim reports, as the director may require and to proceed to take such action within such time as the director may determine to be appropriate and reasonable to prevent, control, or abate the person's existing emissions of air contaminants. The director shall specify in each variance that the variance is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the variance has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder.

The director may hold a public hearing on an application

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 applicable air contaminant control devices; 5112  
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(3) Raw material specifications or throughput limitations averaged over a twelve-month rolling period; 5114  
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(4) Monthly allowable emissions averaged over a twelve-month rolling period. 5116  
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Best available technology requirements shall not apply to an air contaminant source that has the potential to emit, taking into account air pollution controls installed on the source, less than ten tons per year of emissions of an air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act. In addition, best available technology requirements established in rules adopted under this division shall not apply to any existing, new, or modified air contaminant source that is subject to a plant-wide applicability limit that has been approved by the director. Further, best available technology requirements established in rules adopted under this division shall not apply to general permits issued prior to January 1, 2006, under rules adopted under this chapter. 5118  
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For permits to install issued three or more years after August 3, 2006, any new or modified air contaminant source that has the potential to emit, taking into account air pollution controls installed on the source, ten or more tons per year of volatile organic compounds or nitrogen oxides shall meet, at a minimum, the requirements of any applicable reasonably available control technology rule in effect as of January 1, 2006, regardless of the location of the source. 5132  
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(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 5343  
waste that is transported uninterruptedly and directly to the 5344  
facility through a pipeline from a generator who is not the 5345  
owner of the facility. 5346

(2) Except as provided in division (E) (3) of this section, 5347

no person shall establish or operate a hazardous waste facility, 5348  
or use a solid waste facility for the storage, treatment, or 5349  
disposal of any hazardous waste, without a hazardous waste 5350  
facility installation and operation permit issued in accordance 5351  
with section 3734.05 of the Revised Code and subject to the 5352  
payment of an application fee not to exceed one thousand five 5353  
hundred dollars, payable upon application for a hazardous waste 5354  
facility installation and operation permit and upon application 5355  
for a renewal permit issued under division (H) of section 5356  
3734.05 of the Revised Code, to be credited to the hazardous 5357  
waste facility management fund created in section 3734.18 of the 5358  
Revised Code. The term of a hazardous waste facility 5359  
installation and operation permit shall not exceed ten years. 5360

In addition to the application fee, there is hereby levied 5361  
an annual permit fee to be paid by the permit holder upon the 5362  
anniversaries of the date of issuance of the hazardous waste 5363  
facility installation and operation permit and of any subsequent 5364  
renewal permits and to be credited to the hazardous waste 5365  
facility management fund. Annual permit fees totaling forty 5366  
thousand dollars or more for any one facility may be paid on a 5367  
quarterly basis with the first quarterly payment each year being 5368  
due on the anniversary of the date of issuance of the hazardous 5369  
waste facility installation and operation permit and of any 5370  
subsequent renewal permits. The annual permit fee shall be 5371  
determined for each permit holder by the director in accordance 5372  
with the following schedule: 5373

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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 hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that

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 section shall not be denied and a variance shall not be revoked or modified under that division without a written order of the director stating the findings on which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or holder of a variance by certified mail or by another type of mail that is accompanied by a receipt.

(7) The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances submitted under division (F) of this section and a current schedule of pending variance hearings under it.

**Sec. 3734.575.** (A) The board of county commissioners of a county solid waste management district and the board of directors of a joint solid waste management district that is levying fees or amended fees or receiving fee revenue under division (B) of section 3734.57; section 3734.571, 3734.572, or 3734.573; or division (A), (B), or (D) of section 3734.574 of the Revised Code, within thirty days after the end of each calendar quarter, shall submit to the director of environmental protection a report containing all of the following information for that preceding quarter:

(1) The specific fees levied by the district;

(2) Revenues received by the district during the quarter from each of those sources, as applicable;

(3) All district planning account balances;

(4) The amount and use of revenues spent;

(5) A certification statement that the information in the report is true and accurate.

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 Administrative Code requiring the director of environmental protection to deliver a document or notice by certified mail, the director may instead deliver the document or notice by any method capable of documenting the intended recipient's receipt of the document or notice.

**Sec. 3746.09.** (A) A person who proposes to enter into or who is participating in the voluntary action program under this chapter and rules adopted under it, in accordance with this section and rules adopted under division (B) (10) of section 3746.04 of the Revised Code, may apply to the director of environmental protection for a variance from applicable standards otherwise established in this chapter and rules adopted under it. The application for a variance shall be prepared by a certified professional. The director shall issue a variance from those applicable standards only if the application makes all of the following demonstrations to the director's satisfaction:

(1) Either or both of the following:

(a) It is technically infeasible to comply with the applicable standards otherwise established at the property named in the application;

(b) The costs of complying with the applicable standards otherwise established at the property substantially exceed the economic benefits.

(2) The proposed alternative standard or set of standards and terms and conditions set forth in the application will result in an improvement of environmental conditions at the property and ensure that public health and safety will be

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: 6104

(1) "Reporting facility" means a reporting facility at 6105  
which all regulated operations have been temporarily or 6106  
permanently discontinued. 6107

(2) "Abandoned by the owner" means either of the following 6108  
that occurs on or after ~~the effective date of this section~~ July 6109

1, 1996: 6110

(a) All of the fee owners of a reporting facility have 6111  
indicated ~~affirmately~~ affirmatively in writing to the holder of 6112  
the first mortgage on the real property at the facility that 6113  
they, and all tenants claiming possession under those owners, 6114  
have abandoned all rights of possession to the reporting 6115  
facility; 6116

(b) The first mortgage loan on the real property at the 6117  
reporting facility is in default, the property is not occupied 6118  
by any tenants, and the holder of the first ~~morgage~~ mortgage has 6119  
been unable to contact the mortgagor under the mortgage 6120  
regarding the default within the earlier of ninety days after 6121  
the default or sixty days after the first time the first 6122  
mortgage holder has attempted unsuccessfully to contact the 6123  
mortgagor following the default if the first mortgage holder is 6124  
unable to contact the mortgagor within the sixty-day period. 6125

(3) "Default" means the failure of the mortgagor to make 6126  
any payment to the holder of the first mortgage required by the 6127  
terms of the mortgage documents that is not cured by the 6128  
mortgagor within any applicable cure periods, deferred with the 6129  
consent of the holder of the first mortgage, or waived by the 6130  
holder of the first mortgage. 6131

(4) "Contact" means actual person to person, telephonic, 6132  
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 6341  
list created as part of a voluntary exclusion program under this 6342  
chapter or Chapter 3775. of the Revised Code. 6343

**Sec. 3772.04.** (A) (1) If the commission concludes that an 6344  
applicant, licensee, or other person subject to the commission's 6345

jurisdiction under this chapter should be fined or penalized, or 6346  
that a license required by this chapter or Chapter 3775. of the 6347  
Revised Code should be limited, conditioned, restricted, 6348  
suspended, revoked, denied, or not renewed, the commission may, 6349  
and if so requested by the licensee, applicant, or other person, 6350  
shall, conduct a hearing in an adjudication under Chapter 119. 6351  
of the Revised Code. After notice and opportunity for a hearing, 6352  
the commission may fine or penalize the applicant, licensee, or 6353  
other person or limit, condition, restrict, suspend, revoke, 6354  
deny, or not renew a license under rules adopted by the 6355  
commission. The commission may reopen an adjudication under this 6356  
section at any time. 6357

(2) The commission shall appoint a hearing examiner to 6358  
conduct the hearing in the adjudication. A party to the 6359  
adjudication may file written objections to the hearing 6360  
examiner's report and recommendations not later than the 6361  
thirtieth day after they are served upon the party or the 6362  
party's attorney or other representative of record. The 6363  
commission shall not take up the hearing examiner's report and 6364  
recommendations earlier than the thirtieth day after the hearing 6365  
examiner's report and recommendations were submitted to the 6366  
commission. 6367

(3) If the commission finds that a person fails or has 6368  
failed to meet any requirement under this chapter or Chapter 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 licensee to establish and implement a written self-enforcement and compliance program would assist in ensuring the licensee's future compliance with all statutes, rules, and conditions of the license; 6404  
6405  
6406  
6407  
6408
- (7) If the licensee realized a pecuniary gain from the violation; 6409  
6410
- (8) If the amount of any fine or other penalty imposed would result in disgorgement of any gains unlawfully realized by the licensee; 6411  
6412  
6413
- (9) If the violation was caused by an officer or employee of the licensee, the level of authority of the individual who caused the violation; 6414  
6415  
6416
- (10) If the individual who caused the violation acted within the scope of the individual's authority as granted by the licensee; 6417  
6418  
6419
- (11) The adequacy of any training programs offered by the licensee or the licensee's employer that were relevant to the activity that resulted in the violation; 6420  
6421  
6422
- (12) If the licensee's action substantially deviated from industry standards and customs; 6423  
6424
- (13) The extent to which the licensee cooperated with the commission during the investigation of the violation; 6425  
6426
- (14) If the licensee has initiated remedial measures to prevent similar violations; 6427  
6428
- (15) The magnitude of penalties imposed on other licensees for similar violations; 6429  
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 Revised Code or Chapter 3775. of the Revised Code and the rules adopted thereunder, and requiring a casino facility not to pay a licensee, registrant, or approved or certified person any remuneration for services or any share of profits, income, or accruals on that person's investment in the casino facility.

(1) An emergency order may be issued when the executive director finds either of the following:

(a) A licensee, registrant, or approved or certified person has been charged with a violation of any of the criminal laws of this state, another state, or the federal government;

(b) Such an action is necessary to prevent a violation of this chapter or Chapter 3775. of the Revised Code or a rule adopted thereunder.

(2) An emergency order issued under division (G) of this section shall state the reasons for the commission's action, cite the law or rule directly involved, and state that the party will be afforded a hearing if the party requests it within thirty days after the time of mailing or personal delivery of the order.

(3) (a) Not later than the next business day after the issuance of the emergency order, the order shall be sent by registered or certified mail, return receipt requested, or by commercial carrier utilizing any form of delivery requiring a signed receipt, to the party at the party's last known mailing address appearing in the commission's records or personally delivered at any time to the party by an employee or agent of the commission.

(b) A copy of the order shall be mailed or an electronic

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 authority in Ohio or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;

(6) If an applicant has ever filed or had filed against it a civil or administrative action or proceeding in bankruptcy, including the date of filing, the name and location of the court, the case caption, the docket number, and the disposition;

(7) The name and business telephone number of any attorney representing an applicant in matters before the commission;

(8) Information concerning the amount, type of tax, the taxing agency, and times involved, if the applicant has filed or been served with a complaint or notice filed with a public body concerning a delinquency in the payment of or a dispute over a filing concerning the payment of a tax required under federal, state, or local law;

(9) A description of any proposed casino gaming operation and related casino enterprises, including the type of casino facility, location, expected economic benefit to the community, anticipated or actual number of employees, any statement from an applicant regarding compliance with federal and state affirmative action guidelines, projected or actual admissions, projected or actual gross receipts, and scientific market research;

(10) Financial information in the manner and form prescribed by the commission;

(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 license issued by the commission. 6634  
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(B) No person may be employed as a key employee of a gaming-related vendor unless that person is either the holder of a valid key employee license issued by the commission, or the person, at least five business days prior to the first day of employment as a key employee, has filed a notification of employment with the commission and subsequently files a completed application for a key employee license within the first thirty days of employment as a key employee. 6636  
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(C) Each applicant shall, before the issuance of any key employee license, produce information, documentation, and assurances as are required by this chapter and rules adopted thereunder. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission. 6644  
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(D) To be eligible for a key employee license, the applicant shall be at least twenty-one years of age and shall meet the criteria set forth by rule by the commission. 6650  
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(E) Each application for a key employee license shall be on a form prescribed by the commission and shall contain all information required by the commission. The applicant shall set forth in the application if the applicant has been issued prior gambling-related licenses; if the applicant has been licensed in any other state under any other name, and, if so, the name under which the license was issued and the applicant's age at the time the license was issued; any criminal conviction the applicant has had; and if a permit or license issued to the applicant in any other state has been suspended, restricted, or revoked, and, if so, the cause and the duration of each action. The applicant 6653  
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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 6688  
commission. 6689

The commission shall notify the casino operator, 6690  
management company, or holding company who employs such a person 6691  
by certified mail, personal service, common carrier service 6692

utilizing any form of delivery requiring a signed receipt, or by 6693  
an electronic means that provides evidence of delivery, of any 6694  
such finding, denial, or revocation. 6695

(2) A casino operator, management company, or holding 6696  
company shall not pay to a person whose employment is terminated 6697  
under division (G)(1) of this section, any remuneration for any 6698  
services performed in any capacity in which the person is 6699  
required to be licensed, except for amounts due for services 6700  
rendered before notice was received under that division. A 6701  
contract or other agreement for personal services or for the 6702  
conduct of any casino gaming at a casino facility between a 6703  
casino operator, management company, or holding company and a 6704  
person whose employment is terminated under division (G)(1) of 6705  
this section may be terminated by the casino operator, 6706  
management company, or holding company without further liability 6707  
on the part of the casino operator, management company, or 6708  
holding company. Any such contract or other agreement is deemed 6709  
to include a term authorizing its termination without further 6710  
liability on the part of the casino operator, management 6711  
company, or holding company upon receiving notice under division 6712  
(G)(1) of this section. That a contract or other agreement does 6713  
not expressly include such a term is not a defense in any action 6714  
brought to terminate the contract or other agreement, and is not 6715  
grounds for relief in any action brought questioning termination 6716  
of the contract or other agreement. 6717

(3) A casino operator, management company, or holding 6718  
company, without having obtained the prior approval of the 6719  
commission, shall not enter into any contract or other agreement 6720  
with a person who has been found unsuitable, who has been denied 6721  
a license, or whose license has been revoked under division (G) 6722  
(1) of this section, or with any business enterprise under the 6723

control of such a person, after the date on which the casino 6724  
operator, management company, or holding company receives notice 6725  
under that division. 6726

**Sec. 3772.131.** (A) All casino gaming employees are 6727  
required to have a casino gaming employee license. "Casino 6728  
gaming employee" means the following and their supervisors: 6729

(1) Individuals involved in operating a casino gaming pit, 6730  
including dealers, shills, clerks, hosts, and junket 6731  
representatives; 6732

(2) Individuals involved in handling money, including 6733  
cashiers, change persons, count teams, and coin wrappers; 6734

(3) Individuals involved in operating casino games; 6735

(4) Individuals involved in operating and maintaining slot 6736  
machines, including mechanics, floor persons, and change and 6737  
payoff persons; 6738

(5) Individuals involved in security, including guards and 6739  
game observers; 6740

(6) Individuals with duties similar to those described in 6741  
divisions (A) (1) to (5) of this section or other persons as the 6742  
commission determines. "Casino gaming employee" does not include 6743  
an individual whose duties are related solely to nongaming 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 section, a utility shall mark its underground facilities using the following color codes:

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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 <del>and telegraph</del> 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 excavator with a reference number and a list of utilities that the protection service intends to notify. The protection service shall immediately notify each utility that according to the registration information provided under section 3781.26 of the Revised Code has facilities located within the designated area of the emergency excavation.

(3) Any utility notified of an emergency excavation may inspect all of its underground utility facilities located at the emergency excavation site and may take any otherwise lawful action it considers necessary to prevent disturbance to or interference with its facilities during excavation.

(F) An excavator is not required to premark the approximate location of an excavation as provided in division (D) of this section in any of the following situations:

(1) The utility can determine the precise location, direction, size, and length of the proposed excavation site by referring to the notification provided by the protection service pursuant to sections 3781.27 and 3781.28 of the Revised Code.

(2) The excavator and the affected utility have had an on-site, preconstruction meeting for the purpose of premarking the excavation site.

(3) The excavation involves replacing a pole that is within five feet of the location of an existing pole.

(4) Premarking by the excavator would clearly interfere with pedestrian or vehicular traffic control.

**Sec. 3781.342.** (A) The underground technical committee may conduct meetings in person, by teleconference, or by video conference.



(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  
~~faecsimile,~~ 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 support organization, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) Disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent, or insurance support organization has disclosed such personal information within two years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance support organizations, or other persons to whom such information is normally disclosed;

(4) Provide the individual with a summary of the procedures by which ~~he~~ the individual may request correction, amendment, or deletion of recorded personal information.

(B) Any personal information provided pursuant to division (A) of this section shall identify the source of the information if such source is an institutional source.

(C) Medical record information supplied by a medical care institution or medical professional and requested under division (A) of this section, together with the identity of the medical professional or medical care institution that provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution, agent, or insurance support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent, or insurance support organization shall notify the individual, at the time of the disclosure, that it

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 7243  
shall provide notice to all parties who are appellees and to the 7244  
commission. 7245

The claimant shall, within thirty days after the filing of 7246  
the notice of appeal, file a petition containing a statement of 7247  
facts in ordinary and concise language showing a cause of action 7248

to participate or to continue to participate in the fund and 7249  
setting forth the basis for the jurisdiction of the court over 7250  
the action. Further pleadings shall be had in accordance with 7251  
the Rules of Civil Procedure, provided that service of summons 7252  
on such petition shall not be required and provided that the 7253  
claimant may not dismiss the complaint without the employer's 7254  
consent if the employer is the party that filed the notice of 7255  
appeal to court pursuant to this section. The clerk of the court 7256  
shall, upon receipt thereof, transmit by certified mail a copy 7257  
thereof to each party named in the notice of appeal other than 7258  
the claimant. Any party may file with the clerk prior to the 7259  
trial of the action a deposition of any physician taken in 7260  
accordance with the provisions of the Revised Code, which 7261  
deposition may be read in the trial of the action even though 7262  
the physician is a resident of or subject to service in the 7263  
county in which the trial is had. The bureau of workers' 7264  
compensation shall pay the cost of the ~~stenographic~~ deposition 7265  
filed in court and of copies of the ~~stenographic~~ deposition for 7266  
each party from the surplus fund and charge the costs thereof 7267  
against the unsuccessful party if the claimant's right to 7268  
participate or continue to participate is finally sustained or 7269  
established in the appeal. In the event the deposition is taken 7270  
and filed, the physician whose deposition is taken is not 7271  
required to respond to any subpoena issued in the trial of the 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 classification data under a separate and unique subaccount to the administrator;	7488 7489 7490
(9) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.	7491 7492 7493 7494 7495
(B) The professional employer organization with whom a shared employee is coemployed shall provide a list of all of the following information to the client employer upon the written request of the client employer:	7496 7497 7498 7499
(1) All workers' compensation claims, premiums, and payroll associated with that client employer;	7500 7501
(2) Compensation and benefits paid and reserves established for each claim listed under division (B) (1) of this section;	7502 7503 7504
(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer.	7505 7506 7507
(C) (1) A professional employer organization shall provide the information required under division (B) of this section in writing to the requesting client employer within forty-five days after receiving a written request from the client employer.	7508 7509 7510 7511
(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when <del>the</del> <u>any of the following occur:</u>	7512 7513 7514 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 depositary bank. Such 7587  
money shall be secured by the depositary 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 7632  
account in the unemployment trust fund solely for the payment of 7633  
benefits and in accordance with regulations prescribed by the 7634  
director. The director shall requisition from the unemployment 7635

trust fund such amounts, not exceeding the amount standing to 7636  
this state's account therein, as are deemed necessary for the 7637  
payment of benefits for a reasonable future period. Upon receipt 7638  
thereof, the treasurer of state shall deposit such moneys in the 7639  
benefit account. Expenditures of such money in the benefit 7640  
account and refunds from the clearing account shall not require 7641  
specific appropriations or other formal release by state 7642  
officers of money in their custody. Any balance of moneys 7643  
requisitioned from the unemployment trust fund which remains 7644  
unclaimed or unpaid in the benefit account after the expiration 7645  
of the period for which such sums were requisitioned shall 7646  
either be deducted from estimates for and may be utilized for 7647  
the payment of benefits during succeeding periods, or, in the 7648  
discretion of the director, shall be redeposited with the 7649  
secretary of the treasury of the United States to the credit of 7650  
this state's account in the unemployment trust fund, as provided 7651  
in division (C) of this section. Unclaimed or unpaid federal 7652  
funds redeposited with the secretary of the treasury of the 7653  
United States shall be credited to the appropriate federal 7654  
account. 7655

(E) No claim for an adjustment or a refund on 7656  
contribution, payment in lieu of contributions, interest, or 7657  
forfeiture alleged to have been erroneously or illegally 7658  
assessed or collected, or alleged to have been collected without 7659  
authority, and no claim for an adjustment or a refund of any sum 7660  
alleged to have been excessive or in any manner wrongfully 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 depositary bank. The money shall be 7776  
secured by the depositary 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 videodiseweb site, electronic mail~~ 8316  
communication, compact disc media, or other electronic format 8317  
~~used to convey information to students through electronic-~~ 8318  
meanswhich 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 license, certificate, or license plates in compliance with the order, pays to the registrar or an eligible deputy registrar a financial responsibility nonvoluntary compliance fee in an amount, not to exceed fifty dollars, determined by the registrar;

(c) Files and continuously maintains proof of financial responsibility under sections 4509.44 to 4509.65 of the Revised Code;

(d) Pays a deputy registrar a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, any nonvoluntary compliance fee, and two dollars of the service fee to the registrar in the manner the registrar shall determine.

(B) (1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G) (1) (a) of this section or shall present proof of financial responsibility through use of an electronic wireless communications device as permitted by division (G) (1) (b) of this section.

If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A) (1) of this section, the registrar shall do all of the following:

(a) Order the impoundment, with respect to the motor vehicle involved, required under division (A) (2) (d) of this section, of the certificate of registration and license plates of any owner who has violated division (A) (1) of this section;



(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 8570  
officer's duties as authorized by law, becomes aware of a person 8571  
whose license is under an order of suspension, or whose 8572

certificate of registration and license plates are under an 8573  
order of impoundment, pursuant to this section, may confiscate 8574  
the license, certificate of registration, and license plates, 8575  
and return them to the registrar. 8576

(2) A peace officer shall request the owner or operator of 8577  
a motor vehicle to produce proof of financial responsibility in 8578  
a manner described in division (G) of this section at the time 8579  
the peace officer acts to enforce the traffic laws of this state 8580  
and during motor vehicle inspections conducted pursuant to 8581  
section 4513.02 of the Revised Code. 8582

(3) A peace officer shall indicate on every traffic ticket 8583  
whether the person receiving the traffic ticket produced proof 8584  
of the maintenance of financial responsibility in response to 8585  
the officer's request under division (D) (2) of this section. The 8586  
peace officer shall inform every person who receives a traffic 8587  
ticket and who has failed to produce proof of the maintenance of 8588  
financial responsibility that the person must submit proof to 8589  
the traffic violations bureau with any payment of a fine and 8590  
costs for the ticketed violation or, if the person is to appear 8591  
in court for the violation, the person must submit proof to the 8592  
court. 8593

(4) (a) If a person who has failed to produce proof of the 8594  
maintenance of financial responsibility appears in court for a 8595  
ticketed violation, the court may permit the defendant to 8596  
present evidence of proof of financial responsibility to the 8597  
court at such time and in such manner as the court determines to 8598  
be necessary or appropriate. In a manner prescribed by the 8599  
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 not surrender the certificate of registration, license plates, and license, in accordance with this division, the registrar shall permit the order for the suspension of the license of the person and the impoundment of the person's certificate of registration and license plates to take effect.

(b) In the case of a person who presents, within the fifteen-day period, proof of financial responsibility, the registrar shall terminate the order of suspension and the impoundment of the registration and license plates required under division (A) (2) (d) of this section and shall send written notification to the person, at the person's last known address as shown on the records of the bureau.

(c) Any person adversely affected by the order of the registrar under division (D) (5) (a) or (b) of this section, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle and whether the person is eligible for an exemption in accordance with this section or any rule adopted under it. The registrar shall determine the date, time, and place of any hearing; ~~provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing.~~ The hearing may be held remotely. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles

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.~~ 9034  
No 9035  
vehicle that is seized and either towed or immobilized pursuant 9036  
to this division shall be considered contraband for purposes of 9037  
Chapter 2981. of the Revised Code. The vehicle shall not be 9038  
immobilized at any place other than a commercially operated 9039  
private storage lot, a place owned by a law enforcement or other 9040  
government agency, or a place to which one of the following 9041  
applies:

(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 vehicle is parked in accordance with the law.

(C) (1) A vehicle seized under division (B) (1) of this section shall be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency that employs the arresting officer until the initial appearance of the arrested person relative to the charge in question. The license plates ~~of shall remain on the seized vehicle that are removed pursuant to division (B) (1) of this section shall be safely kept by the law enforcement agency that employs the arresting officer until at least the initial appearance of the arrested person relative to the charge in question~~ unless otherwise ordered by the court.

(2) (a) At the initial appearance or not less than seven days prior to the date of final disposition, the court shall notify the arrested person that, if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and division (B) (2) or (3) of section 4503.234 of the Revised Code applies, the court may fine the arrested person the value of the vehicle. If, at the initial appearance, the arrested person pleads guilty to the violation of section 4510.14 or 4511.203 of the Revised Code, or a municipal ordinance that is substantially equivalent to either of those sections or pleads no contest to and is convicted of the violation, the following sentencing provisions apply:

(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 9082  
registered in the arrested person's name and the impoundment of 9083  
its license plates under sections 4503.233 and 4510.14 of the 9084  
Revised Code or the criminal forfeiture to the state of the 9085  
vehicle if registered in the arrested person's name under 9086  
sections 4503.234 and 4510.14 of the Revised Code, whichever is 9087  
applicable; and the vehicle and its license plates shall not be 9088  
returned or released to the arrested person. 9089

(ii) If the person violated section 4511.203 of the 9090  
Revised Code or a municipal ordinance that is substantially 9091  
equivalent to that section, the court shall impose sentence upon 9092  
the person as provided by law or ordinance; the court may order 9093  
the immobilization of the vehicle the arrested person was 9094  
operating at the time of, or that was involved in, the offense 9095  
if registered in the arrested person's name and the impoundment 9096  
of its license plates under section 4503.233 and section 9097  
4511.203 of the Revised Code or the criminal forfeiture to the 9098  
state of the vehicle if registered in the arrested person's name 9099  
under section 4503.234 and section 4511.203 of the Revised Code, 9100  
whichever is applicable; and the vehicle and its license plates 9101  
shall not be returned or released to the arrested person. 9102

(b) If, at any time, the charge that the arrested person 9103  
violated section 4510.14 or 4511.203 of the Revised Code, or a 9104  
municipal ordinance that is substantially equivalent to either 9105  
of those sections is dismissed for any reason, the court shall 9106  
order that the vehicle seized at the time of the arrest and its 9107  
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 9407  
license in resigned status pursuant to section 4735.142 of the 9408  
Revised Code, each licensed broker, brokerage, or salesperson 9409  
shall file, on or before the date the Ohio real estate 9410  
commission has adopted by rule for that licensee in accordance 9411

with division (A) (2) (f) of section 4735.10 of the Revised Code, 9412  
a notice of renewal on a form prescribed by the superintendent 9413  
of real estate. The notice of renewal shall be ~~mailed~~sent by 9414  
the superintendent two months prior to the filing deadline to 9415  
the ~~personal residence~~electronic mail address of each broker or 9416  
salesperson that is on file with the division. If the licensee 9417  
is a partnership, association, limited liability company, 9418  
limited liability partnership, or corporation, the notice of 9419  
renewal shall be ~~mailed~~sent by the superintendent two months 9420  
prior to the filing deadline to the brokerage's business 9421  
electronic mail address on file with the division. A licensee 9422  
shall not renew the licensee's license any earlier than two 9423  
months prior to the filing deadline. 9424

(C) Except as otherwise provided in division (B) of this 9425  
section, the license of any real estate broker, brokerage, or 9426  
salesperson that fails to file a notice of renewal on or before 9427  
the filing deadline of each ensuing year shall be suspended 9428  
automatically without the taking of any action by the 9429  
superintendent. A suspended license may be reactivated within 9430  
twelve months of the date of suspension, provided that the 9431  
renewal fee plus a penalty fee of fifty per cent of the renewal 9432  
fee is paid to the superintendent. Failure to reactivate the 9433  
license as provided in this division shall result in automatic 9434  
revocation of the license without the taking of any action by 9435  
the superintendent. No person, partnership, association, 9436  
corporation, limited liability company, or limited partnership 9437  
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 9708  
assessed under section 5168.21 of the Revised Code in accordance 9709  
with a payment schedule the department of medicaid shall 9710



establish for each assessment program year. The department shall 9711  
consult with the Ohio hospital association before establishing 9712  
the payment schedule for any assessment program year. The 9713  
department shall include the payment schedule in each 9714  
preliminary determination notice the department ~~mails~~issues to 9715  
hospitals under division (A) of section 5168.22 of the Revised 9716  
Code. 9717

**Sec. 5525.01.** Before entering into a contract, the 9718  
director of transportation ~~shall~~may advertise for bids for two 9719  
consecutive weeks in one newspaper of general circulation 9720  
published in the county in which the improvement or part thereof 9721  
is located, but if there is no such newspaper then in one 9722  
newspaper having general circulation in an adjacent county. In 9723  
the alternative, the director may advertise for bids as provided 9724  
in section 7.16 of the Revised Code. The director ~~may~~shall 9725  
advertise for bids in such other publications as the director 9726  
considers advisable. Such notices shall state that plans and 9727  
specifications for the improvement are on file in the office of 9728  
the director and the district deputy director of the district in 9729  
which the improvement or part thereof is located and the time 9730  
within which bids therefor will be received. 9731

Each bidder shall be required to file with the bidder's 9732  
bid a bid guaranty in the form of a certified check, a cashier's 9733  
check, or an electronic funds transfer to the treasurer of state 9734  
that is evidenced by a receipt or by a certification to the 9735  
director of transportation in a form prescribed by the director 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 undeliverable address, the commissioner shall first utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code. If, after using reasonable means, the commissioner is unable to ascertain a new last known address, the assessment is final for purposes of section 131.02 of the Revised Code sixty days after the notice or order sent by certified mail is first returned to the commissioner, and the commissioner shall certify the notice or order, if applicable, to the attorney general for collection under section 131.02 of the Revised Code.

(b) Notwithstanding certification to the attorney general under division (B) (1) (a) of this section, once the commissioner or attorney general, or the designee of either, makes an initial contact with the person to whom the notice or order is directed, the person may protest an assessment by filing a petition for reassessment within sixty days after the initial contact. The certification of an assessment under division (B) (1) (a) of this section is prima-facie evidence that delivery is complete and that the notice or order is served.

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address or if a person does not access an electronic notice or order within the time provided in division (F) of this section, the commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or order and include the following statement:

"This notice or order is deemed to be served on the

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 inspection in the office of the commissioner.~~ The commissioner ~~may shall~~ post the list on the department of taxation's web site. 10047  
10048  
10049  
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 sitused 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