

less than three years of age.

(UU) "Type A family ~~day-care~~ child care home" and "type A home" mean the permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family ~~day-care~~ child care home" and "type A home" do not include any child day camp.

(VV) "Type B family ~~day-care~~ child care home" and "type B home" mean a permanent residence of the provider in which care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family ~~day-care~~ child care home" and "type B home" do not include any child day camp.

Sec. 5104.013. (A) As used in this section:

(1) "Applicant" means either of the following:

(a) A person who is under final consideration for appointment to or employment in a position with a licensed preschool program or licensed school child program that provides publicly funded child care, child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or child day camp;

(b) A person who would serve in any position with a licensed preschool program or licensed school child program that provides publicly funded child care, child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or child day camp pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(B)(1) At the times specified in division (B)(2)(a) of this section, the director of job and family services shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for each of the following persons:

(a) Any owner or licensee of a child ~~day-care~~ care center;

(b) Any owner or licensee of a type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home and any person eighteen

years of age or older who resides in the home;

- (c) Any owner of an approved child day camp;
- (d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;
- (e) Any in-home aide;
- (f) Any applicant or employee, including an administrator, of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, approved child day camp, or licensed preschool program or licensed school child program that provides publicly funded child care.

(2)(a) The director shall request a criminal records check at the following times:

- (i) In the case of an owner or licensee of child ~~day-care~~ care center or an owner or licensee of a type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;
- (ii) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;
- (iii) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;
- (iv) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;
- (v) Except as provided in division (B)(2)(a)(vi) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;
- (vi) In the case of an applicant who has been determined eligible for employment after a review of a criminal records check within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.

(b) A criminal records check requested at the time of initial application shall include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records

check.

(c) A criminal records check requested at any time other than the time of initial application may include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(3) With respect to a criminal records check requested for a person described in division (B)(1) of this section, the director of job and family services shall do all of the following:

(a) Provide to the person a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and impression sheet from the person;

(c) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation;

(d) Review the results of the criminal records check.

(4) A person who receives from the director a copy of the form and standard impression sheet and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all of the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director or a county director of job and family services may consider the failure a reason to deny licensure, approval, or certification or to determine an employee ineligible for employment.

(5) Except as provided in rules adopted under division (F) of this section:

(a) The director of job and family services shall refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, or school child program, and shall revoke a license or approval, and a county director of job and family services shall not certify an in-home aide and shall revoke a certification, if a person for whom a criminal records check was required under division (B)(1)(a) to (B)(1)(e) of this section has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(b) The director of job and family services shall not issue a license to a

type A home or type B home if a resident of the type A home or type B home is under eighteen years of age and has been adjudicated a delinquent child for committing either a violation of any section listed in division (A)(5) of section 109.572 of the Revised Code or an offense of another state or the United States that is substantially equivalent to an offense listed in division (A)(5) of section 109.572 of the Revised Code.

(c) The director shall determine an applicant or employee ineligible for employment if the person has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(6) Each child ~~day-care~~ care center, type A home, type B home, approved child day camp, licensed child care program, licensed school child program, and in-home aide shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (B) of this section.

A center, home, camp, preschool program, or school child program may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount the center, home, camp, or program pays under this section. If a fee is charged, the center, home, camp, or program shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center, home, camp, or program will not consider the applicant for employment.

(7) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (B) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The report shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the criminal records check.

(C)(1) At the times specified in division (C)(2) of this section, the director of job and family services shall search the uniform statewide automated child welfare information system for information concerning any abuse or neglect report made pursuant to section 2151.421 of the Revised

Code of which any of the following persons is a subject:

- (a) Any owner or licensee of a child ~~day-care~~ care center;
- (b) Any owner or licensee of a type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home and any person eighteen years of age or older who resides in the home;
- (c) Any owner of an approved child day camp;
- (d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;
- (e) Any in-home aide;
- (f) Any applicant or employee, including an administrator, of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, approved child day camp, or licensed preschool program or licensed school child program that provides publicly funded child care.

(2) The director shall search the information system at the following times:

(i)(a) In the case of an owner or licensee of child ~~day-care~~ care center or an owner or licensee of a type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;

(ii)(b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

(iii)(c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;

(iv)(d) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;

(v)(e) Except as provided in division (C)(2)(a)(vi)(C)(2)(f) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;

(vi)(f) In the case of an applicant who has been determined eligible for employment after a search of the uniform statewide automated child welfare information system within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.

(3) The director shall consider any information discovered pursuant to

division (C)(1) of this section or that is provided by a public children services agency pursuant to section 5153.175 of the Revised Code. If the director determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the person may directly or indirectly endanger the health, safety, or welfare of children, the director or county director of job and family services shall do any of the following:

- (a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, or school child program;
- (b) Revoke a license or approval;
- (c) Refuse to certify an in-home aide or revoke a certification;
- (d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, or school child program.

(4) Any information obtained under division (C) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the search or the person's representative, the director of job and family services, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.

(D)(1) At the times specified in division (D)(2) of this section, the director of job and family services shall inspect the state registry of sex offenders and child-victim offenders established under section 2950.13 of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 to determine if any of the following persons is registered or required to be registered as an offender:

- (a) Any owner or licensee of a child ~~day-care~~ care center;
- (b) Any owner or licensee of a type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home and any person eighteen years of age or older who resides in the home;
- (c) Any owner of an approved child day camp;
- (d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;
- (e) Any in-home aide;
- (f) Any applicant or employee, including an administrator, of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, approved child day camp, or licensed preschool program or licensed school child program that provides publicly

funded child care.

(2) The director shall inspect each registry at the following times:

~~(i)~~(a) In the case of an owner or licensee of child ~~day-care~~ care center or an owner or licensee of a type A family ~~day-care~~ child care home or type B family ~~day-care~~ child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;

~~(ii)~~(b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

~~(iii)~~(c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care;

~~(iv)~~(d) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;

~~(v)~~(e) Except as provided in division ~~(D)(2)(a)~~(vi)(D)(2)(f) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;

~~(vi)~~(f) In the case of an applicant who has been determined eligible for employment after an inspection of the state registry of sex offenders and child-victim offenders established under section 2950.13 of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, child ~~day-care~~ care center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.

(3) If the director determines that the person is registered or required to be registered on either registry, the director or county director of job and family services shall do any of the following:

(a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, or school child program;

(b) Revoke a license or approval;

(c) Refuse to certify an in-home aide or revoke a certification;

(d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, or school child program.

(4) Any information obtained under division (D) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the inspection or the person's

representative, the director of job and family services, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.

(E) Whenever the director of job and family services determines a person ineligible for employment under division (B), (C), or (D) of this section, the director shall as soon as practicable notify the following of that determination: the licensed preschool program or licensed school child program that provides publicly funded child care, ~~child day-care care~~ center, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or approved child day camp that is considering the person for appointment or employment. A licensed preschool program or licensed school child program that provides publicly funded child care, ~~child day-center care center~~, type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, or approved child day camp shall not employ a person who is determined under this section to be ineligible for employment.

(F)(1) An administrator of a child day camp, other than an approved child day camp shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for any applicant or employee, including an administrator, of the child day camp. The request shall be made at the time of initial application for employment and every five years thereafter.

(2) A criminal records check requested at the time of initial application shall include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(3) A criminal records check requested at any time other than the time of initial application may include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(4) With respect to a criminal records check requested under division (F) of this section, the administrator shall do all of the following:

(a) Provide to the applicant or employee a copy of the form prescribed

pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and impression sheet from the applicant or employee;

(c) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation;

(d) Review the results of the criminal records check.

(5) An applicant or employee who receives from the administrator a copy of the form and standard impression sheet and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all of the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the applicant or employee, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the administrator may consider the failure a reason to determine an applicant or employee ineligible for employment.

(6) A child day camp, other than an approved child day camp, may employ an applicant or continue to employ an employee until the criminal records check required by this section is completed and the camp receives the results of the check. Until the administrator has reviewed the results of the criminal records check and determines that the applicant or employee is eligible for employment, the camp shall not grant the applicant or employee sole responsibility for the care, custody, or control of a child. If the results indicate that the applicant or employee is ineligible for employment, the camp shall immediately release the applicant or employee from employment.

(7) Except as provided in rules adopted under this section, the administrator shall determine an applicant or employee ineligible for employment if the person has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code. If the applicant or employee is determined ineligible, the child day camp shall not employ the applicant or employee or contract with another entity for the services of the applicant or employee.

(8) Each child day camp shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (F) of this section. A camp may charge an applicant or employee a

fee for the costs it incurs in obtaining a criminal records check under division (F) of this section. A fee charged under this division shall not exceed the fees the camp pays under this section. If a fee is charged, the camp shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the camp will not consider the applicant for employment.

(9) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (F) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The report shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the administrator, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of registration related to the criminal records check.

(G) The director of job and family services shall adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules shall specify exceptions to the prohibitions in ~~division~~ divisions (B), (E), and (F) of this section for a person who has been convicted of or pleaded guilty to a criminal offense listed in division (A)(5) of section 109.572 of the Revised Code but who meets standards in regard to rehabilitation set by the director.

(H)(1) Whenever the director of job and family services requests a criminal records check, searches the uniform statewide automated child welfare information system, or inspects the state registry of sex offenders and child-victim offenders and national sex offender registry as required by this section and finds that a person who is subject to the requirements of division (B), (C), or (D) of this section resided in another state during the previous five years, the director shall request the following from the other state: a criminal records check and information from the uniform statewide automated child welfare information system or state registry of sex offenders.

(2) Whenever the director receives from an agency of another state a request for a criminal records check or for information from the uniform statewide automated child welfare information system or state registry of sex offenders that is related to a child care license or the provision of publicly funded child care, the director shall provide to that other state's agency the results of the records check and information from the system and registry.

Sec. 5104.014. (A) As used in this section:

(1) "Child" includes both of the following:

(a) An infant, toddler, or preschool age child;

(b) A school-age child who is not enrolled in a public or nonpublic school but is enrolled in a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home or receives child care from a certified in-home aide.

(2) "In the process of being immunized" means having received at least the first dose of an immunization sequence and complying with the immunization intervals or catch-up schedule prescribed by the director of health.

(B) Except as provided in division (C) of this section, not later than thirty days after enrollment in a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home and every thirteen months thereafter while enrolled in the center or home and not later than thirty days after beginning to receive child care from a certified in-home aide and every thirteen months thereafter while continuing to receive child care from the aide, each child's caretaker parent shall provide to the center, home, or in-home aide a medical statement, as described in division (D) of this section, indicating that the child has been immunized against or is in the process of being immunized against all of the following diseases:

- (1) Chicken pox;
- (2) Diphtheria;
- (3) Haemophilus influenzae type b;
- (4) Hepatitis A;
- (5) Hepatitis B;
- (6) Influenza;
- (7) Measles;
- (8) Mumps;
- (9) Pertussis;
- (10) Pneumococcal disease;
- (11) Poliomyelitis;
- (12) Rotavirus;
- (13) Rubella;
- (14) Tetanus.

(C)(1) A child is not required to be immunized against a disease specified in division (B) of this section if any of the following is the case:

(a) Immunization against the disease is medically contraindicated for the child;

(b) The child's parent or guardian has declined to have the child immunized against the disease for reasons of conscience, including religious convictions;

(c) Immunization against the disease is not medically appropriate for the child's age.

(2) In the case of influenza, a child is not required to be immunized against the disease if the seasonal vaccine is not available.

(D)(1) The medical statement shall include all of the following information:

(a) The dates that a child received immunizations against each of the diseases specified in division (B) of this section;

(b) Whether a child is subject to any of the exceptions specified in division (C) of this section.

(2) The medical statement shall include a component where a parent or guardian may indicate that the parent or guardian has declined to have the child immunized.

Sec. 5104.015. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation of child ~~day-care~~ care centers, including parent cooperative centers, part-time centers, and drop-in centers. The rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school-age child care centers that are developed in consultation with the department of education. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the center are safe and sanitary including the physical environment, the physical plant, and the equipment of the center;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child ~~day-care~~ care

centers owned and operated by churches and does include methods of disciplining children at child ~~day-care~~ care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;

(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about centers;

(S) Procedures for enforcing section 5104.04 of the Revised Code;

(T) Minimum qualifications for employment as an administrator or ~~child-care~~ child care staff member;

(U) Requirements for the training of administrators and ~~child-care~~ child care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

(W) A procedure for reporting of injuries of children that occur at the center;

(X) Standards for licensing child ~~day-care~~ care centers for children with short-term illnesses and other temporary medical conditions;

(Y) Minimum requirements for instructional time for child ~~day-care~~ care centers rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child ~~day-care~~ care centers.

Sec. 5104.016. The director of job and family services, in addition to the rules adopted under section 5104.015 of the Revised Code, shall adopt rules establishing minimum requirements for child ~~day-care~~ care centers. The rules shall include the requirements set forth in sections 5104.032 to 5104.034 of the Revised Code. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of section 5104.032 of the Revised Code or the maximum number of children per ~~child-care~~ care staff member and maximum group size requirements of section 5104.033 of the Revised Code. However, the rules shall provide procedures for determining compliance with those requirements.

Sec. 5104.017. The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family ~~day-care~~ child care homes, including parent cooperative type A homes, part-time type A homes, and drop-in type A homes. The rules shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including the physical environment, the physical plant, and the equipment of the type A home;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

- (I) Standards for the provision of nutritious meals and snacks;
- (J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;
- (K) Procedures for screening employees, including any necessary physical examinations and immunizations;
- (L) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;
- (M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;
- (N) Procedures for record keeping, organization, and administration;
- (O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;
- (P) Inspection procedures;
- (Q) Procedures and standards for setting initial license application fees;
- (R) Procedures for receiving, recording, and responding to complaints about type A homes;
- (S) Procedures for enforcing section 5104.04 of the Revised Code;
- (T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each type A home license that any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;
- (U) Requirements for the training of administrators and ~~child-care~~ child care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;
- (V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;
- (W) Standards for the maximum number of children per ~~child-care~~ child care staff member;
- (X) Requirements for the amount of usable indoor floor space for each child;
- (Y) Requirements for safe outdoor play space;
- (Z) Qualifications and training requirements for administrators and for ~~child-care~~ child care staff members;
- (AA) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(BB) Minimum requirements for instructional time for type A homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(CC) Any other procedures and standards necessary to carry out the provisions of this chapter regarding type A homes.

Sec. 5104.018. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the licensure of type B family ~~day-care~~ child care homes. The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a licensed type B family ~~day-care~~ child care home and shall include all of the following:

(A) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;

(B) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including physical environment, physical plant, and equipment;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admission policies and procedures;

(F) Health care, first aid and emergency procedures;

(G) Procedures for the care of sick children;

(H) Procedures for discipline and supervision of children;

(I) Nutritional standards;

(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;

(K) Procedures for screening administrators and employees, including any necessary physical examinations and immunizations;

(L) Methods of encouraging parental participation and ensuring that the rights of children, parents, and administrators are protected and the responsibilities of parents and administrators are met;

(M) Standards for the safe transport of children when under the care of administrators;

(N) Procedures for issuing, denying, or revoking licenses;

(O) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to licensure to ensure that the home is safe and sanitary;

(P) Procedures for record keeping and evaluation;

(Q) Procedures for receiving, recording, and responding to complaints;

(R) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(S) Requirements for the amount of usable indoor floor space for each child;

(T) Requirements for safe outdoor play space;

(U) Qualification and training requirements for administrators;

(V) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(W) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;

(X) Minimum requirements for instructional time for type B homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(Y) Any other procedures and standards necessary to carry out the provisions of this chapter regarding licensure of type B homes.

Sec. 5104.0111. (A) The director of job and family services shall do all of the following:

(1) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child ~~day-care~~ care centers, type A homes, and type B homes;

(2) Give public notice of hearings regarding the proposed rules at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;

(3) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee;

(4) Send to each county director of job and family services a notice of proposed rules governing the certification of in-home aides that includes an internet web site address where the proposed rules can be viewed;

(5) Provide to each county director of job and family services an electronic copy of each adopted rule at least forty-five days prior to the rule's effective date;

(6) Review all rules adopted pursuant to this chapter at least once every

seven years.

(B) The county director of job and family services shall provide or make available in either paper or electronic form to each in-home aide copies of proposed rules and shall give public notice of hearings regarding the rules to each in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. At least thirty days before the effective date of a rule, the county director of job and family services shall provide, in either paper or electronic form, copies of the adopted rule to each in-home aide.

(C) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(D) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter. Sanctions may be imposed only for an action or omission that constitutes a serious risk noncompliance. The sanctions imposed shall be based on the scope and severity of the violations.

The director shall make a dispute resolution process available for the implementation of sanctions. The process may include an opportunity for appeal pursuant to Chapter 119. of the Revised Code.

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards for the training of individuals who inspect or investigate type B family ~~day-care~~ child care homes pursuant to section 5104.03 of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division.

Sec. 5104.02. (A) The director of job and family services is responsible for licensing child ~~day-care~~ care centers, type A family ~~day-care~~ child care homes, and type B family ~~day-care~~ child care homes. Each entity operating a head start program shall meet the criteria for, and be licensed as, a child ~~day-care~~ care center. The director is responsible for the enforcement of this chapter and of rules promulgated pursuant to this chapter.

No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child ~~day-care~~ care center or type A family ~~day-care~~ child care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in the center or home in a conspicuous place that is accessible to parents, custodians, or guardians and employees of the center or home at all times when the center or home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program caring for children that operates for two consecutive weeks or less and not more than six weeks total in each calendar year;

(2) Caring for children in places of worship during religious activities while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; athletic skills or sports; computers; or an educational subject conducted on an organized or periodic basis that a child does not attend for more than eight total hours per week;

(4) Programs in which the director determines that at least one parent, custodian, or guardian of each child who is not an employee of the facility engaged in employment duties is on the premises of the facility that offers care and is readily accessible at all times;

(5) Programs that provide care and are regulated by state departments other than the department of job and family services or the state board of education.

(6) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(7) Any program providing care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under section 3301.53 of the Revised Code.

(8) A youth development program operated outside of school hours to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal care, which is care that does not

require parental signature, permission, or notice for the child receiving the care to enter or leave the program.

(c) The program provides any of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(d) The entity operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

(9) A preschool program operated by a nonchartered, nontax-supported school if the preschool program meets all of the following conditions:

(a) The program complies with state and local health, fire, and safety laws.

(b) The program annually certifies in a report to the parents of its pupils that the school is in compliance with division (B)(9)(a) of this section and files a copy of the report with the department of job and family services on or before the thirtieth day of September of each year.

(c) The program complies with all applicable reporting requirements in the same manner as required by the state board of education for nonchartered, nonpublic primary and secondary schools.

(d) The program is associated with a nonchartered, nontax-supported primary or secondary school.

(10) A program that provides activities for children who are five years of age or older and is operated by a county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code.

Sec. 5104.021. The director of job and family services may issue a child ~~day-care~~ care center or type A family ~~day-care~~ child care home license to a youth development program that is exempted by division (B)(8) of section 5104.02 of the Revised Code from the requirements of this chapter if the youth development program applies for and meets all of the requirements for the license.

Sec. 5104.022. In no case shall the director of job and family services issue a license to operate a type A family ~~day-care~~ child care home if the type A home is certified as a foster home or specialized foster home pursuant to Chapter 5103. of the Revised Code. In no case shall the director issue a license to operate a type B family ~~day-care~~ child care home if the type B home is certified as a specialized foster home pursuant to Chapter 5103. of the Revised Code.

Sec. 5104.03. (A) As used in this section, "owner" has the same

meaning as in section 5104.01 of the Revised Code, except that "owner" also includes a firm, organization, institution, or agency, as well as any individual governing board members, partners, or authorized representatives of the owner.

(B) Any person, firm, organization, institution, or agency seeking to establish a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in this chapter and a copy of the rules adopted pursuant to this chapter. The copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to sections 5104.015, 5104.017, and 5104.018 of the Revised Code and shall be paid at the time of application for a license to operate a center, type A home, or type B home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(C)(1) Upon filing of the application for a license, the director shall investigate and inspect the center, type A home, or type B home to determine the license capacity for each age category of children of the center, type A home, or type B home and to determine whether the center, type A home, or type B home complies with this chapter and rules adopted pursuant to this chapter. When, after investigation and inspection, the director is satisfied that this chapter and rules adopted pursuant to it are complied with, subject to division (G) of this section, a license shall be issued as soon as practicable in such form and manner as prescribed by the director. The license shall be designated as provisional and shall be valid for at least twelve months from the date of issuance and until the continuous license is issued or until the provisional license is revoked or suspended pursuant to section 5104.042 of the Revised Code.

(2) The director may contract with a government entity or a private nonprofit entity for the entity to inspect type A or type B family ~~day-care~~ child care homes pursuant to this section. If the director contracts with a government entity or private nonprofit entity for that purpose, the entity may contract with another government entity or private nonprofit entity for the other entity to inspect type A or type B homes pursuant to this section. The director, government entity, or private nonprofit entity shall conduct an inspection prior to the issuance of a license for a type A or type B home and, as part of that inspection, ensure that the home is safe and sanitary.

(D) The director shall investigate and inspect the center, type A home,

or type B home at least once during operation under a license designated as provisional. If after the investigation and inspection the director determines that the requirements of this chapter and rules adopted pursuant to this chapter are met, subject to division (G) of this section, the director shall issue a continuous license to the center or home.

(E) Each license shall state the name of the licensee, the name of the administrator, the address of the center, type A home, or licensed type B home, and the license capacity for each age category of children. The license shall include thereon, in accordance with sections 5104.015, 5104.017, and 5104.018 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center, type A home, or licensed type B home has violated a provision of this chapter or rules adopted pursuant to this chapter. A license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license is the maximum number of children in each age category that may be cared for in the center, type A home, or licensed type B home at one time.

A center or home licensee shall notify the director in writing when the administrator, address, or license capacity of the center or home changes. The director shall amend the current license to reflect a change in any of the following:

- (1) An administrator, if the administrator meets the requirements of this chapter and rules adopted pursuant to this chapter;
- (2) Address, if the new address meets the requirements of this chapter and rules adopted pursuant to this chapter;
- (3) License capacity for any age category of children as determined by the director of job and family services.

(F) If the director revokes the license of a center, a type A home, or a type B home, the director shall not issue another license to the owner of the center, type A home, or type B home until five years have elapsed from the date the license is revoked.

If the director denies an application for a license, the director shall not consider another application from the applicant until five years have elapsed from the date the application is denied.

(G)(1) Except as provided in division (G)(2) of this section, all actions of the director with respect to licensing centers, type A homes, or type B homes, refusal to license, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Except as provided in division (G)(2) of this section, any applicant who is denied a license or any owner whose license is revoked may appeal in accordance with section 119.12 of

the Revised Code.

(2) The following actions by the director are not subject to Chapter 119. of the Revised Code:

(a) The director ceases its review of an application because the owner of a center, type A home, or type B home sought a license before five years had elapsed from the date the previous license was revoked and the director does not issue the license.

(b) The director ceases its review of an application because the applicant applied for licensure before five years had elapsed from the date the previous application was denied and the director does not issue the license.

(c) The director closes a license because the director has determined that the center, type A home, or type B home is no longer operating at the address stated on the license and did not notify the director of the address change as described in division (E) of this section.

(H) In no case shall the director issue a license under this section for a center, type A home, or type B home if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant had been certified as an in-home aide, that the county department revoked that certification within the immediately preceding five years, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

(I) An owner of a type B family ~~day-care~~ child care home that receives a license pursuant to this section is an independent contractor and is not an employee of the department of job and family services.

Sec. 5104.032. (A) The child ~~day-care~~ care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(1) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(2) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(B) The child ~~day-care~~ care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(1) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (A) of this section.

(2) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(3) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child ~~day-care~~ care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

Sec. 5104.033. (A)(1) A child ~~day-care~~ care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide ~~child-care~~ child care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (B) of this section, the maximum number of children per ~~child-care~~ child care staff member and maximum group size, by age category of children, are as follows:

Am. Sub. H. B. No. 33

135th G.A.

3525

Age Category	Maximum Number of Children Per Child-Care <u>child</u> <u>care</u> Staff Member	Maximum Group Size
of Children		
(a) Infants:		
(i) Less than twelve months old	5:1, or 12:2 if two child-care <u>child</u> <u>care</u> staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		
(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool-age children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School-age children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but		

is less than

eleven years old

18:1

36

(ii) Eleven through fourteen
years old

20:1

40

(2) Except as otherwise provided in division (B) of this section, the maximum number of children per ~~child-care~~ child care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(B)(1) When age groups are combined, the maximum number of children per ~~child-care~~ child care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per ~~child-care~~ child care staff member and maximum group size requirements of the older age group established under division (A) of this section shall apply.

(2) The maximum number of toddlers or preschool-age children per ~~child-care~~ child care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (A) of this section if all the following criteria are met:

(a) At least one ~~child-care~~ child care staff member is present in the room.

(b) Sufficient ~~child-care~~ child care staff members are on the child ~~day-care~~ care center premises to meet the maximum number of children per ~~child-care~~ child care staff member requirements established under division (A) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (B)(2) of this section is in effect for no more than two hours during a twenty-four-hour day.

Sec. 5104.034. Each child ~~day-care~~ care center shall have on the center premises and readily available at all times at least one ~~child-care~~ child care staff member who has completed a course in first aid, one staff member who has completed a course in prevention, recognition, and management of communicable diseases which is approved by the state department of health, and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

Sec. 5104.037. (A) As used in this section:

(1) "Active tuberculosis" has the same meaning as in section 339.71 of the Revised Code.

(2) "Latent tuberculosis" means tuberculosis that has been demonstrated by a positive reaction to a tuberculosis test but has no clinical, bacteriological, or radiographic evidence of active tuberculosis.

(3) "Licensed health professional" means any of the following:

(a) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) A physician assistant who holds a current, valid license to practice as a physician assistant issued under Chapter 4730. of the Revised Code;

(c) A certified nurse practitioner as defined in section 4723.01 of the Revised Code;

(d) A clinical nurse specialist as defined in section 4723.01 of the Revised Code.

(4) "Tuberculosis control unit" means the county tuberculosis control unit designated by a board of county commissioners under section 339.72 of the Revised Code or the district tuberculosis control unit designated pursuant to an agreement entered into by two or more boards of county commissioners under that section.

(5) "Tuberculosis test" means either of the following:

(a) A two-step Mantoux tuberculin skin test;

(b) A blood assay for m. tuberculosis.

(B) Before employing a person as an administrator or employee, for the purpose of tuberculosis screening, each child ~~day-care~~ care center shall determine if the person has done both of the following:

(1) Resided in a country identified by the world health organization as having a high burden of tuberculosis;

(2) Arrived in the United States within the five years immediately preceding the date of application for employment.

(C) If the person meets the criteria described in division (B) of this section, the center shall require the person to undergo a tuberculosis test before employment. If the result of the test is negative, the center may employ the person.

(D) If the result of any tuberculosis test performed as described in division (C) of this section is positive, the center shall require the person to undergo additional testing for tuberculosis, which may include a chest radiograph or the collection and examination of specimens.

(1) If additional testing indicates active tuberculosis, then until the person is no longer infectious as determined by the county tuberculosis unit,

the center shall not employ the person or, if employed, shall not allow the person to be physically present at the center's location.

For purposes of this section, evidence that a person is no longer infectious shall consist of a written statement to that effect signed by a representative of the tuberculosis control unit.

(2) If additional testing indicates latent tuberculosis, then until the person submits to the program evidence that the person is receiving treatment as prescribed by a licensed health professional, the preschool program shall not employ the person or, if employed, shall not allow the person to be physically present at the program's location. Once the person submits to the program evidence that the person is in the process of completing a tuberculosis treatment regimen as prescribed by a licensed health professional, the preschool program may employ the person and allow the person to be physically present at the program's location so long as periodic evidence of compliance with the treatment regimen is submitted in accordance with rules adopted under section 3701.146 of the Revised Code.

For purposes of this section, evidence that a person is in the process of completing and is compliant with a tuberculosis treatment regimen shall consist of a written statement to that effect signed by the tuberculosis control unit that is overseeing the person's treatment.

Sec. 5104.038. The administrator of each child ~~day-care~~ care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

Sec. 5104.039. (A) Any parent who is the residential parent and legal custodian of a child enrolled in a child ~~day-care~~ care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child ~~day-care~~ care center who is not the child's residential parent shall be permitted unlimited access to the center during its

hours of operation for those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (B) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(B) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(C) Upon entering the premises pursuant to division (A) or (B) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child ~~day-care~~ care centers, type A family ~~day-care~~ child care homes, and licensed type B family ~~day-care~~ child care homes.

(B)(1)(a) The department shall, at least once during every twelve-month period of operation of a center, type A home, or licensed type B home, inspect the center, type A home, or licensed type B home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection.

Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center, type A home, or licensed type B home by any state or local official engaged in

performing duties required of the state or local official by this chapter or rules adopted pursuant to this chapter, including inspecting the center, type A home, or licensed type B home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center, type A home or licensed type B home is out of compliance with the requirements of this chapter or rules adopted pursuant to this chapter, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center, type A home, or licensed type B home that otherwise is imposed under this section, or any authority of the department to inspect a center, type A home, or licensed type B home that otherwise is granted under this section.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(C) The department may deny an application or revoke a license of a center, type A home, or licensed type B home, if the applicant knowingly submits falsified information to the department or if the center or home does not comply with the requirements of this chapter or rules adopted pursuant to this chapter.

(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of this chapter or rules adopted pursuant to this chapter, the department may issue an order of denial to the applicant or an order of revocation to the ~~center, type center,~~ type A home, or licensed type B home revoking the license previously issued by the department. Upon the issuance of such an order, the person whose application is denied or whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(E) The surrender of a center, type A home, or licensed type B home license to the department or the withdrawal of an application for licensure

by the owner or administrator of the center, type A home, or licensed type B home shall not prohibit the department from instituting any of the actions set forth in this section.

(F) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of this chapter or rules adopted pursuant to this chapter.

(G) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section 5104.02 of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(H) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.041. (A) All type A family ~~day-care~~ child care homes and licensed type B family ~~day-care~~ child care homes shall procure and maintain one of the following:

(1) Liability insurance issued by an insurer authorized to do business in this state under Chapter 3905. of the Revised Code insuring the type A or type B family ~~day-care~~ child care home against liability arising out of, or in connection with, the operation of the family ~~day-care~~ child care home. The

insurance procured shall cover any cause for which the type A or type B family ~~day-care~~ child care home would be liable, in the amount of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate.

(2) A written statement signed by the parent, guardian, or custodian of each child receiving child care from the type A or type B family ~~day-care~~ child care home that states all of the following:

(a) The family ~~day-care~~ child care home does not carry liability insurance described in division (A)(1) of this section;

(b) If the licensee of a type A family ~~day-care~~ child care home or a type B family ~~day-care~~ child care home is not the owner of the real property where the family ~~day-care~~ child care home is located, the liability insurance, if any, of the owner of the real property may not provide for coverage of any liability arising out of, or in connection with, the operation of the family ~~day-care~~ child care home.

(B) If the licensee of a type A family ~~day-care~~ child care home or a type B family ~~day-care~~ child care home is not the owner of the real property where the family ~~day-care~~ child care home is located and the family ~~day-care~~ child care home procures liability insurance described in division (A)(1) of this section, that licensee shall name the owner of the real property as an additional insured party on the liability insurance policy if all of the following apply:

(1) The owner of the real property requests the licensee or provider, in writing, to add the owner of the real property to the liability insurance policy as an additional insured party.

(2) The addition of the owner of the real property does not result in cancellation or nonrenewal of the insurance policy procured by the type A or type B family ~~day-care~~ child care home.

(3) The owner of the real property pays any additional premium assessed for coverage of the owner of the real property.

(C) Proof of insurance or written statement required under division (A) of this section shall be maintained at the type A or type B family ~~day-care~~ child care home and made available for review during inspection or investigation as required under this chapter.

(D) The director of job and family services shall adopt rules for the enforcement of this section.

Sec. 5104.042. (A) The department of job and family services may suspend, without a prior hearing, the license of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home if any of the following occur:

(1) A child dies or suffers a serious injury while receiving child care in the center, type A home, or licensed type B home.

(2) A public children services agency receives a report pursuant to section 2151.421 of the Revised Code, and the person alleged to have inflicted abuse or neglect on the child who is the subject of the report is any of the following:

(a) The owner, licensee, or administrator of the center, type A home, or licensed type B home;

(b) An employee of the center, type A home, or licensed type B home who has not immediately been placed on administrative leave or released from employment;

(c) Any person who resides in the type A home or licensed type B home.

(3) An owner, licensee, administrator, or employee of the center, type A home, or licensed type B home, or a resident of the type A home or licensed type B home is charged by an indictment, information, or complaint with an offense relating to the abuse or neglect of a child.

(4) The department or a county department of job and family services determines that the center, type A home, or licensed type B home created a serious risk to the health or safety of a child receiving child care in the center, type A home, or licensed type B home that resulted in or could have resulted in a child's death or injury.

(5) The department determines that the owner or licensee of the center, type A home, or licensed type B home does not meet the requirements of section 5104.013 of the Revised Code.

(B) The department shall issue a written order of suspension and furnish a copy to the licensee either by certified mail or in person as described in section 119.07 of the Revised Code. The licensee may request an adjudicatory hearing before the department pursuant to sections 119.06 to 119.12 of the Revised Code.

(C) Any summary suspension imposed under this section shall remain in effect until any of the following occurs:

(1) The public children services agency completes its investigation of the report pursuant to section 2151.421 of the Revised Code and determines that all of the allegations are unsubstantiated.

(2) All criminal charges are disposed of through dismissal or a finding of not guilty.

(3) The department issues pursuant to Chapter 119. of the Revised Code a final order terminating the suspension.

(D) The center, type A home, or licensed type B home shall not provide

child care while the summary suspension remains in effect. Upon issuance of the order of suspension, the licensee shall inform the caretaker parent of each child receiving child care in the center, type A home, or licensed type B home of the suspension.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the summary suspension of licenses.

(F) This section does not limit the authority of the department to revoke a license pursuant to section 5104.04 of the Revised Code.

Sec. 5104.043. (A) If the department of job and family services determines that an act or omission of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home constitutes a serious risk noncompliance, the licensee shall notify the caretaker parent of each child receiving care in the center or home of the department's determination.

(B) With respect to the notice required by division (A) of this section, all of the following apply:

(1) The licensee shall notify caretaker parents not later than fifteen business days after the department informs the licensee of the department's determination. If the licensee requests a review of the department's determination, the licensee shall notify caretaker parents not later than five business days after the department has completed its review.

(2) The notice shall include a statement informing each caretaker parent of the web site maintained by the department and the location of further information regarding the determination.

(3) The licensee may provide written or electronic notice to caretaker parents.

(4) The licensee shall provide a copy of the notice to the department.

(C) The director of job and family services shall adopt rules to enforce this section.

(D) The requirements of this section do not apply if the department suspends the license of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home pursuant to section 5104.042 of the Revised Code.

Sec. 5104.05. (A) The director of job and family services shall issue a license or provisional license for the operation of a child ~~day-care~~ care center, if the director finds, after investigation of the applicant and inspection of the center, that other requirements of this chapter, rules promulgated pursuant to this chapter, and the following requirements are met:

(1) The buildings in which the center is housed, subsequent to any major modification, have been approved by the department of commerce or a certified municipal, township, or county building department for the purpose of operating a child ~~day-care~~ care center. Any structure used for the operation of a center shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. of the Revised Code and with regulations adopted by the board of building standards under Chapter 3781. of the Revised Code and this division for the safety and sanitation of structures erected for this purpose.

(2) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the center is located has inspected the center annually within the preceding license period and has found the center to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a child ~~day-care~~ care center.

(3) The center has received a food service operation license under Chapter 3717. of the Revised Code if meals are to be served to children other than children of the licensee or administrator, whether or not a consideration is received for the meals.

(B) The director of job and family services shall issue a license or provisional license for the operation of a type A family ~~day-care~~ child care home, if the director finds, after investigation of the applicant and inspection of the type A home, that other requirements of this chapter, rules promulgated pursuant to this chapter, and the following requirements are met:

(1) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the type A family ~~day-care~~ child care home is located has inspected the type A home annually within the preceding license period and has found the type A home to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a type A home.

(2) The type A home is in compliance with rules set by the director of job and family services in cooperation with the director of health pursuant to section 3701.80 of the Revised Code regarding meal preparation and meal service in the home. The director of job and family services, in accordance with procedures recommended by the director of health, shall inspect each type A home to determine compliance with those rules.

(3) The type A home is in compliance with rules promulgated by the director of job and family services in cooperation with the board of building

standards regarding safety and sanitation pursuant to section 3781.10 of the Revised Code.

Sec. 5104.051. (A)(1) The department of commerce is responsible for the inspections of child ~~day-care~~ care centers as required by division (A)(1) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes ~~day-care~~ child care centers, all inspections required under division (A)(1) of section 5104.05 of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes ~~day-care~~ child care centers shall be made by personnel of the department of commerce. Inspections of centers shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(2) The department of commerce is responsible for the inspections of type A family ~~day-care~~ child care homes as required by division (B)(3) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes, all inspections required under division (B)(3) of section 5104.05 of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes shall be made by personnel of the department of commerce. Inspections of type A homes shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(B) The state fire marshal is responsible for the inspections required by divisions (A)(2) and (B)(1) of section 5104.05 of the Revised Code. In municipal corporations and in townships outside municipal corporations where there is a fire prevention official, the inspections shall be made by the fire chief or the fire prevention official under the supervision of and according to the standards established by the state fire marshal. In townships outside municipal corporations where there is no fire prevention official, inspections shall be made by the employees of the state fire marshal.

(C) The state fire marshal shall enforce all statutes and rules pertaining to fire safety and fire prevention in child ~~day-care~~ care centers and type A family ~~day-care~~ child care homes. In the event of a dispute between the state fire marshal and any other responsible officer under sections 5104.05 and 5104.051 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the state fire marshal shall prevail.

(D) As used in this division, "licensor" has the same meaning as in section 3717.01 of the Revised Code.

The licensor for food service operations in the city or general health district in which the center is located is responsible for the inspections required under Chapter 3717. of the Revised Code.

(E) Any moneys collected by the department of commerce under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 5104.052. The director of job and family services, in cooperation with the fire marshal pursuant to section 3737.22 of the Revised Code, shall adopt rules regarding fire prevention and fire safety in licensed type B family ~~day-care~~ child care homes. In accordance with those rules, the director shall inspect each type B home that applies to be licensed that is providing or is to provide publicly funded child care.

Sec. 5104.053. As a precondition of approval by the state board of education pursuant to section 3313.813 of the Revised Code for receipt of United States department of agriculture child and adult care food program funds established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, the provider of child care in a type B family ~~day-care~~ child care home that is not licensed by the director of job and family services shall request an inspection of the type B home by the fire marshal, who shall inspect the type B home pursuant to section 3737.22 of the Revised Code to determine that it is in compliance with rules established pursuant to section 5104.052 of the Revised Code for licensed type B homes.

Sec. 5104.054. Any type B family ~~day-care~~ child care home, whether licensed or not licensed by the director of job and family services, shall be considered to be a residential use of property for purposes of municipal, county, and township zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. No municipal, county, or township zoning regulations shall require a conditional use permit or any other special exception certification for any such type B family ~~day-care~~ child care home.

Sec. 5104.06. (A) The director of job and family services shall provide consultation, technical assistance, and training to child ~~day-care~~ care centers, type A family ~~day-care~~ child care homes, and type B family ~~day-care~~ child care homes to improve programs and facilities providing child care. As part of these activities, the director shall provide assistance in meeting the requirements of this chapter and rules adopted pursuant to this chapter and shall furnish information regarding child abuse identification and reporting of child abuse.

(B) The director of job and family services shall provide consultation and technical assistance to county departments of job and family services to assist the departments with the implementation of certification of in-home aides.

Sec. 5104.07. (A) The director of job and family services may prescribe additional requirements for licensing child ~~day-care~~ care centers or type A family ~~day-care~~ child care homes that provide publicly funded child care pursuant to this chapter and any rules adopted under it. The director shall develop standards as required by federal laws and regulations for child care programs supported by federal funds.

(B)(1) On or before February 28, 1992, the department of job and family services shall develop a statewide plan for child care resource and referral services. The plan shall be based upon the experiences of other states with respect to child care resource and referral services, the experiences of communities in this state that have child care resource and referral service organizations, and the needs of communities in this state that do not have child care resource and referral service organizations. The plan shall be designed to ensure that child care resource and referral services are available in each county in the state to families who need child care. The department shall consider the special needs of migrant workers when it develops the plan and shall include in the plan procedures designed to accommodate the needs of migrant workers.

(2) In addition to the requirements described in division (B)(1) of this section, the plan shall include all of the following:

(a) A description of the services that a child care resource and referral service organization is required to provide to families who need child care;

(b) The qualifications for a child care resource and referral service organization;

(c) A description of the procedures for providing federal and state funding for county or multicounty child care resource and referral service organizations;

(d) A timetable for providing child care resource and referral services to

all communities in the state;

(e) Uniform information gathering and reporting procedures that are designed to be used in compatible computer systems;

(f) Procedures for establishing statewide nonprofit technical assistance services to coordinate uniform data collection and to publish reports on child care supply, demand, and cost and to provide technical assistance to communities that do not have child care resource and referral service organizations and to existing child care resource and referral service organizations;

(g) Requirements governing contracts entered into under division (C) of this section, which may include limits on the percentage of funds distributed by the department that may be used for the contracts.

(C) Child care resource and referral service organizations receiving funds distributed by the department may enter into contracts with local governmental entities, nonprofit organizations including nonprofit organizations that provide child care, and individuals under which the entities, organizations, or individuals may provide child care resource and referral services in the community with those funds, if the contracts are submitted to and approved by the department prior to execution.

Sec. 5104.08. (A) There is hereby created in the department of job and family services a child care advisory council to advise and assist the department in the administration of this chapter and in the development of child care. The council shall consist of twenty-two voting members appointed by the director of job and family services with the approval of the governor. The director of job and family services, the director of developmental disabilities, the director of mental health and addiction services, the superintendent of public instruction, the director of health, the director of commerce, and the state fire marshal shall serve as nonvoting members of the council.

Six members shall be representatives of child care centers subject to licensing, the members to represent a variety of centers, including nonprofit and proprietary, from different geographical areas of the state. At least three members shall be parents, guardians, or custodians of children receiving child care or publicly funded child care in the child's own home, a center, a type A home, a head start program, a licensed type B home, or a type B home at the time of appointment. Three members shall be representatives of in-home aides, type A homes, licensed type B homes, or type B homes or head start programs. At least six members shall represent county departments of job and family services. The remaining members shall be representatives of the teaching, child development, and health professions,

and other individuals interested in the welfare of children. At least six members of the council shall not be employees or licensees of a child ~~day-care~~ care center, head start program, or type A home, or providers operating a licensed type B home or type B home, or in-home aides.

Appointments shall be for three-year terms. Vacancies shall be filled for the unexpired terms. A member of the council is subject to removal by the director of job and family services for a willful and flagrant exercise of authority or power that is not authorized by law, for a refusal or willful neglect to perform any official duty as a member of the council imposed by law, or for being guilty of misfeasance, malfeasance, nonfeasance, or gross neglect of duty as a member of the council.

There shall be two co-chairpersons of the council. One co-chairperson shall be the director of job and family services or the director's designee, and one co-chairperson shall be elected by the members of the council. The council shall meet as often as is necessary to perform its duties, provided that it shall meet at least once in each quarter of each calendar year and at the call of the co-chairpersons. The co-chairpersons or their designee shall send to each member a written notice of the date, time, and place of each meeting.

Members of the council shall serve without compensation, but shall be reimbursed for necessary expenses.

(B) The child care advisory council shall advise the director on matters affecting the licensing of centers, type A homes, and type B homes and the certification of in-home aides. The council shall make an annual report to the director of job and family services that addresses the availability, affordability, accessibility, and quality of child care and that summarizes the recommendations and plans of action that the council has proposed to the director during the preceding fiscal year. The director of job and family services shall provide copies of the report to the governor, speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5104.09. No administrator, employee, licensee, or ~~child-care~~ child care staff member shall discriminate in the enrollment of children in a child ~~day-care~~ care center, type A home, licensed type B home, or approved child day camp upon the basis of race, color, religion, sex, disability, or national origin.

Sec. 5104.13. The department of job and family services shall prepare a guide describing the state statutes and rules governing the licensure of type B family ~~day-care~~ child care homes. The department may publish the guide electronically or otherwise and shall do so in a manner that the guide is accessible to the public, including type B home providers.

Sec. 5104.14. All materials that are supplied by the department of job and family services to type A family ~~day-care~~ child care home providers, type B family ~~day-care~~ child care home providers, in-home aides, persons seeking to be type A family ~~day-care~~ child care home providers, type B family ~~day-care~~ child care home providers, or in-home aides, and caretaker parents shall be written at no higher than the sixth grade reading level. The department may employ a readability expert to verify its compliance with this section.

Sec. 5104.25. (A) Except as otherwise provided in division (C) of this section, no child ~~day-care~~ care center shall permit any person to smoke in any indoor or outdoor space that is part of the center.

The administrator of a child ~~day-care~~ care center shall post in a conspicuous place at the main entrance of the center a notice stating that smoking is prohibited in any indoor or outdoor space that is part of the center, except under the conditions described in division (C) of this section.

(B) Except as otherwise provided in division (C) of this section, no type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home shall permit any person to smoke in any indoor or outdoor space that is part of the home during the hours the home is in operation. Smoking may be permitted during hours other than the hours of operation if the administrator of the home has provided to a parent, custodian, or guardian of each child receiving child care at the home notice that smoking occurs or may occur at the home when it is not in operation.

The administrator of a type A family ~~day-care~~ child care home or a licensed type B family ~~day-care~~ child care home shall post in a conspicuous place at the main entrance of the home a notice specifying the hours the home is in operation and stating that smoking is prohibited during those hours in any indoor or outdoor space that is part of the home, except under the conditions described in division (C) of this section.

(C) A child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family child care home may allow persons to smoke at the center or home during its hours of operation if those persons cannot be seen smoking by the children being cared for and if they smoke in either of the following:

- (1) An indoor area that is separately ventilated from the rest of the

center or home;

(2) An outdoor area that is so far removed from the children being cared for that they cannot inhale any smoke.

(D) The director of job and family services, in consultation with the director of health, shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the requirements of this section. These rules may prohibit smoking in a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family child care home if its design and structure do not allow persons to smoke under the conditions described in division (C) of this section or if repeated violations of division (A) or (B) of this section have occurred there.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and

federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing the step up to quality program pursuant to section 5104.29 of the Revised Code.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education, the chancellor of higher education, the department of development, and other state agencies and

entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement rates for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly funded child care.

(2) In establishing reimbursement rates under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained in accordance with 45 C.F.R. 98.45;

(b) Establish an enhanced reimbursement rate for providers who provide child care for caretaker parents who work nontraditional hours;

(c) With regard to the step up to quality program established pursuant to section 5104.29 of the Revised Code, establish enhanced reimbursement rates for child ~~day-care~~ care providers that participate in the program.

(3) In establishing reimbursement rates under division (E)(1)(a) of this section, the director may establish different reimbursement rates based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

Sec. 5104.301. A county department of job and family services may establish a program to encourage the organization of parent cooperative child ~~day-care~~ care centers and parent cooperative type A family ~~day-care~~ child care homes for recipients of publicly funded child care. A program established under this section may include any of the following:

(A) Recruitment of parents interested in organizing a parent cooperative child ~~day-care~~ care center or parent cooperative type A family ~~day-care~~

child care home;

(B) Provision of technical assistance in organizing a parent cooperative child ~~day-care~~ care center or parent cooperative type A family ~~day-care~~ child care home;

(C) Assistance in the developing, conducting, and disseminating training for parents interested in organizing a parent cooperative child ~~day-care~~ care center or parent cooperative type A family ~~day-care~~ child care home.

A county department that implements a program under this section shall receive from funds available under the child care block grant act a five thousand dollar incentive payment for each parent cooperative child ~~day-care~~ care center or parent cooperative type A family ~~day-care~~ child care home organized pursuant to this section.

Parents of children enrolled in a parent cooperative child ~~day-care~~ care center or parent cooperative type A family ~~day-care~~ child care home pursuant to this section shall be required to work in the center or home a minimum of four hours per week.

The director of job and family services shall adopt rules governing the establishment and operation of programs under this section.

Sec. 5104.31. (A) Publicly funded child care may be provided only by the following:

(1) Any of the following licensed by the department of job and family services pursuant to section 5104.03 of the Revised Code or pursuant to rules adopted under section 5104.018 of the Revised Code:

(a) A child ~~day-care~~ care center, including a parent cooperative child ~~day-care~~ care center;

(b) A type A family ~~day-care~~ child care home, including a parent cooperative type A family ~~day-care~~ child care home;

(c) A licensed type B family ~~day-care~~ child care home.

(2) An in-home aide who has been certified by the county department of job and family services pursuant to section 5104.12 of the Revised Code;

(3) A child day camp approved pursuant to section 5104.22 of the Revised Code;

(4) A licensed preschool program;

(5) A licensed school child program;

(6) A border state child care provider, except that a border state child care provider may provide publicly funded child care only to an individual who resides in an Ohio county that borders the state in which the provider is located.

(B) Publicly funded child ~~day-care~~ care may be provided in a child's

own home only by an in-home aide.

(C)(1) Except as provided in division (C)(2) of this section, a licensed child care program may provide publicly funded child care only if the program is rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code.

(2) A licensed child care program that is any of the following may provide publicly funded child care without being rated through the step up to quality program:

(a) A program that operates only during the summer and for not more than fifteen consecutive weeks;

(b) A program that operates only during school breaks;

(c) A program that operates only on weekday evenings, weekends, or both;

(d) A program that holds a provisional license issued under section 5104.03 of the Revised Code;

(e) A program that had its step up to quality program rating removed by the department of job and family services within the previous twelve months;

(f) A program that is the subject of a revocation action initiated by the department, but the license has not yet been revoked;

(g) A program that provides publicly funded child care to less than twenty-five per cent of the program's license capacity;

(h) A program that is a type A family ~~day-care~~ child care home or licensed type B family ~~day-care~~ child care home.

Sec. 5104.32. (A) All purchases of publicly funded child care shall be made under a contract entered into by a licensed child ~~day-care~~ care center, licensed type A family ~~day-care~~ child care home, licensed type B family ~~day-care~~ child care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the department of job and family services. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state contracts or contracts involving the

expenditure of state or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the lower of the rate customarily charged by the provider for children enrolled for child care or the reimbursement rate of payment established pursuant to section 5104.30 of the Revised Code;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the state department of job and family services or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C)(1) The department shall establish an automated child care system to track attendance and calculate payments for publicly funded child care.

(2) Each eligible provider that provides publicly funded child care shall

participate in the automated child care system. A provider participating in the system shall not do any of the following:

(a) Use or have possession of a personal identification number or password issued to a caretaker parent under the automated child care system;

(b) Falsify attendance records;

(c) Knowingly seek or accept payment for publicly funded child care that was not provided or for which the provider was not eligible;

(d) Knowingly seek or accept payment for child care provided to a child who resides in the provider's own home.

(D) The department may withhold any money due under this chapter and may recover through any appropriate method any money erroneously paid under this chapter if evidence demonstrates that a provider of publicly funded child care failed to comply with either of the following:

(1) The terms of the contract entered into under this section;

(2) This chapter or any rules adopted under it.

(E) If the department has evidence that a provider has employed an individual who is ineligible for employment under section 5104.013 of the Revised Code and the provider has not released the individual from employment upon notice that the individual is ineligible, the department may terminate immediately the contract entered into under this section to provide publicly funded child care.

(F) Any decision by the department concerning publicly funded child care, including the recovery of funds, overpayment determinations, and contract terminations is final and is not subject to appeal, hearing, or further review under Chapter 119. of the Revised Code.

Sec. 5104.35. (A) Each county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child ~~day-care~~ care centers, type A family ~~day-care~~ child care homes, or licensed type B family ~~day-care~~ child care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child care services.

(B) A county department of job and family services may, to the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care.

Sec. 5104.36. The licensee or administrator of a child ~~day-care~~ care center, type A family ~~day-care~~ child care home, or licensed type B family ~~day-care~~ child care home, an in-home aide providing child care services, the director or administrator of an approved child day camp, and a border state child care provider shall keep a record for each eligible child, to be made available to the county department of job and family services or the department of job and family services on request. The record shall include all of the following:

- (A) The name and date of birth of the child;
- (B) The name and address of the child's caretaker parent;
- (C) The name and address of the caretaker parent's place of employment or program of education or training;
- (D) The hours for which child care services have been provided for the child;
- (E) Any other information required by the county department of job and family services or the state department of job and family services.

Sec. 5104.99. (A) Whoever violates section 5104.02 of the Revised Code shall be punished as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child ~~day-care~~ care center or type A family ~~day-care~~ child care home that either exceeds the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family ~~day-care~~ child care home that is operating as a child ~~day-care~~ care center without being licensed as a center, exceeds the license capacity of the type A home.

(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply:

(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family ~~day-care~~ child care home may provide child care or, if the offender is a licensed type A family ~~day-care~~ child care home that is operating as a child ~~day-care~~ care center without being licensed as a center, the license capacity of the type A home.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of section 5104.02 of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child ~~day-care~~ care center license or a type A family ~~day-care~~ child care home license, as appropriate, under section 5104.03 of the Revised Code.

(c) If the offender previously has been convicted of or pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child ~~day-care~~ care center license or a type A family ~~day-care~~ child care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child ~~day-care~~ care center license or a type A family ~~day-care~~ child care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates section 5104.09 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 5107.60. In accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan prepared under section 5101.80 of the Revised Code, and amendments to the plan, county departments of job and family services shall establish and administer the following work activities, in addition to the work activities established under sections 5107.50, 5107.52, 5107.54, and 5107.58 of the Revised Code, for minor heads of households and adults participating in Ohio works first:

(A) Unsubsidized employment activities, including activities a county department determines are legitimate entrepreneurial activities;

(B) On-the-job training activities, including training to become an employee of a child ~~day-care~~ care center or type A family ~~day-care~~ child care home, administrator of a licensed type B family ~~day-care~~ child care home, or in-home aide;

(C) Community service activities including a program under which a participant of Ohio works first who is the parent, guardian, custodian, or specified relative responsible for the care of a minor child enrolled in grade twelve or lower is involved in the minor child's education on a regular basis;

(D) Vocational educational training activities;

(E) Jobs skills training activities that are directly related to employment;

(F) Education activities that are directly related to employment for participants who have not earned a high school diploma or certificate of high school equivalence;

(G) Education activities for participants who have not completed secondary school or received a certificate of high school equivalence under which the participants attend a secondary school or a course of study leading to a certificate of high school equivalence, including LEAP participation by a minor head of household;

(H) Child-care service activities aiding another participant assigned to a community service activity or other work activity. A county department may provide for a participant assigned to this work activity to receive training necessary to provide child-care services.

Sec. 5119.37. (A)(1)(a) Except as provided in division (A)(1)(b) of this section, no person or government entity shall operate an opioid treatment program requiring certification, as certification is defined in 42 C.F.R. 8.2, unless the person or government entity is a community addiction services provider and the program is licensed under this section.

(b) Division (A)(1)(a) of this section does not apply to a program operated by the United States department of veterans affairs.

(2) No community addiction services provider licensed under this section shall operate an opioid treatment program in a manner inconsistent with this section and the rules adopted under it.

(B) A community addiction services provider seeking a license to operate an opioid treatment program shall apply to the department of mental health and addiction services. The department shall review all applications received.

(C) The department may issue a license to operate an opioid treatment program to a community addiction services provider only if all of the following apply:

(1) During the three-year period immediately preceding the date of application, the provider or any owner, sponsor, medical director, administrator, or principal of the provider has been in good standing to operate an opioid treatment program in all other locations where the provider or such other person has been operating a similar program, as

evidenced by both of the following:

(a) Not having been denied a license, certificate, or similar approval to operate an opioid treatment program by this state or another jurisdiction;

(b) Not having been the subject of any of the following in this state or another jurisdiction:

(i) An action that resulted in the suspension or revocation of the license, certificate, or similar approval of the provider or other person;

(ii) A voluntary relinquishment, withdrawal, or other action taken by the provider or other person to avoid suspension or revocation of the license, certificate, or similar approval;

(iii) A disciplinary action that was based, in whole or in part, on the provider or other person engaging in the inappropriate prescribing, dispensing, administering, personally furnishing, diverting, storing, supplying, compounding, or selling of a controlled substance or other dangerous drug.

(2) It affirmatively appears to the department that the provider is adequately staffed and equipped to operate an opioid treatment program.

(3) It affirmatively appears to the department that the provider will operate an opioid treatment program in strict compliance with all laws relating to drug abuse and the rules adopted by the department.

(4) Except as provided in division (D) of this section and section 5119.371 of the Revised Code, if the provider is seeking an initial license for a particular location, the proposed opioid treatment program is not located on a parcel of real estate that is within a radius of five hundred linear feet of the boundaries of a parcel of real estate having situated on it a public or private school, child ~~day-care~~ care center licensed under Chapter 5104. of the Revised Code, or child-serving agency regulated by the department under this chapter.

(5) The provider meets any additional requirements established by the department in rules adopted under division (F) of this section.

(D) The department may waive the requirement of division (C)(4) of this section if it receives, from each public or private school, child ~~day-care~~ care center, or child-serving agency that is within the five hundred linear feet radius described in that division, a letter of support for the location. The department shall determine whether a letter of support is satisfactory for purposes of waiving the requirement.

(E)(1) Except as provided in division (E)(2) of this section, a license to operate an opioid treatment program shall expire two years from the date of issuance. Licenses may be renewed.

(2) In circumstances in which the director of mental health and

addiction services has concerns regarding compliance of a community addiction services provider licensed as an opioid treatment program, the department shall notify the provider of those concerns and stipulate that the provider's license expires annually on a date determined by the department.

(F) The department shall establish procedures and adopt rules for licensing, inspection, and supervision of community addiction services providers that operate an opioid treatment program. The rules shall establish standards for the control, storage, furnishing, use, dispensing, and administering of medications used in medication-assisted treatment; prescribe minimum standards for the operation of the opioid treatment program component of the provider's operations; and comply with federal laws and regulations.

All rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code. All actions taken by the department regarding the licensing of providers to operate opioid treatment programs shall be conducted in accordance with Chapter 119. of the Revised Code, except as provided in division (L) of this section.

(G)(1) The department shall inspect all community addiction services providers licensed to operate an opioid treatment program. Inspections shall be conducted at least biennially and may be conducted more frequently.

In addition, the department may inspect any provider or other person that it reasonably believes to be operating an opioid treatment program without a license issued under this section.

(2) When conducting an inspection, the department may do both of the following:

(a) Examine and copy all records, accounts, and other documents relating to the provider's or other person's operations, including records pertaining to patients or clients;

(b) Conduct interviews with any individual employed by or contracted or otherwise associated with the provider or person, including an administrator, staff person, patient, or client.

(3) No person or government entity shall interfere with a state or local government official acting on behalf of the department while conducting an inspection.

(H) A community addiction services provider shall not administer or dispense methadone in a tablet, powder, or intravenous form. Methadone shall be administered or dispensed only in a liquid form intended for ingestion.

A community addiction services provider shall not administer or dispense a medication used in medication-assisted treatment for pain or

other medical reasons.

(I) As used in this division, "program sponsor" means a person who assumes responsibility for the operation and employees of the opioid treatment program component of a community addiction services provider's operations.

A provider shall not permit an individual to act as a program sponsor, medical director, or director of the provider if the individual is receiving a medication used in medication-assisted treatment from any community addiction services provider.

(J) The department may issue orders to ensure compliance with all laws relating to drug abuse and the rules adopted under this section. Subject to section 5119.27 of the Revised Code, the department may hold hearings, require the production of relevant matter, compel testimony, issue subpoenas, and make adjudications. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the department may apply to a court of common pleas for an order compelling compliance.

(K) The department may refuse to issue, or may withdraw or revoke, a license to operate an opioid treatment program. A license may be refused if a community addiction services provider does not meet the requirements of division (C) of this section. A license may be withdrawn at any time the department determines that the provider no longer meets the requirements for receiving the license. A license may be revoked in accordance with division (L) of this section.

Once a license is issued under this section, the department shall not consider the requirement of division (C)(4) of this section in determining whether to renew, withdraw, or revoke the license or whether to reissue the license as a result of a change in ownership.

(L) If the department finds reasonable cause to believe that a community addiction services provider licensed under this section is in violation of any state or federal law or rule relating to drug abuse, the department may issue an order immediately revoking the license, subject to division (M) of this section. The department shall set a date not more than fifteen days later than the date of the order of revocation for a hearing on the continuation or cancellation of the revocation. For good cause, the department may continue the hearing on application of any interested party. In conducting hearings, the department has all the authority and power set forth in division (J) of this section. Following the hearing, the department shall either confirm or cancel the revocation. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code, except that the provider shall not be permitted to operate an opioid treatment program pending the hearing or pending any

appeal from an adjudication made as a result of the hearing. Notwithstanding any provision of Chapter 119. of the Revised Code to the contrary, a court shall not stay or suspend any order of revocation issued by the department under this division pending judicial appeal.

(M) The department shall not revoke a license to operate an opioid treatment program unless all clients receiving medication used in medication-assisted treatment from the community addiction services provider are provided adequate substitute medication or treatment. For purposes of this division, the department may transfer the clients to other providers licensed to operate opioid treatment programs or replace any or all of the administrators and staff of the provider with representatives of the department who shall continue on a provisional basis the opioid treatment component of the provider's operations.

(N) Each time the department receives an application from a community addiction services provider for a license to operate an opioid treatment program, issues or refuses to issue a license, or withdraws or revokes a license, the department shall notify the board of alcohol, drug addiction, and mental health services of each alcohol, drug addiction, and mental health service district in which the provider operates.

(O) Whenever it appears to the department from files, upon complaint, or otherwise, that a community addiction services provider has engaged in any practice declared to be illegal or prohibited by section 3719.61 of the Revised Code, or any other state or federal laws or regulations relating to drug abuse, or when the department believes it to be in the best interest of the public and necessary for the protection of the citizens of the state, the department may request criminal proceedings by laying before the prosecuting attorney of the proper county any evidence of criminality which may come to its knowledge.

(P) The department shall maintain a current list of community addiction services providers licensed by the department under this section and shall provide a copy of the current list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list of licensed community addiction services providers shall identify each licensed provider by its name, its address, and the county in which it is located.

Sec. 5119.371. (A) On application by a community addiction services provider that has purchased or leased real property to be used as the location of an opioid treatment program subject to licensure under section 5119.37 of the Revised Code, the department of mental health and addiction services shall determine whether the location of the proposed program complies with

the requirements of division (C)(4) of section 5119.37 of the Revised Code by not being located on a parcel of real estate that is within a radius of five hundred linear feet of the boundaries of a parcel of real estate having situated on it a public or private school, child ~~day-care~~ care center licensed under Chapter 5104. of the Revised Code, or child-serving agency regulated by the department under this chapter.

If the department determines that the location is in compliance with division (C)(4) of section 5119.37 of the Revised Code, the department shall issue a declaration stating that the location is in compliance. The declaration is valid for two years from the date of issuance.

The department shall provide to the provider either a copy of the declaration or a notice that the department has determined that the location is not in compliance with division (C)(4) of section 5119.37 of the Revised Code.

If, before expiration of the declaration, a community addiction services provider applies for a license to operate an opioid treatment program, the department shall not consider the requirement of division (C)(4) of section 5119.37 of the Revised Code in determining whether to issue the license.

(B) A community addiction services provider seeking to relocate an opioid treatment program licensed under section 5119.37 of the Revised Code may apply for and be granted a declaration under division (A) of this section. If, before expiration of the declaration, the provider applies for issuance of a license due to relocation, the department shall not consider the requirement of division (C)(4) of section 5119.37 of the Revised Code in determining whether to reissue the license due to relocation.

Sec. 5153.175. (A) Notwithstanding division (I)(1) of section 2151.421, section 5153.17, and any other section of the Revised Code pertaining to confidentiality, when a public children services agency has determined that child abuse or neglect occurred and that abuse or neglect involves a person who has applied for licensure as a type A family ~~day-care~~ child care home or type B family ~~day-care~~ child care home, the agency shall promptly provide to the department of job and family services any information the agency determines to be relevant for the purpose of evaluating the fitness of the person, including, but not limited to, both of the following:

(1) A summary report of the chronology of abuse and neglect reports made pursuant to section 2151.421 of the Revised Code of which the person is the subject where the agency determined that abuse or neglect occurred and the final disposition of the investigation of the reports or, if the investigations have not been completed, the status of the investigations;

(2) Any underlying documentation concerning those reports.

(B) The agency shall not include in the information provided to the department under division (A) of this section the name of the person or entity that made the report or participated in the making of the report of child abuse or neglect.

(C) Upon provision of information under division (A) of this section, the agency shall notify the department of both of the following:

(1) That the information is confidential;

(2) That unauthorized dissemination of the information is a violation of division (I)(2) of section 2151.421 of the Revised Code and any person who permits or encourages unauthorized dissemination of the information is guilty of a misdemeanor of the fourth degree pursuant to section 2151.99 of the Revised Code.

Sec. 5321.01. As used in this chapter:

(A) "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

(B) "Landlord" means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.

(C) "Residential premises" means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant. "Residential premises" includes a dwelling unit that is owned or operated by a college or university. "Residential premises" does not include any of the following:

(1) Prisons, jails, workhouses, and other places of incarceration or correction, including, but not limited to, halfway houses or residential arrangements that are used or occupied as a requirement of a community control sanction, a post-release control sanction, or parole;

(2) Hospitals and similar institutions with the primary purpose of providing medical services, and homes licensed pursuant to Chapter 3721. of the Revised Code;

(3) Tourist homes, hotels, motels, recreational vehicle parks, recreation camps, combined park-camps, temporary park-camps, and other similar facilities where circumstances indicate a transient occupancy;

(4) Elementary and secondary boarding schools, where the cost of room and board is included as part of the cost of tuition;

(5) Orphanages and similar institutions;

(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or

more of the occupants;

(7) Dwelling units subject to sections 3733.41 to 3733.49 of the Revised Code;

(8) Occupancy by an owner of a condominium unit;

(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:

(a) The occupancy is for a period of less than sixty days.

(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:

(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of persons with mental illnesses, persons with developmental disabilities, adults or juveniles convicted of criminal offenses, or persons experiencing substance abuse;

(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons.

(10) Emergency shelters operated by organizations exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, for persons whose circumstances indicate a transient occupancy, including homeless people, victims of domestic violence, and juvenile runaways.

(D) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, amount of rent charged or paid, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(E) "Security deposit" means any deposit of money or property to secure performance by the tenant under a rental agreement.

(F) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(G) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Student tenant" means a person who occupies a dwelling unit owned or operated by the college or university at which the person is a student, and who has a rental agreement that is contingent upon the person's

status as a student.

(I) "Recreational vehicle park," "recreation camp," "combined park-camp," and "temporary park-camp" have the same meanings as in section 3729.01 of the Revised Code.

(J) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(K) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(L) "School premises" has the same meaning as in section 2925.01 of the Revised Code.

(M) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(N) "Preschool or child ~~day-care~~ care center premises" has the same meaning as in section 2950.034 of the Revised Code.

(O) "Rent control" means requiring below-market rents for residential premises or controlling rental rates for residential premises in any manner, including by prohibiting rent increases, regulating rental rate changes between tenancies, limiting rental rate increases, regulating the rental rates of residential premises based on income or wealth of tenants, and other forms of restraint or limitation of rental rates.

(P) "Rent stabilization" means allowing rent increases for residential premises of a fixed amount or on a fixed schedule as set by a political subdivision.

(Q) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

Sec. 5321.03. (A) Notwithstanding section 5321.02 of the Revised Code, a landlord may bring an action under Chapter 1923. of the Revised Code for possession of the premises if:

(1) The tenant is in default in the payment of rent;

(2) The violation of the applicable building, housing, health, or safety code that the tenant complained of was primarily caused by any act or lack of reasonable care by the tenant, or by any other person in the tenant's household, or by anyone on the premises with the consent of the tenant;

(3) Compliance with the applicable building, housing, health, or safety code would require alteration, remodeling, or demolition of the premises which would effectively deprive the tenant of the use of the dwelling unit;

(4) A tenant is holding over the tenant's term.

(5) The residential premises are located within one thousand feet of any school premises, preschool or child ~~day-care~~ care center premises, children's

crisis care facility premises, or residential infant care center premises, and both of the following apply regarding the tenant or other occupant who resides in or occupies the premises:

(a) The tenant's or other occupant's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the tenant or other occupant was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

(B) The maintenance of an action by the landlord under this section does not prevent the tenant from recovering damages for any violation by the landlord of the rental agreement or of section 5321.04 of the Revised Code.

(C) This section does not apply to a dwelling unit occupied by a student tenant.

(D) As used in this section, "children's crisis care facility premises" and "residential infant care center premises" have the same meanings as in section 2950.034 of the Revised Code.

Sec. 5321.051. (A)(1) No tenant of any residential premises located within one thousand feet of any school premises, preschool or child ~~day-care~~ care center premises, children's crisis care facility premises, or residential infant care center premises shall allow any person to occupy those residential premises if both of the following apply regarding the person:

(a) The person's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the person was convicted of or pleaded guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

(2) If a tenant allows occupancy in violation of this section or a person establishes a residence or occupies residential premises in violation of section 2950.034 of the Revised Code, the landlord for the residential premises that are the subject of the rental agreement or other tenancy may terminate the rental agreement or other tenancy of the tenant and all other occupants.

(B) If a landlord is authorized to terminate a rental agreement or other tenancy pursuant to division (A) of this section but does not so terminate the rental agreement or other tenancy, the landlord is not liable in a tort or other civil action in damages for any injury, death, or loss to person or property that allegedly results from that decision.

(C) As used in this section, "children's crisis care facility premises" and "residential infant care center premises" have the same meanings as in section 2950.034 of the Revised Code.

Sec. 5709.65. (A) An enterprise issued a certificate under section 5709.64 of the Revised Code shall be entitled to the following tax incentives:

(1) With the exception of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility, any improvement to land or tangible personal property at a facility for which a certificate is issued, first used in business at the facility as the result of a project, shall not be considered an asset of a corporate enterprise in determining the value of its issued and outstanding stock under division (A) of section 5733.05 of the Revised Code at the end of the taxable year that includes the certificate's date of issuance.

(2) With the exception of the original cost of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility, the original cost of any improvement to land or tangible personal property at the facility for which the certificate is issued, first used in business at the facility as a result of a project, shall be excluded from the numerator upon computation of the property factor of a corporate enterprise under division (B)(2)(a) of section 5733.05 of the Revised Code, or of a noncorporate enterprise under division (A) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

As used in divisions (A)(1) and (2) of this section, the "retail portion" of a facility is that part of a facility used primarily for making retail sales as defined in division (O) of section 5739.01 of the Revised Code.

(3) Compensation paid to new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code at the facility for which the certificate is issued, who are hired as a result of a project, shall be excluded from the numerator upon computation of the payroll factor of a corporate enterprise under division (B)(2)(b) of section 5733.05 of the Revised Code, or of a noncorporate enterprise under division (B) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

(4) An enterprise that reimburses its new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code for all or part of the cost of ~~day-care~~ child care services necessary to enable them to be employed at a facility for which a certificate is issued shall be entitled to a credit equal to the amounts so reimbursed, up to a maximum of three hundred dollars for each child or dependent receiving the services, for the taxable year in which reimbursement is made, against the tax imposed by section 5733.06 of the Revised Code on a corporate enterprise, or against the aggregate amount of tax imposed on the owners of a noncorporate enterprise under section 5747.02 of the Revised Code, for the taxable year that includes the certificate's date of issuance. Only reimbursements of amounts paid by new employees to ~~day-care~~ child care centers licensed by the department of job and family services for ~~day-care~~ child care services provided during the first twenty-four months of employment as a new employee may be applied toward the credit provided under this division. Any enterprise claiming this credit shall maintain records verifying that the credit is claimed only for reimbursement of amounts expended by new employees for such services.

(5) For each new employee described in divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code who completes a training program and is subsequently employed by an enterprise for at least ninety days, if the enterprise pays or reimburses all or part of the cost of the employee's participation in the training program, it may claim a credit equal to the amount paid or reimbursed or one thousand dollars, whichever is less, in the taxable year in which the employee completes the ninety days of subsequent employment, against the tax imposed on a corporate enterprise by section 5733.06 of the Revised Code, or against the aggregate amount of tax imposed on the owners of a noncorporate enterprise under section 5747.02 of the Revised Code. Only one credit shall be allowed with respect to any individual. Attendance at a qualified training program under this section does not bar an otherwise eligible individual from receipt of benefits under Chapter 4141. of the Revised Code.

(B) None of the items set forth in divisions (A)(2) and (3) of this section shall be considered in making any allocation or apportionment under division (B)(2)(d) of section 5733.05 or division (D) of section 5747.21 of the Revised Code.

(C) All credits provided under this section to a noncorporate enterprise shall be divided pro rata among the owners of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based upon their proportionate ownership interests in the enterprise. The enterprise shall file

with the tax commissioner, on a form prescribed by the commissioner, a statement showing the total available credit and the portion thereof attributed to each owner. The statement shall identify each owner by name and social security number and shall be filed with the tax commissioner by the date prescribed by the commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

(D) All state income tax or corporation franchise tax credits provided under this section shall be claimed in the order required under section 5733.98 or 5747.98 of the Revised Code. The credits, to the extent they exceed the taxpayer's aggregate tax liability for the taxable year after allowance for any other credits that precede the credits under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized.

Sec. 5733.36. This section applies only to tax years 1999, 2000, 2001, 2002, and 2003.

A nonrefundable credit is allowed against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code for a taxpayer that enters into an agreement with a child ~~day-care~~ care center pursuant to this section. Under the terms of the agreement, the taxpayer must make one or more support payments to the ~~day-care~~ center on a periodic basis, and the center must agree to serve a child of an employee of the taxpayer for the period covered by each support payment. The center must be licensed under section 5104.03 of the Revised Code. The amount of the support payment must be set forth in the agreement, and cannot exceed a reasonable charge for a child to attend a ~~day-care~~ center in the vicinity of the taxpayer's worksite. The agreement must specify that an employee has the option of refusing to place the employee's child in a ~~day-care~~ center that receives support payments from the taxpayer.

The amount of the credit equals fifty per cent of the total amount of support payments made by the taxpayer during the taxable year. The taxpayer shall not count toward the credit any amount it paid directly or indirectly in connection with a plan or program described in section 125 of the Internal Revenue Code or under section 5733.38 of the Revised Code. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code.

Sec. 5733.37. (A) A nonrefundable credit is allowed against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to the lesser of one hundred thousand dollars, or fifty per cent of the amount incurred by a taxpayer for equipment, supplies, labor, and real

property, including renovation of real property, used exclusively to establish a child ~~day-care~~ care center. The credit is allowed only for the tax year immediately following the taxable year in which the ~~child-day-care~~ center begins operations. The credit may be claimed only for tax year 1999, 2000, 2001, 2002, or 2003, but may be carried forward pursuant to division (B) of this section.

The center must be licensed under section 5104.03 of the Revised Code, used exclusively by employees of the taxpayer, and located at the employees' worksite. Amounts incurred for supplies that are to be used after the center begins operations may be included only with regard to supplies that are expected to last more than one year under normal usage. To be eligible for the credit, the taxpayer must specify that an employee has the option of refusing to place the employee's child in the ~~day-care~~ center established by the taxpayer.

(B) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, and shall deduct the amount of the excess credit allowed in any such year from the balance carried forward to the next taxable year. The credit may be carried forward for five tax years following the tax year for which the credit is claimed under division (A) of this section. However, if the taxpayer disposes of the ~~day-care~~ center or ceases to operate it at any time during the five-year period, it shall not claim or carry forward any credit in connection with that property in the taxable year of disposal or cessation of operation or in any ensuing taxable year.

Sec. 5733.38. This section applies only to tax years 1999, 2000, 2001, 2002, and 2003.

A nonrefundable credit is allowed against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to fifty per cent of the amount incurred by a taxpayer during the taxable year immediately preceding the tax year to reimburse employees of the taxpayer for child care expenses. The amount of the credit for a tax year shall not exceed seven hundred fifty dollars per child.

The taxpayer shall count toward the credit only reimbursements it pays to or for the benefit of employees for amounts paid by those employees for child care provided to dependents of the employees at child ~~day-care~~ care centers licensed under section 5104.03 of the Revised Code. The taxpayer shall not count toward the credit any amount it paid directly or indirectly in connection with a plan or program described in section 125 of the Internal

Revenue Code or under section 5733.36 of the Revised Code. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code.

Sec. 6109.121. (A) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

- (1) Require the owner or operator of a community or nontransient noncommunity water system to conduct sampling of the system for lead and copper;
- (2) Establish a schedule for lead and copper sampling applicable to the owner or operator of a community or nontransient noncommunity water system that, at a minimum, does both of the following:
 - (a) Allows the director, in establishing the schedule, to consider the following factors when determining if a community or nontransient noncommunity water system must conduct sampling at least once annually:
 - (i) The age of the water system;
 - (ii) Whether corrosion control requirements are met;
 - (iii) Any other relevant risk factors, as determined by the director, including aging infrastructure likely to contain lead service lines.
 - (b) Requires the owner or operator of a system where such risk factors are identified to conduct sampling at least once annually until the risk factors are mitigated in accordance with rules.
- (3) Require the owner or operator of a community or nontransient noncommunity water system to provide collected samples to a certified laboratory for analysis;
- (4) Authorize the director to require additional sampling for pH level and other water quality parameters to determine if corrosion control requirements are met;
- (5) Authorize the director to establish corrosion control requirements for community and nontransient noncommunity water systems;
- (6) Require the owner or operator of a community or nontransient noncommunity water system to conduct a new or updated corrosion control treatment study and submit a new or updated corrosion control treatment plan not later than eighteen months after any of the following events:
 - (a) The system changes or adds a source from which water is obtained.
 - (b) The system makes a substantial change in water treatment.
 - (c) The system operates outside of acceptable ranges for lead, copper, pH, or other corrosion indicators, as determined by the director.
 - (d) Any other event determined by the director to have the potential to impact the water quality or corrosiveness of water in the system.

(7) Authorize the director to waive the requirement to conduct a new or updated corrosion control study established in rules adopted under division (A)(6) of this section in appropriate circumstances;

(8) When the owner or operator of a community or nontransient noncommunity water system is required to complete a corrosion control treatment study and submit a plan in accordance with rules adopted under division (A)(6) of this section, require the owner or operator to complete the study and submit the plan to the director for approval even if sampling results conducted subsequent to the initiation of the study and plan do not exceed the lead action level established in rules adopted under this chapter;

(9) When the owner or operator of a community or nontransient noncommunity water system is required to complete a corrosion control treatment study and submit a plan in accordance with rules adopted under division (A)(6) of this section, require the owner or operator to submit to the director an interim status report of actions taken to implement the corrosion control study six months and twelve months from the date of initiation of the corrosion control study requirement;

(10) Establish a lead threshold for individual taps;

(11) Establish and revise content for public education materials;

(12) Authorize the director to develop procedures and requirements to document that notices were provided by the owner or operator of a community or nontransient noncommunity water system as required under the rules adopted under division (A)(15) of this section;

(13) Authorize the director to assess administrative penalties in accordance with section 6109.23 of the Revised Code for violations of the notice requirements established in rules adopted under divisions (A)(15)(b) and (c)(i) of this section;

(14) Require a laboratory that receives a lead or copper tap water sample from a community or nontransient noncommunity water system to do both of the following:

(a) Complete a lead or copper analysis of the sample, as applicable, not later than thirty business days after the receipt of the sample;

(b) Not later than the end of the next business day following the day the analysis of the sample is completed, report the results of the analysis and all identifying information about where the sample was collected to the community or nontransient noncommunity water system and the director.

(15) Require the owner or operator of a community or nontransient noncommunity water system to do all of the following, as applicable, with regard to laboratory results received under rules adopted under division (A)(14) of this section:

(a) If the laboratory results show that a sample from an individual tap is below the applicable lead threshold as established in rules adopted under this chapter, provide notice of the results of each individual tap sample to the owner and persons served at the residence or other structure where the tap was sampled within a time period specified in rules that is not more than thirty business days after the receipt of the laboratory results;

(b) If the results show that a sample from an individual tap is above the applicable lead threshold as established under rules adopted under this chapter, provide notice of the results of each individual tap sample to the owner and persons served at the residence or other structure where the tap was sampled within a time period specified in rules that is not more than two business days after the receipt of the laboratory results, and do all of the following, as applicable:

(i) For the owner or operator of a nontransient noncommunity water system, immediately remove from service all fixtures identified as contributing to elevated lead levels;

(ii) For the owner or operator of a community water system, include in the system's annual consumer confidence report the lead or copper laboratory results, an explanation of the associated health risks, what actions consumers of the system can take to reduce health risks, and the actions the system is taking to reduce public exposure;

(iii) Not later than two business days after the receipt of the laboratory results, provide information on the availability of health screening and blood lead level testing to the owner and persons served at the residence or other structure where the sample was collected and provide notice of the laboratory results to the applicable local board of health.

(c) If the laboratory results show that the community or nontransient noncommunity water system exceeds the lead action level established in rules adopted under this chapter, do all of the following, as applicable:

(i) Not later than two business days after the receipt of the laboratory results, provide notice to all of the system's water consumers that the system exceeds the lead action level. The owner or operator shall provide the notice in a form specified by the director.

(ii) Not later than five business days after the receipt of the laboratory results by the owner or operator of a community water system, provide information on the availability of tap water testing for lead to all consumers served by the system who are known or likely to have lead service lines, lead pipes, or lead solder as identified in the map required to be completed by rules adopted under division (A)(18) of this section;

(iii) Not later than thirty business days after the receipt of the laboratory

results, make an analysis of laboratory results available to all consumers served by the system, comply with public education requirements established in rules adopted under this chapter that apply when a public water system exceeds the lead action level, and provide information to consumers served by the system about the availability of health screenings and blood lead level testing in the area served by the water system;

(iv) Subject to rules adopted under division (A)(7) of this section, perform a corrosion control treatment study and submit a corrosion control treatment plan to the director not later than eighteen months after the date on which laboratory results were received by the owner or operator indicating that the system exceeded the lead action level.

(16) Require that not later than five business days after the receipt of the laboratory results, the owner or operator shall certify to the director that the owner or operator has complied with the requirements of rules adopted under divisions (A)(15)(b), (A)(15)(c)(i), and (A)(15)(c)(ii) of this section, as applicable.

(17) Require that if the owner or operator of a community or nontransient noncommunity water system fails to provide the notices required under rules adopted under division (A)(15)(b) or (c)(i) of this section, the director shall provide those notices beginning ten business days from the date that the director receives laboratory results under the rules adopted under division (A)(14) of this section.

(18) Require the owner or operator of a community or nontransient noncommunity water system to submit a map to the director showing areas of the system that are known or are likely to contain lead service lines and identifying characteristics of buildings served by the system that may contain lead piping, solder, or fixtures. The rules shall, at a minimum, require the owner or operator to do all of the following:

(a) Submit a copy of the applicable map to the department of health and the department of job and family services;

(b) Submit a report to the director containing at least the applicable map and a list of sampling locations that are tier I sites used to collect samples as required by rules adopted under this chapter, including contact information for the owner and occupant of each sampling site;

(c) Update and resubmit the information required by divisions (A)(18)(a) and (b) of this section according to a schedule determined by the director, but not less frequently than required under the Safe Drinking Water Act.

(B) The director shall post information on the environmental protection agency's web site about sources of funding that are available to assist

communities with lead service line identification and replacement and schools with fountain and water-service fixture replacement.

(C) As required by the director, an owner or operator of a nontransient noncommunity water system that is a school or child ~~day-care~~ care center shall collect additional tap water samples in buildings identified in the map required to be completed by rules adopted under division (A)(18) of this section.

(D) As used in this section:

(1) "Child ~~day-care~~ care center" has the same meaning as in section 5104.01 of the Revised Code.

(2) "School" means a school operated by the board of education of a city, local, exempted village, or joint vocational school district, the governing board of an educational service center, the governing authority of a community school established under Chapter 3314. of the Revised Code, the governing body of a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, the board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code, or the governing authority of a chartered or nonchartered nonpublic school.

(3) "Local board of health" means the applicable board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

SECTION 130.21. That existing sections 109.57, 349.01, 921.06, 1923.01, 1923.02, 2151.011, 2151.421, 2151.86, 2919.223, 2919.224, 2919.225, 2919.226, 2923.124, 2923.126, 2950.034, 2950.11, 2950.13, 3109.051, 3301.52, 3301.53, 3321.01, 3321.05, 3325.07, 3325.071, 3701.63, 3701.80, 3714.03, 3717.42, 3728.01, 3737.22, 3737.83, 3737.841, 3742.01, 3767.41, 3781.06, 3781.10, 3796.30, 3797.06, 3905.064, 4510.021, 4511.01, 4511.81, 4513.182, 4715.36, 5101.29, 5103.03, 5104.01, 5104.013, 5104.014, 5104.015, 5104.016, 5104.017, 5104.018, 5104.0111, 5104.02, 5104.021, 5104.022, 5104.03, 5104.032, 5104.033, 5104.034, 5104.037, 5104.038, 5104.039, 5104.04, 5104.041, 5104.042, 5104.043, 5104.05, 5104.051, 5104.052, 5104.053, 5104.054, 5104.06, 5104.07, 5104.08, 5104.09, 5104.13, 5104.14, 5104.25, 5104.30, 5104.301, 5104.31, 5104.32, 5104.35, 5104.36, 5104.99, 5107.60, 5119.37, 5119.371, 5153.175, 5321.01, 5321.03, 5321.051, 5709.65, 5733.36, 5733.37, 5733.38, and 6109.121 of the Revised Code are hereby repealed.

SECTION 130.22. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 109.57 of the Revised Code as amended by both H.B. 405 and S.B. 288 of the 134th General Assembly.

Section 4510.021 of the Revised Code as amended by both H.B. 300 and S.B. 204 of the 131st General Assembly.

Section 5104.017 of the Revised Code as amended by both H.B. 110 and H.B. 281 of the 134th General Assembly.

Section 5321.01 of the Revised Code amended by both H.B. 281 and H.B. 430 of the 134th General Assembly.

SECTION 130.23. That the version of section 3701.63 of the Revised Code that is scheduled to take effect September 30, 2024, be amended to read as follows:

Sec. 3701.63. (A) As used in this section and sections 3701.64, 3701.66, and 3701.67 of the Revised Code:

(1) "Child ~~day-care~~ care center," "type A family ~~day-care~~ child care home," and "licensed type B family ~~day-care~~ child care home" have the same meanings as in section 5104.01 of the Revised Code.

(2) "Child care facility" means a child ~~day-care~~ care center, a type A family ~~day-care~~ child care home, or a licensed type B family ~~day-care~~ child care home.

(3) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(4) "Freestanding birthing center" has the same meaning as in section 3701.503 of the Revised Code.

(5) "Hospital" has the same meaning as in section 3722.01 of the Revised Code to which either of the following applies:

(a) The hospital has a maternity unit.

(b) The hospital receives for care infants who have been transferred to it from other facilities and who have never been discharged to their residences following birth.

(6) "Infant" means a child who is less than one year of age.

(7) "Maternity unit" means the distinct portion of a hospital in which

maternity services are provided.

(8) "Other person responsible for the infant" includes a foster caregiver.

(9) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. "Parent" also means a prospective adoptive parent with whom a child is placed.

(10) "Shaken baby syndrome" means signs and symptoms, including, but not limited to, retinal hemorrhages in one or both eyes, subdural hematoma, or brain swelling, resulting from the violent shaking or the shaking and impacting of the head of an infant or small child.

(B) The director of health shall establish the shaken baby syndrome education program by doing all of the following:

(1) Developing educational materials that present readily comprehensible information on shaken baby syndrome;

(2) Making available on the department of health web site in an easily accessible format the educational materials developed under division (B)(1) of this section;

(3) Annually assessing the effectiveness of the shaken baby syndrome education program by doing all of the following:

(a) Evaluating the reports received pursuant to section 5101.135 of the Revised Code;

(b) Reviewing the content of the educational materials to determine if updates or improvements should be made;

(c) Reviewing the manner in which the educational materials are distributed, as described in section 3701.64 of the Revised Code, to determine if modifications to that manner should be made.

(C) In meeting the requirements under division (B) of this section, the director shall develop educational materials that, to the extent possible, minimize administrative or financial burdens on any of the entities or persons listed in section 3701.64 of the Revised Code.

SECTION 130.24. That the existing version of section 3701.63 of the Revised Code that is scheduled to take effect September 30, 2024, is hereby repealed.

SECTION 130.25. Sections 130.23 and 130.24 of this act take effect September 30, 2024.

SECTION 130.26. That the versions of sections 921.06, 3737.83, and 3781.10 of the Revised Code that are scheduled to take effect December 29, 2023, be amended to read as follows:

Sec. 921.06. (A)(1) No individual shall do any of the following without having a commercial applicator license issued by the director of agriculture:

(a) Apply pesticides for a pesticide business without direct supervision;

(b) Apply pesticides as part of the individual's duties while acting as an employee of the United States government, a state, county, township, or municipal corporation, or a park district, port authority, or sanitary district created under Chapter 1545., 4582., or 6115. of the Revised Code, respectively;

(c) Apply restricted use pesticides. Division (A)(1)(c) of this section does not apply to a private applicator or an immediate family member or a subordinate employee of a private applicator who is acting under the direct supervision of that private applicator.

(d) If the individual is the owner of a business other than a pesticide business or an employee of such an owner, apply pesticides at any of the following publicly accessible sites that are located on the property:

(i) Food service operations that are licensed under Chapter 3717. of the Revised Code;

(ii) Retail food establishments that are licensed under Chapter 3717. of the Revised Code;

(iii) Golf courses;

(iv) Rental properties of more than four apartment units at one location;

(v) Hospitals or medical facilities as defined in section 3701.01 of the Revised Code;

(vi) Child ~~day-care~~ care centers or licensed school child ~~day-care~~ centers programs as defined in section 5104.01 of the Revised Code;

(vii) Facilities owned or operated by a school district established under Chapter 3311. of the Revised Code, including an educational service center, a community school established under Chapter 3314. of the Revised Code, or a chartered or nonchartered nonpublic school that meets minimum standards established by the state board of education;

(viii) State institutions of higher education as defined in section 3345.011 of the Revised Code, nonprofit institutions holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, institutions holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code, and private

institutions exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code;

(ix) Food processing establishments as defined in section 3715.021 of the Revised Code;

(x) Any other site designated by rule.

(e) Conduct authorized diagnostic inspections.

(2) Divisions (A)(1)(a) to (d) of this section do not apply to an individual who is acting as a trained serviceperson under the direct supervision of a commercial applicator.

(3) Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. The fee for each such license shall be established by rule. If a license is not issued or renewed, the application fee shall be retained by the state as payment for the reasonable expense of processing the application. The director shall by rule classify by pesticide-use category licenses to be issued under this section. A single license may include more than one pesticide-use category. No individual shall be required to pay an additional license fee if the individual is licensed for more than one category.

The fee for each license or renewal does not apply to an applicant who is an employee of the department of agriculture whose job duties require licensure as a commercial applicator as a condition of employment.

(B) Application for a commercial applicator license shall be made on a form prescribed by the director. Each application for a license shall state the pesticide-use category or categories of license for which the applicant is applying and other information that the director determines essential to the administration of this chapter.

(C)(1) Except as provided in division (C)(2) of this section, if the director finds that the applicant is competent to apply pesticides and conduct diagnostic inspections and that the applicant has passed both the general examination and each applicable pesticide-use category examination as required under division (A) of section 921.12 of the Revised Code, the director shall issue a commercial applicator license limited to the pesticide-use category or categories for which the applicant is found to be competent. If the director rejects an application, the director may explain why the application was rejected, describe the additional requirements necessary for the applicant to obtain a license, and return the application. The applicant may resubmit the application without payment of any additional fee.

(2) The director shall issue a commercial applicator license in accordance with Chapter 4796. of the Revised Code to an individual if either

of the following applies:

(a) The individual holds a commercial applicator license in another state.

(b) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a commercial applicator in a state that does not issue that license.

A license issued under this division shall be limited to the pesticide-use category or categories for which the applicant is licensed in another state or has satisfactory work experience, a government certification, or a private certification in that state.

(D)(1) A person who is a commercial applicator shall be deemed to hold a private applicator's license for purposes of applying pesticides on agricultural commodities that are produced by the commercial applicator.

(2) A commercial applicator shall apply pesticides only in the pesticide-use category or categories in which the applicator is licensed under this chapter.

(E) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 3737.83. The state fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the state fire marshal shall adopt, except that the state fire marshal shall grant a certificate in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a license or certificate in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a person engaged in the business of installing, testing, repairing, or maintaining fire protection equipment in a state that does not issue that certificate.

(D) Establish minimum standards of flammability for consumer goods

in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the state fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the state fire marshal, standards previously adopted by the state fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child ~~day-care~~ care centers and in type A family ~~day-care~~ child care homes, as defined in section 5104.01 of the Revised Code.

(F) Establish minimum standards for fire prevention and safety in a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults. The state fire marshal shall adopt the rules under this division in consultation with the director of mental health and addiction services and interested parties designated by the director of mental health and addiction services.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential

buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. Except as otherwise provided in division (I) of this section, the board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as

requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments, the personnel of those building departments, persons described in division (E)(7) of this section, and employees of individuals, firms, the state, or corporations described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this

division. The rules shall specify requirements that are consistent with the provisions of section 5903.12 of the Revised Code relating to active duty military service and are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services;

(d) Officers or employees of the division of industrial compliance in the department of commerce pursuant to a contract authorized by division (B) of section 121.083 of the Revised Code.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) A certified municipal, township, or county building department may

exercise enforcement authority, accept and approve plans and specifications, and make inspections pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code for a park district created pursuant to Chapter 1545. of the Revised Code upon the approval, by resolution, of the board of park commissioners of the park district requesting the department to exercise that authority and conduct those activities, as applicable.

(10) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(11) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval

of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(13) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(14) The board shall certify a person to exercise enforcement authority, to accept and approve plans and specifications, or to make inspections in this state in accordance with Chapter 4796. of the Revised Code if either of the following applies:

(a) The person holds a license or certificate in another state.

(b) The person has satisfactory work experience, a government certification, or a private certification as described in that chapter in the same profession, occupation, or occupational activity as the profession, occupation, or occupational activity for which the certificate is required in this state in a state that does not issue that license or certificate.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (D)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as

the state residential building code.

(I)(1) The committee may provide the board with proposed rules to update or amend the state residential building code that the committee recommends pursuant to division (E) of section 4740.14 of the Revised Code.

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family ~~day-care~~ child care homes.

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

SECTION 130.27. That the existing versions of sections 921.06, 3737.83, and 3781.10 of the Revised Code that are scheduled to take effect December 29, 2023, are hereby repealed.

SECTION 130.28. Sections 130.26 and 130.27 of this act take effect December 29, 2023.

SECTION 130.30. That sections 127.15, 173.03, 753.19, 1121.38, 1509.06, 1513.071, 1513.08, 1513.16, 1565.12, 1571.05, 1571.08, 1571.10, 1571.14, 1571.15, 1571.16, 1707.02, 1707.04, 1707.042, 1707.091, 1707.11, 1707.43, 1733.16, 2941.401, 3111.23, 3301.05, 3302.04, 3310.521, 3313.41, 3313.818, 3314.21, 3319.081, 3319.11, 3319.16, 3319.291, 3319.311, 3321.13, 3321.21, 3704.03, 3734.02, 3734.021, 3734.575, 3746.09, 3752.11, 3772.031, 3772.04, 3772.11, 3772.12, 3772.13, 3772.131, 3781.08, 3781.11, 3781.25, 3781.29, 3781.342, 3904.08, 4121.19, 4123.512, 4123.52, 4125.03, 4141.09, 4141.47, 4167.10, 4301.17, 4301.30, 4303.24, 4507.081, 4508.021, 4509.101, 4510.41, 4735.13, 4735.14, 5107.161, 5120.14, 5165.193, 5165.86, 5166.303, 5168.08, 5168.22, 5168.23, 5525.01, 5709.83, 5736.041, and 5751.40 be amended and sections 1509.031 and 3745.019 of the

Revised Code be enacted to read as follows:

Sec. 127.15. The controlling board may authorize any state agency for which an appropriation is made, in any act making appropriations for capital improvements, to expend the moneys appropriated otherwise than in accordance with the items set forth, and for such purpose may authorize transfers among items or create new items and authorize transfers thereto, provided that prior to such transfers the agency seeking the same shall notify by mail or electronic mail the elected representatives to the general assembly from the counties affected by such transfers, stating the time and place of the hearing on the proposed transfers thereto. Such transfers among items shall not alter in total the appropriation to any state agency except as otherwise provided by the general assembly. The board may not authorize the transfer of a capital appropriation item of any state agency for use by such agency for operating expenses, except as otherwise provided by the general assembly.

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

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

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

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

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

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

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

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

(E) The director of aging may reimburse a member for actual and necessary traveling and other expenses incurred in the discharge of official duties. But reimbursement shall be made in the manner and at rates that do not exceed those prescribed by the director of budget and management for any officer, member, or employee of, or consultant to, any state agency.

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

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

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

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

(2) A member of the advisory council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the conditions of division

(G)(1)(a) and (b) of this section have been met.

Sec. 753.19. (A) If a person who was convicted of or pleaded guilty to an offense or was indicted or otherwise charged with the commission of an offense escapes from a jail or workhouse of a municipal corporation or otherwise escapes from the custody of a municipal corporation, the chief of police or other chief law enforcement officer of that municipal corporation immediately after the escape shall report the escape, by telephone and in writing, to all local law enforcement agencies with jurisdiction over the place where the person escaped from custody, to the state highway patrol, to the department of rehabilitation and correction if the escaped person is a prisoner under the custody of the department who is in the jail or workhouse, to the prosecuting attorney of the county, and to a newspaper of general circulation in the municipal corporation in a newspaper of general circulation in each county in which part of the municipal corporation is located. The written notice may be by either facsimile transmission, electronic mail, or mail. A failure to comply with this requirement is a violation of section 2921.22 of the Revised Code.

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

Sec. 1121.38. (A)(1) An administrative hearing provided for in section 1121.32, 1121.33, 1121.35, or 1121.41 of the Revised Code shall be held in the county in which the principal place of business of the bank or trust company or residence of the regulated person is located, unless the bank, trust company, or regulated person requesting the hearing consents to another place. Within ninety days after the hearing, the superintendent of financial institutions shall render a decision, which shall include findings of fact upon which the decision is predicated, and shall issue and serve on the bank, trust company, or regulated person the decision and an order consistent with the decision. Judicial review of the order is exclusively as provided in division (B) of this section. Unless a notice of appeal is filed in a court of common pleas within thirty days after service of the superintendent's order as provided in division (B) of this section, and until the record of the administrative hearing has been filed, the superintendent may, at anytime, upon the notice and in the manner the superintendent considers proper, modify, terminate, or set aside the superintendent's order. After filing the record, the superintendent may modify, terminate, or set aside the superintendent's order with permission of the court.

(a) A hearing provided for in section 1121.32, 1121.35, or 1121.41 of

the Revised Code shall be confidential, unless the superintendent determines that holding an open hearing would be in the public interest. Within twenty days after service of the notice of a hearing, a respondent may file a written request for a public hearing with the superintendent. A respondent's failure to file such a request constitutes a waiver of any objections to a confidential hearing.

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

(2) In the course of, or in connection with, an administrative hearing governed by this section, the superintendent, or a person designated by the superintendent to conduct the hearing, may administer oaths and affirmations, take or cause depositions to be taken, and issue, revoke, quash, or modify subpoenas and subpoenas duces tecum. At any administrative hearing required by section 1121.32, 1121.33, 1121.35, or 1121.41 of the Revised Code, the record of which may be the basis of an appeal to court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the division of financial institutions. The record shall include all of the testimony and other evidence, and any rulings on the admissibility thereof, presented at the hearing. The superintendent may adopt rules regarding these hearings. The attendance of witnesses and the production of documents provided for in this section may be required from any place within or outside the state. A party to a hearing governed by this section may apply to the court of common pleas of Franklin county, or the court of common pleas of the county in which the hearing is being conducted or the witness resides or carries on business, for enforcement of a subpoena or subpoena duces tecum issued pursuant to this section, and the courts have jurisdiction and power to order and require compliance with the subpoena. Witnesses subpoenaed under this section shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

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

(B)(1) A bank, trust company, or regulated person against whom the superintendent issues an order upon the record of a hearing under the authority of section 1121.32, 1121.33, 1121.35, or 1121.41 of the Revised Code may obtain a review of the order by filing a notice of appeal in the

court of common pleas in the county in which the principal place of business of the bank, trust company, or regulated person, or residence of the regulated person, is located, or in the court of common pleas of Franklin county, within thirty days after the date of service of the superintendent's order. The clerk of the court shall promptly transmit a copy of the notice of appeal to the superintendent. Within thirty days after receiving the notice of appeal, the superintendent shall file a certified copy of the record of the administrative hearing with the clerk of the court. In the event of a private hearing, the record of the administrative hearing shall be filed under seal with the clerk of the court. Upon the filing of the notice of appeal, the court has jurisdiction, which upon the filing of the record of the administrative hearing is exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the superintendent's order.

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

(C) The superintendent may, in the sole discretion of the superintendent, apply to the court of common pleas of the county in which the principal place of business of the bank, trust company, or regulated person, or residence of the regulated person, is located, or the court of common pleas of Franklin county, for the enforcement of an effective and outstanding superintendent's order issued under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code, and the court has jurisdiction and power to order and require compliance with the superintendent's order. In an action by the superintendent pursuant to this division to enforce an order assessing a civil penalty issued under section 1121.35 of the Revised Code, the validity and appropriateness of the civil penalty is not subject to review.

(D) No court has jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of an order issued under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code or to review, modify, suspend, terminate, or set aside an order issued under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code, except as provided in this section, in division (G) of section 1121.32 of the Revised Code for an order issued pursuant to division (C)(3) or (4) of section 1121.32 of the Revised Code, or in division (A)(3) of section 1121.34 of the

Revised Code for an order issued pursuant to division (A)(1) of section 1121.34 of the Revised Code.

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

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

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

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

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

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

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

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

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

(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

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

and county;

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

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

(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.

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

(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.

(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 the owner access to sample the water well. The sampling shall be conducted in accordance with the guidelines established in "Best Management Practices For Pre-drilling Water Sampling" in effect at the time that the application is submitted. The division shall furnish those guidelines upon request and shall make them available on the division's web site. If the chief determines that conditions at the proposed well site warrant a revision, the chief may revise the distance established in this division for purposes of pre-drilling water sampling.

(c) For an application for a permit to drill a new horizontal well, the results of sampling of water wells within one thousand five hundred feet of the proposed horizontal wellhead 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 the owner access to sample the water well. The sampling shall be conducted in accordance with the guidelines established in "Best

Management Practices For Pre-drilling Water Sampling" in effect at the time that the application is submitted. The division shall furnish those guidelines upon request and shall make them available on the division's web site. If the chief determines that conditions at the proposed well site warrant a revision, the chief may revise the distance established in this division for purposes of pre-drilling water sampling.

(9) For an application for a permit to drill a new well within an urbanized area, a sworn statement that the applicant has provided notice by regular mail of the application to the owner of each parcel of real property that is located within five hundred feet of the surface location of the well and to the executive authority of the municipal corporation or the board of township trustees of the township, as applicable, in which the well is to be located. In addition, the notice shall contain a statement that informs an owner of real property who is required to receive the notice under division (A)(9) of this section that within five days of receipt of the notice, the owner is required to provide notice under section 1509.60 of the Revised Code to each residence in an occupied dwelling that is located on the owner's parcel of real property. The notice shall contain a statement that an application has been filed with the division of oil and gas resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of parcels of real property shall be determined using the tax records of the municipal corporation or county in which a parcel of real property is located as of the date of the notice.

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

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

(b) For an application for a permit for a horizontal well, a copy of an agreement concerning maintenance and safe use of the roads, streets, and highways described in division (A)(11)(a) of this section entered into on reasonable terms with the public official that has the legal authority to enter into such maintenance and use agreements for each county, township, and municipal corporation, as applicable, in which any such road, street, or highway is located or an affidavit on a form prescribed by the chief attesting

that the owner attempted in good faith to enter into an agreement under division (A)(11)(b) of this section with the applicable public official of each such county, township, or municipal corporation, but that no agreement was executed.

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

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

(B) The chief shall cause a copy of the weekly circular prepared by the division to be provided to the county engineer of each county that contains active or proposed drilling activity. The weekly circular shall contain, in the manner prescribed by the chief, the names of all applicants for permits, the location of each well or proposed well, the information required by division (A)(11) of this section, and any additional information the chief prescribes. In addition, the chief promptly shall transfer an electronic copy ~~or facsimile~~, or if ~~those methods are~~ that method is not available to a municipal corporation or township, a copy via regular mail, of a drilling permit application to the clerk of the legislative authority of the municipal corporation or to the clerk of the township in which the well or proposed well is or is to be located if the legislative authority of the municipal corporation or the board of township trustees has asked to receive copies of such applications and the appropriate clerk has provided the chief an accurate, current electronic mailing address ~~or facsimile number, as applicable~~.

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

(2) If the location of a well or proposed well will be or is within an urbanized area, the chief shall not issue a permit for at least eighteen days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or the chief at the chief's discretion grants a request for an expedited review. However, the chief shall issue a permit for a well or proposed well within an urbanized

area within thirty days of the filing of the application unless the chief denies the application by order.

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

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

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

(F) The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code. The issuance of a permit shall not be considered an order of the chief.

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

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

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

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

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

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

(b) A municipal corporation regardless of population.

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

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

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

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

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

(I) A permit shall be issued by the chief in accordance with this chapter. A permit issued under this section for a well that is or is to be located in an urbanized area shall be valid for twelve months, and all other permits issued under this section shall be valid for twenty-four months.

(J) An applicant or a permittee, as applicable, shall submit to the chief

an update of the information that is required under division (A)(8)(a) of this section if any of that information changes prior to commencement of production operations.

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

Sec. 1513.071. (A) Simultaneously with the filing of an application for a permit or significant revision of an existing permit under section 1513.07 of the Revised Code, the applicant shall submit to the chief of the division of mineral resources management a copy of the applicant's advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission, the advertisement shall be placed by the applicant in a newspaper of general circulation in the locality of the proposed coal mine at least once a week for four consecutive weeks. The chief shall notify, in each county or part of a county in which a proposed area to be permitted is located, the board of county commissioners, the board of township trustees, the legislative authorities of municipal corporations, private water companies, regional councils of governments, and the boards of directors of conservancy districts informing them of the operator's intention to conduct a coal mining operation on a particularly described tract of land and indicating the permit application number and where a copy of the proposed mining and reclamation plan may be inspected. The chief shall also notify the planning commissions with jurisdiction over all or part of the area to be permitted. These agencies, authorities, or companies may submit written comments on the application with respect to the effects of the proposed operation on the environment that are within their area of responsibility in quadruplicate to the chief within thirty days after notification by the chief of receipt of the application. The chief shall immediately transmit these comments to the applicant and make them available to the public at the same locations at which the mining application is available for inspection.

(B) A person having an interest that is or may be adversely affected or the officer or head of any federal, state, or local governmental agency or authority may file written objections to the proposed initial or revised application for a coal mining and reclamation permit with the chief within thirty days after the last publication of the notice required by division (A) of this section. The objections shall immediately be transmitted to the applicant by the chief and shall be made available to the public. If written objections are filed and an informal conference requested, the chief or the chief's

representative shall then hold an informal conference on the application for a permit within a reasonable time in the county where the largest area of the area to be permitted is located. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. The chief may arrange with the applicant, upon request by any objecting party, access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic ~~or stenographic~~ record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the applicant's performance security. If all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

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

(B) Using the information contained in the permit application; the requirements contained in the approved permit and reclamation plan; and, after considering the topography, geology, hydrology, and revegetation potential of the area of the approved permit, the probable difficulty of reclamation; the chief shall determine the estimated cost of reclamation under the initial term of the permit if the reclamation has to be performed by the division of mineral resources management in the event of forfeiture of the performance security by the applicant. The chief shall send either written notice by certified mail or electronic notice with acknowledgment of receipt of the amount of the estimated cost of reclamation ~~by certified mail~~ to the applicant. The applicant shall send either written notice or electronic notice with acknowledgment of receipt to the chief indicating the method by which the applicant will provide the performance security pursuant to division (C) of this section.

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

(1) If the applicant elects to provide performance security without reliance on the reclamation forfeiture fund created in section 1513.18 of the Revised Code, the amount of the estimated cost of reclamation as

determined by the chief under division (B) of this section for the increments of land on which the operator will conduct a coal mining and reclamation operation under the initial term of the permit as indicated in the application;

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

If a permit is transferred, assigned, or sold, the transferee is not eligible to provide performance security under division (C)(2) of this section if the transferee has not held a permit issued under this chapter for any coal mining and reclamation operation for a period of not less than five years. This restriction applies even if the status or name of the permittee otherwise remains the same after the transfer, assignment, or sale.

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

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

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

provide additional performance security in accordance with this section to cover the areas to be mined.

If an applicant or permittee is not eligible to provide performance security in accordance with division (C)(2) of this section, the applicant or permittee shall provide performance security in accordance with division (C)(1) of this section in the full amount of the estimated cost of reclamation as determined by the chief for a permitted coal preparation plant or coal refuse disposal area that is not located within a permitted area of a mine. If an applicant for a permit for a coal preparation plant or coal refuse disposal area or a permittee of a permitted coal preparation plant or coal refuse disposal area that is not located within a permitted area of a mine has held a permit issued under this chapter for any coal mining and reclamation operation for a period of five years or more, the applicant or permittee may provide performance security for the coal preparation plant or coal refuse disposal area either in accordance with division (C)(1) of this section in the full amount of the estimated cost of reclamation as determined by the chief or in accordance with division (C)(2) of this section in an amount of twenty-five hundred dollars per acre of land with reliance on the reclamation forfeiture fund. If a permittee has previously provided performance security under division (C)(1) of this section for a coal preparation plant or coal refuse disposal area that is not located within a permitted area of a mine and elects to provide performance security in accordance with division (C)(2) of this section, the permittee shall submit written notice to the chief indicating that the permittee elects to provide performance security in accordance with division (C)(2) of this section. Upon receipt of such a written notice, the chief shall release to the permittee the amount of the performance security previously provided under division (C)(1) of this section that exceeds the amount of performance security that is required to be provided under division (C)(2) of this section.

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

(E) The amount of the estimated cost of reclamation determined under division (B) of this section and the amount of a permittee's performance security provided in accordance with division (C)(1) of this section shall be

adjusted by the chief as the land that is affected by mining increases or decreases or if the cost of reclamation increases or decreases. If the performance security was provided in accordance with division (C)(2) of this section and the chief has issued a cessation order under division (D)(2) of section 1513.02 of the Revised Code for failure to abate a violation of the contemporaneous reclamation requirement under division (A)(15) of section 1513.16 of the Revised Code, the chief may require the permittee to increase the amount of performance security from twenty-five hundred dollars per acre of land to five thousand dollars per acre of land.

The chief shall notify the permittee, each surety, and any person who has a property interest in the performance security and who has requested to be notified of any proposed adjustment to the performance security. The permittee may request an informal conference with the chief concerning the proposed adjustment, and the chief shall provide such an informal conference.

If the chief increases the amount of performance security under this division, the permittee shall provide additional performance security in an amount determined by the chief. If the chief decreases the amount of performance security under this division, the chief shall determine the amount of the reduction of the performance security and send either written notice or electronic notice with acknowledgment of receipt of the amount of reduction to the permittee. The permittee may reduce the amount of the performance security in the amount determined by the chief.

(F) A permittee may request a reduction in the amount of the performance security by submitting to the chief documentation proving that the amount of the performance security provided by the permittee exceeds the estimated cost of reclamation if the reclamation would have to be performed by the division in the event of forfeiture of the performance security. The chief shall examine the documentation and determine whether the permittee's performance security exceeds the estimated cost of reclamation. If the chief determines that the performance security exceeds that estimated cost, the chief shall determine the amount of the reduction of the performance security and send either written notice or electronic notice with acknowledgment of receipt of the amount to the permittee. The permittee may reduce the amount of the performance security in the amount determined by the chief. Adjustments in the amount of performance security under this division shall not be considered release of performance security and are not subject to section 1513.16 of the Revised Code.

(G) If the performance security is a bond, it shall be executed by the operator and a corporate surety licensed to do business in this state. If the

performance security is a cash deposit or negotiable certificates of deposit of a bank or savings and loan association, the bank or savings and loan association shall be licensed and operating in this state. The cash deposit or market value of the securities shall be equal to or greater than the amount of the performance security required under this section. The chief shall review any documents pertaining to the performance security and approve or disapprove the documents. The chief shall notify the applicant of the chief's determination.

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

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

(J) If a surety, bank, savings and loan association, trust company, or other financial institution that holds the performance security required under this section becomes insolvent, the permittee shall notify the chief of the insolvency, and the chief shall order the permittee to submit a plan for replacement performance security within thirty days after receipt of notice from the chief. If the permittee provided performance security in accordance with division (C)(1) of this section, the permittee shall provide the replacement performance security within ninety days after receipt of notice from the chief. If the permittee provided performance security in accordance with division (C)(2) of this section, the permittee shall provide the replacement performance security within one year after receipt of notice from the chief, and, for a period of one year after the permittee's receipt of notice from the chief or until the permittee provides the replacement performance security, whichever occurs first, money in the reclamation forfeiture fund shall be the permittee's replacement performance security in an amount not to exceed the estimated cost of reclamation as determined by the chief.

(K) If a permittee provided performance security in accordance with division (C)(1) of this section, the permittee's responsibility for repairing material damage and replacement of water supply resulting from subsidence

shall be satisfied by either of the following:

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

(2) The provision of additional performance security in the amount of the estimated cost to the division of mineral resources management to repair material damage and replace water supplies resulting from subsidence until the repair or replacement is completed. However, if such repair or replacement is completed, or compensation for structures that have been damaged by subsidence is provided, by the permittee within ninety days of the occurrence of the subsidence, additional performance security is not required. In addition, the chief may extend the ninety-day period for a period not to exceed one year if the chief determines that the permittee has demonstrated in writing that subsidence is not complete and that probable subsidence-related damage likely will occur and, as a result, the completion of repairs of subsidence-related material damage to lands or protected structures or the replacement of water supply within ninety days of the occurrence of the subsidence would be unreasonable.

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

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

(N) As used in this section:

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

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

Sec. 1513.16. (A) Any permit issued under this chapter to conduct coal

mining operations shall require that the operations meet all applicable performance standards of this chapter and such other requirements as the chief of the division of mineral resources management shall adopt by rule. General performance standards shall apply to all coal mining and reclamation operations and shall require the operator at a minimum to do all of the following:

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

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

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

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

(5) Remove the topsoil from the land in a separate layer, replace it on

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

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

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

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

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

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

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

(8) Create, if authorized in the approved mining and reclamation plan

and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated by the operator that all of the following conditions will be met:

- (a) The size of the impoundment is adequate for its intended purposes.
- (b) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the "Watershed Protection and Flood Prevention Act," 68 Stat. 666 (1954), 16 U.S.C. 1001, as amended.
- (c) The quality of impounded water will be suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream.
- (d) The level of water will be reasonably stable.
- (e) Final grading will provide adequate safety and access for proposed water users.
- (f) The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

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

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

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

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

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

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells,

and keeping acid or other toxic drainage from entering ground and surface waters.

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

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

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

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

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

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

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

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

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

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

(13) Design, locate, construct, operate, maintain, enlarge, modify, and

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

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

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

(a) The chief finds in writing that:

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

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

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

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

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

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

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

(c) Variances granted under this division shall be reviewed by the chief

not more than three years from the date of issuance of the permit.

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

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

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

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

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

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

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

(21) Place all excess spoil material resulting from coal mining and

reclamation operations in such a manner that all of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

(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:

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

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

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

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

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

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

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

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

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

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

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

- (i) Compatible with adjacent land uses;
- (ii) Obtainable according to data regarding expected need and market;
- (iii) Assured of investment in necessary public facilities;
- (iv) Supported by commitments from public agencies where appropriate;

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

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

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

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

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

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

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

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

(b) The reclaimed area is stable.

(c) The resulting plateau or rolling contour drains inward from the outslopes except at specified points.

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

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

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

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

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

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

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

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

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

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

stability following mining and reclamation.

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

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

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

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

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

(4) In granting a variance pursuant to division (D) of this section, the chief shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this chapter. All spoil placement off the mine bench shall comply with division (A)(21) of this section.

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

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

(E) The chief shall establish standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in division (A)(13) of this section and division (A)(5) of section 1513.35 of the Revised Code. The standards and criteria shall conform to the standards and criteria used by the chief of the United States army corps

of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this division shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

(F)(1) The permittee may file a request with the chief for release of a part of a performance security under division (F)(3) of this section. Within thirty days after any request for performance security release under this section has been filed with the chief, the operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the coal mining operation. The advertisement shall be considered part of any performance security release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the performance security filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan and, if applicable, the operator's pollution abatement plan. In addition, as part of any performance security release application, the applicant shall submit copies of the letters sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the coal mining and reclamation activities took place, notifying them of the applicant's intention to seek release from the performance security.

(2) Upon receipt of a copy of the advertisement and request for release of a performance security under division (F)(3)(c) of this section, the chief, within thirty days, shall conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuation or future occurrence of the pollution, and the estimated cost of abating the pollution. The chief shall notify the permittee in writing of the decision to release or not to release all or part of the performance security within sixty days after the filing of the request if no public hearing is held pursuant to division (F)(6) of this section or, if there

has been a public hearing held pursuant to division (F)(6) of this section, within thirty days thereafter.

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

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

(b) After resoiling and revegetation have been established on the regraded mined lands in accordance with the approved reclamation plan, the chief shall grant a release in an amount not exceeding thirty-five per cent of the original performance security for all or part of the affected area under the permit. When determining the amount of performance security to be released after successful revegetation has been established, the chief shall retain that amount of performance security for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation for the period specified for operator responsibility in this section for reestablishing revegetation. No part of the performance security shall be released under this division so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of this section or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 1513.07 of the Revised Code. If the area covered by the performance security is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, no part of the performance security shall be released under this division until the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas. Where a silt dam is to be retained

as a permanent impoundment pursuant to division (A)(10) of this section, the portion of performance security may be released under this division so long as provisions for sound future maintenance by the operator or the landowner have been made with the chief.

(c) When the operator has completed successfully all coal mining and reclamation activities, including, if applicable, all additional requirements established in the pollution abatement plan approved under division (E)(7) of section 1513.07 of the Revised Code and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall release all or any of the remaining portion of the performance security for all or part of the affected area under a permit, but not before the expiration of the period specified for operator responsibility in this section, except that the chief may adopt rules for a variance to the operator period of responsibility considering vegetation success and probability of continued growth and consent of the landowner, provided that no performance security shall be fully released until all reclamation requirements of this chapter are fully met.

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

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

(6) A person with a valid legal interest that might be adversely affected by release of a performance security under this section or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from the performance security with the chief within thirty days after the last publication of the notice required by division (F)(1) of this section. If written objections are filed and an informal conference is requested, the chief shall inform all interested parties of the time and place of the conference. The date, time, and location of the informal conference shall be

advertised by the chief in a newspaper of general circulation in the locality of the coal mining operation proposed for performance security release for at least once a week for two consecutive weeks. The informal conference shall be held in the locality of the coal mining operation proposed for performance security release or in Franklin county, at the option of the objector, within thirty days after the request for the conference. An electronic ~~or stenographic~~ record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the performance security at issue. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

(7) If an informal conference has been held pursuant to division (F)(6) of this section, the chief shall issue and furnish the applicant and persons who participated in the conference with the written decision regarding the release within sixty days after the conference. Within thirty days after notification of the final decision of the chief regarding the performance security release, the applicant or any person with an interest that is or may be adversely affected by the decision may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

(8)(a) If the chief determines that a permittee is responsible for mine drainage that requires water treatment after reclamation is completed under the terms of the permit or that a permittee must provide an alternative water supply after reclamation is completed under the terms of the permit, the permittee shall provide alternative financial security in an amount determined by the chief prior to the release of the remaining portion of performance security under division (F)(3)(c) of this section. The alternative financial security shall be in an amount that is equal to or greater than the present value of the estimated cost over time to develop and implement mine drainage plans and provide water treatment or in an amount that is necessary to provide and maintain an alternative water supply, as applicable. The alternative financial security shall include a contract, trust, or other agreement or mechanism that is enforceable under law to provide long-term water treatment or a long-term alternative water supply, or both. The contract, trust, or other agreement or mechanism included with the alternative financial security may provide for the funding of the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on guarantees or other collateral provided by the permittee and approved by the chief for the balance of the alternative financial security required until the alternative financial security has been

fully funded by the permittee.

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

(c) If the chief determines that a permittee must provide alternative financial security under division (F)(8)(a) of this section and the performance security for the permit was provided under division (C)(2) of section 1513.08 of the Revised Code, the permittee may fund the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on the reclamation forfeiture fund created in section 1513.18 of the Revised Code for the balance of the alternative financial security required until the alternative financial security has been fully funded by the permittee. The permittee semiannually shall pay to the division of mineral resources management a fee that is equal to seven and one-half per cent of the average balance of the alternative financial security that is being provided by reliance on the reclamation forfeiture fund over the previous six months. All money received from the fee shall be credited to the reclamation forfeiture fund.

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

(G) The chief shall adopt rules governing the criteria for forfeiture of performance security, the method of determining the forfeited amount, and the procedures to be followed in the event of forfeiture. Cash received as the result of such forfeiture is the property of the state.

Sec. 1565.12. When a loss of life is occasioned by accident in any mine, the operator thereof shall forthwith give notice thereof to the chief of the division of mineral resources management, and to the deputy mine inspector in charge of the district. Such notice shall be given by telephone or ~~telegraph~~ electronic format. The operator of such mine shall, within twenty-four hours after such accident causing loss of life, send a written report of the accident to the chief. Such written report shall specify the character and cause of the accident, the names of the persons killed, and the nature of the injuries that

caused death. In the case of injury thereafter resulting in death, the operator shall send a written notice thereof to the chief, and to the deputy mine inspector of such district, at such time as such death comes to the operator's knowledge.

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

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

(1) Use every known method that is reasonable under the circumstance for discovering and locating all wells drilled within the area of the reservoir or its protective area that underlie any part of the coal mine or its protective area;

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

(B) Whenever an operator of a gas storage reservoir is notified by the operator of a coal mine, as provided in division (B) of section 1571.03 of the Revised Code, that 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 endeavor to resolve by mutual agreement whether or not the well shall or shall not be used for such purposes, and whether or not the well shall be reconditioned, inactivated, or plugged. The request shall set forth the mine operator's reasons for such objections. If no approved agreement is reached in the conference, the gas storage well inspector shall within ten days after the termination of the conference, file with the chief a request that the chief hear and determine the matters considered at the conference as provided in section 1571.10 of the Revised Code. Upon conclusion of the hearing, the chief shall find and determine whether or not the safety of persons or of the property on or in the vicinity of the premises of the coal mine, or the reservoir, or the well requires that the well be reconditioned, inactivated, or plugged, and shall make an order consistent with that determination, provided that the chief shall not order a well plugged unless the chief first finds that there is underground leakage of gas therefrom.

The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator as provided in division (B) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed within such time as the gas storage well inspector may fix in the case of each such well. The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator as provided in division (C) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed by the time the well, by reason of the extension of the boundary of the coal mine, is within two thousand linear feet of any part of the boundary of the mine. The plugging or reconditioning of each well described in a notice from a coal mine operator to a reservoir operator, as provided in division (D) of section 1571.03 of the Revised Code, which must be plugged or reconditioned, shall be completed by the time the well, by reason of the opening of the new mine, is within two thousand linear feet of any part of the boundary of the new mine. A reservoir operator who is required to complete the plugging or reconditioning of a well within a period of time fixed as in this division prescribed, may prior to the end of that period of time, notify the division and the mine operator from whom the reservoir

operator received a notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in writing by ~~registered~~ certified mail or electronic format, that the completion of the plugging or reconditioning of the well referred to in the notice will be delayed beyond the end of the period of time fixed therefor as in this section provided, and that the reservoir operator requests that a conference be held for the purpose of endeavoring to reach an agreement establishing a date subsequent to the end of that period of time, on or before which the reservoir operator may complete the plugging or reconditioning without incurring any penalties for failure to do so as provided in this chapter. If such a reservoir operator sends to such a mine operator and to the division a notice and request for a conference as in this division provided, the reservoir operator shall not incur any penalties for failure to complete the plugging or reconditioning of the well within the period of time fixed as in this division prescribed, unless the reservoir operator fails to complete the plugging or reconditioning of the well within the period of time fixed by an approved agreement reached in the conference, or fixed by an order by the chief upon a hearing held in the matter in the event of failure to reach an approved agreement in the conference.

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

- (1) Name and address of the applicant;
- (2) The location of the well identified by section or lot number, city or village, and township and county;
- (3) The well name and number of each well to be plugged.

(C) The operator shall give written notice at the same time to the owner of the land upon which the well is located, the owners or agents of the adjoining land, and adjoining well owners or agents of the operator's intention to abandon the well, and of the time when the operator will be prepared to commence plugging and filling the same. In addition to giving such notices, the reservoir operator shall also at the same time send a copy of the notice by ~~registered~~ certified mail or electronic format to the coal mine operator, if any, who sent to the reservoir operator the notice as provided in division (B), (C), or (D) of section 1571.03 of the Revised Code, in order that the coal mine operator or the coal mine operator's designated representative may attend and observe the manner in which the plugging of

the well is done.

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

- (1) The date of abandonment;
- (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;
- (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;
- (4) The date of the permit to drill;
- (5) The date when drilled;
- (6) Whether the well has been mapped;
- (7) The depth of the well;
- (8) The depth of the top of the sand to which the well was drilled;
- (9) The depth of each seam of coal drilled through;
- (10) A detailed report as to how 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.

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.

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

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

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

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

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

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

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

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

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

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

(G) When retreat mining reaches a point in a coal mine when the operator of the mine expects that within ninety days retreat work will be at the location of a pillar surrounding an active storage reservoir well, the operator of the mine shall promptly send by ~~registered~~ certified mail or electronic format notice to that effect to the operator of the reservoir. Thereupon the operators may by agreement determine whether it is necessary or advisable to temporarily inactivate the well. If inactivated, the well shall not be reactivated until a reasonable period of time has elapsed, such period of time to be determined by agreement by the operators. In the event that the parties cannot agree upon either of the foregoing matters, the question shall be submitted to the gas storage well inspector for a conference in accordance with section 1571.10 of the Revised Code.

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

(2) If the injection of gas into, or storage of gas in, a gas storage reservoir any part of which, or of the protective area of which, is within the boundary of a coal mine is begun after September 9, 1957, and if the injection or storage of gas is for the sole purpose of testing, the operator of the reservoir shall send by ~~registered~~ certified mail or electronic format to the operator of the coal mine, the division of oil and gas resources management, and the division of mineral resources management at least sixty days' notice of the date upon which the testing will be begun.

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

(3) Any coal mine operator who receives a notice as provided for in division (H)(2) of this section may within thirty days of the receipt thereof file with the division objections to the testing. The gas storage well inspector also may, within the time within which a coal mine operator may file an objection, place in the files of the division objections to the testing. The reservoir operator shall comply throughout the period of the testing operations with all conditions and requirements agreed upon and approved

in the conference on such objections conducted as provided in section 1571.10 of the Revised Code, or in an order made by the chief following a hearing in the matter as provided in section 1571.10 of the Revised Code. If in complying with the agreement or order either the reservoir operator or the coal mine operator encounters or discovers conditions that were not known to exist at the time of the conference or hearing and that materially affect the agreement or order, or the ability of the reservoir operator to comply therewith, either operator may apply for a rehearing or modification of the order.

(I) In addition to complying with all other provisions of this chapter and any lawful orders issued thereunder, the operator of each gas storage reservoir shall keep all wells drilled into or through the storage stratum or strata within the boundary of the operator's reservoir or within the reservoir's protective area in such condition, and operate the same in such manner, as to prevent the escape of gas therefrom into any coal mine, and shall operate and maintain the storage reservoir and its facilities in such manner and at such pressures as will prevent gas from escaping from the reservoir or its facilities into any coal mine.

Sec. 1571.08. (A) Whenever in this chapter, the method or material to be used in discharging any obligations imposed by this chapter is specified, an alternative method or material may be used if approved by the gas storage well inspector or the chief of the division of oil and gas resources management. A person desiring to use such alternative method or material shall file with the division of oil and gas resources management an application for permission to do so. Such application shall describe such alternative method or material in reasonable detail. The gas storage well inspector shall promptly send by ~~registered~~ certified mail or electronic format notice of the filing of such application to any coal mine operator or reservoir operator whose mine or reservoir may be directly affected thereby. Any such coal mine operator or reservoir operator may within ten days following receipt of such notice, file with the division objections to such application. The gas storage well inspector may also file with the division an objection to such application at any time during which coal mine operators or reservoir operators are permitted to file objections. If no objections are filed within the ten-day period of time, the gas storage well inspector shall thereupon issue a permit approving the use of such alternative method or material. If any such objections are filed by any coal mine operator or reservoir operator, or by the gas storage well inspector, the question as to whether or not the use of such alternative method or material, or a modification thereof is approved, shall be determined by a conference or

hearing as provided in section 1571.10 of the Revised Code.

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

Sec. 1571.10. (A) The gas storage well inspector or any person having a direct interest in the administration of this chapter may at any time file with the division of oil and gas resources management a written request that a conference be held for the purpose of discussing and endeavoring to resolve by mutual agreement any question or issue relating to the administration of this chapter, or to compliance with its provisions, or to any violation thereof. Such request shall describe the matter concerning which the conference is requested. Thereupon the gas storage well inspector shall promptly fix the time and place for the holding of such conference and shall send written notice thereof to each person having a direct interest therein. At such conference the gas storage well inspector or a representative of the division designated by the gas storage well inspector shall be in attendance, and shall preside at the conference, and the gas storage well inspector or designated representative may make such recommendations as the gas storage well inspector or designated representative deems proper. Any agreement reached at such conference shall be consistent with the requirements of this chapter and, if approved by the gas storage well inspector, it shall be reduced to writing and shall be effective. Any such agreement approved by the gas storage well inspector shall be kept on file in the division and a copy thereof shall be furnished to each of the persons having a direct interest therein. The conference shall be deemed terminated as of the date an approved agreement is reached or when any person having a direct interest therein refuses to confer thereafter. Such a conference shall be held in all cases prior to the holding of a hearing as provided in this section.

(B) Within ten days after the termination of a conference at which no approved agreement is reached, any person who participated in such conference and who has a direct interest in the subject matter thereof, or the

gas storage well inspector, may file with the chief of the division of oil and gas resources management a request that the chief hear and determine the matter or matters, or any part thereof considered at the conference. Thereupon the chief shall promptly fix the time and place for the holding of such hearing and shall send written notice thereof to each person having a direct interest therein. The form of the request for such hearing and the conduct of the hearing shall be in accordance with rules that the chief adopts under section 1571.11 of the Revised Code. Consistent with the requirement for reasonable notice each such hearing shall be held promptly after the filing of the request therefor. Any person having a direct interest in the matter to be heard shall be entitled to appear and be heard in person or by attorney. The division may present at such hearing any evidence that is material to the matter being heard and that has come to the division's attention in any investigation or inspection made pursuant to this chapter.

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

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

(D) With the consent of the chief, the testimony of any witness may be taken by deposition at the instance of a party to any hearing before the chief at any time after hearing has been formally commenced. The chief may, of

the chief's own motion, order testimony to be taken by deposition at any stage in any hearing, proceeding, or investigation pending before the chief. Such deposition shall be taken in the manner prescribed by the laws of this state for taking depositions in civil cases in courts of record.

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

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

Sec. 1571.14. Any person claiming to be aggrieved or adversely affected by an order of the chief of the division of oil and gas resources management made as provided in section 1571.10 or 1571.16 of the Revised Code may appeal to the director of natural resources for an order vacating or modifying such order. Upon receipt of the appeal, the director shall appoint an individual who has knowledge of the laws and rules regarding the underground storage of gas and who shall act as a hearing officer in accordance with Chapter 119. of the Revised Code in hearing the appeal.

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

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

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

Upon the filing of the appeal the director shall fix the time and place at which the hearing on the appeal will be held, and shall give appellant and

the chief at least ten days' written notice thereof by mail. The director may postpone or continue any hearing upon the director's own motion or upon application of appellant or of the chief.

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

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

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

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

At the request of any party to the appeal, a record of the testimony and other evidence submitted shall be taken by an official court reporter at the expense of the party making the request for the record. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The hearing officer shall pass upon the admissibility of evidence, but any party may at the time object to

the admission of any evidence and except to the ruling of the hearing officer thereon, and if the hearing officer refuses to admit evidence, the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

If upon completion of the hearing the hearing officer finds that the order appealed from was lawful and reasonable, the hearing officer shall make a written order affirming the order appealed from. If the hearing officer finds that such order was unreasonable or unlawful, the hearing officer shall make a written order vacating the order appealed from and making the order that it finds the chief should have made. Every order made by the hearing officer shall contain a written finding by the hearing officer of the facts upon which the order is based. Notice of the making of such order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each such party by ~~registered~~ certified mail or electronic format.

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

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

Within fifteen days after receipt of the notice of appeal the hearing officer shall prepare and file in the court the complete record of proceedings out of which the appeal arises, including a transcript of the testimony and other evidence which has been submitted before ~~him~~ the hearing officer. The expense of preparing and transcribing such record shall be taxed as a part of the costs of the appeal. Appellant shall provide security for costs

satisfactory to the court. Upon demand by a party the director shall furnish at the cost of the party requesting the same a copy of such record. In the event such complete record is not filed in the court within the time provided for in this section either party may apply to the court to have the case docketed, and the court shall order such record filed.

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

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

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

Sec. 1571.16. (A) The gas storage well inspector or any person having a direct interest in the subject matter of this chapter may file with the division of oil and gas resources management a complaint in writing stating that a person is violating, or is about to violate, a provision or provisions of this chapter, or has done, or is about to do, an act, matter, or thing therein prohibited or declared to be unlawful, or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform a duty enjoined upon the person by this chapter. Upon the filing of such a complaint, the chief of the division of oil and gas resources management shall promptly fix the time for the holding of a hearing on such complaint and shall send by ~~registered~~ certified mail or electronic format to the person so complained of, a copy of such complaint together with at least five days' notice of the time and place at which such hearing will be held. Such notice of such hearing shall also be given to all persons having a direct interest in the matters complained of in such complaint. Such hearing shall be conducted in the same manner, and the chief and persons having a direct interest in the matter being heard, shall have the same powers, rights, and

duties as provided in divisions (B), (C), (D), and (E) of section 1571.10 of the Revised Code, in connection with hearings by the chief, provided that if after conclusion of the hearing the chief finds that the charges against the person complained of, as stated in such complaint, have not been sustained by a preponderance of evidence, the chief shall make an order dismissing the complaint, and if the chief finds that the charges have been so sustained, the chief shall by appropriate order require compliance with those provisions.

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

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

(D) Each remedy prescribed in divisions (A), (B), and (C) of this section is deemed concurrent or contemporaneous with each other remedy prescribed therein, and the existence or exercise of any one such remedy shall not prevent the exercise of any other such remedy.

(E) The provisions of this chapter providing for conferences, hearings by the chief, appeals to the hearing officer from orders of the chief, and appeals to the court of common pleas from orders of the hearing officer, and the remedies prescribed in divisions (A), (B), (C), and (D) of this section, do not constitute the exclusive procedure that a person, who deems the person's

rights to be unlawfully affected by any official action taken thereunder, must pursue in order to protect and preserve such rights, nor does this chapter constitute a procedure that such a person must pursue before the person may lawfully proceed by other actions, legal or equitable, to protect and preserve such rights.

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

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

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

(b) Any security issued or guaranteed by, and recognized, at the time of sale, as its valid obligation by, any foreign government with which the United States is, at the time of sale, maintaining diplomatic relations;

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

(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.

(c) 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, that has listing standards that the division of securities, on its own initiative or on the basis of an application, determines by rule are substantially similar to the listing standards applicable to securities described in division (E)(1)(a) of this section.

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

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

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

(4) The division may suspend the exemption of any security described in division (E)(1) of this section, provided that the security is listed or authorized for listing on an exchange or system that is not listed in section 18(b)(1) of the Securities Act of 1933 or any rule promulgated thereunder.

The division may effect a suspension by giving notice, by ~~certified~~ electronic mail, to that effect to the exchange or system upon which such security is listed or designated and to the issuer of such security. After notice and hearing, the division may revoke such exemption if it appears to it that sales of such security have been fraudulent or that future sales of it would be fraudulent. The division shall set such hearing not later than ten days from the date of the order of suspension, but may for good cause continue such hearing upon application of the exchange or system upon which such security is listed or designated or upon application of the issuer of such security.

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

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

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

(I) Any security, except notes, bonds, debentures, or other evidences of indebtedness or of promises or agreements to pay money, which is issued by a person, corporation, or association organized not for profit, including persons, corporations, and associations organized exclusively for conducting county fairs, or for religious, educational, social, recreational, athletic, benevolent, fraternal, charitable, or reformatory purposes, and agricultural cooperatives as defined in section 1729.01 of the Revised Code, is exempt, if no part of the net earnings of such issuer inures to the benefit of any shareholder or member of such issuer or of any individual, and if the total commission, remuneration, expense, or discount in connection with the sale

of such securities does not exceed two per cent of the total sale price thereof plus five hundred dollars.

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

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

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

Sec. 1707.04. (A) The division of securities may consider and conduct hearings upon any plan of reorganization, recapitalization, or refinancing of a corporation organized under the laws of this state, or having its principal place of business within this state, when such plan is proposed by such corporation or by any of its shareholders or creditors and contains a proposal to issue securities in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange or partly for cash. The division may also approve the terms of such issuance and exchange and the fairness of such terms, after a hearing upon such fairness at which all persons to whom it is proposed to issue securities in such exchange have the right to appear, if application for such a hearing is made by such corporation, by the holders of a majority in amount of its debts, or by the holders of a majority in amount of any outstanding class of securities issued by it. Notice in person or by electronic or regular mail of the time and place of such hearing shall be given to all persons to whom it is proposed to issue such securities, and evidence satisfactory to the division that such notice has been given shall be filed with the division. Securities issued in accordance with a plan so approved by the division are exempt from sections 1707.01 to 1707.50 of the Revised Code, relating to registration or qualification of securities or the registration of transactions therein.

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

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

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

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

(4) The acquisition of assets of a person, directly or indirectly, partly or wholly in consideration for securities distributed or to be distributed as part of the same transaction, directly or indirectly, to holders of securities issued by such person or secured by assets of such person;

(5) A merger or consolidation.

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

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.

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

Sec. 1707.091. (A) Any security for which a registration statement has been filed pursuant to Section 6 of the Securities Act of 1933 or for which a

notification form and offering circular has been filed pursuant to regulation A of the general rules and regulations of the securities and exchange commission, 17 C.F.R. sections 230.251 to 230.256 and 230.258 to 230.263, as amended before or after the effective date of this section, in connection with the same offering may be registered by coordination.

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

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

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

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

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

(5) A filing fee of one hundred dollars.

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

(1) No stop order is in effect, no proceeding is pending under section 1707.13 of the Revised Code, and no cease and desist order has been issued pursuant to section 1707.23 of the Revised Code;

(2) The registration statement has been on file with the division for at least fifteen days or for such shorter period as the division by rule or otherwise permits; provided, that if the registration statement is not filed with the division within five days of the initial filing with the securities and

exchange commission, the registration statement must be on file with the division for thirty days or for such shorter period as the division by rule or otherwise permits.

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

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

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

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

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

If the issuer advises the division of the date when the federal registration statement is expected to become effective, or when the offering may otherwise be commenced in accordance with the rules, regulations, or orders of the securities and exchange commission, the division shall promptly advise the issuer or its representative by telephone ~~or telegram~~, at the issuer's expense, whether all of the conditions have been satisfied or whether the division then contemplates the institution of a proceeding under section 1707.13 or 1707.23 of the Revised Code, but such advice does not preclude the institution of such a proceeding at any time.

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

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

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

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

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

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

(2) State that actions growing out of the sale of such securities, the giving of investment advice, or fraud committed by a person on whose behalf the consent is submitted may be commenced against the person, in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff in the action may reside, by serving on the secretary of state any proper process or pleading authorized by the laws of this state;

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

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

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

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

Sec. 1707.43. (A) Subject to divisions (B) and (C) of this section, every sale or contract for sale made in violation of Chapter 1707. of the Revised Code, is voidable at the election of the purchaser. The person making such sale or contract for sale, and every person that has participated in or aided the seller in any way in making such sale or contract for sale, are jointly and severally liable to the purchaser, in an action at law in any court of competent jurisdiction, upon tender to the seller ~~in person or in open court~~ of the securities sold or of the contract made, for the full amount paid by the purchaser and for all taxable court costs, unless the court determines that the violation did not materially affect the protection contemplated by the violated provision.

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

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

Sec. 1733.16. Unless otherwise provided in the articles, regulations, or bylaws, and subject to the exceptions applicable during an emergency, as that term is defined in section 1733.01 of the Revised Code:

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

directors.

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

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

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

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

Sec. 2941.401. When a person has entered upon a term of imprisonment in a correctional institution of this state, and when during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, ~~he~~ the prisoner shall be brought to trial within one hundred eighty days after ~~he~~ the prisoner causes to be delivered to the prosecuting attorney and the appropriate court in which the matter is pending, written notice of the place of ~~his~~ the prisoner's imprisonment and a request for a final disposition to be made of the matter, except that for good cause shown in open court, with the prisoner or ~~his~~ the prisoner's counsel present, the court may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden or superintendent having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time served and remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the adult parole authority relating to the prisoner.

The written notice and request for final disposition shall be given or sent by the prisoner to the warden or superintendent having custody of ~~him~~ the prisoner, who shall promptly forward it with the certificate to the appropriate prosecuting attorney and court by registered or certified mail, return receipt requested. If the appropriate prosecuting attorney and agency

having custody of the prisoner have previously agreed, then the written notice, request, and certificate may be sent by electronic mail or facsimile, in lieu of registered mail or certified mail.

The warden or superintendent having custody of the prisoner shall promptly inform ~~him~~ the prisoner in writing of the source and contents of any untried indictment, information, or complaint against ~~him~~ the prisoner, concerning which the warden or superintendent has knowledge, and of ~~his~~ the prisoner's right to make a request for final disposition thereof.

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

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

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

Sec. 3111.23. The natural mother, the man acknowledging he is the natural father, or the other custodian or guardian of a child, a child support enforcement agency pursuant to section 3111.22 of the Revised Code, a local registrar of vital statistics pursuant to section 3705.091 of the Revised Code, or a hospital staff person pursuant to section 3727.17 of the Revised Code, ~~in person or~~ by mail, may file an acknowledgment of paternity with the office of child support in the department of job and family services, acknowledging that the child is the child of the man who signed the acknowledgment. The acknowledgment of paternity shall be made on the affidavit prepared pursuant to section 3111.31 of the Revised Code, shall be signed by the natural mother and the man acknowledging that he is the natural father, and each signature shall be notarized. The mother and man may sign and have the signature notarized outside of each other's presence. An acknowledgment shall be sent to the office no later than ten days after it has been signed and notarized. If a person knows a man is presumed under section 3111.03 of the Revised Code to be the father of the child described in this section and that the presumed father is not the man who signed an acknowledgment with respect to the child, the person shall not notarize or file the acknowledgment pursuant to this section.

Sec. 3301.05. A majority of the voting members of the state board of education shall constitute a quorum for the transaction of business. Official actions of the state board, including the making and adoption of motions and resolutions, shall be transacted only at public meetings open to the public.

The superintendent of public instruction, or a designated subordinate ~~designated by him~~, shall record all official actions taken at each meeting of the board ~~in a book provided for that purpose~~, which shall be a public record. The record of the proceedings of each meeting of the board shall be read at its next succeeding meeting and corrected and approved, which approval shall be noted in the proceedings. The president shall sign the record and the superintendent of public instruction or ~~his~~ a designated subordinate attest it. The president's signature of the record and the attestation of the superintendent or designated subordinate may be made electronically.

Sec. 3302.04. As used in divisions (A), (C), and (D) of this section, for the 2014-2015 school year, and for each school year thereafter, when a provision refers to a school district or school building in a state of academic emergency, it shall mean a district or building rated "F"; when a provision refers to a school district or school building under an academic watch, it shall mean a district or building rated "D"; and when a provision refers to a school district or school building in need of continuous improvement, it shall mean a district or building rated "C" as those letter grade ratings for overall performance are assigned under division (C)(3) of section 3302.03 of the Revised Code, as it exists on or after March 22, 2013.

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

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

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

The system shall include services provided to districts and buildings through regional service providers, such as educational service centers. The system may include the appointment of an improvement coordinator for any of the lowest performing districts, as determined by the department, to coordinate the district's academic improvement efforts and to build support among the community for those efforts.

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

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

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

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

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

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

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

(6) Strategies that the district or building will use to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

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

(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 satisfactory improvement of the district or applicable buildings or fails to submit to the department any information required under rules established by the state board of education, prior to approving a three-year continuous improvement plan under rules established by the state board of education, the department shall conduct a site evaluation of the school district or applicable buildings to determine whether the school district is in compliance with minimum standards established by law or rule.~~

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

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

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

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

~~(d) Determining whether materials and equipment necessary to implement the curriculum approved by the school district board are available;~~

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

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

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

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

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

(b) If the building receives funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, offer all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001." Notwithstanding Chapter 3327. of the Revised Code, the district shall spend an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under this division, unless the district can satisfy all demand for transportation with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation, the district shall grant priority over all other students to the lowest achieving students among the subgroup described in division (B)(3) of section 3302.01 of the Revised Code in providing transportation. Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under this division.

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

(a) If the building receives funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised

Code, provide all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001." Notwithstanding Chapter 3327. of the Revised Code, the district shall provide transportation for students who enroll in alternative buildings under this division to the extent required under division (E)(2) of this section.

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

The district shall spend a combined total of an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section and to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can satisfy all demand for transportation and pay the costs of supplemental educational services for those students who request them with a lesser amount. In allocating funds between the requirements of divisions (E)(1)(b) and (E)(2)(a) and (b) of this section, the district shall spend at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section, unless the district can satisfy all demand for transportation with a lesser amount, and at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can pay the costs of such services for all students requesting them with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation under divisions (E)(1)(b) and (E)(2)(a) of this section and to pay the costs of all of the supplemental educational services provided to students under division (E)(2)(b) of this section, the district shall grant priority over all other students in providing transportation and in paying the costs of supplemental educational services to the lowest achieving students among the subgroup described in division

(B)(3) of section 3302.01 of the Revised Code.

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

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

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

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

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

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

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

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

(f) Reorganize the administrative structure of the building.

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

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

(b) Replace personnel;

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

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

(e) Other significant restructuring of the building's governance.

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

pursuant to division (E)(4) of this section.

(6) A district shall continue to comply with division (E)(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;

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

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

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

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

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

(4) If a school district has been identified for improvement for four consecutive school years, the department shall continue to monitor

implementation of the corrective action taken under division (F)(3) of this section with respect to the district.

(5) If a school district has been identified for improvement for five consecutive school years, the department shall take at least one of the corrective actions identified in division (F)(3) of this section with respect to the district, provided that the corrective action the department takes is different from the corrective action previously taken under division (F)(3) of this section with respect to the district.

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

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

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

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

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

Sec. 3310.521. (A) As a condition of receiving payments for a scholarship, each eligible applicant shall attest to receipt of the profile prescribed by division (B) of this section. Such attestation shall be made and submitted to the department of education in the form and manner as required by the department.

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

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

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

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

Sec. 3313.41. (A) Except as provided in divisions (C), (D), and (F) of this section and in sections 3313.412 and 3313.413 of the Revised Code, when a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it shall sell the property at public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation in the school district, by publication as provided in section 7.16 of the Revised Code, or by posting notices in five of the most public places in the school district in which the property, if it is real property, is situated, or, if it is personal property, in the school district of the board of education that owns the property. The board may offer real property for sale as an entire tract or in parcels.

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

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

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

(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 will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a 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); a description of the

organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent. The written notice may be submitted electronically to the board or its representative.

~~After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the school district or as provided in section 7.16 of the Revised Code, notice of its intent to donate unneeded, obsolete, or unfit for use school district property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published twice. The second notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually post in the board's office notice of its intent to donate school district property that is unneeded, obsolete, or unfit for use to eligible nonprofit organizations.~~ If the school district maintains a web site on the internet, the notice shall be posted continually at that web site.

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

The board or its representative also shall maintain a list of all school district property the board finds to be unneeded, obsolete, or unfit for use and to be available for donation under this division. The list shall be posted continually in a conspicuous location in the board's office, and, if the school district maintains a web site on the internet, the list shall be posted continually at that web site. An item of property on the list shall be donated to the eligible nonprofit organization that first declares to the board or its representative its desire to obtain the item unless the board previously has established, by resolution, a list of eligible nonprofit organizations that shall be given priority with respect to the item's donation. Priority may be given on the basis that the purposes of a nonprofit organization have a direct relationship to specific school district purposes of programs provided or administered by the board. A resolution giving priority to certain nonprofit organizations with respect to the donation of an item of property shall specify the reasons why the organizations are given that priority.

Members of the board shall consult with the Ohio ethics commission, and comply with Chapters 102. and 2921. of the Revised Code, with respect

to any donation under this division to a nonprofit organization of which a board member, any member of a board member's family, or any business associate of a board member is a trustee, officer, board member, or employee.

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

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

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

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

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

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

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

(2) If the board of education of a school district determines that, for

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

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

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

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

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

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

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

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

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

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

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

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

(3) Each student enrolled in an internet- or computer-based community school shall be assigned to at least one teacher of record. No teacher of

record shall be primarily responsible for the academic development and achievement of more than one hundred twenty-five students enrolled in the internet- or computer-based community school that has retained that teacher.

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

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

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

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

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

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

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

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

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than

one year. If such employees are rehired, their three subsequent contracts shall be for a period of two years each.

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

(C) The contracts as provided for in this section may be terminated by a majority vote of the board of education. Except as provided in sections 3319.0810 and 3319.172 of the Revised Code, the contracts may be terminated only for violation of written rules and regulations as set forth by the board of education or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance. In addition to the right of the board of education to terminate the contract of an employee, the board may suspend an employee for a definite period of time or demote the employee for the reasons set forth in this division. The action of the board of education terminating the contract of an employee or suspending or demoting the employee shall be served upon the employee by certified mail, regular mail with a certificate of mailing, or other form of delivery with proof of delivery, including electronic delivery with electronic proof of delivery. Within ten days following the receipt of such notice by the employee, the employee may file an appeal, in writing, with the court of common pleas of the county in which such school board is situated. After hearing the appeal the common pleas court may affirm, disaffirm, or modify the action of the school board.

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

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

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

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

nonteaching school employee under this section.

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

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

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

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

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

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

(1) Upon the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed, a continuing contract shall be entered into between the board and the teacher unless the board by a three-fourths vote of its full membership rejects the recommendation of the superintendent. If the board rejects by a three-fourths vote of its full membership the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed and the superintendent makes no recommendation to the board pursuant to division (C) of this section, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the first day of June of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to section 3319.111 of the Revised Code or the

board does not give the teacher written notice on or before the first day of June of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the fifteenth day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If the superintendent recommends that a teacher eligible for continuing service status not be reemployed, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the first day of June of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the first day of June of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the fifteenth day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of a teacher only a continuing contract may be entered into.

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

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

(2) If a board of education takes affirmative action on a superintendent's

recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years but the board does not give the teacher written notice of its affirmative action on the superintendent's recommendation of an extended limited contract on or before the first day of June, the teacher is deemed reemployed under a continuing contract at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under such continuing contract unless such teacher notifies the board in writing to the contrary on or before the fifteenth day of June, and a continuing contract shall be executed accordingly.

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

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

(D) A teacher eligible for continuing contract status employed under an extended limited contract pursuant to division (B) or (C) of this section, is, at the expiration of such extended limited contract, deemed reemployed under a continuing contract at the same salary plus any increment granted by the salary schedule, unless evaluation procedures have been complied with pursuant to section 3319.111 of the Revised Code and the employing board, acting on the superintendent's recommendation that the teacher not be reemployed, gives the teacher written notice on or before the first day of

June of its intention not to reemploy such teacher. A teacher who does not have evaluation procedures applied in compliance with section 3319.111 of the Revised Code or who does not receive notice on or before the first day of June of the intention of the board not to reemploy such teacher is presumed to have accepted employment under a continuing contract unless such teacher notifies the board in writing to the contrary on or before the fifteenth day of June, and a continuing contract shall be executed accordingly.

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

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

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

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

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

automatic reemployment provisions of this section.

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

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

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

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

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

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

and the hearing conducted pursuant to this division.

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

Notwithstanding section 2506.04 of the Revised Code, the court in an appeal under this division is limited to the determination of procedural errors and to ordering the correction of procedural errors and shall have no jurisdiction to order a board to reemploy a teacher, except that the court may order a board to reemploy a teacher in compliance with the requirements of division (B), (C)(3), (D), or (E) of this section when the court determines that evaluation procedures have not been complied with pursuant to section 3319.111 of the Revised Code or the board has not given the teacher written notice on or before the first day of June of its intention not to reemploy the teacher pursuant to division (B), (C)(3), (D), or (E) of this section. Otherwise, the determination whether to reemploy or not reemploy a teacher is solely a board's determination and not a proper subject of judicial review and, except as provided in this division, no decision of a board whether to reemploy or not reemploy a teacher shall be invalidated by the court on any basis, including that the decision was not warranted by the results of any evaluation or was not warranted by any statement given pursuant to division (G)(2) of this section.

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

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

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

(b) Deliver the notice by certified mail, return receipt requested, regular mail with a certificate of mailing, or other form of delivery with proof of delivery, addressed to the teacher at the teacher's place of employment and deliver a copy of the notice by certified mail, return receipt requested, regular mail with a certificate of mailing, or other form of delivery with proof of delivery, addressed to the teacher at the teacher's place of residence. Delivery of the notice required under division (H)(1)(b) of this section may be satisfied by electronic delivery with electronic proof of delivery.

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

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

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

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

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

(J) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the dates set forth in this section as "on or before the first day of June" or "on or before the fifteenth day of June" prevail over any conflicting provisions of a collective bargaining agreement entered into on or after ~~the effective date of this amendment~~ March 22, 2013.

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

Before terminating any contract, the employing board shall furnish the teacher a written notice signed by its treasurer of its intention to consider the termination of the teacher's contract with full specification of the grounds for such consideration. The board shall not proceed with formal action to terminate the contract until after the tenth day after receipt of the notice by the teacher. Within ten days after receipt of the notice from the treasurer of the board, the teacher may file with the treasurer a written demand for a hearing before the board or before a referee, and the board shall set a time for the hearing which shall be within thirty days from the date of receipt of the written demand, and the treasurer shall give the teacher at least twenty

days' notice in writing of the time and place of the hearing. If a referee is demanded by either the teacher or board, the treasurer also shall give twenty days' notice to the superintendent of public instruction. No hearing shall be held during the summer vacation without the teacher's consent. The hearing shall be private unless the teacher requests a public hearing. The hearing shall be conducted by a referee appointed pursuant to section 3319.161 of the Revised Code, if demanded; otherwise, it shall be conducted by a majority of the members of the board and shall be confined to the grounds given for the termination. The board shall provide for a complete stenographic record of the proceedings, a copy of the record to be furnished to the teacher. The board may suspend a teacher pending final action to terminate the teacher's contract if, in its judgment, the character of the charges warrants such action.

Both parties may be present at such hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the treasurer of the board. In case of the failure of any person to comply with a subpoena, a judge of the court of common pleas of the county in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. Any member of the board or the referee may administer oaths to witnesses. After a hearing by a referee, the referee shall file a report within ten days after the termination of the hearing. After consideration of the referee's report, the board, by a majority vote, may accept or reject the referee's recommendation on the termination of the teacher's contract. After a hearing by the board, the board, by majority vote, may enter its determination upon its minutes. Any order of termination of a contract shall state the grounds for termination. If the decision, after hearing, is against termination of the contract, the charges and the record of the hearing shall be physically expunged from the minutes, and, if the teacher has suffered any loss of salary by reason of being suspended, the teacher shall be paid the teacher's full salary for the period of such suspension.

Any teacher affected by an order of termination of contract may appeal to the court of common pleas of the county in which the school is located within thirty days after receipt of notice of the entry of such order. The appeal shall be an original action in the court and shall be commenced by the filing of a complaint against the board, in which complaint the facts shall be alleged upon which the teacher relies for a reversal or modification of such order of termination of contract. Upon service or waiver of summons in that appeal, the board immediately shall transmit to the clerk of the court for

filing a transcript of the original papers filed with the board, a certified copy of the minutes of the board into which the termination finding was entered, and a certified transcript of all evidence adduced at the hearing or hearings before the board or a certified transcript of all evidence adduced at the hearing or hearings before the referee, whereupon the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing and shall hold such additional hearings as it considers advisable, at which it may consider other evidence in addition to the transcript and record.

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

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

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

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

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

(b) The person presents proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the person becomes subject to a criminal records check under this section.

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

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

(2) If the person is required to submit fingerprints and written permission under division (B)(2) of this section, request the superintendent of the bureau of criminal identification and investigation to obtain any

criminal records that the federal bureau of investigation has on the person.

(D) The state board or the superintendent of public instruction may choose not to request any information about a person required by division (C) of this section if the person provides proof that a criminal records check that satisfies the requirements of that division was conducted on the person as a condition of employment pursuant to section 3319.39 of the Revised Code within the immediately preceding year. The state board or the superintendent of public instruction may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by the person in lieu of requesting that information under division (C) of this section if the records were issued by the bureau within the immediately preceding year.

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

If the person fails to submit the fingerprints and written permission within fifteen days after the date the notice was mailed, the superintendent of public instruction, on behalf of the state board, shall issue a written order rejecting the application or inactivating the person's professional or permanent teaching certificate or license. The rejection or inactivation shall remain in effect until the person submits the fingerprints and written permission. The superintendent shall send the order by regular mail or electronic mail to the person's last known residence address, last known electronic mail address, or last known place of employment, as indicated in the department's records, ~~or both~~. The order shall state the reason for the rejection or inactivation and shall explain that the rejection or inactivation

remains in effect until the person submits the fingerprints and written permission.

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

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

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

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

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

(3) If the certificates, licenses, or permits are of the same duration and expire in the same year and the person applies for renewal of the certificates, licenses, or permits at the same time, the state board or the superintendent of public instruction shall request only one criminal records check of the person under division (C) of this section.

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

Sec. 3319.311. (A)(1) The state board of education, or the superintendent of public instruction on behalf of the board, may investigate any information received about a person that reasonably appears to be a basis for action under section 3319.31 of the Revised Code, including information received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code. Except as provided in division (A)(2) of this section, the board shall contract with the office of the Ohio attorney general to conduct any investigation of that nature. The board shall pay for the costs of the contract only from moneys in the state board of education licensure fund established under section 3319.51 of the Revised Code. Except as provided in division (A)(2) of this section, all information received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code, and all information obtained during an investigation is confidential and is not a public record under section 149.43 of the Revised Code. If an investigation is conducted under this division regarding information received about a person and no action is taken against the person under this section or section 3319.31 of the Revised Code within two years of the completion of the investigation, all records of the investigation shall be expunged.

(2) In the case of a person about whom the board has learned of a plea of guilty to, finding of guilt by a jury or court of, or a conviction of an

offense listed in division (C) of section 3319.31 of the Revised Code, or substantially comparable conduct occurring in a jurisdiction outside this state, the board or the superintendent of public instruction need not conduct any further investigation and shall take the action required by division (C) or (F) of that section. Except as provided in division (G) of this section, all information obtained by the board or the superintendent of public instruction pertaining to the action is a public record under section 149.43 of the Revised Code.

(B) The superintendent of public instruction shall review the results of each investigation of a person conducted under division (A)(1) of this section and shall determine, on behalf of the state board, whether the results warrant initiating action under division (B) of section 3319.31 of the Revised Code. The superintendent shall advise the board of such determination at a meeting of the board. Within fourteen days of the next meeting of the board, any member of the board may ask that the question of initiating action under section 3319.31 of the Revised Code be placed on the board's agenda for that next meeting. Prior to initiating that action against any person, the person's name and any other personally identifiable information shall remain confidential.

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

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

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

(F) No surrender of a license shall be effective until the board takes action to accept the surrender unless the surrender is pursuant to a consent agreement entered into under division (E) of this section.

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

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

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

(b) If a person is convicted of or pleads guilty to a violation of division (H)(1) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (H)(1) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

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

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

(B)(1) Upon receipt of information that a child of compulsory school age has withdrawn from school for a reason other than because of change of residence and is not enrolled in and attending in accordance with school policy an approved program to obtain a diploma or its equivalent, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located of the withdrawal and failure to enroll in and attend an approved program to obtain a diploma or its equivalent. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the withdrawal and failure to enroll in and attend an approved program or its equivalent.

(2) The board of education of a school district may adopt a resolution providing that the provisions of division (B)(2) of this section apply within the district. The provisions of division (B)(2) of this section do not apply within any school district, and no superintendent of a school district shall send a notification of the type described in division (B)(2) of this section to the registrar of motor vehicles or the juvenile judge of the county in which the district is located, unless the board of education of the district has adopted such a resolution. If the board of education of a school district adopts a resolution providing that the provisions of division (B)(2) of this section apply within the district, and if the superintendent of schools of that district receives information that, during any semester or term, a child of compulsory school age has been absent without legitimate excuse from the school the child is supposed to attend for more than sixty consecutive hours in a single month or for at least ninety hours in a school year, the superintendent shall notify the child and the child's parent, guardian, or custodian, in writing, that the information has been provided to the superintendent, that as a result of that information the child's temporary instruction permit or driver's license will be suspended or the opportunity to obtain such a permit or license will be denied, and that the child and the child's parent, guardian, or custodian may ~~appear in person~~ participate in a hearing at a scheduled date, time, and place ~~before~~ conducted by the superintendent or a designee to challenge the information provided to the superintendent. The hearing may be conducted by electronic means if requested by the child's parent, guardian, or custodian.

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 requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the receipt of the information of the habitual absence from school without legitimate excuse, or, if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee to challenge the information, within two weeks after the ~~appearance~~ hearing.

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

(3) Whenever a pupil is suspended or expelled from school pursuant to section 3313.66 of the Revised Code and the reason for the suspension or

expulsion is the use or possession of alcohol, a drug of abuse, or alcohol and a drug of abuse, the superintendent of schools of that district may notify the registrar and the juvenile judge of the county in which the district is located of such suspension or expulsion. Any such notification of suspension or expulsion shall be given to the registrar, in the manner the registrar by rule requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension or expulsion.

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

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

Sec. 3321.21. A notice under section 3321.19 or 3321.20 of the Revised Code, sent by registered mail, regular mail with a certificate of mailing, or other form of delivery with proof of delivery, including electronic delivery and electronic proof of delivery, is a legal notice.

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

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

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

(C) Encourage, participate in, or conduct studies, investigations, and research relating to air pollution, collect and disseminate information, and

conduct education and training programs relating to the causes, prevention, control, and abatement of air pollution;

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

(E) Adopt, modify, suspend, and rescind rules for the prevention, control, and abatement of air pollution, including rules prescribing for the state as a whole or for various areas of the state emission standards for air contaminants, and other necessary rules for the purpose of achieving and maintaining compliance with ambient air quality standards in all areas within the state as expeditiously as practicable, but not later than any deadlines applicable under the federal Clean Air Act; rules for the prevention or control of the emission of hazardous or toxic air contaminants; rules prescribing fugitive dust limitations and standards that are related, on an areawide basis, to attainment and maintenance of ambient air quality standards; rules prescribing shade, density, or opacity limitations and standards for emissions, provided that with regard to air contaminant sources for which there are particulate matter emission standards in addition to a shade, density, or opacity rule, upon demonstration by such a source of compliance with those other standards, the shade, density, or opacity rule shall provide for establishment of a shade, density, or opacity limitation for that source that does not require the source to reduce emissions below the level specified by those other standards; rules for the prevention or control of odors and air pollution nuisances; rules that prevent significant deterioration of air quality to the extent required by the federal Clean Air Act; rules for the protection of visibility as required by the federal Clean Air Act; and rules prescribing open burning limitations and standards. In adopting, modifying, suspending, or rescinding any such rules, the director, to the extent consistent with the federal Clean Air Act, shall hear and give consideration to evidence relating to all of the following:

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

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

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

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

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

(2)(a) Applications for installation permits shall be accompanied by plans, specifications, construction schedules, and such other pertinent information and data, including data on ambient air quality impact and a demonstration of best available technology, as the director may require. Installation permits shall be issued for a period specified by the director and are transferable. The director shall specify in each permit the applicable emission standards and that the permit 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 permit 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 such standards, this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder. Each proposed new or modified air contaminant source shall provide such notice of its proposed installation or modification to other states as is required under the federal Clean Air Act. Installation permits shall include the authorization to operate sources installed and operated in accordance with terms and conditions of the installation permits for a period not to exceed one year from commencement of operation, which authorization shall constitute an operating permit under division (G) of this section and rules adopted under it.

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

No installation permit shall be issued except in accordance with all requirements of this chapter and rules adopted thereunder. No application

shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

(b) An air contaminant source that is the subject of an installation permit shall be installed or modified in accordance with the permit not later than eighteen months after the permit's effective date at which point the permit shall terminate unless one of the following applies:

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

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

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

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

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

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

The director may adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing additional requirements that are necessary for the implementation of division (F)(2)(b) of this section.

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

(a) 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;

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

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

The director may modify the rule adopted under division (F)(3)(c) of this section for the purpose of adding or deleting air contaminants. For each air contaminant that is contained in or deleted from the rule adopted under division (F)(3)(c) of this section, the director shall include in a notice accompanying any proposed or final rule an explanation of the director's determination that the air contaminant meets the criteria established in that division and should be added to, or no longer meets the criteria and should be deleted from, the list of air contaminants. The explanation shall include an identification of the scientific evidence on which the director relied in making the determination. Until adoption of the rule under division (F)(3)(c) of this section, nothing shall affect the director's authority to issue, deny, modify, or revoke permits to install under this chapter and rules adopted under it.

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

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

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

(c) If the modeling conducted under division (F)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be greater than or equal to eighty per cent, but less than one hundred per cent of the maximum acceptable ground level concentration for an air contaminant, the director may establish terms and conditions in the permit to install for the air contaminant source that will require the owner or operator of the air contaminant source to maintain emissions of that air contaminant commensurate with the modeled level, which shall be expressed as allowable emissions per day. In order to calculate the allowable emissions per day, the director shall multiply the hourly emission rate modeled under division (F)(4)(b) of this section to determine the ground level concentration by the operating schedule that has been identified in the permit to install application. Terms and conditions imposed under division (F)(4)(c) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(d) If the modeling conducted under division (F)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be less than eighty per cent of the maximum acceptable ground level concentration, the owner or operator of the source annually shall report to the director, on a form prescribed by the director, whether operations of the source are consistent with the information regarding the operations that was used to conduct the modeling with regard to the permit to install application. The annual report to the director shall be in lieu of an emission limit or other permit terms and conditions imposed pursuant to division (F)(4) of this section. The director may consider any significant departure from the

operations of the source described in the permit to install application that results in greater emissions than the emissions rate modeled to determine the ground level concentration as a modification and require the owner or operator to submit a permit to install application for the increased emissions. The requirements established in division (F)(4)(d) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(e) Division (F)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" shall not be included in the state implementation plan under section 110 of the federal Clean Air Act and do not apply to an air contaminant source that is subject to a maximum achievable control technology standard or residual risk standard under section 112 of the federal Clean Air Act, to a particular air contaminant identified under 40 C.F.R. 51.166, division (b)(23), for which the director has determined that the owner or operator of the source is required to install best available control technology for that particular air contaminant, or to a particular air contaminant for which the director has determined that the source is required to meet the lowest achievable emission rate, as defined in 40 C.F.R. part 51, Appendix S, for that particular air contaminant.

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

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

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

(5) Not later than one year after August 3, 2006, the director shall adopt

rules in accordance with Chapter 119. of the Revised Code specifying activities that do not, by themselves, constitute beginning actual construction activities related to the installation or modification of an air contaminant source for which a permit to install is required such as the grading and clearing of land, on-site storage of portable parts and equipment, and the construction of foundations or buildings that do not themselves emit air contaminants. The rules also shall allow specified initial activities that are part of the installation or modification of an air contaminant source, such as the installation of electrical and other utilities for the source, prior to issuance of a permit to install, provided that the owner or operator of the source has filed a complete application for a permit to install, the director or the director's designee has determined that the application is complete, and the owner or operator of the source has notified the director that this activity will be undertaken prior to the issuance of a permit to install. Any activity that is undertaken by the source under those rules shall be at the risk of the owner or operator. The rules shall not apply to activities that are precluded prior to permit issuance under section 111, section 112, Part C of Title I, and Part D of Title I of the federal Clean Air Act.

(G) Adopt, modify, suspend, and rescind rules prohibiting the operation or other use of any new, modified, or existing air contaminant source unless an operating permit has been obtained from the director or the director's authorized representative, or the air contaminant source is being operated in compliance with the conditions of a variance issued pursuant to division (H) of this section. Applications for operating permits shall be accompanied by such plans, specifications, and other pertinent information as the director may require. Operating permits may be issued for a period determined by the director not to exceed ten years, are renewable, and are transferable. The director shall specify in each operating permit that the permit 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 permit 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. Operating permits may be denied or revoked for failure to comply with this chapter or the rules adopted thereunder. An operating permit shall be issued only upon a showing satisfactory to the director or the director's representative that the air contaminant source is being operated in compliance with applicable

emission standards and other rules or upon submission of a schedule of compliance satisfactory to the director for a source that is not in compliance with all applicable requirements at the time of permit issuance, provided that the compliance schedule shall be consistent with and at least as stringent as that contained in any judicial consent decree or administrative order to which the air contaminant source is subject. The rules shall provide for the issuance of conditional operating permits for such reasonable periods as the director may determine to allow the holder of an installation permit, who has constructed, installed, located, or modified a new air contaminant source in accordance with the provisions of an installation permit, to make adjustments or modifications necessary to enable the new air contaminant source to comply with applicable emission standards and other rules. Terms and conditions of operating permits issued pursuant to this division shall be federally enforceable for the purpose of establishing the potential to emit of a stationary source and shall be expressly designated as federally enforceable. Any such federally enforceable restrictions on a source's potential to emit shall include both an annual limit and a short-term limit of not more than thirty days for each pollutant to be restricted together with adequate methods for establishing compliance with the restrictions. In other respects, operating permits issued pursuant to this division are enforceable as state law only. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

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

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

(1) Provisions requiring consistency of emissions authorized by a variance with timely attainment and maintenance of ambient air quality standards;

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

(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 where the variance is sought. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or another type of mail accompanied by a receipt ~~and~~. The director also shall cause at least one publication of notice in a newspaper with general circulation in the county where the variance is sought or may instead provide public notice by publication on the environmental protection agency's web site. The director shall keep available for public inspection at the principal office of the environmental protection agency a current schedule of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record or electronic record of testimony and other evidence submitted at the hearing. The director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis therefor into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal thereof, or issue a proposed action upon the application pursuant to section 3745.07 of the Revised Code, within six months of the date upon which the director receives a complete application with all pertinent information and

data required by the director.

Any variance granted pursuant to rules adopted under this division shall be for a period specified by the director, not to exceed three years, and may be renewed from time to time on such terms and for such periods, not to exceed three years each, as the director determines to be appropriate. A variance may be revoked, or renewal denied, for failure to comply with conditions specified in the variance. No variance shall be issued, denied, revoked, or modified without a written order stating the findings upon which the issuance, denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail.

(I) Require the owner or operator of an air contaminant source to install, employ, maintain, and operate such emissions, ambient air quality, meteorological, or other monitoring devices or methods as the director shall prescribe; to sample those emissions at such locations, at such intervals, and in such manner as the director prescribes; to maintain records and file periodic reports with the director containing information as to location, size, and height of emission outlets, rate, duration, and composition of emissions, and any other pertinent information the director prescribes; and to provide such written notice to other states as the director shall prescribe. In requiring monitoring devices, records, and reports, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to technical feasibility and economic reasonableness and allow reasonable time for compliance. For sources where a specific monitoring, record-keeping, or reporting requirement is specified for a particular air contaminant from a particular air contaminant source in an applicable regulation adopted by the United States environmental protection agency under the federal Clean Air Act or in an applicable rule adopted by the director, the director shall not impose an additional requirement in a permit that is a different monitoring, record-keeping, or reporting requirement other than the requirement specified in the applicable regulation or rule for that air contaminant except as otherwise agreed to by the owner or operator of the air contaminant source and the director. If two or more regulations or rules impose different monitoring, record-keeping, or reporting requirements for the same air contaminant from the same air contaminant source, the director may impose permit terms and conditions that consolidate or streamline the monitoring, record-keeping, or reporting requirements in a manner that conforms with each applicable requirement. To the extent consistent with the federal Clean Air Act and except as otherwise agreed to by the owner or operator of an air contaminant source and the director, the director shall not require an operating restriction that has the practical effect of increasing the stringency

of an existing applicable emission limitation or standard.

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

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

(L) Through any employee, agent, or authorized representative of the director or the environmental protection agency, enter upon private or public property, including improvements thereon, at any reasonable time, to make inspections, take samples, conduct tests, and examine records or reports pertaining to any emission of air contaminants and any monitoring equipment or methods and to determine if there are any actual or potential emissions from such premises and, if so, to determine the sources, amounts, contents, and extent of those emissions, or to ascertain whether there is compliance with this chapter, any orders issued or rules adopted thereunder, or any other determination of the director. The director, at reasonable times, may have access to and copy any such records. If entry or inspection authorized by this division is refused, hindered, or thwarted, the director or the director's authorized representative may by affidavit apply for, and any judge of a court of record may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

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

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

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

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

(Q) Certify to the government of the United States or any agency

thereof that an industrial air pollution facility is in conformity with the state program or requirements for control of air pollution whenever such certificate is required for a taxpayer pursuant to any federal law or requirements;

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

(S) To the extent provided by the federal Clean Air Act, adopt, modify, and rescind rules providing for the administrative assessment and collection of monetary penalties, not in excess of those required pursuant to the federal Clean Air Act, for failure to comply with any emission limitation or standard, compliance schedule, or other requirement of any rule, order, permit, or variance issued or adopted under this chapter or required under the applicable implementation plan whether or not the source is subject to a federal or state consent decree. The director may require the submission of compliance schedules, calculations of penalties for noncompliance, and related information. Any orders, payments, sanctions, or other requirements imposed pursuant to rules adopted under this division shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this chapter and shall not affect any civil or criminal enforcement proceedings brought under any provision of this chapter or any other provision of state or local law. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors.

(T) Require new or modified air contaminant sources to install best available technology, but only in accordance with this division. With respect to permits issued pursuant to division (F) of this section beginning three years after August 3, 2006, best available technology for air contaminant

sources and air contaminants emitted by those sources that are subject to standards adopted under section 112, Part C of Title I, and Part D of Title I of the federal Clean Air Act shall be equivalent to and no more stringent than those standards. For 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, best available technology only shall be required to the extent required by rules adopted under Chapter 119. of the Revised Code for permit to install applications filed three or more years after August 3, 2006.

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

- (1) Work practices;
- (2) Source design characteristics or design efficiency of applicable air contaminant control devices;
- (3) Raw material specifications or throughput limitations averaged over a twelve-month rolling period;
- (4) Monthly allowable emissions averaged over a twelve-month rolling period.

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.

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.

(U) Consistent with section 507 of the federal Clean Air Act, adopt, modify, suspend, and rescind rules for the establishment of a small business

stationary source technical and environmental compliance assistance program as provided in section 3704.18 of the Revised Code;

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

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

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

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

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation,

rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions.

The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or by another type of mail accompanied by a receipt ~~and~~. The director shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held or may instead provide public notice by publication on the environmental protection agency's web site. 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 and a current schedule of pending variance hearings. The director shall make a complete stenographic record or electronic record of testimony and other evidence submitted at the hearing.

Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under

this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail or by another type of mail accompanied by a receipt.

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

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

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

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

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

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

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

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

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

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

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

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

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

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of

hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterrupted and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

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

TYPE OF BASIC

MANAGEMENT UNIT

TYPE OF FACILITY

FEE

Storage facility using:

Containers

On-site, off-site, and
satellite

\$ 500

Tanks	On-site, off-site, and satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	10,000
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 which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976,"

90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair,

replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) Except for infectious wastes generated by a person who produces fewer than fifty pounds of infectious wastes at a premises during any one month, no owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes that have not been treated to render them noninfectious.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of

"The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1) and (2)(a) of section 3734.05 of the Revised Code to a solid waste compost facility.

(O)(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace

operations, or dry-milled wastes.

(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste.

(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it.

(P)(1) As used in divisions (P) and (Q) of this section:

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health.

(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code.

(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the director of health under section 3748.04 of the Revised Code.

(4) The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code governing the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including, without limitation, technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations less than five picocuries per gram above natural background. Rules adopted by the director may include at a minimum both of the following:

(a) Requirements in accordance with which the owner or operator of a

solid waste facility must monitor leachate and ground water for radium-226, radium-228, and other radionuclides;

(b) Requirements in accordance with which the owner or operator of a solid waste facility must develop procedures to ensure that technologically enhanced naturally occurring radioactive material accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(Q) Notwithstanding any other provision of this section, the owner or operator of a solid waste facility shall not receive, accept, process, handle, manage, or dispose of technologically enhanced naturally occurring radioactive material associated with drilling operations without first obtaining representative analytical results to determine compliance with divisions (P)(2) and (3) of this section and rules adopted under it.

Sec. 3734.021. (A) Infectious wastes shall be segregated, managed, treated, and disposed of in accordance with rules adopted under this section.

(B) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary or appropriate to protect human health or safety or the environment that do both of the following:

(1) Establish standards for generators of infectious wastes that include, without limitation, the following requirements and authorizations that:

(a) All generators of infectious wastes:

(i) Either treat all specimen cultures and cultures of viable infectious agents on the premises where they are generated to render them noninfectious by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section before they are transported off that premises for disposal or ensure that such wastes are treated to render them noninfectious at an infectious waste treatment facility off that premises prior to disposal of the wastes;

(ii) Transport and dispose of infectious wastes, if a generator produces fewer than fifty pounds of infectious wastes during any one month that are subject to and packaged and labeled in accordance with federal requirements, in the same manner as solid wastes. Such generators who treat specimen cultures and cultures of viable infectious agents on the premises where they are generated shall not be considered treatment facilities as "treatment" and "facility" are defined in section 3734.01 of the Revised Code.

(iii) Dispose of infectious wastes subject to and treated in accordance with rules adopted under division (B)(1)(a)(i) of this section in the same

manner as solid wastes;

(iv) May take wastes generated in providing care to a patient by an emergency medical services organization, as defined in section 4765.01 of the Revised Code, to and leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility regardless of whether the wastes were generated in providing care to the patient at the scene of an emergency or during the transportation of the patient to a hospital;

(v) May take wastes generated by an individual for purposes of the individual's own care or treatment to and leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility.

(b) Each generator of fifty pounds or more of infectious wastes during any one month:

(i) Register with the environmental protection agency as a generator of infectious wastes and obtain a registration certificate. The fee for issuance of a generator registration certificate is one hundred forty dollars payable at the time of application. The registration certificate applies to all the premises owned or operated by the generator in this state where infectious wastes are generated and shall list the address of each such premises. If a generator owns or operates facilities for the treatment of infectious wastes it generates, the certificate shall list the address and method of treatment used at each such facility.

A generator registration certificate is valid for three years from the date of issuance and shall be renewed for a term of three years upon the generator's submission of an application for renewal and payment of a one hundred forty dollar renewal fee.

The rules may establish a system of staggered renewal dates with approximately one-third of such certificates subject to renewal each year. The applicable renewal date shall be prescribed on each registration certificate. Registration fees shall be prorated according to the time remaining in the registration cycle to the nearest year.

The registration and renewal fees collected under division (B)(1)(b)(i) of this section shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(ii) Segregate infectious wastes from other wastes at the point of generation. Nothing in this section and rules adopted under it prohibits a generator of infectious wastes from designating and managing any wastes,

in addition to those defined as infectious wastes under section 3734.01 of the Revised Code, as infectious wastes. After designating any such other wastes as infectious, the generator shall manage those wastes in compliance with the requirements of this chapter and rules adopted under it applicable to the management of infectious wastes.

(iii) Either treat the infectious wastes that it generates at a facility owned or operated by the generator by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section to render them noninfectious, or designate the wastes for treatment off that premises at an infectious waste treatment facility holding a license issued under division (B) of section 3734.05 of the Revised Code, at an infectious waste treatment facility that is located in another state that is in compliance with applicable state and federal laws, or at a treatment facility authorized by rules adopted under division (B)(2)(d) of this section, prior to disposal of the wastes. After being treated to render them noninfectious, the wastes shall be disposed of at a solid waste disposal facility holding a license issued under division (A) of section 3734.05 of the Revised Code or at a disposal facility in another state that is in compliance with applicable state and federal laws.

(iv) Not compact or grind any type of infectious wastes prior to treatment in accordance with rules adopted under division (B)(2)(a) of this section;

(v) May discharge untreated liquid or semiliquid infectious wastes consisting of blood, blood products, body fluids, and excreta into a disposal system, as defined in section 6111.01 of the Revised Code, unless the discharge of those wastes into a disposal system is inconsistent with the terms and conditions of the permit for the system issued under Chapter 6111. of the Revised Code;

(vi) May transport or cause to be transported infectious wastes that have been treated to render them noninfectious in the same manner as solid wastes are transported.

(2) Establish standards for owners and operators of infectious waste treatment facilities that include, without limitation, the following requirements and authorizations that:

(a) Require treatment of all wastes received to be performed in accordance with methods, techniques, and practices approved by the director;

(b) Govern the location, design, construction, and operation of infectious waste treatment facilities. The rules adopted under division (B)(2)(b) of this section shall require that a new infectious waste incineration facility be located so that the incinerator unit and all areas

where infectious wastes are handled on the premises where the facility is proposed to be located are at least three hundred feet inside the property line of the tract of land on which the facility is proposed to be located and are at least one thousand feet from any domicile, school, prison, or jail that is in existence on the date on which the application for the permit to establish the incinerator is submitted under division (B)(2)(b) of section 3734.05 of the Revised Code.

(c) Establish quality control and testing procedures to ensure compliance with the rules adopted under division (B)(2)(b) of this section;

(d) Authorize infectious wastes to be treated at a facility that holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717., and a permit issued under Chapter 3704., of the Revised Code to the extent that the treatment of those wastes is consistent with that permit and its terms and conditions. The rules adopted under divisions (B)(2)(b) and (c) of this section do not apply to a facility holding such a license and permit.

In adopting the rules required by divisions (B)(2)(a) to (d) of this section, the director shall consider and, to the maximum feasible extent, utilize existing standards and guidelines established by professional and governmental organizations having expertise in the fields of infection control and infectious wastes management.

(e) Require shipping papers to accompany shipments of wastes that have been treated to render them noninfectious. The shipping papers shall include only the following elements:

(i) The name of the owner or operator of the facility where the wastes were treated and the address of the treatment facility;

(ii) A certification by the owner or operator of the treatment facility where the wastes were treated indicating that the wastes have been treated by the methods, techniques, and practices prescribed in rules adopted under division (B)(2)(a) of this section.

(C) This section and rules adopted under it do not apply to the treatment or disposal of wastes consisting of dead animals or parts thereof, or the blood of animals:

(1) By the owner of the animal after slaughter by the owner on the owner's premises to obtain meat for consumption by the owner and the members of the owner's household;

(2) In accordance with Chapter 941. of the Revised Code; or

(3) By persons who are subject to any of the following:

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

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) As used in this section, "generator" means a person who produces infectious wastes at a specific premises.

(E) Rules adopted under this section shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating infectious waste treatment facilities.

(F)(1) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the issuance, modification, revocation, suspension, and denial of variances from the rules adopted under division (B) of this section. Variances shall be issued, modified, revoked, suspended, or denied in accordance with division (F) of this section, rules adopted under it, and Chapter 3745. of the Revised Code.

(2) A person who desires to obtain a variance or renew a variance from the rules adopted under division (B) of this section shall submit to the director an application as prescribed by the director. The application shall contain detail plans, specifications, and information regarding objectives, procedures, controls, and any other information that the director may require. The director shall issue, renew, or deny a variance or renewal of a variance within six months of the date on which the director receives a complete application with all required information and data.

(3) The director may hold a public hearing on an application submitted under division (F) of this section for a variance at a location in the county in which the operations that are the subject of the application for a variance or renewal of variance are conducted. Not less than twenty days before the hearing, the director shall provide to the applicant notice of the hearing by certified mail or by another type of mail that is accompanied by a receipt and shall publish notice of the hearing at least one time in a newspaper of general circulation in the county in which the hearing is to be held or may instead provide public notice by publication on the environmental protection agency's web site. The director shall make a complete stenographic record or electronic record of testimony and other evidence submitted at the hearing. Not later than ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing.

(4) A variance shall not be issued, modified, revoked, or denied under division (F) of this section until the director has considered the relative interests of the applicant, other persons and property that will be affected by the variance, and the general public. The director shall grant a variance only

if the applicant demonstrates to the director's satisfaction that the requested action will not create a nuisance or a hazard to the health or safety of the public or to the environment. In granting a variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed on the applicant in place of the provision or provisions.

(5) A variance granted under division (F) of this section shall be for a period specified by the director and may be renewed from time to time on terms and for periods that the director determines to be appropriate. The director may order the person to whom a variance has been issued to take action within the time that the director determines to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the health or safety of the public or to the environment.

(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 the director and ~~by computer disk as~~ in a manner prescribed by ~~him~~ the director. A board

is responsible for the accuracy of the information contained in each report and for providing it to the director not later than the deadline established in this division.

Annually by not earlier than the first day of April, the director shall submit a compilation of the individual district reports received during the preceding calendar year to the speaker of the house of representatives and the president of the senate. In submitting the compilation, the director's sole responsibility shall be to compile the information submitted by the boards under this division.

(B) If changes in the 1994 budget of a county or joint district result from the required change in the fees levied by the district under division (B) of section 3734.57 of the Revised Code, the levying of the fees under section 3734.573 of the Revised Code, or the levying of fees under division (A) or (B) of section 3734.574 of the Revised Code, the board of county commissioners or directors of the district shall include a description of the changes in the annual report of the district required to be submitted to the director pursuant to rules adopted under section 3734.50 of the Revised Code.

Sec. 3745.019. (A) Notwithstanding any provision of the Revised Code or Administrative Code requiring the director of environmental protection to provide public notice by publication in one or more newspapers, including one or more newspapers of general circulation, the director may instead provide public notice by publication on the environmental protection agency's official web site.

(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.

(3) The establishment of and compliance with the alternative standard or set of standards and terms and conditions are necessary to promote, protect, preserve, or enhance employment opportunities or the reuse of the property named in the application.

A variance issued under this section shall state the specific standard or standards whose terms are being varied and shall set forth the specific alternative standard or set of standards and the terms and conditions imposed on the applicant in their place. A variance issued under this section shall include only standards and terms and conditions proposed by the applicant in the application, except that the director may impose any additional or alternative terms and conditions that the director determines to be necessary to ensure that public health and safety will be protected. If the director finds that compliance with any standard or term or condition proposed by the applicant will not protect public health and safety and that the imposition of additional or alternative terms and conditions will not ensure that public health or safety will be protected, the director shall disapprove the application and shall include in the order of denial the specific findings on which the denial was based.

(B) Variances shall be issued or denied in accordance with this section, rules adopted under division (B)(10) of section 3746.04 of the Revised Code, and Chapter 3745. of the Revised Code. Upon determining that an application for a variance is complete, the director shall schedule a public meeting on the application to be held within ninety days after the director determines that the application is complete in the county in which is located the property to which the application pertains.

(C) Not less than thirty days before the date scheduled for the public meeting on an application for a variance, the director shall publish notice of the public meeting and that the director will receive written comments on the application for a period of forty-five days commencing on the date of the publication of the notice. The notice shall contain all of the following information, at a minimum:

(1) The address of the property to which the application pertains;

(2) A brief summary of the alternative standards and terms and conditions proposed by the applicant;

(3) The date, time, and location of the public meeting.

The notice shall be published in a newspaper of general circulation in the county in which the property is located and, if the property is located in close proximity to the boundary of the county with an adjacent county, as determined by the director, shall be published in a newspaper of general circulation in the adjacent county. Concurrently with the publication of the notice of the public meeting, the director shall mail notice of the application, comment period, and public meeting to the owner of each parcel of land that is adjacent to the affected property and to the legislative authority of the municipal corporation or township, and county, in which the affected property is located. The notices mailed to the adjacent land owners and legislative authorities shall contain the same information as the published notice.

(D) At the public meeting on an application for a variance, the applicant, or a representative of the applicant who is knowledgeable about the affected property and the application, shall present information regarding the application and the basis of the request for the variance and shall respond to questions from the public regarding the affected property and the application. A representative of the environmental protection agency who is familiar with the affected property and the application shall attend the public meeting to hear the public's comments and to respond to questions from the public regarding the affected property and the application. A stenographic record or electronic record of the proceedings at the public meeting shall be kept and shall be made a part of the administrative record regarding the application.

(E) Within ninety days after conducting the public meeting on an application for a variance under division (D) of this section, the director shall issue a proposed action to the applicant in accordance with section 3745.07 of the Revised Code that indicates the director's intent with regard to the issuance or denial of the application. When considering whether to issue or deny the application or whether to impose terms and conditions of the variance that are in addition or alternative to those proposed by the applicant, the director shall consider comments on the application made by the public at the public meeting and written comments on the application received from the public.

Sec. 3752.11. (A) As used in this section:

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

(2) "Abandoned by the owner" means either of the following that occurs on or after ~~the effective date of this section~~ July 1, 1996:

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

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

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

(4) "Contact" means actual person to person, telephonic, or similar direct voice conversation between the holder of the first mortgage and the mortgagor or written correspondence from the mortgagor to the holder of the first mortgage by mail, ~~telegram, telefax~~ any other method capable of documenting the intended recipient's receipt of the document or notice, or similar means of communication.

(B) Not later than fifteen days after a reporting facility has been abandoned by the owner, the holder of the first mortgage on real property at the reporting facility shall do both of the following:

(1) Secure against unauthorized entry each building or structure at the facility where regulated operations were conducted and that contains or is contaminated with regulated substances and each outdoor location of operation. The holder shall secure each such building, structure, or outdoor location of operation by boarding windows, doors, and other potential means of entry, by providing security personnel, or by other methods prescribed in rules adopted under section 3752.03 of the Revised Code. Within that period, the holder also shall post about each such building, structure, or outdoor location of operation in publicly visible locations warning signs that prohibit trespassing and state that the building, structure, or outdoor location of operation contains or is contaminated with regulated

substances that may endanger public health or safety if released into the environment. The holder shall continue the security measures, and maintain the warning signs, as required at each such building, structure, or outdoor location of operation until title to the facility has been transferred or until the holder files a release of the mortgage with the county recorder of the county in which the facility is located. Promptly after discovering that any of the entry barriers or warning signs installed pursuant to division (B)(1) of this section have been damaged, lost, or removed, the holder shall repair or replace them in order to maintain the security of the building, structure, or outdoor location of operation.

(2) Submit to the director of environmental protection, the local emergency planning committee of the emergency planning district in which the facility is located, and the fire department having jurisdiction where the facility is located a notice of the abandonment of the facility by the owner and of the holder's compliance with division (B)(1) of this section. The holder shall submit the notice on a form prescribed by the director.

(C) Within thirty days before the date when the holder of a mortgage will cease to maintain security and warning signs at a reporting facility pursuant to the filing of a release of the mortgage as provided in division (B)(1) of this section, the holder shall so notify the director, the local emergency planning committee of the emergency planning district in which the facility is located, and the fire department having jurisdiction where the facility is located. The holder shall submit the notice on a form prescribed by the director.

(D) Actions undertaken by a holder of a mortgage under division (B) of this section, and the undertaking of any other activities relating to protecting and securing the facility, do not cause the holder to be an owner, operator, or mortgagee in possession of the facility or subject the holder to this chapter or any other provision of state law imposing liability or responsibility for the cleanup, removal, or remediation of regulated substances, provided that all activities not specified in that division shall be performed in compliance with the applicable requirements of Chapters 3704., 3714., 3734., 3737., 3750., 3751., 6109., and 6111. of the Revised Code and rules adopted under them.

(E) The holder of a mortgage who proceeds in good faith under divisions (B) and (C) of this section is not liable to the owner of the facility or the mortgagor, as appropriate, for damages suffered by the owner or mortgagor due to actions taken by the holder under those divisions.

(F) Nothing in this section prevents the holder of a first mortgage from applying to the court for the appointment of a receiver. If a receiver is

appointed, the receiver shall succeed to the obligations of the holder of the first mortgage under divisions (B) and (C) of this section.

(G) No person shall fail to comply with this section.

Sec. 3772.031. (A)(1) The general assembly finds that the exclusion or ejection of certain persons from casino facilities and from sports gaming is necessary to effectuate the intents and purposes of this chapter and Chapter 3775. of the Revised Code and to maintain strict and effective regulation of casino gaming and sports gaming.

(2) The commission, by rule, shall provide for a list of persons who are to be excluded or ejected from a casino facility and a list of persons who are to be excluded or ejected from a sports gaming facility and from participating in the play or operation of sports gaming in this state. Persons included on an exclusion list shall be identified by name and physical description. The commission shall publish the exclusion lists on its web site, and shall transmit a copy of the exclusion lists periodically to casino operators and sports gaming proprietors, as applicable, as they are initially issued and thereafter as they are revised from time to time.

(3) A casino operator shall take steps necessary to ensure that all its key employees and casino gaming employees are aware of and understand the casino exclusion list and its function, and that all its key employees and casino gaming employees are kept aware of the content of the casino exclusion list as it is issued and thereafter revised from time to time.

(4) A sports gaming proprietor shall take steps necessary to ensure that its appropriate agents and employees are aware of and understand the sports gaming exclusion list and its function, and that all its appropriate agents and employees are kept aware of the content of the sports gaming exclusion list as it is issued and thereafter revised from time to time.

(B) The casino exclusion list may include any person whose presence in a casino facility is determined by the commission to pose a threat to the interests of the state, to achieving the intents and purposes of this chapter, or to the strict and effective regulation of casino gaming. The sports gaming exclusion list may include any person whose presence in a sports gaming facility or whose participation in the play or operation of sports gaming in this state is determined by the commission to pose a threat to the interests of the state, to achieving the intents and purposes of Chapter 3775. of the Revised Code, or to the strict and effective regulation of sports gaming. In determining whether to include a person on an exclusion list, the commission may consider:

(1) Any prior conviction of a crime that is a felony under the laws of this state, another state, or the United States, a crime involving moral

turpitude, or a violation of the gaming laws of this state, another state, or the United States; and

(2) A violation, or a conspiracy to violate, any provision of this chapter or Chapter 3775. of the Revised Code, as applicable, that consists of:

(a) A failure to disclose an interest in a gaming facility or a sports gaming-related person or entity for which the person must obtain a license;

(b) Purposeful evasion of taxes or fees;

(c) A notorious or unsavory reputation that would adversely affect public confidence and trust that casino gaming or sports gaming is free from criminal or corruptive elements; or

(d) A violation of an order of the commission or of any other governmental agency that warrants exclusion or ejection of the person from a casino facility, from a sports gaming facility, or from participating in the play or operation of sports gaming in this state.

(3) If the person has pending charges or indictments for a gaming or gambling crime or a crime related to the integrity of gaming operations in any state;

(4) If the person's conduct or reputation is such that the person's presence within a casino facility or in the sports gaming industry in this state may call into question the honesty and integrity of the casino gaming or sports gaming operations or interfere with the orderly conduct of the casino gaming or sports gaming operations;

(5) If the person is a career or professional offender whose presence in a casino facility or in the sports gaming industry in this state would be adverse to the interest of licensed gaming in this state;

(6) If the person has a known relationship or connection with a career or professional offender whose presence in a casino facility or in the sports gaming industry in this state would be adverse to the interest of licensed gaming in this state;

(7) If the commission has suspended the person's gaming privileges;

(8) If the commission has revoked the person's licenses related to this chapter or Chapter 3775. of the Revised Code;

(9) If the commission determines that the person poses a threat to the safety of patrons or employees of a casino facility or a sports gaming facility;

(10) If the person has a history of conduct involving the disruption of gaming operations within a casino facility or in the sports gaming industry in this state.

Race, color, creed, national origin or ancestry, or sex are not grounds for placing a person on an exclusion list.

(C) The commission shall notify a person of the commission's intent to include such person on one or both exclusion lists. The notice shall be provided by personal service, by certified mail to the person's last known address, by commercial carrier utilizing a method of delivery that provides confirmation of delivery, or, if service cannot be accomplished by personal service ~~or~~, certified mail, or commercial carrier, by publication daily for two weeks in a newspaper of general circulation within the county in which the person resides and in a newspaper of general circulation within each county in which a casino facility or sports gaming facility, as applicable, is located.

(D)(1) Except as otherwise provided in this section, a person who receives notice of intent to include the person on an exclusion list is entitled, upon the person's request, to an adjudication hearing under Chapter 119. of the Revised Code, in which the person may demonstrate why the person should not be included on the exclusion list or lists. The person shall request such an adjudication hearing not later than thirty days after the person receives the notice by personal service ~~or~~, certified mail, or commercial carrier, or not later than thirty days after the last newspaper publication of the notice.

(2) If the person does not request a hearing in accordance with division (D)(1) of this section, the commission may, but is not required to, conduct an adjudication hearing under Chapter 119. of the Revised Code. The commission may reopen an adjudication under this section at any time.

(3) If the adjudication hearing, order, or any appeal thereof under Chapter 119. of the Revised Code results in an order that the person should not be included on the exclusion list or lists, the commission shall publish a revised exclusion list that does not include the person. The commission also shall notify casino operators or sports gaming proprietors, as applicable, that the person has been removed from the exclusion list or lists. A casino operator shall take all steps necessary to ensure its key employees and casino gaming employees are made aware that the person has been removed from the casino exclusion list. A sports gaming proprietor shall take all steps necessary to ensure its appropriate agents and employees are made aware that the person has been removed from the sports gaming exclusion list.

(E) This section does not apply to any voluntary exclusion list created as part of a voluntary exclusion program under this chapter or Chapter 3775. of the Revised Code.

Sec. 3772.04. (A)(1) If the commission concludes that an applicant, licensee, or other person subject to the commission's jurisdiction under this chapter should be fined or penalized, or that a license required by this chapter or Chapter 3775. of the Revised Code should be limited,

conditioned, restricted, suspended, revoked, denied, or not renewed, the commission may, and if so requested by the licensee, applicant, or other person, shall, conduct a hearing in an adjudication under Chapter 119. of the Revised Code. After notice and opportunity for a hearing, the commission may fine or penalize the applicant, licensee, or other person or limit, condition, restrict, suspend, revoke, deny, or not renew a license under rules adopted by the commission. The commission may reopen an adjudication under this section at any time.

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

(3) If the commission finds that a person fails or has failed to meet any requirement under this chapter or Chapter 3775. of the Revised Code or a rule adopted thereunder, or violates or has violated this chapter or Chapter 3775. of the Revised Code or a rule adopted thereunder, the commission may issue an order:

(a) Limiting, conditioning, restricting, suspending, revoking, denying, or not renewing, a license issued under this chapter or Chapter 3775. of the Revised Code;

(b) Requiring a casino facility to exclude a licensee from the casino facility or requiring a casino facility not to pay to the licensee any remuneration for services or any share of profits, income, or accruals on the licensee's investment in the casino facility; or

(c) Fining a licensee or other person according to the penalties adopted by the commission.

(4) An order may be judicially reviewed under section 119.12 of the Revised Code.

(B) Without in any manner limiting the authority of the commission to impose the level and type of discipline the commission considers appropriate, the commission may take into consideration the following:

(1) If the licensee knew or reasonably should have known that the action complained of was a violation of any law, rule, or condition on the licensee's license;

(2) If the licensee has previously been disciplined by the commission;

(3) If the licensee has previously been subject to discipline by the

commission concerning the violation of any law, rule, or condition of the licensee's license;

(4) If the licensee reasonably relied upon professional advice from a lawyer, doctor, accountant, or other recognized professional that was relevant to the action resulting in the violation;

(5) If the licensee or the licensee's employer had a reasonably constituted and functioning compliance program;

(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;

(7) If the licensee realized a pecuniary gain from the violation;

(8) If the amount of any fine or other penalty imposed would result in disgorgement of any gains unlawfully realized by the licensee;

(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;

(10) If the individual who caused the violation acted within the scope of the individual's authority as granted by the licensee;

(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;

(12) If the licensee's action substantially deviated from industry standards and customs;

(13) The extent to which the licensee cooperated with the commission during the investigation of the violation;

(14) If the licensee has initiated remedial measures to prevent similar violations;

(15) The magnitude of penalties imposed on other licensees for similar violations;

(16) The proportionality of the penalty in relation to the misconduct;

(17) The extent to which the amount of any fine imposed would punish the licensee for the conduct and deter future violations;

(18) Any mitigating factors offered by the licensee; and

(19) Any other factors the commission considers relevant.

(C) For the purpose of conducting any study or investigation, the commission may direct that public hearings be held at a time and place, prescribed by the commission, in accordance with section 121.22 of the Revised Code. The commission shall give notice of all public hearings in such manner as will give actual notice to all interested parties.

(D)(1) For the purpose of conducting the hearing in an adjudication

under division (A) of this section, or in the discharge of any duties imposed by this chapter or Chapter 3775. of the Revised Code, the commission may require that testimony be given under oath and administer such oath, issue subpoenas compelling the attendance of witnesses and the production of any papers, books, and accounts, directed to the sheriffs of the counties where such witnesses or papers, books, and accounts are found and cause the deposition of any witness. The subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases.

(2) In the event of the refusal of any person without good cause to comply with the terms of a subpoena issued by the commission or refusal to testify on matters about which the person may lawfully be questioned, the prosecuting attorney of the county in which such person resides, upon the petition of the commission, may bring a proceeding for contempt against such person in the court of common pleas of that county.

(3) Witnesses shall be paid the fees and mileage provided for in section 119.094 of the Revised Code.

(4) All fees and mileage expenses incurred at the request of a party shall be paid in advance by the party.

(E) When conducting a public hearing, the commission shall not limit the number of speakers who may testify. However, the commission may set reasonable time limits on the length of an individual's testimony or the total amount of time allotted to proponents and opponents of an issue before the commission.

(F) The commission may rely, in whole or in part, upon investigations, conclusions, or findings of other casino gaming or sports gaming commissions, as applicable, or other government regulatory bodies in connection with licensing, investigations, or other matters relating to an applicant or licensee under this chapter.

(G) Notwithstanding anything to the contrary in this chapter or Chapter 3775. of the Revised Code, and except with respect to a license issued under this chapter to a casino operator, management company, or holding company, the executive director may issue an emergency order for the suspension, limitation, or conditioning of any license, registration, approval, or certificate issued, approved, granted, or otherwise authorized by the commission under Chapter 3772. or 3775. of the Revised Code or the rules adopted thereunder, requiring the inclusion of persons on the casino exclusion list or sports 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 representing the party.

(c) If the order sent by registered or certified mail or by commercial carrier is returned because the party fails to claim the order, the commission shall send the order by ordinary mail to the party at the party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained unless the order is returned showing failure of delivery.

(d) If the order sent by commercial carrier or registered, certified, or ordinary mail is returned for failure of delivery, the commission shall either make personal delivery of the order by an employee or agent of the commission or cause a summary of the substantive provisions of the order to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known address of the party is located.

(i) Failure of delivery occurs only when a mailed order is returned by the postal authorities or commercial carrier marked undeliverable, address

or addressee unknown, or forwarding address unknown or expired.

(ii) When service is completed by publication, a proof of publication affidavit, with the first publication of the summary set forth in the affidavit, shall be mailed by ordinary mail to the party at the party's last known address and the order shall be deemed received as of the date of the last publication.

(e) Refusal of delivery of the order sent by mail or personally delivered to the party is not failure of delivery and service is deemed to be complete.

(4) The emergency order shall be effective immediately upon service of the order on the party. The emergency order shall remain effective until further order of the executive director or the commission.

(5) The commission may, and if so requested by the person affected by the emergency order shall, promptly conduct a hearing in an adjudication under Chapter 119. of the Revised Code.

Sec. 3772.11. (A) A person may apply to the commission for a casino operator, management company, or holding company license to conduct casino gaming at a casino facility as provided in this chapter. The application shall be ~~made under oath~~ certified as true on forms provided by the commission and shall contain information as prescribed by rule, including, but not limited to, all of the following:

(1) The name, business address, business telephone number, social security number, and, where applicable, the federal tax identification number of any applicant;

(2) The identity of every person having a greater than five per cent direct or indirect interest in the applicant casino facility for which the license is sought;

(3) An identification of any business, including the state of incorporation or registration if applicable, in which an applicant, or the spouse or children of an applicant, has an equity interest of more than five per cent;

(4) The name of any casino operator, management company, holding company, and gaming-related vendor in which the applicant has an equity interest of at least five per cent;

(5) If an applicant has ever applied for or has been 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 contribution, loan, donation, or other payment of one hundred dollars or more to a statewide office holder, a member of the general assembly, a local government official elected in a jurisdiction where a casino facility is located, or a ballot issue not more than one year before the date the applicant filed the application and all information relating to the contribution, loan, donation, or other payment;

(12) Any criminal conviction; and

(13) Other information required by the commission under rules adopted by the commission.

(B) Any holding company or management company, its directors, executive officers, members, managers, and any shareholder who holds more than five per cent ownership interest of a holding company or management company shall be required to submit the same information as required by an applicant under this section.

Sec. 3772.12. (A) A person may apply for a gaming-related vendor license. All applications shall be ~~made under oath~~ certified as true.

(B) A person who holds a gaming-related vendor's license is authorized to sell or lease, and to contract to sell or lease, equipment and supplies to any licensee involved in the ownership or management of a casino facility.

(C) Gambling supplies and equipment shall not be distributed unless

supplies and equipment conform to standards adopted in rules adopted by the commission.

Sec. 3772.13. (A) No person may be employed as a key employee of a casino operator, management company, or holding company unless the person is the holder of a valid key employee license issued by the commission.

(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.

(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.

(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.

(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 also shall complete a cover sheet for the application on which the applicant shall disclose the applicant's name, the business address of the casino operator, management company, holding company, or gaming-related vendor employing the applicant, the business address and telephone number of such employer, and the county, state, and country in which the applicant's residence is located.

(F) Each applicant shall submit with each application, on a form provided by the commission, two sets of fingerprints and a photograph. The commission shall charge each applicant an application fee set by the commission to cover all actual costs generated by each licensee and all

background checks under this section and section 3772.07 of the Revised Code.

(G)(1) The casino operator, management company, or holding company by whom a person is employed as a key employee shall terminate the person's employment in any capacity requiring a license under this chapter and shall not in any manner permit the person to exercise a significant influence over the operation of a casino facility if:

(a) The person does not apply for and receive a key employee license within three months of being issued a provisional license, as established under commission rule.

(b) The person's application for a key employee license is denied by the commission.

(c) The person's key employee license is revoked by the commission.

The commission shall notify the casino operator, management company, or holding company who employs such a person by certified mail, personal service, common carrier service utilizing any form of delivery requiring a signed receipt, or by an electronic means that provides evidence of delivery, of any such finding, denial, or revocation.

(2) A casino operator, management company, or holding company shall not pay to a person whose employment is terminated under division (G)(1) of this section, any remuneration for any services performed in any capacity in which the person is required to be licensed, except for amounts due for services rendered before notice was received under that division. A contract or other agreement for personal services or for the conduct of any casino gaming at a casino facility between a casino operator, management company, or holding company and a person whose employment is terminated under division (G)(1) of this section may be terminated by the casino operator, management company, or holding company without further liability on the part of the casino operator, management company, or holding company. Any such contract or other agreement is deemed to include a term authorizing its termination without further liability on the part of the casino operator, management company, or holding company upon receiving notice under division (G)(1) of this section. That a contract or other agreement does not expressly include such a term is not a defense in any action brought to terminate the contract or other agreement, and is not grounds for relief in any action brought questioning termination of the contract or other agreement.

(3) A casino operator, management company, or holding company, without having obtained the prior approval of the commission, shall not enter into any contract or other agreement with a person who has been found

unsuitable, who has been denied a license, or whose license has been revoked under division (G)(1) of this section, or with any business enterprise under the control of such a person, after the date on which the casino operator, management company, or holding company receives notice under that division.

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

- (1) Individuals involved in operating a casino gaming pit, including dealers, shifts, clerks, hosts, and junket representatives;
- (2) Individuals involved in handling money, including cashiers, change persons, count teams, and coin wrappers;
- (3) Individuals involved in operating casino games;
- (4) Individuals involved in operating and maintaining slot machines, including mechanics, floor persons, and change and payoff persons;
- (5) Individuals involved in security, including guards and game observers;
- (6) Individuals with duties similar to those described in divisions (A)(1) to (5) of this section or other persons as the commission determines. "Casino gaming employee" does not include an individual whose duties are related solely to nongaming activities such as entertainment, hotel operation, maintenance, or preparing or serving food and beverages.

(B) The commission may issue a casino gaming employee license to an applicant after it has determined that the applicant is eligible for a license under rules adopted by the commission and paid any applicable fee. All applications shall be ~~made under oath~~ certified as true.

(C) To be eligible for a casino gaming employee license, an applicant shall be at least twenty-one years of age.

(D) Each application for a casino gaming 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.

(E) Each applicant shall submit with each application, on a form provided by the commission, two sets of the applicant's fingerprints and a

photograph. The commission shall charge each applicant an application fee to cover all actual costs generated by each licensee and all background checks.

Sec. 3781.08. The board of building standards shall organize by choosing a ~~chairman~~ chairperson who shall serve for a term of two years. The department of commerce shall provide and assign to the board of building standards such ~~stenographers~~, clerks, experts, and other employees as are required to enable the board to perform the duties and exercise the powers imposed upon or vested in it by law.

Sec. 3781.11. (A) The rules of the board of building standards shall:

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials, including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in section 3781.06 of the Revised Code;

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction;

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units;

(5) Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, local, exempted village, or joint vocational school district and operated in conjunction with any primary or secondary school program that is not being altered or repaired if all of the following apply:

(a) The school building meets all of the applicable building code requirements in existence at the time of the construction of the building.

(b) The school building otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(c) The part of the school building altered or repaired conforms to all rules of the board existing on the date of the repair or alteration.

(6) Not require any alteration or repair to any part of a workshop or factory that is not otherwise being altered, repaired, or added to if all of the following apply:

(a) The workshop or factory otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(b) The part of the workshop or factory altered, repaired, or added conforms to all rules of the board existing on the date of plan approval of the repair, alteration, or addition.

(B) The rules of the board shall supersede and govern any order, standard, or rule of the division of industrial compliance in the department of commerce, division of the state fire marshal, the department of health, and of counties and townships, in all cases where such orders, standards, or rules are in conflict with the rules of the board, except that rules adopted and orders issued by the state fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

(C) The construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them and the heating and ventilating of them and the plumbing and electric wiring in them shall conform to the statutes of this state or the rules adopted and promulgated by the board, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes or rules is a public nuisance.

(D) As used in this section:

(1) "Nonpublic school" means a chartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(2) "Workshop or factory" includes manufacturing, mechanical, electrical, mercantile, art, and laundering establishments, printing, ~~telegraph~~, and telephone offices, railroad depots, and memorial buildings, but does not include hotels and tenement and apartment houses.

Sec. 3781.25. As used in sections 3781.25 to 3781.38 of the Revised Code:

(A) "Protection service" means a notification center, but not an owner of an individual utility, that exists for the purpose of receiving notice from persons that prepare plans and specifications for or that engage in

excavation work, that distributes this information to its members and participants, and that has registered by March 14, 1989, with the secretary of state and the public utilities commission of Ohio under former division (F) of section 153.64 of the Revised Code as it existed on that date.

(B) "Underground utility facility" includes any item buried or placed below ground or submerged under water for use in connection with the storage or conveyance of water or sewage; electronic, ~~or telephonic, or telegraphic~~ communications; television signals; electricity; crude oil; petroleum products; artificial or liquefied petroleum; manufactured, mixed, or natural gas; synthetic or liquefied natural gas; propane gas; coal; steam; hot water; or other substances. "Underground utility facility" includes all operational underground pipes, sewers, tubing, conduits, cables, valves, lines, wires, worker access holes, and attachments, owned by any person, firm, or company. "Underground utility facility" does not include a private septic system in a one-family or multi-family dwelling utilized only for that dwelling and not connected to any other system.

(C) "Utility" means any owner or operator, or an agent of an owner or operator, of an underground utility facility, including any public authority, that owns or operates an underground utility facility. "Utility" does not include the owners of the following types of real property with respect to any underground utility facility located on that property:

- (1) The owner of a single-family or two-, three-, or four-unit residential dwelling;
- (2) The owner of an apartment complex;
- (3) The owner of a commercial or industrial building or complex of buildings, including but not limited to, factories and shopping centers;
- (4) The owner of a farm;
- (5) The owner of an exempt domestic well as defined in section 1509.01 of the Revised Code.

(D) "Approximate location" means the immediate area within the perimeter of a proposed excavation site where the underground utility facilities are located.

(E) "Tolerance zone" means the site of the underground utility facility including the width of the underground utility facility plus eighteen inches on each side of the facility.

(F) "Working days" excludes Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code and "hours" excludes hours on Saturdays, Sundays, and legal holidays.

(G) "Designer" means an engineer, architect, landscape architect, contractor, surveyor, or other person who develops plans or designs for real

property improvement or any other activity that will involve excavation.

(H) "Developer" means the person for whom the excavation is made and who will own or be the lessee of any improvement that is the object of the excavation.

(I) "Excavation" means the use of hand tools, powered equipment, or explosives to move earth, rock, or other materials in order to penetrate or bore or drill into the earth, or to demolish any structure whether or not it is intended that the demolition will disturb the earth. "Excavation" includes such agricultural operations as the installation of drain tile, but excludes agricultural operations such as tilling that do not penetrate the earth to a depth of more than twelve inches. "Excavation" excludes any activity by a governmental entity which does not penetrate the earth to a depth of more than twelve inches. "Excavation" excludes coal mining and reclamation operations regulated under Chapter 1513. of the Revised Code and rules adopted under it.

(J) "Excavation site" means the area within which excavation will be performed.

(K) "Excavator" means the person or persons responsible for making the actual excavation.

(L) "Interstate gas pipeline" means an interstate gas pipeline subject to the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C. 1671, as amended.

(M) "Interstate hazardous liquids pipeline" means an interstate hazardous liquids pipeline subject to the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 2002, as amended.

(N) "Special notification requirements" means requirements for notice to an owner of an interstate hazardous liquids pipeline or an interstate gas pipeline that must be made prior to commencing excavation and pursuant to the owner's public safety program adopted under federal law.

(O) "Commercial excavator" means any excavator, excluding a utility as defined in this section, that satisfies both of the following:

(1) For compensation, performs, directs, supervises, or is responsible for the excavation, construction, improvement, renovation, repair, or maintenance on a construction project and holds out or represents oneself as qualified or permitted to act as such;

(2) Employs tradespersons who actually perform excavation, construction, improvement, renovation, repair, or maintenance on a construction project.

(P) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes a public authority.

(Q) "Positive response system" means an automated system facilitated by a protection service allowing a utility to communicate to an excavator the presence or absence of any conflict between the existing underground utility facilities and the proposed excavation site.

(R) "One-call notification system" means the software or communications system used by a protection system to notify its membership of proposed excavation sites.

(S) "Project" means any undertaking by a private party of an improvement requiring excavation.

(T) "Public authority" has the same meaning as in section 153.64 of the Revised Code.

(U) "Improvement" means any construction, reconstruction, improvement, enlargement, alteration, or repair of a building, highway, drainage system, water system, road, street, alley, sewer, ditch, sewage disposal plant, water works, and all other structures or works of any nature.

(V) "Emergency" means an unexpected occurrence causing a disruption or damage to an underground utility facility that requires immediate repair or a situation that creates a clear and imminent danger that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services.

(W) "Nondestructive manner" means using low-impact, low-risk technologies such as hand tools, or hydro or air vacuum excavation equipment.

(X) "Cable service provider" has the same meaning as in section 1332.01 of the Revised Code.

(Y) "Electric cooperative" and "electric utility" have the same meanings as in section 4928.01 of the Revised Code.

Sec. 3781.29. (A)(1) Except as otherwise provided in division (A)(2) of this section, within forty-eight hours of receiving notice under section 3781.28 of the Revised Code, each utility shall review the status of its facilities within the excavation site, locate and mark its underground utility facilities at the excavation site in such a manner as to indicate their course, and report the appropriate information to the protection service for its positive response system. If a utility does not mark its underground utility facilities or contact the excavator within that time, the utility is deemed to have given notice that it does not have any facilities at the excavation site. If the utility cannot accurately mark the facilities, the utility shall mark them to the best of its ability, notify the excavator using the positive response system that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

(2) In the case of an interstate hazardous liquids pipeline or an interstate gas pipeline, the owner of the pipeline shall locate and mark its pipeline within the time frame established in the public safety program of the owner.

(B) Unless a facility actually is uncovered or probed by the utility or excavator, any indications of the depth of the facility shall be treated as estimates only.

(C)(1) Except as provided in division (C)(2) of this section, a utility shall mark its underground facilities using the following color codes:

Type of Underground

Utility Facility	Color
Electric power transmission and distribution	Safety red
Gas transmission and distribution	High visibility safety yellow
Oil transmission and distribution	High visibility safety yellow
Dangerous materials, product lines, and steam lines	High visibility safety yellow
Telephone and telegraph systems	Safety alert orange
Police and fire communications	Safety alert orange
Cable television	Safety alert orange
Water systems	Safety precaution blue
Slurry systems	Safety precaution purple
Sewer lines	Safety green.

(2) All underground facilities shall be marked in accordance with the Ohio universal marking standards that are on file with the Ohio utilities protection service. Industry representatives serving on Ohio damage prevention councils shall review the marking standards every two years.

(D) Except as otherwise provided in divisions (E) and (F) of this section, prior to notifying a protection service of the proposed excavation, an excavator shall define and premark the approximate location. Proposed construction or excavation markings shall be made in white through the use of an industry-recognized method such as chalk-based paint, flags, stakes, or other method applicable to the specific site and when possible shall indicate the excavator's identity by name, abbreviation, or initial.

(E)(1) Before beginning an emergency excavation, or as soon as possible thereafter, an excavator shall make every effort to notify a protection service of the excavation. In providing notification, the excavator shall provide, at a minimum:

(a) The name of the individual notifying the protection service;

(b) The name, address, any electronic mail address, and ~~any~~ telephone and facsimile numbers of the excavator;

(c) The specific location of the excavation site;

(d) A description of the excavation.

(2) Upon receiving the information set forth in division (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 location that is open and accessible to the public.

(C) Before convening a meeting by teleconference or video conference, the committee shall send, via electronic mail, ~~facsimile~~, or United States postal service, a copy of meeting-related documents to each committee member.

(D) The minutes of each meeting shall specify who was attending by teleconference, who was attending by video conference, and who was physically present. Any vote taken in a meeting held by teleconference that is not unanimous shall be recorded as a roll call vote.

Sec. 3904.08. (A) If any individual, after proper identification, submits a written request to an insurance institution, agent, or insurance support

organization for access to recorded personal information about the individual that is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent, or insurance support organization, the insurance institution, agent, or insurance support organization, within thirty business days from the date such request is received, shall do all of the following:

(1) Inform the individual of the nature and substance of such recorded personal information in writing, by telephone, or by other oral communication, whichever the insurance institution, agent, or insurance support organization prefers;

(2) Permit the individual to ~~see and copy, in person, such recorded personal information pertaining to him or to~~ obtain a copy of such recorded personal information by mail, whichever the individual prefers in a manner agreed upon by the 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.

(D) Except for personal information provided under section 3904.10 of the Revised Code, an insurance institution, agent, or insurance support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(E) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under division (A) of this section, an insurance institution, agent, or insurance support organization may make arrangements with an insurance support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

(F) The rights granted to individuals in this section extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent, or insurance support organization in connection with an insurance transaction. The rights granted to all natural persons by this division do not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(G) This section does not apply to a consumer reporting agency.

Sec. 4121.19. A full and complete record shall be kept of all proceedings had before the bureau of workers' compensation on any investigation, ~~and all testimony shall be taken down by a stenographer appointed by the bureau.~~

Sec. 4123.512. (A) The claimant or the employer may appeal an order of the industrial commission made under division (E) of section 4123.511 of the Revised Code in any injury or occupational disease case, other than a decision as to the extent of disability to the court of common pleas of the county in which the injury was inflicted or in which the contract of employment was made if the injury occurred outside the state, or in which the contract of employment was made if the exposure occurred outside the state. If no common pleas court has jurisdiction for the purposes of an appeal by the use of the jurisdictional requirements described in this division, the appellant may use the venue provisions in the Rules of Civil Procedure to vest jurisdiction in a court. If the claim is for an occupational disease, the appeal shall be to the court of common pleas of the county in which the exposure which caused the disease occurred. Like appeal may be taken from an order of a staff hearing officer made under division (D) of section 4123.511 of the Revised Code from which the commission has

refused to hear an appeal. Except as otherwise provided in this division, the appellant shall file the notice of appeal with a court of common pleas within sixty days after the date of the receipt of the order appealed from or the date of receipt of the order of the commission refusing to hear an appeal of a staff hearing officer's decision under division (D) of section 4123.511 of the Revised Code. Either the claimant or the employer may file a notice of an intent to settle the claim within thirty days after the date of the receipt of the order appealed from or of the order of the commission refusing to hear an appeal of a staff hearing officer's decision. The claimant or employer shall file notice of intent to settle with the administrator of workers' compensation, and the notice shall be served on the opposing party and the party's representative. The filing of the notice of intent to settle extends the time to file an appeal to one hundred fifty days, unless the opposing party files an objection to the notice of intent to settle within fourteen days after the date of the receipt of the notice of intent to settle. The party shall file the objection with the administrator, and the objection shall be served on the party that filed the notice of intent to settle and the party's representative. The filing of the notice of the appeal with the court is the only act required to perfect the appeal.

If an action has been commenced in a court of a county other than a court of a county having jurisdiction over the action, the court, upon notice by any party or upon its own motion, shall transfer the action to a court of a county having jurisdiction.

Notwithstanding anything to the contrary in this section, if the commission determines under section 4123.522 of the Revised Code that an employee, employer, or their respective representatives have not received written notice of an order or decision which is appealable to a court under this section and which grants relief pursuant to section 4123.522 of the Revised Code, the party granted the relief has sixty days from receipt of the order under section 4123.522 of the Revised Code to file a notice of appeal under this section.

(B) The notice of appeal shall state the names of the administrator of workers' compensation, the claimant, and the employer; the number of the claim; the date of the order appealed from; and the fact that the appellant appeals therefrom.

The administrator, the claimant, and the employer shall be parties to the appeal and the court, upon the application of the commission, shall make the commission a party. The party filing the appeal shall serve a copy of the notice of appeal on the administrator at the central office of the bureau of workers' compensation in Columbus. The administrator shall notify the

employer that if the employer fails to become an active party to the appeal, then the administrator may act on behalf of the employer and the results of the appeal could have an adverse effect upon the employer's premium rates or may result in a recovery from the employer if the employer is determined to be a noncomplying employer under section 4123.75 of the Revised Code.

(C) The attorney general or one or more of the attorney general's assistants or special counsel designated by the attorney general shall represent the administrator and the commission. In the event the attorney general or the attorney general's designated assistants or special counsel are absent, the administrator or the commission shall select one or more of the attorneys in the employ of the administrator or the commission as the administrator's attorney or the commission's attorney in the appeal. Any attorney so employed shall continue the representation during the entire period of the appeal and in all hearings thereof except where the continued representation becomes impractical.

(D) Upon receipt of notice of appeal, the clerk of courts shall provide notice to all parties who are appellees and to the commission.

The claimant shall, within thirty days after the filing of the notice of appeal, file a petition containing a statement of facts in ordinary and concise language showing a cause of action to participate or to continue to participate in the fund and setting forth the basis for the jurisdiction of the court over the action. Further pleadings shall be had in accordance with the Rules of Civil Procedure, provided that service of summons on such petition shall not be required and provided that the claimant may not dismiss the complaint without the employer's consent if the employer is the party that filed the notice of appeal to court pursuant to this section. The clerk of the court shall, upon receipt thereof, transmit by certified mail a copy thereof to each party named in the notice of appeal other than the claimant. Any party may file with the clerk prior to the trial of the action a deposition of any physician taken in accordance with the provisions of the Revised Code, which deposition may be read in the trial of the action even though the physician is a resident of or subject to service in the county in which the trial is had. The bureau of workers' compensation shall pay the cost of the stenographic deposition filed in court and of copies of the stenographic deposition for each party from the surplus fund and charge the costs thereof against the unsuccessful party if the claimant's right to participate or continue to participate is finally sustained or established in the appeal. In the event the deposition is taken and filed, the physician whose deposition is taken is not required to respond to any subpoena issued in the trial of the action. The court, or the jury under the instructions of the court, if a jury is

demanded, shall determine the right of the claimant to participate or to continue to participate in the fund upon the evidence adduced at the hearing of the action.

(E) The court shall certify its decision to the commission and the certificate shall be entered in the records of the court. Appeals from the judgment are governed by the law applicable to the appeal of civil actions.

(F) The cost of any legal proceedings authorized by this section, including an attorney's fee to the claimant's attorney to be fixed by the trial judge, based upon the effort expended, in the event the claimant's right to participate or to continue to participate in the fund is established upon the final determination of an appeal, shall be taxed against the employer or the commission if the commission or the administrator rather than the employer contested the right of the claimant to participate in the fund. The attorney's fee shall not exceed five thousand dollars.

(G) If the finding of the court or the verdict of the jury is in favor of the claimant's right to participate in the fund, the commission and the administrator shall thereafter proceed in the matter of the claim as if the judgment were the decision of the commission, subject to the power of modification provided by section 4123.52 of the Revised Code.

(H)(1) An appeal from an order issued under division (E) of section 4123.511 of the Revised Code or any action filed in court in a case in which an award of compensation or medical benefits has been made shall not stay the payment of compensation or medical benefits under the award, or payment for subsequent periods of total disability or medical benefits during the pendency of the appeal. If, in a final administrative or judicial action, it is determined that payments of compensation or benefits, or both, made to or on behalf of a claimant should not have been made, the amount thereof shall be charged to the surplus fund account under division (B) of section 4123.34 of the Revised Code. In the event the employer is a state risk, the amount shall not be charged to the employer's experience, and the administrator shall adjust the employer's account accordingly. In the event the employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code. If an employer is a state risk and has paid an assessment for a violation of a specific safety requirement, and, in a final administrative or judicial action, it is determined that the employer did not violate the specific safety requirement, the administrator shall reimburse the employer from the surplus fund account under division (B) of section 4123.34 of the Revised Code for the amount of the assessment the employer paid for the violation.

(2)(a) Notwithstanding a final determination that payments of benefits made to or on behalf of a claimant should not have been made, the administrator or self-insuring employer shall award payment of medical or vocational rehabilitation services submitted for payment after the date of the final determination if all of the following apply:

(i) The services were approved and were rendered by the provider in good faith prior to the date of the final determination.

(ii) The services were payable under division (I) of section 4123.511 of the Revised Code prior to the date of the final determination.

(iii) The request for payment is submitted within the time limit set forth in section 4123.52 of the Revised Code.

(b) Payments made under division (H)(1) of this section shall be charged to the surplus fund account under division (B) of section 4123.34 of the Revised Code. If the employer of the employee who is the subject of a claim described in division (H)(2)(a) of this section is a state fund employer, the payments made under that division shall not be charged to the employer's experience. If that employer is a self-insuring employer, the self-insuring employer shall deduct the amount from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(c) Division (H)(2) of this section shall apply only to a claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code arising on or after July 29, 2011.

(3) A self-insuring employer may elect to pay compensation and benefits under this section directly to an employee or an employee's dependents by filing an application with the bureau of workers' compensation not more than one hundred eighty days and not less than ninety days before the first day of the employer's next six-month coverage period. If the self-insuring employer timely files the application, the application is effective on the first day of the employer's next six-month coverage period, provided that the administrator shall compute the employer's assessment for the surplus fund account due with respect to the period during which that application was filed without regard to the filing of the application. On and after the effective date of the employer's election, the self-insuring employer shall pay directly to an employee or to an employee's dependents compensation and benefits under this section regardless of the date of the injury or occupational disease, and the employer shall receive no money or credits from the surplus fund account on account of those payments and shall not be required to pay any amounts into the surplus fund account on account of this section. The election made under

this division is irrevocable.

(I) All actions and proceedings under this section which are the subject of an appeal to the court of common pleas or the court of appeals shall be preferred over all other civil actions except election causes, irrespective of position on the calendar.

This section applies to all decisions of the commission or the administrator on November 2, 1959, and all claims filed thereafter are governed by sections 4123.511 and 4123.512 of the Revised Code.

Any action pending in common pleas court or any other court on January 1, 1986, under this section is governed by former sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 4123.522 of the Revised Code.

Sec. 4123.52. (A) The jurisdiction of the industrial commission and the authority of the administrator of workers' compensation over each case is continuing, and the commission may make such modification or change with respect to former findings or orders with respect thereto, as, in its opinion is justified. No modification or change nor any finding or award in respect of any claim shall be made with respect to disability, compensation, dependency, or benefits, after five years from the date of injury in the absence of the payment of medical benefits under this chapter or in the absence of payment of compensation under section 4123.57, 4123.58, or division (A) or (B) of section 4123.56 of the Revised Code or wages in lieu of compensation in a manner so as to satisfy the requirements of section 4123.84 of the Revised Code, in which event the modification, change, finding, or award shall be made within five years from the date of the last payment of compensation or from the date of death, nor unless written notice of claim for the specific part or parts of the body injured or disabled has been given as provided in section 4123.84 or 4123.85 of the Revised Code. The commission shall not make any modification, change, finding, or award which shall award compensation for a back period in excess of two years prior to the date of filing application therefor.

(B) Notwithstanding division (A) of this section, and except as otherwise provided in a rule that shall be adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors, neither the administrator nor the commission shall make any finding or award for payment of medical or vocational rehabilitation services submitted for payment more than one year after the date the services were rendered or more than one year after the date the services became payable under division (I) of section 4123.511 of the Revised Code, whichever is later. No medical or vocational rehabilitation provider shall bill

a claimant for services rendered if the administrator or commission is prohibited from making that payment under this division.

(C) Division (B) of this section does not apply to requests made by the centers for medicare and medicaid services in the United States department of health and human services for reimbursement of conditional payments made pursuant to section 1395y(b)(2) of title 42, United States Code (commonly known as the "Medicare Secondary Payer Act").

(D) This section does not affect the right of a claimant to compensation accruing subsequent to the filing of any such application, provided the application is filed within the time limit provided in this section.

(E) This section does not deprive the commission of its continuing jurisdiction to determine the questions raised by any application for modification of award which has been filed with the commission after June 1, 1932, and prior to the expiration of the applicable period but in respect to which no award has been granted or denied during the applicable period.

(F) The commission may, by general rules, provide for the destruction of files of cases in which no further action may be taken.

(G) The commission and administrator of workers' compensation each may, by general rules, provide for the retention and destruction of all other records in their possession or under their control pursuant to section 121.211 and sections 149.34 to 149.36 of the Revised Code. The bureau of workers' compensation may purchase or rent required equipment for the document retention media, as determined necessary to preserve the records. Photographs, microphotographs, microfilm, films, or other direct or electronic document retention media, when properly identified, have the same effect as the original record and may be offered in like manner and may be received as evidence in proceedings before the industrial commission, staff hearing officers, and district hearing officers, and in any court where the original record could have been introduced.

Sec. 4125.03. (A) The professional employer organization with whom a shared employee is coemployed shall do all of the following:

(1) Pay wages associated with a shared employee pursuant to the terms and conditions of compensation in the professional employer organization agreement between the professional employer organization and the client employer;

(2) Pay all related payroll taxes associated with a shared employee independent of the terms and conditions contained in the professional employer organization agreement between the professional employer organization and the client employer;

(3) Maintain workers' compensation coverage, pay all workers'

compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the entire amount of payroll associated with those persons;

(4) Provide written notice to each shared employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the professional employer organization and the client employer;

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement;

(6) Maintain a record of workers' compensation claims for each client employer;

(7) Make periodic reports, as determined by the administrator of workers' compensation, of client employers and total workforce to the administrator;

(8) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the administrator;

(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.

(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:

(1) All workers' compensation claims, premiums, and payroll associated with that client employer;

(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section;

(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer.

(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.

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when ~~the~~ any of the following occur:

(a) The information is received by the United States postal service or
~~when the:~~

(b) The information is personally delivered, in writing, directly to the client employer;

(c) The information is delivered by electronic mail to the client employer.

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a shared employee as is necessary to do any of the following:

(1) Conduct the client employer's business, including training and supervising shared employees;

(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business;

(3) Discharge any fiduciary responsibility that the client employer may have;

(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

(E) Unless otherwise agreed to in the professional employer organization agreement, liability for acts, errors, and omissions shall be determined as follows:

(1) A professional employer organization shall not be liable for the acts, errors, and omissions of a client employer or a shared employee when those acts, errors, and omissions occur under the direction and control of the client employer.

(2) A client employer shall not be liable for the acts, errors, and omissions of a professional employer organization or a shared employee when those acts, errors, and omissions occur under the direction and control of the professional employer organization.

(F) Nothing in divisions (D) and (E) of this section shall be construed to limit any liability or obligation specifically agreed to in the professional employer organization agreement.

Sec. 4141.09. (A) There is hereby created an unemployment

compensation fund to be administered by the state without liability on the part of the state beyond the amounts paid into the fund and earned by the fund. The unemployment compensation fund shall consist of all contributions, payments in lieu of contributions described in sections 4141.241 and 4141.242 of the Revised Code, reimbursements of the federal share of extended benefits described in section 4141.301 of the Revised Code, collected under sections 4141.01 to 4141.56 of the Revised Code, and the amount required under division (A)(4) of section 4141.35 of the Revised Code, together with all interest earned upon any moneys deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," any property or securities acquired through the use of moneys belonging to the fund, and all earnings of such property or securities. The unemployment compensation fund shall be used to pay benefits, shared work compensation as defined in section 4141.50 of the Revised Code, and refunds as provided by such sections and for no other purpose.

(B) The treasurer of state shall be the custodian of the unemployment compensation fund and shall administer such fund in accordance with the directions of the director of job and family services. All disbursements therefrom shall be paid by the treasurer of state on warrants drawn by the director. Such warrants may ~~bear the facsimile~~ have the signature of the director printed thereon and that of a deputy or other employee of the director charged with the duty of keeping the account of the unemployment compensation fund and with the preparation of warrants for the payment of benefits to the persons entitled thereto. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, except as provided in division (C) of this section, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository bank to the same extent and in the same manner as required by sections 135.01 to 135.21 of the Revised Code; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state. All sums recovered for losses sustained by the unemployment compensation fund shall be deposited therein. The treasurer of state shall be liable on the treasurer's official bond for the faithful performance of the treasurer's duties in connection with the unemployment compensation fund, such liability to exist in addition to any liability upon any separate bond.

(C) The treasurer of state shall maintain within the unemployment compensation fund three separate accounts which shall be a clearing

account, a trust fund account, and a benefit account. All moneys payable to the unemployment compensation fund, upon receipt by the director, shall be forwarded to the treasurer of state, who shall immediately deposit them in the clearing account. Refunds of contributions, or payments in lieu of contributions, payable pursuant to division (E) of this section may be paid from the clearing account upon warrants signed by a deputy or other employee of the director charged with the duty of keeping the record of the clearing account and with the preparation of warrants for the payment of refunds to persons entitled thereto. After clearance thereof, all moneys in the clearing account shall be deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," in accordance with requirements of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 3304(a)(3), any law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Federal funds may be deposited, at the director's discretion, into the benefit account. Any funds deposited into the benefit account shall be disbursed solely for payment of benefits under a federal program administered by this state and for no other purpose. Moneys in the clearing and benefit accounts may be deposited by the treasurer of state, under the direction of the director, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

(D) Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the director. The director shall requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this state's account therein, as are deemed necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the treasurer of state shall deposit such moneys in the benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not require specific appropriations or other formal release by state officers of money in their custody. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for and may be utilized for the payment of benefits during

succeeding periods, or, in the discretion of the director, shall be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund, as provided in division (C) of this section. Unclaimed or unpaid federal funds redeposited with the secretary of the treasury of the United States shall be credited to the appropriate federal account.

(E) No claim for an adjustment or a refund on contribution, payment in lieu of contributions, interest, or forfeiture alleged to have been erroneously or illegally assessed or collected, or alleged to have been collected without authority, and no claim for an adjustment or a refund of any sum alleged to have been excessive or in any manner wrongfully collected shall be allowed unless an application, in writing, therefor is made within four years from the date on which such payment was made. If the director determines that such contribution, payment in lieu of contributions, interest, or forfeiture, or any portion thereof, was erroneously collected, the director shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments, or payments in lieu of contributions, by the employer, or the director may refund said amount, without interest, from the clearing account of the unemployment compensation fund, except as provided in division (B) of section 4141.11 of the Revised Code. For like cause and within the same period, adjustment or refund may be so made on the director's own initiative. An overpayment of contribution, payment in lieu of contributions, interest, or forfeiture for which an employer has not made application for refund prior to the date of sale of the employer's business shall accrue to the employer's successor in interest.

An application for an adjustment or a refund, or any portion thereof, that is rejected is binding upon the employer unless, within thirty days after the mailing of a written notice of rejection to the employer's last known address, or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application for a review and redetermination setting forth the reasons therefor. The director shall promptly examine the application for review and redetermination, and if a review is granted, the employer shall be promptly notified thereof, and shall be granted an opportunity for a prompt hearing.

(F) If the director finds that contributions have been paid to the director in error, and that such contributions should have been paid to a department of another state or of the United States charged with the administration of an unemployment compensation law, the director may upon request by such department or upon the director's own initiative transfer to such department the amount of such contributions, less any benefits paid to claimants whose

wages were the basis for such contributions. The director may request and receive from such department any contributions or adjusted contributions paid in error to such department which should have been paid to the director.

(G) In accordance with section 303(c)(3) of the Social Security Act, and section 3304(a)(17) of the Internal Revenue Code of 1954 for continuing certification of Ohio unemployment compensation laws for administrative grants and for tax credits, any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly, by an equivalent reduction in the Ohio unemployment taxes or otherwise, by the state from amounts in the unemployment compensation fund.

(H) The treasurer of state, under the direction of the director and in accordance with the "Cash Management Improvement Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit amounts of interest earned by the state on funds in the benefit account established pursuant to division (C) of this section into the unemployment trust fund.

(I) The treasurer of state, under the direction of the director, shall deposit federal funds received by the director for training and administration and for payment of benefits, job search, relocation, transportation, and subsistence allowances pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 993, 19 U.S.C.A. 3801, as amended, into the Trade Act training and administration account, which is hereby created for the purpose of making payments specified under those acts. The treasurer of state, under the direction of the director, may transfer funds from the Trade Act training and administration account to the benefit account for the purpose of making any payments directly to claimants for benefits, job search, relocation, transportation, and subsistence allowances, as specified by those acts.

Sec. 4141.47. (A) There is hereby created the auxiliary services personnel unemployment compensation fund, which shall not be a part of the state treasury. The fund shall consist of moneys paid into the fund pursuant to section 3317.06 of the Revised Code. The treasurer of state shall administer it in accordance with the directions of the director of job and family services. The director shall establish procedures under which school districts that are charged and have paid for unemployment benefits as reimbursing employers pursuant to this chapter for personnel employed pursuant to section 3317.06 of the Revised Code may apply for and receive

reimbursement for those payments under this section. School districts are not entitled to reimbursement for any delinquency charges, except as otherwise provided by law. In the case of school districts electing to pay contributions under section 4141.242 of the Revised Code, the director shall establish procedures for reimbursement of the district from the fund of contributions made on wages earned by any auxiliary service personnel.

(B) In the event of the termination of the auxiliary services program established pursuant to section 3317.06 of the Revised Code, and after the director has made reimbursement to school districts for all possible unemployment compensation claims of persons who were employed pursuant to section 3317.06 of the Revised Code, the director shall certify that fact to the treasurer of state, who shall then transfer all unexpended moneys in the auxiliary services personnel unemployment compensation fund to the general revenue fund. In the event the auxiliary services personnel unemployment compensation fund contains insufficient moneys to pay all valid claims by school districts for reimbursement pursuant to this section, the director shall estimate the total additional amount necessary to meet the liabilities of the fund and submit a request to the general assembly for an appropriation of that amount of money from the general revenue fund to the auxiliary services personnel unemployment compensation fund.

(C) All disbursements from the auxiliary services personnel unemployment compensation fund shall be paid by the treasurer of state on warrants drawn by the director. The warrants may ~~bear~~ have the ~~facsimile~~ signature of the director printed thereon or that of a deputy or other employee of the director charged with the duty of keeping the account of the fund. Moneys in the fund shall be maintained in a separate account on the books of the depository bank. The money shall be secured by the depository bank to the same extent and in the same manner as required by Chapter 135. of the Revised Code. All sums recovered for losses sustained by the fund shall be deposited therein. The treasurer of state is liable on the treasurer of state's official bond for the faithful performance of the treasurer of state's duties in connection with the fund.

(D) All necessary and proper expenses incurred in administering this section shall be paid to the director from the auxiliary services personnel unemployment compensation fund. For this purpose, there is hereby created in the state treasury the auxiliary services program administrative fund. The treasurer of state, pursuant to the warrant procedures specified in division (C) of this section, shall advance moneys as requested by the director from the auxiliary services personnel unemployment compensation fund to the auxiliary services program administrative fund. The director periodically

may request the advance of such moneys as in the treasurer of state's opinion are needed to meet anticipated administrative expenses and may make disbursements from the auxiliary services program administrative fund to pay those expenses.

(E) Upon receipt of a certification from the department of education regarding a refund to a board of education pursuant to section 3317.06 of the Revised Code, the director shall issue a refund in the amount certified to the board from the auxiliary services personnel unemployment compensation fund.

Sec. 4167.10. (A) In order to carry out the purposes of this chapter, the administrator of workers' compensation or the administrator's designee shall, as provided in this section, enter without delay during normal working hours and at other reasonable times, to inspect and investigate any plant, facility, establishment, construction site, or any other area, workplace, or environment where work is being performed by a public employee of a public employer, and any place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any public employer, administrator, department head, operator, agent, or public employee. The authority to inspect and investigate includes the taking of environmental samples, the taking and obtaining of photographs related to the purposes of the inspection or investigation, the examination of records required to be kept under section 4167.11 of the Revised Code and other documents and records relevant to the inspection and investigation, the issuance of subpoenas, and the conducting of tests and other studies reasonably calculated to serve the purposes of implementing and enforcing this chapter. Except as provided in this section, the administrator or the administrator's designee shall conduct scheduled inspections and investigations only pursuant to rules adopted under section 4167.02 of the Revised Code, a request to do so by a public employee or public employee representative, or the notification the administrator receives pursuant to division (B) of section 4167.06 of the Revised Code and only if the administrator or the administrator's designee complies with this section. The administrator or the administrator's designee shall conduct all requested or required inspections within a reasonable amount of time following receipt of the request or notification.

(B)(1) Any public employee or public employee representative who believes that a violation of an Ohio employment risk reduction standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving written notice to the administrator or the administrator's designee of the violation or danger. The notice shall set forth

with reasonable particularity the grounds for the notice, and shall be signed by the public employee or public employee representative. The names of individual public employees making the notice or referred to therein shall not appear in the copy provided to the public employer pursuant to division (B)(2) of this section and shall be kept confidential.

(2) If, upon receipt of a notification pursuant to division (B)(1) of this section, the administrator determines that there are no reasonable grounds to believe that a violation or danger exists, the administrator shall inform the public employee or public employee representative in writing of the determination. If, upon receipt of a notification, the administrator determines that there are reasonable grounds to believe that a violation or danger exists, the administrator shall, within one week, excluding Saturdays, Sundays, and any legal holiday as defined in section 1.14 of the Revised Code, after receipt of the notification, notify the public employer, by certified mail, return receipt requested, of the alleged violation or danger. The notice provided to the public employer or the public employer's agent shall inform the public employer of the alleged violation or danger and that the administrator or the administrator's designee will investigate and inspect the public employer's workplace as provided in this section. The public employer must respond to the administrator, in a method determined by the administrator, concerning the alleged violation or danger, within thirty days after receipt of the notice. If the public employer does not correct the violation or danger within the thirty-day period or if the public employer fails to respond within that time period, the administrator or the administrator's designee shall investigate and inspect the public employer's workplace as provided in this section. The administrator or the administrator's designee shall not conduct any inspection prior to the end of the thirty-day period unless requested or permitted by the public employer. The administrator may, at any time upon the request of the public employer, inspect and investigate any violation or danger alleged to exist at the public employer's place of employment.

(3) The authority of the administrator or the administrator's designee to investigate and inspect a premises pursuant to a public employee or public employee representative notification is not limited to the alleged violation or danger contained in the notification. The administrator or the administrator's designee may investigate and inspect any other area of the premises where there is reason to believe that a violation or danger exists. In addition, if the administrator or the administrator's designee detects any obvious or apparent violation at any temporary place of employment while en route to the premises to be inspected or investigated, and that violation presents a

substantial probability that the condition or practice could result in death or serious physical harm, the administrator or the administrator's designee may use any of the enforcement mechanisms provided in this section to correct or remove the condition or practice.

(4) If, during an inspection or investigation, the administrator or the administrator's designee finds any condition or practice in any place of employment that presents a substantial probability that the condition or practice could result in death or serious physical harm, after notifying the employer of the administrator's intent to issue an order, the administrator shall issue an order, or the administrator's designee shall issue an order after consultation ~~either by telephone or in person~~ with the administrator and upon the recommendation of the administrator, which prohibits the employment of any public employee or any continuing operation or process under such condition or practice until necessary steps are taken to correct or remove the condition or practice. The order shall not be effective for more than fifteen days, unless a court of competent jurisdiction otherwise orders as provided in section 4167.14 of the Revised Code.

(C) In making any inspections or investigations under this chapter, the administrator or the administrator's designee may administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall receive the fees and mileage provided for under section 119.094 of the Revised Code. In the case of contumacy, failure, or refusal of any person to comply with an order or any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, a judge of the court of common pleas of any county in this state, on the application of the administrator or the administrator's designee, shall issue an order requiring the person to appear and to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question. The court may punish any failure to obey the order of the court as a contempt thereof.

(D) If, upon inspection or investigation, the administrator or the administrator's designee believes that a public employer has violated any requirement of this chapter or any rule, Ohio employment risk reduction standard, or order adopted or issued pursuant thereto, the administrator or the administrator's designee shall, with reasonable promptness, issue a citation to the public employer. The citation shall be in writing and describe with particularity the nature of the alleged violation, including a reference to the provision of law, Ohio employment risk reduction standard, rule, or order alleged to have been violated. In addition, the citation shall fix a time

for the abatement of the violation, as provided in division (H) of this section. The administrator may prescribe procedures for the issuance of a notice with respect to minor violations and for enforcement of minor violations that have no direct or immediate relationship to safety or health.

(E) Upon receipt of any citation under this section, the public employer shall immediately post the citation, or a copy thereof, at or near each place an alleged violation referred to in the citation occurred.

(F) The administrator may not issue a citation under this section after the expiration of six months following the final occurrence of any violation.

(G) If the administrator issues a citation pursuant to this section, the administrator shall mail the citation to the public employer by certified mail, return receipt requested. The public employer has fourteen days after receipt of the citation within which to notify the administrator that the employer wishes to contest the citation. If the employer notifies the administrator within the fourteen days that the employer wishes to contest the citation, or if within fourteen days after the issuance of a citation a public employee or public employee representative files notice that the time period fixed in the citation for the abatement of the violation is unreasonable, the administrator shall hold an adjudication hearing in accordance with Chapter 119. of the Revised Code.

(H) In establishing the time limits in which a public employer must abate a violation under this section, the administrator shall consider the costs to the public employer, the size and financial resources of the public employer, the severity of the violation, the technological feasibility of the public employer's ability to comply with requirements of the citation, the possible present and future detriment to the health and safety of any public employee for failure of the public employer to comply with requirements of the citation, and such other factors as the administrator determines appropriate. The administrator may, after considering the above factors, permit the public employer to comply with the citation over a period of up to two years and may extend that period an additional one year, as the administrator determines appropriate.

(I) Any public employer may request the administrator to conduct an employment risk reduction inspection of the public employer's place of employment. The administrator or the administrator's designee shall conduct the inspection within a reasonable amount of time following the request. Neither the administrator nor any other person may use any information obtained from the inspection for a period not to exceed three years in any proceeding for a violation of this chapter or any rule or order issued thereunder nor in any other action in any court in this state.

Sec. 4301.17. (A)(1) Subject to local option as provided in sections 4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies may be established in each county. One additional store may be established in any county for each twenty thousand of population of that county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal decennial census or according to the population estimates certified by the department of development between decennial censuses. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code. The division shall fix the compensation for such an agent in the manner it considers best, but the compensation shall not exceed seven per cent of the gross sales made by the agent in any one year.

(2) The division shall adopt rules in accordance with Chapter 119. of the Revised Code governing the allocation and equitable distribution of agency store contracts. The division shall comply with the rules when awarding a contract under division (A)(1) of this section.

(3) Pursuant to an agency store's contract, an agency store may be issued a D-1 permit to sell beer, a D-2 permit to sell wine and mixed beverages, and a D-5 permit to sell beer, wine, mixed beverages, and spirituous liquor.

(4) Pursuant to an agency store's contract, an agency store may be issued a D-3 permit to sell spirituous liquor if the agency store contains at least ten thousand square feet of sales floor area. A D-3 permit issued to an agency store shall not be transferred to a new location. The division shall revoke any D-3 permit issued to an agency store under division (A)(4) of this section if the agent no longer operates the agency store. The division shall not issue a D-3a permit to an agency store.

(5) An agency store to which a D-8 permit has been issued may allow the sale of tasting samples of spirituous liquor in accordance with section 4301.171 of the Revised Code.

(6) An agency store may sell beer, wine, mixed beverages, and spirituous liquor only between the hours of nine a.m. and eleven p.m.

(B) When an agency contract is proposed, when an existing agency contract is assigned, when an existing agency proposes to relocate, or when an existing agency is relocated and assigned, before entering into any contract, consenting to any assignment, or consenting to any relocation, the division shall notify the legislative authority of the municipal corporation in which the agency store is to be located, or the board of county commissioners and the board of township trustees of the county and the

township in which the agency store is to be located if the agency store is to be located outside the corporate limits of a municipal corporation, of the proposed contract, assignment, or relocation, and an opportunity shall be provided officials or employees of the municipal corporation or county and township for a complete hearing upon the advisability of entering into the contract or consenting to the assignment or relocation. When the division sends notice to the legislative authority of the political subdivision, the division shall notify, ~~by certified mail or by personal service,~~ the chief peace officer of the political subdivision, who may appear and testify, either in person or through a representative, at any hearing held on the advisability of entering into the contract or consenting to the assignment or relocation.

If the proposed agency store, the assignment of an agency contract, or the relocation of an agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing upon the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the division may consent to relocation of the agency store or to the assignment of that contract to operate an agency store at the same location. The division may also consent to the assignment of an existing agency contract simultaneously with the relocation of the agency store. In any such assignment or relocation, the assignee and the location shall be subject to the same requirements that the existing location met at the time that the contract was first entered into as well as any additional requirements imposed by the division in rules adopted by the superintendent of liquor control. The division shall not consent to an assignment or relocation of an agency store until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided those authorities with an opportunity for a complete hearing upon the advisability of consenting to the assignment or relocation.

Any hearing provided for in this division shall be held in the central office of the division, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, the board of township trustees, or the authorities in control of the school, church, library, public playground, or township park, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this