

Chapter 6109: SAFE DRINKING WATER

6109.01 Safe drinking water definitions.

As used in this chapter:

(A) "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. "Public water system" includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system, any collection or pretreatment storage facilities not under such control that are used primarily in connection with the system, and any water supply system serving an agricultural labor camp as defined in section [3733.41](#) of the Revised Code.

(B) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(C) "Person" means the state, any political subdivision, agency, institution, or instrumentality thereof, any federal agency, and any person as defined in section [1.59](#) of the Revised Code.

(D) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C. 300 (f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C. 300 (f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C. 300 (f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C. 300 (f), and regulations adopted under those acts.

(E) "Community water system" means a public water system that has at least fifteen service connections used by year-round residents or that regularly serves at least twenty-five year-round residents.

(F) "Small system" means a public water system serving a population of ten thousand or fewer individuals.

(G) "Technical assistance" means nonfinancial assistance provided by the state to public water systems and other eligible applicants, including, without limitation, assistance for planning and design, development, and implementation of source water quality protection programs; locating alternative supplies of drinking water; operational training; restructuring or consolidation of small systems; providing treatment information in order to assist compliance with a national primary drinking water standard; and other nonfinancial assistance authorized by the requirements governing the funds established under this chapter.

(H) "Disadvantaged community" means the service area or portion of a service area of a public water system that meets affordability and other criteria established by the director of environmental protection in rules adopted under division (M) of section [6109.22](#) of the Revised Code and may include the service area or portion of a service area of a public water system located in a distressed area as defined in section [122.19](#) of the Revised Code.

(I) "Director of environmental protection" or "director" includes an authorized representative of the director.

(J) "Federal Water Pollution Control Act" has the same meaning as in section [6111.01](#) of the Revised Code.

(K) "Nontransient noncommunity water system" means a public water system that regularly serves at least twenty-five of the same persons over six months per year and is not a community water system.

Amended by 131st General Assembly File No. TBD, HB 512, §1, eff. 9/9/2016.

Effective Date: 09-29-1999 .

6109.02 Public water system exemptions.

Except for section [6109.05](#) of the Revised Code, Chapter 6109. of the Revised Code does not apply to a public water system which meets all the following conditions:

- (A) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;
- (B) Obtains all of its water from, but is not owned or operated by, a public water system;
- (C) Does not sell water to any person, as determined by the director of environmental protection;
- (D) Is not a carrier which conveys passengers in interstate commerce.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Effective Date: 12-14-1978 .

6109.03 Purpose of safe drinking water statutes.

The purpose of Chapter 6109. of the Revised Code is to protect the public health and welfare and to enable the state to assume and retain primary enforcement responsibility under the Safe Drinking Water Act.

Effective Date: 12-14-1978 .

6109.04 Director of environmental protection to administer and enforce.

- (A) The director of environmental protection shall administer and enforce this chapter and rules adopted under it.
- (B) The director shall adopt, amend, and rescind such rules in accordance with Chapter 119. of the Revised Code as may be necessary or desirable to do both of the following:
 - (1) Govern public water systems in order to protect the public health;
 - (2) Govern public water systems to protect the public welfare, including rules governing contaminants in water that may adversely affect the suitability of the water for its intended uses or that may otherwise adversely affect the public health or welfare.
- (C) The director may do any or all of the following:
 - (1) Adopt, amend, and rescind such rules in accordance with Chapter 119. of the Revised Code as may be necessary or desirable to do any or all of the following:
 - (a) Govern the granting of variances and exemptions from rules adopted under this chapter, subject to requirements of the Safe Drinking Water Act;
 - (b) Govern the certification of operators of public water systems, including establishment of qualifications according to a classification of public water systems and of provisions for examination, grounds for revocation, reciprocity with other states, renewal of certification, and other provisions necessary or desirable for assurance of proper operation of water systems;
 - (c) Carry out the powers and duties of the director under this chapter.
- (2) Provide a program for the general supervision of operation and maintenance of public water systems;
- (3) Maintain an inventory of public water systems;
- (4) Adopt and implement a program for conducting sanitary surveys of public water systems;
- (5) Establish and maintain a system of record keeping and reporting of activities of the environmental protection agency under this chapter;
- (6) Establish and maintain a program for the certification of laboratories conducting analyses of drinking water;
- (7) Issue, modify, and revoke orders as necessary to carry out the director's powers and duties under this chapter and primary enforcement responsibility for public water systems under the "Safe Drinking Water Act." Orders issued under this chapter are subject to Chapter 119. of the Revised Code.

(D) Before adopting, amending, or rescinding a rule authorized by this chapter, the director shall do all of the following:

(1) Mail notice to each statewide organization that the director determines represents persons who would be affected by the proposed rule, amendment, or rescission at least thirty-five days before any public hearing thereon;

(2) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy, within five days after receipt of the request;

(3) Consult with appropriate state and local government agencies or their representatives, including statewide organizations of local government officials, industrial representatives, and other interested persons.

Although the director is expected to discharge these duties diligently, failure to mail any such notice or copy or to consult with any person does not invalidate any proceeding or action of the director.

Effective Date: 11-26-1997 .

6109.05 Plan for the provision of safe drinking water in emergencies.

(A) The director of environmental protection shall adopt a plan for the provision of safe drinking water in emergencies. For purposes of this section "emergency" means an imminent and substantial danger to human health.

(B) Whenever the director determines that a water supply emergency exists requiring immediate action to protect the public health or welfare and the owner or operator of a public water system has not taken such action, he shall issue an order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet the emergency. Such order shall be issued upon written or oral notice, as may be reasonable under the circumstances, and may be issued without prior hearing. Such order shall take effect immediately. Any person to whom such order is directed shall comply therewith immediately, but on application to the director within ten days after receipt of the order shall be afforded a hearing as soon as possible, and not later than twenty days after such application. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it. No such emergency order shall remain in effect for more than ninety days after its effective date, except that the director may extend the effectiveness of the order for additional periods, not to exceed ninety days in any extension, if the emergency condition still exists on the date of extension.

Effective Date: 12-14-1978 .

6109.06 Water use advisory.

Whenever the director of environmental protection determines that use of water from a public water system presents a threat to the health of persons using such water, he may issue a "water use advisory" alerting the owner, operator, or users of such system of the threat and advising that the use of the water be discontinued or that the water be boiled or otherwise treated to render it safe for use. The director may order the owner or operator of such system to notify its users, or potential users, of the water use advisory by newspaper or other means and to provide notification to radio and television stations.

Effective Date: 12-14-1978 .

6109.07 Construction, installation or change of public water system.

(A) No person shall begin construction or installation of a public water system, or make a substantial change in a public water system, until plans therefor have been approved by the director of environmental protection under division (A)(1) or (2) of this section.

(1) Upon receipt of a proper application, the director shall consider the need for compliance with requirements of the Safe Drinking Water Act, and generally accepted standards for the construction and equipping of water systems, and shall issue an order approving or disapproving the plans. In granting an approval, the director may

stipulate conditions designed to ensure that the system will be able to meet the requirements of this chapter and rules adopted under it.

(2) The director may enter into an agreement with a political subdivision or investor-owned public utility that owns or operates a public water system and that intends to extend the distribution facilities of its system, to increase the number of service connections to its system, or to add distribution system pump stations or storage tanks in the distribution system, which agreement authorizes a qualified officer or employee of the political subdivision or investor-owned public utility, as determined by the director, to review plans for the extension of the distribution facilities, the increase in the number of service connections, or the addition of distribution system pump stations or storage tanks in the distribution system for compliance with this chapter and the rules adopted under it and to certify to the director whether the plans comply with this chapter and the rules adopted under it. If, pursuant to such an agreement, the official or employee of the political subdivision or investor-owned public utility designated in the agreement certifies to the director that the plans comply with this chapter and the rules adopted under it and if the plans and certification are accompanied by an administrative service fee calculated in accordance with division (N)(2) of section [3745.11](#) of the Revised Code, the director shall approve the plans without further review by issuance of an order as a final action.

As used in division (A)(2) of this section, "investor-owned public utility" means a person, other than an individual, that is a water-works company, as defined in section [4905.03](#) of the Revised Code, and that is not owned or operated by a municipal corporation or operated not-for-profit.

(B) No person shall construct or install a public water system, or make any substantial change in a public water system, that is not in accordance with plans approved by the director.

(C) No person shall operate a public water system, and no person who is an owner of a public water system shall permit its operation, if the person knows or has reason to know that the system was constructed or installed, or that a substantial change was made in the system, in violation of division (A) or (B) of this section unless the person has obtained written authorization from the director to operate the system pursuant to division (D) of this section.

(D) The director may issue a notice by certified mail to the operator or owner of a public water system that was constructed, installed, or changed in violation of this section, informing the operator or owner of the violation. The director may issue an order authorizing the operator or owner to operate for ninety days, and the director may extend by order the authorization for periods as may be necessary to allow the owner or operator to submit plans, obtain their approval, and make such changes in the system as may be necessary to bring the system into compliance with the approved plans.

Effective Date: 11-26-1997 .

6109.08 Owner or operator to provide financial assurance.

(A) The director of environmental protection shall not approve plans for construction, installation, or substantial modification of a community water system that serves fewer than five hundred service connections, or any part of such a system, except a system owned and operated by a public entity or a system regulated by the public utilities commission, unless the owner or operator of the system or part thereof has provided financial assurance, in a form acceptable to the director, in an amount equal to fifteen per cent of the cost of the system or part thereof owned by the owner or operator, but not to exceed one hundred thousand dollars.

(B) If a system for which financial assurance is required under division (A) of this section is not properly constructed, maintained, repaired[^] or operated, the director may order the owner or operator of the system or part thereof to correct the deficiencies, and shall authorize the use of money from the financial assurance as necessary to enable compliance with the order. When money from the financial assurance is used, the owner or the operator of the system or part thereof shall replace such money within six months of its use.

(C) For purposes of this section, "community water system" means a public water system that serves at least fifteen service connections used by year-round residents or that regularly serves at least twenty-five year-round residents.

For purposes of this section, "public entity" means the federal government, the state, any political subdivision, and any agency, institution, or instrumentality thereof.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Effective Date: 12-14-1978 .

6109.10 Prevention of lead contamination.

(A)

(1) As used in this section, "lead free" means:

(a) Containing not more than two-tenths of one per cent lead when used with respect to solders or flux;

(b) Containing not more than a weighted average of twenty-five-hundredths per cent lead when used with respect to wetted surfaces of pipes, pipe fittings, or plumbing fittings or fixtures.

(2) For purposes of this section, the weighted average lead content of a pipe, pipe fitting, or plumbing fitting or fixture shall be calculated by using the following formula: for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to determine the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of the weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine whether the wetted surfaces are lead free pursuant to division (A)(1)(b) of this section. For purposes of the lead contents of materials that are provided as a range, the maximum content of the range shall be used.

(B) Except as provided in division (D) of this section, no person shall do any of the following:

(1) Use any pipe, pipe fitting, plumbing fitting, plumbing fixture, including a drinking water fountain, solder, or flux that is not lead free in the installation or repair of a public water system or of any plumbing in a residential or nonresidential facility providing water for human consumption;

(2) Introduce into commerce any pipe, pipe fitting, plumbing fitting, or plumbing fixture, including a drinking water fountain, that is not lead free;

(3) Sell solder or flux that is not lead free while engaged in the business of selling plumbing supplies;

(4) Introduce into commerce any solder or flux that is not lead free unless the solder or flux has a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(C) The owner or operator of a public water system shall identify and provide notice to persons that may be affected by lead contamination of their drinking water. The notice shall be in such form and manner as the director of environmental protection may reasonably require, but shall provide a clear and readily understandable explanation of all of the following:

(1) Potential sources of lead in the drinking water;

(2) Potential adverse health effects;

(3) Reasonably available methods of mitigating known or potential lead content in drinking water;

(4) Any steps the public water system is taking to mitigate lead content in drinking water;

(5) The necessity, if any, of seeking alternative water supplies.

The notice shall be provided notwithstanding the absence of a violation of any drinking water standard.

(D)

(1) Division (B)(1) of this section does not apply to the use of leaded joints that are necessary for the repair of cast iron pipes.

(2) Division (B)(2) of this section does not apply to a pipe that is used in manufacturing or industrial processing.

(3) Division (B)(3) of this section does not apply to the selling of plumbing supplies by manufacturers of those supplies.

(4) Division (B) of this section does not apply to either of the following:

(a) Pipes, pipe fittings, or plumbing fittings or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption;

(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, fire hydrants, service saddles, or water distribution main gate valves that are two inches in diameter or larger.

Amended by 131st General Assembly File No. TBD, HB 512, §1, eff. 9/9/2016.

Effective Date: 09-14-1988 .

6109.11 Investigation of complaints of impure water.

Whenever any person files with the environmental protection agency a complaint, in writing, setting forth that it is believed that water provided by a public water system is impure and dangerous to health or does not contain quantities of fluoride as required by section [6109.20](#) of the Revised Code, the director of environmental protection shall forthwith inquire into and investigate the conditions contained in the complaint.

Effective Date: 12-14-1978 .

6109.12 Public water system analyses.

Every owner or operator of a public water system shall have analyses of the water made at such intervals and in such manner as may be ordered by the environmental protection agency. Records of the results of such analyses shall be maintained and reported as required by the agency.

Effective Date: 12-14-1978 .

6109.121 Adoption of rules relating to water system testing.

(A) Not later than one hundred twenty days after the effective date of this section, 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 division (C) of this section;
- (13) Notwithstanding section [6109.23](#) of the Revised Code, establish the following administrative penalties for violations of the notice requirements established in divisions (C)(1) and (C)(3)(a) of this section that are applicable to a community or nontransient noncommunity water system:
- (a) For a violation of division (C)(1) of this section by a system that serves not less than twenty-five people, but not more than three thousand three hundred people, an administrative penalty of twenty-five dollars per day for each day that the system failed to provide each notice;
- (b) For a violation of division (C)(1) of this section by a system that serves more than three thousand three hundred people, but not more than ten thousand people, an administrative penalty of fifty dollars per day for

each day that the system failed to provide each notice;

(c) For a violation of division (C)(1) of this section by a system that serves more than ten thousand people, but not more than twenty-five thousand people, an administrative penalty of seventy-five dollars per day for each day that the system failed to provide each notice;

(d) For a violation of division (C)(1) of this section by a system that serves more than twenty-five thousand people, an administrative penalty of one hundred dollars per day for each day that the system failed to provide each notice;

(e) For a violation of division (C)(3)(a) of this section by a system that serves not less than twenty-five people, but not more than three thousand three hundred people, an administrative penalty of two hundred fifty dollars per day for each day the system failed to provide the notice;

(f) For a violation of division (C)(3)(a) of this section by a system that serves more than three thousand three hundred people, but not more than ten thousand people, an administrative penalty of five hundred dollars per day for each day the system failed to provide the notice;

(g) For a violation of division (C)(3)(a) of this section by a system that serves more than ten thousand people, but not more than twenty-five thousand people, an administrative penalty of seven hundred fifty dollars per day for each day the system failed to provide the notice;

(h) For a violation of division (C)(3)(a) of this section by a system that serves more than twenty-five thousand people, an administrative penalty of one thousand dollars per day for each day the system failed to provide the notice.

(B) A laboratory that receives a lead or copper tap water sample from a community or nontransient noncommunity water system shall do both of the following:

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

(2) 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.

(C) The owner or operator of a community or nontransient noncommunity water system shall do all of the following, as applicable, with regard to laboratory results received under division (B)(2) of this section:

(1) Not later than two business days after the receipt of the laboratory results, 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;

(2) 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, do all of the following, as applicable:

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

(b) 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;

(c) 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.

(3) 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:

(a) 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.

(b) 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 under division (F) of this section;

(c) 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;

(d) 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.

(D) 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 divisions (C)(1). (C)(2)(c). (C)(3)(a). and (C)(3)(b) of this section, as applicable.

(E) If the owner or operator of a community or nontransient noncommunity water system fails to provide the notices required under division (C)(1) or (C)(3)(a) of this section, the director shall provide those notices beginning ten business days from the date that the director receives laboratory results under division (B) of this section.

(F) Not later than six months after the effective date of this section, the owner or operator of a community or nontransient noncommunity water system shall do all of the following, as applicable:

(1) For the owner or operator of a community water system, identify and map areas of the system that are known or are likely to contain lead service lines and identify characteristics of buildings served by the system that may contain lead piping, solder, or fixtures;

(2) For the owner or operator of a nontransient noncommunity water system, identify and map areas of the system with lead piping, solder, or fixtures in buildings served by the system;

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

(4) Submit a report to the director containing at least both of the following:

(a) The applicable map;

(b) 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.

(G) The owner or operator of a community or nontransient noncommunity water system shall update and resubmit the information required under division (F) of this section once every five years beginning five years after the date of the initial submission.

(H) The director shall provide financial assistance from the drinking water assistance fund established under section [6109.22](#) of the Revised Code to community water systems and nontransient noncommunity water

systems for the purpose of fulfilling the mapping requirements under division (F) of this section and complying with corrosion control requirements established in rules adopted under division (A) of this section. In addition, the director shall post information on the environmental protection agency's web site about other 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.

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

(J) As used in this section:

(1) "Child day-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.

Added by 131st General Assembly File No. TBD, HB 512, §1, eff. 9/9/2016.

6109.13 Approval of connections to public water system.

No official, officer, or employee in charge of or being employed in the maintenance and operation of a public water system and no other person, firm, or corporation shall establish or permit to be established any connection whereby water from a private, auxiliary, or emergency water system may enter the public water system, unless such private, auxiliary, or emergency water system, and the method of connection and use of such system, has been approved by the environmental protection agency.

Effective Date: 12-14-1978 .

6109.14 Notification of danger of contamination - hearing.

When the director of environmental protection finds, upon investigation, that water in a public water system is subject to the danger of contamination by reason of unsatisfactory location, protection, construction, operation, or maintenance of the system, or by reason of the existence of an unsafe emergency system or connection to an unsafe private or auxiliary system, or if the director finds upon investigation that the public health is endangered by reason of the existence of an inadequate public water system, or that the system does not contain quantities of fluoride as required by section [6109.20](#) of the Revised Code, he shall notify the municipal corporation, county, public institution, or person, owning or operating such public water system of his findings and of the time and place, when and where a hearing may be had. Such notice shall be by personal service, or shall be sent by certified mail to the mayor or managing officer or officers of the municipal corporation, county, or public institution or to the person owning or operating such supply.

Effective Date: 12-14-1978 .

6109.15 Improvements, corrections, and changes to prevent contamination.

After the hearing provided for in section [6109.14](#) of the Revised Code, if the director of environmental protection determines that improvements or changes are necessary and should be made, the director shall order the mayor or managing officer or officers of the municipal corporation, county, or public institution or other person owning or operating a public water system to make improvements, corrections, and changes in the location, protection, construction, operation, or maintenance of the system satisfactory to the director, so as to prevent the

contamination of the water or to provide a system not subject to the danger of contamination, or to provide a system adequate to avoid endangering the public health or to provide required quantities of fluoride. Notice of the director's order shall be made by personal service upon or by certified mail to the mayor or managing officer or officers of the municipal corporation, county, or public institution or to the officials, corporation, partnership, or person to whom the order applies.

Effective Date: 12-14-1978 .

6109.16 Writ of mandamus.

If the responsible officers of a municipal corporation, county, or public institution fail to submit to the director, within ninety days after receipt of notice of an order of the director of environmental protection under section [6109.15](#) of the Revised Code, plans for compliance with the order, or fail to perform any act required of them by such order within a reasonable time, the order may be enforced by a writ of mandamus issued by any court authorized to issue such writ.

Effective Date: 12-14-1978 .

6109.17 Funds for safe drinking water systems.

The legislative authority of each municipal corporation, or the department or officer having jurisdiction to provide for the raising of revenue by tax levies, sales of bonds, or otherwise shall take all steps necessary to secure the funds for any purpose set forth in sections [6109.11](#) to [6109.20](#) of the Revised Code. When the funds are secured, or the bonds therefor have been sold, such funds shall be considered as in the treasury and appropriated for such particular purpose, and shall not be used for any other purpose.

Effective Date: 12-14-1978 .

6109.18 Emergency bonds to fund safe drinking water improvements.

If the director of environmental protection determines that the municipal corporation is unable to comply with section [6109.17](#) of the Revised Code by reason of existing debt and tax limitations, the director may find that an emergency exists requiring the immediate issuance of bonds. When such finding is approved by the tax commissioner and is certified to the taxing authority of the municipal corporation, it shall issue bonds, or notes in anticipation thereof, and such bonds or notes shall be outside the limitations provided by section [133.05](#) of the Revised Code. The debt charges on bonds issued under order of the director outside the limitations prescribed by section [133.05](#) of the Revised Code shall be outside the one per cent limitation prescribed by Section 2 of Article XII, Ohio Constitution.

Effective Date: 10-30-1989 .

6109.19 Additional charges for water supply to pay for improvements.

Where an order of the director of environmental protection to a person owning and operating a public water system whose rates are regulated by the public utilities commission is final and it is claimed by such person that the revenues derived from the operation of such system is not sufficient to warrant the expense of making the improvements or changes so ordered, an application may be made to the public utilities commission for authority to make and collect additional charges from the water consumers and users of the utility's service. Upon the filing of such application the commission shall fix a time for the hearing thereof and give notice thereof to the mayor of the municipal corporation and the director. If upon hearing the commission finds that the rates theretofore authorized to be charged will not provide revenue sufficient to operate said system and make a reasonable return upon the investment after such improvements and changes are made, it shall by order authorize the collection of such additional charges and compensation as may be just and reasonable.

Effective Date: 12-14-1978 .

6109.20 Maintaining fluoride content of public water supply.

If the natural fluoride content of supplied water of a public water system is less than eight-tenths milligrams per liter of water, fluoride shall be added to such water to maintain fluoride content of not less than eight-tenths milligrams per liter of water nor more than one and three-tenths milligrams per liter of water beginning:

(A) On or before January 1, 1971, for a public water system supplying water to twenty thousand or more persons;

(B) On or before January 1, 1972, for a public water system supplying water to five thousand or more persons, but less than twenty thousand persons.

Effective Date: 12-14-1978 .

6109.21 License to operate public water system.

(A) Except as provided in divisions (I) and (J) of this section, no person shall operate a public water system in this state without a license issued by the director of environmental protection.

(B) A person who proposes to operate a new public water system, in addition to complying with section [6109.07](#) of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system.

(C) A license shall expire on the thirtieth day of January in the year following its issuance.

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license.

(E) Each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section [3745.11](#) of the Revised Code. However, an applicant for an initial license who is proposing to operate a new public water system shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(F) Not later than thirty days after receiving a completed application and the appropriate license fee for a license or license renewal for a public water system, the director shall do one of the following:

(1) Issue the license or license renewal for the public water system;

(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license or license renewal if the director finds that the public water system cannot be operated in substantial compliance with this chapter and rules adopted under it.

(G) The director may condition, suspend, or revoke a license or license renewal issued under this section at any time if the director finds that the public water system was not or will not be operated in substantial compliance with this chapter and rules adopted under it.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements governing both of the following:

(1) Information to be included on applications for licenses and license renewals issued under this section;

(2) The issuance, conditioning, suspension, revocation, and denial of licenses and license renewals under this section.

(I)

(1) As used in division (I) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families.

(J) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(K) The environmental protection agency shall collect well log filing fees on behalf of the division of water resources in the department of natural resources in accordance with section [1521.05](#) of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 6/30/2013, and 9/29/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 6/30/2011.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 06-26-2003; 06-30-2005; 2007 HB119 09-29-2007 .

6109.22 Rules for administrative assessment and collection of monetary penalties.

(A) There is hereby created the drinking water assistance fund to provide financial and technical assistance for the purposes of protecting public health and achieving and maintaining compliance with the Safe Drinking Water Act and this chapter. In addition to the accounts created under divisions (G) and (H) of this section, the drinking water assistance fund may include any other accounts established by the director of environmental protection. The fund shall be administered by the director consistent with the Safe Drinking Water Act, this section, and rules adopted under division (M) of this section.

(B) The drinking water assistance fund shall consist of the moneys credited to it from all capitalization grants received under the Safe Drinking Water Act except for moneys reserved by the governor pursuant to Title III, section 302 of that act, all moneys credited to the fund from nonfederal sources, including, without limitation, the proceeds of state bonds or notes issued for the benefit of the fund, all payments of principal and interest on loans made from the fund, and all investment earnings on moneys held in the fund. On or before the date that a capitalization grant payment made under the authority of the Safe Drinking Water Act is credited to the fund, required matching moneys shall be credited to the fund. Any moneys transferred to or reserved from the drinking water assistance fund pursuant to Title III, section 302 of the Safe Drinking Water Act shall be accounted for separately.

(C) In a manner consistent with the Safe Drinking Water Act and the applicable drinking water assistance management plan prepared in accordance with this section, the director may reserve and award for assistance moneys allotted to the state under section 1452 of the Safe Drinking Water Act, provided that the director makes a determination that the use of the moneys will accomplish the state's objectives and the objectives established for capitalization grants under the Safe Drinking Water Act. The director may use a portion of the reserved moneys to enter into contracts with qualified organizations, including private nonprofit organizations, to provide statewide on-site technical assistance to small public water systems.

(D) Subject to the terms of the agreements provided for in division (E) of this section, moneys in the drinking water assistance fund shall be held in trust by the Ohio water development authority for the purposes of this section, shall be kept in the same manner that funds of the authority are kept under section [6121.11](#) of the Revised Code, and may be invested in the same manner that funds of the authority are invested under section [6121.12](#) of the Revised Code. Moneys in the drinking water assistance fund shall be separate and apart from and not a part of the state treasury or of the other funds of the authority. No withdrawals or disbursements shall be made from the drinking water assistance fund without the written authorization of the director.

(E) The director shall adopt written criteria to ensure that fiscal controls are established for prudent administration of the drinking water assistance fund. For that purpose, the director and the authority shall enter into any necessary and appropriate agreements under which the authority may perform or provide any of the following:

- (1) Fiscal controls and accounting procedures governing fund balances, receipts, and disbursements;
- (2) Administration of loan accounts;
- (3) Maintenance, management, and investment of moneys in the fund.

Any agreement entered into under division (E) of this section shall provide for the payment of reasonable fees to the authority for any services it performs under the agreement and may provide for reasonable fees for the assistance of financial or accounting advisors. Payment of any of the fees to the authority may be made from the drinking water assistance administrative account established under division (G) of this section.

(F) The authority may make moneys available to the director for the purpose of providing matching moneys required to be credited to the drinking water assistance fund under division (B) of this section, subject to any terms that the director and the authority consider appropriate, and may pledge moneys that are held by the authority to secure the payment of bonds or notes issued by the authority to provide those matching moneys.

The director and the authority may enter into trust agreements to enable the authority to issue and refund bonds or notes for the sole benefit of the drinking water assistance fund, including, without limitation, the raising of matching moneys required to be credited to the fund in accordance with division (B) of this section. The agreements may authorize the pledge of moneys accruing to the fund from payments of principal or interest or both on loans made from the fund to secure bonds or notes, the proceeds of which bonds or notes shall be for the sole benefit of the drinking water assistance fund. The agreements may contain any terms that the director and the authority consider reasonable and proper for the payment and security of the bondholders or noteholders.

(G) There is hereby established within the drinking water assistance fund the drinking water assistance administrative account. No state matching moneys deposited into the fund under this section shall be used for the purpose of paying for or defraying the costs of administering this section. The director may establish and collect fees from applicants for assistance provided under this section. The total fees charged to an applicant under this division for assistance under this section shall not exceed the following:

- (1) For the environmental protection agency, one per cent of the principal amount of the assistance awarded to the applicant;
- (2) For the authority, thirty-five one-hundredths of one per cent of the principal amount of the assistance awarded to the applicant.

All moneys from the fees shall be credited to the drinking water assistance administrative account in the fund. The moneys shall be used solely to defray the costs of administering this section.

(H) There is hereby established within the drinking water assistance fund the water supply revolving loan account. The director may provide financial assistance from the water supply revolving loan account for improvements to community water systems and to nonprofit noncommunity public water systems.

(I) All moneys from the fund credited to the water supply revolving loan account, all interest earned on moneys credited to the account, and all payments of principal and interest on loans made from the account shall be dedicated in perpetuity and used and reused solely for the following purposes, except as otherwise provided in this section:

- (1) To make loans to community water systems and nonprofit noncommunity public water systems, subject to all of the following conditions:
 - (a) The loans are made at or below market rates of interest, including, without limitation, interest-free loans;

- (b) Each recipient of a loan shall establish a dedicated source of security or revenue for repayment of the loan;
 - (c) Periodic payments of principal and interest shall be required on the dates and in the amounts approved by the director;
 - (d) All payments of principal and interest on the loans shall be credited to the water supply revolving loan account.
- (2) To purchase or refinance at or below market rates interest debt obligations incurred after July 1, 1993, by municipal corporations, other political subdivisions, and interstate agencies having territory in the state. If any debt obligations are purchased or refinanced under division (I)(2) of this section to provide financial assistance for any of the purposes allowed under division (I) of this section, the repayment period may extend up to forty-five years. However, the repayment period shall not exceed the expected useful life of any facilities that are financed by the obligations.
- (3) To guarantee or purchase insurance for debt obligations when the guarantee or insurance would improve the borrower's access to credit markets or would reduce the interest paid on those obligations;
- (4) As a source of revenue or security for the payment of principal and interest on general obligation or revenue bonds or notes issued by this state if the proceeds of the sale of the bonds or notes are or will be deposited into the account;
- (5) To provide subsidies in addition to any other financial assistance afforded disadvantaged communities under this section;
- (6) To earn interest on moneys credited to the account;
- (7) To provide any other assistance authorized by the Safe Drinking Water Act or any other federal law related to the use of federal funds administered under the Safe Drinking Water Act.
- (J) The director may provide financial assistance from the water supply revolving loan account after determining all of the following:
- (1) The applicant for financial assistance has the legal, institutional, managerial, and financial capability to construct, operate, and maintain its public water system and the proposed improvements to it;
 - (2) The applicant will implement a financial management plan that includes, without limitation, provisions for satisfactory repayment of the financial assistance;
 - (3) The public water system of which the project for which assistance is proposed is a part is economically and nonmonetarily cost-effective, based on an evaluation of feasible alternatives that meet the drinking water treatment needs of the planning area in which the proposed project is located;
 - (4) Based on a comprehensive environmental review approved by the director, there are no significant adverse environmental effects resulting from all necessary improvements to the public water system of which the project proposed for assistance is a part;
 - (5) Public participation has occurred during the process of planning the project in compliance with applicable requirements under the Safe Drinking Water Act;
 - (6) The application meets the requirements of this section and rules adopted under division (M) of this section and is consistent with section 1452 of the Safe Drinking Water Act and regulations adopted under it;
 - (7) If the applicant for assistance is a water district formed under Chapter 6119. of the Revised Code that operates a public water system and that water district seeks to extend the distribution facilities, increase the number of service connections to its system, or provide for any other expansion of its system, the water district has consulted with the board of county commissioners from each county in which is located the proposed extension of distribution facilities, increase in the number of service connections, or other expansion of the public water system;

(8) The application meets any other requirements that the director considers necessary or appropriate to protect public health and the environment and to ensure the financial integrity of the water supply revolving loan account.

Upon approval by the director of an application for financial assistance, the Ohio water development authority shall disburse the appropriate financial assistance from the water supply revolving loan account. If the proposed financial assistance is a loan, and if the payments of the principal or interest on the loan are or are expected to be pledged to secure payment of bonds issued or expected to be issued by the authority, the director shall submit the application for the loan to the authority for review and approval with respect to any matters pertaining to security for and the marketability of authority bonds. Review and approval by the authority shall be required prior to the making of such a loan.

(K) In accordance with rules adopted under division (M) of this section, the director periodically shall prepare a drinking water assistance management plan establishing the short-term and long-term goals for the assistance provided under this section, the allocation of available resources for the purposes of this section, the environmental, financial, and administrative terms, conditions, and criteria for the award of financial and technical assistance under this section, and the intended uses of capitalization grants and available moneys from the drinking water assistance fund. Criteria for awarding financial or technical assistance under this section shall not favor or disfavor any otherwise qualified nonprofit noncommunity public water system because it is owned by, operated by, or services a religious organization or a facility used for religious purposes. Prior to its adoption, the director shall make the drinking water assistance management plan available for public review and comment at a minimum of two public meetings and shall take adequate steps to ensure that reasonable public notice of each public meeting is given at least thirty days prior to the meeting.

The plan shall include, without limitation, a system that prioritizes projects funded by the water supply revolving loan account based on the relative risk to human health being addressed, their necessity for ensuring compliance with requirements of the Safe Drinking Water Act, and their affordability to the applicants, as determined by the director. Financial assistance for projects from the water supply revolving loan account shall be limited to projects that are included in that prioritization and shall be awarded based upon their priority position and the applicants' readiness to proceed with their proposed activities as determined by the director. The drinking water assistance management plan shall include terms, conditions, amounts of moneys, and qualifying criteria, in addition to any other criteria established under this section, governing the financial assistance to be awarded to applicants from the water supply revolving loan account. The director shall determine the most effective use of the moneys in that account to achieve the state's drinking water assistance goals and objectives.

(L) The director, consistent with this section and applicable rules adopted under division (M) of this section, may enter into an agreement with an applicant for assistance from the drinking water assistance fund. Based on the director's review and approval of the project plans submitted under section [6109.07](#) of the Revised Code, any determinations made under division (J) of this section if an applicant seeks funding from the water supply revolving loan account, and any other requirements of this section and rules adopted under it, the director may establish in the agreement environmental and financial terms and conditions of the financial assistance to be offered to the applicant. If the recipient of financial assistance under this section defaults on any payment required in the agreement for financial assistance or otherwise violates a term or condition of the agreement or of the plan approval for the project under section [6109.07](#) of the Revised Code, the director, in addition to any other available remedies, may terminate, suspend, or require immediate repayment of the financial assistance. The director also may take any enforcement action available under this chapter.

(M) The director may adopt rules in accordance with Chapter 119. of the Revised Code for the implementation and administration of this section. The rules shall be consistent with section 1452 of the Safe Drinking Water Act.

(N)

(1) For the purposes of this section, appealable actions of the director pursuant to section [3745.04](#) of the Revised Code are limited to the following:

(a) Adoption of the drinking water assistance management plan prepared under division (K) of this section;

(b) Approval of priority systems, priority lists, and written program administration policies;

(c) Approval or disapproval under this section of applicants' project plans submitted under section [6109.07](#) of the Revised Code;

(d) Approval or disapproval of an application for assistance.

(2) Notwithstanding section [119.06](#) of the Revised Code, the director may take the final actions described in divisions (N)(I)(a) to (d) of this section without holding an adjudication hearing in connection with the action and without first issuing a proposed action under section [3745.07](#) of the Revised Code.

(3) Each action described in divisions (N)(I)(a) to (d) of this section and each approval of a plan under section [6109.07](#) of the Revised Code is a separate and discrete action of the director. Appeals are limited to the issues concerning the specific action appealed. Any appeal shall not include issues determined under the scope of any prior action.

(O) The failure or inability of a public water system to obtain assistance under this section does not alter the obligation of the public water system to comply with all applicable requirements of this chapter and rules adopted under it.

Amended by 131st General Assembly File No. TBD, HB 512, §1, eff. 9/9/2016.

Amended by 128th General Assembly File No. 47, SB 181, §1, eff. 9/13/2010.

Effective Date: 11-26-1997 .

[6109.23 Administrative assessment and collection of monetary penalties for failure to comply with safe drinking water rules.](#)

To the extent required by the Safe Drinking Water Act, the director of environmental protection may adopt, amend, and rescind rules pursuant to section [6109.04](#) of the Revised Code providing for the administrative assessment and collection of monetary penalties for failure to comply with this chapter or rules adopted under it. For public water systems serving populations of more than ten thousand, a monetary penalty assessed under this section shall be not less than one thousand dollars for each day of each violation, but in no case shall the total amount of monetary penalty exceed ten thousand dollars per violation. For public water systems serving populations of ten thousand or fewer, the rules adopted under this section shall establish a methodology for calculating the monetary penalty based on the size of the system, the threat to public health presented by the failure to comply, and other factors that may be necessary to ensure compliance with this chapter and rules adopted under it, but in no case shall the total amount of monetary penalty exceed two thousand five hundred dollars per violation. For the purposes of this section, the director may require the submission of compliance schedules and related information.

Any orders, payments, sanctions, or other requirements imposed pursuant to rules adopted under this section are in addition to any other orders, payments, sanctions, or requirements issued or imposed under this chapter and rules adopted under it and shall not affect any civil or criminal enforcement proceedings brought under this chapter, rules adopted under it, or any other state or local law. Moneys collected pursuant to this section shall be credited to the drinking water protection fund created in section [6109.30](#) of the Revised Code.

Effective Date: 11-26-1997 .

[6109.24 Rule governing demonstration of technical, managerial, and financial capability of water systems; implementation of asset management programs.](#)

(A) The director of environmental protection shall adopt, and may amend and rescind, rules pursuant to section [6109.04](#) of the Revised Code establishing requirements governing the demonstration of technical, managerial, and financial capability for the purposes of this section.

(B)

(1) A public water system shall demonstrate the technical, managerial, and financial capability of the system to comply with this chapter and rules adopted under it by implementing an asset management program not later than October 1, 2018.

(2) Notwithstanding division (B)(1) of this section, the director may require a public water system to complete an asset management program prior to October 1, 2018.

(3) A public water system shall include in the asset management program all of the following:

(a) An inventory and evaluation of all public water system assets;

(b) Public water system operation and maintenance programs;

(c) A public water system emergency preparedness and contingency planning program;

(d) Criteria and timelines for public water system infrastructure rehabilitation and replacement;

(e) Approved public water system capacity projections and public water system capital improvement planning;

(f) A long-term funding strategy to support the public water system's asset management program implementation.

(C) If requested by the director, a public water system shall submit a written description of the system's asset management program to the director. The system shall submit the written description not later than thirty days after the date of the request. A small public water system may meet the written description requirement by doing both of the following:

(1) Submitting the template made available by the director under division (F)(1) of this section;

(2) Including with the completed template a statement that the activities described in the template are being implemented.

(D) If a public water system fails to submit an acceptable written description of the system's asset management program or otherwise fails to demonstrate technical, managerial, and financial capability in accordance with this section and rules adopted under it. the director may request the owner or operator of the system to revise and resubmit the written description. Environmental protection agency staff may provide technical guidance to a public water system in preparing the asset management program or while addressing deficiencies noted in the asset management program.

(E) If a public water system fails to demonstrate technical, managerial, and financial capability in accordance with this section and rules adopted under it. the director may take any action authorized by this chapter or rules adopted under it to improve and ensure the capability of the public water system, including denying a plan submitted under section [6109.07](#) of the Revised Code.

(F) The director shall make available both of the following either on the environmental protection agency's web site or via another public forum:

(1) A template for small public water systems to prepare an asset management program;

(2) Information about sources of funding available to assist public water systems with preparing and completing an asset management program.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Effective Date: 11-26-1997 .

6109.25 Appointment of receiver; petition.

(A)

(1) Upon petition by the director of environmental protection, a court of common pleas may appoint a receiver to take possession of and operate a public water system that serves fewer than five hundred service connections only when conditions existing at the public water system present a threat to public health or welfare. However, division (A)(1) of this section does not apply to a system owned and operated by a public entity or a system regulated by the public utilities commission.

(2) The director shall include all of the following in a petition:

(a) A description of the specific conditions existing at the public water system which present a threat to public health or welfare;

(b) A statement of the absence of other adequate remedies at law;

(c) The population served by the public water system;

(d) A statement that declares both of the following:

(i) The facts concerning the conditions at the public water system have been brought to the attention of the owner and operator or that efforts to contact the owner or operator have been unsuccessful;

(ii) The conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the public water system as a pattern or practice.

(e) The name and address of the owner of the public water system.

(B)

(1) The director shall send notice of the filing to all of the following:

(a) The appropriate local board of health;

(b) Customers of the public water system;

(c) Any party with a known ownership interest in the public water system;

(d) Any other appropriate persons identified by the director.

(2) The court shall conduct a hearing on the petition within five court days of the day it is filed, except that the court may appoint a receiver prior to that time if the court determines that the circumstances necessitate such action. If the court appoints a receiver prior to conducting a hearing on the petition, the court shall provide notice of the appointment to any party with a known ownership interest in the system. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the director, any party with a known ownership interest in the system, and any other appropriate persons of the appointment.

(C) All of the following apply to the court's appointment of a receiver under this section:

(1) The court shall not appoint a person who is not a resident of this state.

(2) In selecting a receiver, the court shall give priority consideration to any qualified persons nominated by the director. However, the court is not required to select a qualified person nominated by the director.

(3) The court shall not appoint a person with a financial or ownership interest in the public water system.

(D) Prior to acting as a receiver, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court. The receiver shall execute a bond in an amount required by the court, to the effect that the receiver will faithfully discharge the duties of receiver and obey the orders of the court.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may authorize the receiver to take actions necessary to safely and efficiently operate the public water system within

the requirements of state and federal law. However, the court shall require the receiver to obtain court approval prior to making any single expenditure of more than fifteen thousand dollars. In addition, if the receiver proposes to enter into a contract that is necessary to carry out the receiver's powers and duties and that is valued at fifteen thousand dollars or more, the receiver shall present to the court at least two cost quotations from different vendors before entering into the contract. The court shall closely review the conduct of the receiver it has appointed and shall require monthly detailed reports.

(F) Under control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property. The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to persons served by the public water system during the period of the receivership at the same rate as was charged by the owner at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership.

(3) Make monthly reports on the status of the public water system to the director and the owner of the public water system;

(4) Compromise demands or claims;

(5) Take actions necessary for the operation of the public water system in compliance with this chapter and the rules adopted under it.

(6) Perform any other action regarding the public water system as the court authorizes.

(G) Neither the receiver nor the director is liable for debts incurred by the owner or operator of a public water system for which a receiver has been appointed.

(H) The court shall terminate a receivership established pursuant to this section following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The public water system has been closed and is no longer operating.

(2) Circumstances no longer exist at the public water system that present a threat to public health or welfare, and there is no deficiency in the public water system that is likely to create a future risk of harm.

Notwithstanding division (H)(2) of this section, the court shall not terminate a receivership for a public water system that has previously operated under another receivership, under the same owner, unless the responsibility for the operation of the public water system is transferred to an owner or operator approved by the court and the director.

(I) The director shall provide technical assistance to any receiver appointed under this section.

Added by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

6109.30 Drinking water protection fund.

(A) There is hereby created in the state treasury the drinking water protection fund, which shall be administered by the director of environmental protection. The fund shall consist of moneys distributed to it and shall be used for all of the following purposes:

(1) Administration of this chapter and rules adopted under it;

- (2) Administration in this state of the Safe Drinking Water Act ;
- (3) Provision of technical assistance to public water systems in this state for the purposes of this chapter and rules adopted under it;
- (4) Special studies conducted by the director for the monitoring and testing of drinking water quality in this state;
- (5) Support of programs for the prevention of contamination of surface and ground water supplies in this state that are sources of drinking water.

(B) The director may expend not more than two hundred thousand dollars from the fund in each fiscal year for the purpose of making loans to owners and operators of public water systems for emergency remediation of threats of contamination to public water supplies. The director shall not loan more than twenty-five thousand dollars to the owner or operator of any single public water system. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing application procedures and requirements for those loans. The rules shall require that an owner or operator receiving a loan under this division repay the loan to the fund not later than twelve months after receiving it.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Effective Date: 07-01-1993 .

6109.31 Violations - noncompliance.

(A) No person shall violate this chapter, a rule adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the director of environmental protection under it. Each day of noncompliance is a separate violation.

(B) No person shall make a false material statement or representation in an application, license, record, report, or other document that is required to be submitted to the director or to the attorney general under this chapter, a rule adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the director under it.

(C) No person shall alter, substitute, falsify, conceal, or purposefully omit a sample that is required to be collected pursuant to any reporting requirement that is established under this chapter or a rule adopted under it.

(D) No person shall tamper with, alter, or interfere with the operation of a public water system without the authorization of the owner or operator of the system or of the director.

Amended by 129th General Assembly File No.115, SB 294, §1, eff. 9/5/2012.

Effective Date: 07-01-1993 .

6109.32 Investigations - enforcement by attorney general.

The director of environmental protection may on the director's own initiative investigate or make inquiries into any suspected violation of section [6109.31](#) of the Revised Code.

The attorney general, upon written request by the director, shall bring an action for injunction or other appropriate civil action or criminal prosecution against any person violating or threatening to violate that section. In an action for injunction to enforce any final order of the director, the finding by the director, after hearing, is prima-facie evidence of the facts found therein.

Amended by 129th General Assembly File No.115, SB 294, §1, eff. 9/5/2012.

Effective Date: 12-14-1978 .

6109.33 Civil penalty.

Any person who violates section [6109.31](#) of the Revised Code shall pay a civil penalty of not more than twenty-five thousand dollars for each violation, to be paid into the state treasury to the credit of the drinking water protection fund created in section [6109.30](#) of the Revised Code. The attorney general, upon written request by the director of environmental protection, shall bring an action for such a penalty against any person who violates that section. Such an action is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions.

Effective Date: 07-01-1993 .

6109.34 Right of entry.

The director of environmental protection or his duly authorized representative may enter at reasonable times upon any private or public property to inspect and investigate conditions relating to the construction, maintenance, and operation of a public water system, and may take samples for analysis. If entry or inspection authorized by this section is refused, hindered, or thwarted, the director or his 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.

Effective Date: 12-14-1978 .

6109.35 Nonliability of water suppliers.

(A) As used in this section:

(1) "Water supplier" means an entity that is subject to this chapter and rules adopted under it and that supplies drinking water through pipes, through tubing, or in a similar manner to consumers within this state.

(2) "Acquiring water supplier" means a water supplier that satisfies both of the following:

(a) The water supplier acquires ownership of an existing water supplier.

(b) The water supplier and the acquired existing water supplier do not have any mutual directors, officers, controlling shareholders, or other persons with an ownership interest prior to the acquisition.

(3) "Drinking water standards" means safe drinking water standards established by the environmental protection agency under this chapter or established by the United States environmental protection agency under the Safe Drinking Water Act.

(B) An acquiring water supplier that acquires ownership of an existing public water system is not liable in damages in a civil action for injury, death, or loss to person or property that occurred prior to the acquisition and that was allegedly caused by the previous water supplier's failure to comply with drinking water standards if the acquiring water supplier does both of the following:

(1) Enters into a written agreement with the environmental protection agency to bring the water system into compliance with drinking water standards within a specified period of time;

(2) Brings the water system into compliance with drinking water standards within the time period agreed to under division (B)(1) of this section.

(C) A water supplier that operates a public water system is not liable in damages in a civil action to any person for injury, death, or loss to person or property that allegedly arises from the person's consumption of water supplied by the water supplier if all of the following apply:

(1) During the period of time that the water supplier supplies water to the person, the water supplied by the water supplier meets all applicable drinking water standards.

(2) The water supplier has not been found to be in significant noncompliance with drinking water standards.

(3) The injury, death, or loss to person or property is alleged to be caused by a substance for which drinking water standards have been established.

(D)

(1) This section does not create a new cause of action or substantive legal right against a water supplier.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a water supplier may be entitled under circumstances not covered by this section.

(3) This section does not create immunity from civil liability for violations of section [6109.31](#) of the Revised Code.

Effective Date: 06-18-2002 .

6109.99 Criminal penalties.

(A) Except as provided in division (C) of this section, whoever recklessly violates section [6109.31](#) of the Revised Code is guilty of a misdemeanor and, notwithstanding section [2929.28](#) of the Revised Code, shall be fined not more than ten thousand dollars or imprisoned for not more than four years, or both. Each day of violation constitutes a separate offense.

(B) Whoever knowingly violates division (B), (C), or (D) of section [6109.31](#) of the Revised Code is guilty of a felony and, notwithstanding section [2929.18](#) of the Revised Code, shall be fined not more than twenty-five thousand dollars or imprisoned for not more than four years, or both. Each day of violation constitutes a separate offense.

(C) Whoever recklessly or knowingly violates division (A) of section [6109.31](#) of the Revised Code is guilty of a felony if the violation poses a significant threat to or causes significant harm to public health and, notwithstanding section [2929.18](#) of the Revised Code, shall be fined not more than twenty-five thousand dollars or imprisoned for not more than four years, or both. Each day of violation constitutes a separate offense.

Added by 129th General Assembly File No.115, SB 294, §1, eff. 9/5/2012.