

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 294

Senator Schaffer

Cosponsors: Senators Balderson, Hite, Jones, Eklund, Bacon, LaRose

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A B I L L

To amend sections 3714.07, 3714.073, 3734.01, 1
3734.02, 3734.021, 3734.027, 3734.05, 3734.06, 2
3734.12, 3734.121, 3734.41, 3734.42, 3734.573, 3
3734.85, 3737.87, 3737.88, 3745.11, 3745.31, 4
3746.02, 6109.31, 6109.32, 6111.02, 6111.022, 5
6111.023, 6111.024, 6111.025, 6111.027, 6111.03, 6
and 6111.30, to enact sections 3745.017, 6109.99, 7
and 6111.0382, and to repeal sections 3734.022, 8
3734.131, 3734.132, and 3734.133 of the Revised 9
Code to revise the laws governing environmental 10
protection. 11

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

Section 1. That sections 3714.07, 3714.073, 3734.01, 3734.02, 12
3734.021, 3734.027, 3734.05, 3734.06, 3734.12, 3734.121, 3734.41, 13
3734.42, 3734.573, 3734.85, 3737.87, 3737.88, 3745.11, 3745.31, 14
3746.02, 6109.31, 6109.32, 6111.02, 6111.022, 6111.023, 6111.024, 15
6111.025, 6111.027, 6111.03, and 6111.30 be amended and sections 16
3745.017, 6109.99, and 6111.0382 of the Revised Code be enacted to 17
read as follows: 18

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 19

health and the environmental protection agency in administering 20
and enforcing this chapter and rules adopted under it, there is 21
hereby levied a fee of thirty cents per cubic yard or sixty cents 22
per ton, as applicable, on both of the following: 23

(a) The disposal of construction and demolition debris at a 24
construction and demolition debris facility that is licensed under 25
this chapter or at a solid waste facility that is licensed under 26
Chapter 3734. of the Revised Code ~~a fee of thirty cents per cubic~~ 27
~~yard or sixty cents per ton, as applicable;~~ 28

(b) The disposal of asbestos or asbestos-containing materials 29
or products at a construction and demolition debris facility that 30
is licensed under this chapter or at a solid waste facility that 31
is licensed under Chapter 3734. of the Revised Code. 32

(2) The owner or operator of a construction and demolition 33
debris facility or a solid waste facility shall determine if cubic 34
yards or tons will be used as the unit of measurement. ~~In~~ 35
~~estimating~~ If basing the fee ~~based~~ on cubic yards, the owner or 36
operator shall utilize either the maximum cubic yard capacity of 37
the container, or the hauling volume of the vehicle, that 38
transports the construction and demolition debris to the facility 39
or the cubic yards actually logged for disposal by the owner or 40
operator in accordance with rules adopted under section 3714.02 of 41
the Revised Code. If basing the fee on tonnage, the owner or 42
operator shall use certified scales to determine the tonnage of 43
construction and demolition debris that is ~~transported to the~~ 44
~~facility for disposal~~ disposed of. 45

(3) The owner or operator of a construction and demolition 46
debris facility or a solid waste facility shall ~~collect~~ calculate 47
the amount of money generated from the fee levied under division 48
(A)(1) of this section and shall hold that amount as a trustee for 49
the health district having jurisdiction over the facility, if that 50

district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris ~~received for disposal~~ and asbestos or asbestos-containing materials or products disposed of at the facility and the total amount of money ~~required to be collected generated during that month from the fee levied under division (A)(1) of this section~~ on the disposal of construction and demolition debris ~~disposed of during that month~~ and asbestos or asbestos-containing materials or products. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the amount of money required to be collected calculated under division (A)(3) of this section on the disposal of construction and demolition debris ~~disposed of~~ and asbestos or asbestos-containing materials or products during that month or may submit the return and money electronically in a manner approved by the director. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is ~~collected from~~ submitted by a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a

special fund, which is hereby created in each health district, and 84
used solely to administer and enforce this chapter and rules 85
adopted under it. 86

The director shall transmit all money received ~~from the~~ 87
~~boards of health of health districts under this section and all~~ 88
~~money from the disposal fee collected by the director~~ under this 89
section to the treasurer of state to be credited to the 90
construction and demolition debris facility oversight fund, which 91
is hereby created in the state treasury. The fund shall be 92
administered by the director, and money credited to the fund shall 93
be used exclusively for the administration and enforcement of this 94
chapter and rules adopted under it. 95

(B) The board of health of a health district or the director 96
may enter into an agreement with the owner or operator of a 97
construction and demolition debris facility or a solid waste 98
facility for the quarterly payment of ~~the money collected~~ 99
generated from the disposal fee as calculated in division (A)(3) 100
of this section. The board of health shall notify the director of 101
any such agreement. Not later than forty-five days after receipt 102
of the quarterly payment, the board of health shall transmit the 103
amount established in division (A)(4) of this section to the 104
director. The money retained by the board of health shall be 105
deposited in the special fund of the district as required under 106
that division. Upon receipt of the money from a board of health, 107
the director shall transmit the money to the treasurer of state to 108
be credited to the construction and demolition debris facility 109
oversight fund. 110

(C) If a construction and demolition debris facility or a 111
solid waste facility is located within the territorial boundaries 112
of a municipal corporation or the unincorporated area of a 113
township, the municipal corporation or township may appropriate up 114
to four cents per cubic yard or up to eight cents per ton of the 115

disposal fee required to be paid by the facility under division 116
(A)(1) of this section for the same purposes that a municipal 117
corporation or township may levy a fee under division (C) of 118
section 3734.57 of the Revised Code. 119

The legislative authority of the municipal corporation or 120
township may appropriate the money from the fee by enacting an 121
ordinance or adopting a resolution establishing the amount of the 122
fee to be appropriated. Upon doing so, the legislative authority 123
shall mail a certified copy of the ordinance or resolution to the 124
board of health of the health district in which the construction 125
and demolition debris facility or the solid waste facility is 126
located or, if the facility is located in a health district that 127
is not on the approved list under section 3714.09 of the Revised 128
Code, to the director. Upon receipt of the copy of the ordinance 129
or resolution and not later than forty-five days after receipt of 130
money ~~collected~~ generated from the fee, the board or the director, 131
as applicable, shall transmit to the treasurer or other 132
appropriate officer of the municipal corporation or clerk of the 133
township that portion of the money ~~collected~~ generated from the 134
disposal fee by the owner or operator of the facility that is 135
required by the ordinance or resolution to be paid to that 136
municipal corporation or township. 137

Money received by the treasurer or other appropriate officer 138
of a municipal corporation under this division shall be paid into 139
the general fund of the municipal corporation. Money received by 140
the clerk of a township under this division shall be paid into the 141
general fund of the township. The treasurer or other officer of 142
the municipal corporation or the clerk of the township, as 143
appropriate, shall maintain separate records of the money received 144
under this division. 145

The legislative authority of a municipal corporation or 146
township may cease ~~collecting~~ appropriating money under this 147

division by repealing the ordinance or resolution that was enacted 148
or adopted under this division. 149

The director shall adopt rules in accordance with Chapter 150
119. of the Revised Code establishing requirements for prorating 151
the amount of the fee that may be appropriated under this division 152
by a municipal corporation or township in which only a portion of 153
a construction and demolition debris facility is located within 154
the territorial boundaries of the municipal corporation or 155
township. 156

(D) The board of county commissioners of a county in which a 157
construction and demolition debris facility or a solid waste 158
facility is located may appropriate up to three cents per cubic 159
yard or up to six cents per ton of the disposal fee required to be 160
paid by the facility under division (A)(1) of this section for the 161
same purposes that a solid waste management district may levy a 162
fee under division (B) of section 3734.57 of the Revised Code. 163

The board of county commissioners may appropriate the money 164
from the fee by adopting a resolution establishing the amount of 165
the fee to be appropriated. Upon doing so, the board of county 166
commissioners shall mail a certified copy of the resolution to the 167
board of health of the health district in which the construction 168
and demolition debris facility or the solid waste facility is 169
located or, if the facility is located in a health district that 170
is not on the approved list under section 3714.09 of the Revised 171
Code, to the director. Upon receipt of the copy of the resolution 172
and not later than forty-five days after receipt of money 173
~~collected~~ generated from the fee, the board of health or the 174
director, as applicable, shall transmit to the treasurer of the 175
county that portion of the money ~~collected~~ generated from the 176
disposal fee by the owner or operator of the facility that is 177
required by the resolution to be paid to that county. 178

Money received by a county treasurer under this division 179

shall be paid into the general fund of the county. The county 180
treasurer shall maintain separate records of the money received 181
under this division. 182

A board of county commissioners may cease ~~collecting~~ 183
~~appropriating~~ money under this division by repealing the 184
resolution that was adopted under this division. 185

(E)(1) This section does not apply to the disposal of 186
construction and demolition debris at a solid waste facility that 187
is licensed under Chapter 3734. of the Revised Code if there is no 188
construction and demolition debris facility licensed under this 189
chapter within thirty-five miles of the solid waste facility as 190
determined by a facility's property boundaries. 191

(2) This section does not apply to the disposal of 192
construction and demolition debris at a solid waste facility that 193
is licensed under Chapter 3734. of the Revised Code if the owner 194
or operator of the facility chooses to collect fees on the 195
disposal of the construction and demolition debris and asbestos or 196
asbestos-containing materials or products that are identical to 197
the fees that are collected under Chapters 343. and 3734. of the 198
Revised Code on the disposal of solid wastes at that facility. 199

(3) This section does not apply to the disposal of source 200
separated materials that are exclusively composed of reinforced or 201
nonreinforced concrete, asphalt, clay tile, building or paving 202
brick, or building or paving stone at a construction and 203
demolition debris facility that is licensed under this chapter 204
when either of the following applies: 205

(a) The materials are placed within the limits of 206
construction and demolition debris placement at the facility as 207
specified in the license issued to the facility under section 208
3714.06 of the Revised Code, are not placed within the unloading 209
zone of the facility, and are used as a fire prevention measure in 210

accordance with rules adopted by the director under section 211
3714.02 of the Revised Code. 212

(b) The materials are not placed within the unloading zone of 213
the facility or within the limits of construction and demolition 214
debris placement at the facility as specified in the license 215
issued to the facility under section 3714.06 of the Revised Code, 216
but are used as fill material, either alone or in conjunction with 217
clean soil, sand, gravel, or other clean aggregates, in legitimate 218
fill operations for construction purposes at the facility or to 219
bring the facility up to a consistent grade. 220

Sec. 3714.073. (A) In addition to the fee levied under 221
division (A)(1) of section 3714.07 of the Revised Code, beginning 222
July 1, 2005, there is hereby levied on the disposal of 223
construction and demolition debris at a construction and 224
demolition debris facility that is licensed under this chapter or 225
at a solid waste facility that is licensed under Chapter 3734. of 226
the Revised Code and on the disposal of asbestos or 227
asbestos-containing materials or products at a construction and 228
demolition debris facility that is licensed under this chapter or 229
at a solid waste facility that is licensed under Chapter 3734. of 230
the Revised Code the following fees: 231

(1) A fee of twelve and one-half cents per cubic yard or 232
twenty-five cents per ton, as applicable, the proceeds of which 233
shall be deposited in the state treasury to the credit of the soil 234
and water conservation district assistance fund created in section 235
1515.14 of the Revised Code; 236

(2) A fee of thirty-seven and one-half cents per cubic yard 237
or seventy-five cents per ton, as applicable, the proceeds of 238
which shall be deposited in the state treasury to the credit of 239
the recycling and litter prevention fund created in section 240
1502.02 of the Revised Code. 241

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall ~~collect~~ calculate the amount of money generated from the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section and may enter into an agreement for the quarterly payment of money generated from the fees in the manner established in division (B) of that section for the quarterly payment of money generated from the fee that is levied under division (A)(1) of that section.

(C) The amount of money that is ~~collected from~~ calculated by the owner or operator of a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state not later than forty-five days after the receipt of the money to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris and asbestos or asbestos-containing materials or products that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and

demolition debris facility that is licensed under this chapter 274
when either of the following applies: 275

(1) The materials are placed within the limits of 276
construction and demolition debris placement at the facility as 277
specified in the license issued to the facility under section 278
3714.06 of the Revised Code, are not placed within the unloading 279
zone of the facility, and are used as a fire prevention measure in 280
accordance with rules adopted by the director under section 281
3714.02 of the Revised Code. 282

(2) The materials are not placed within the unloading zone of 283
the facility or within the limits of construction and demolition 284
debris placement at the facility as specified in the license 285
issued to the facility under section 3714.06 of the Revised Code, 286
but are used as fill material, either alone or in conjunction with 287
clean soil, sand, gravel, or other clean aggregates, in legitimate 288
fill operations for construction purposes at the facility or to 289
bring the facility up to a consistent grade. 290

Sec. 3734.01. As used in this chapter: 291

(A) "Board of health" means the board of health of a city or 292
general health district or the authority having the duties of a 293
board of health in any city as authorized by section 3709.05 of 294
the Revised Code. 295

(B) "Director" means the director of environmental 296
protection. 297

(C) "Health district" means a city or general health district 298
as created by or under authority of Chapter 3709. of the Revised 299
Code. 300

(D) "Agency" means the environmental protection agency. 301

(E) "Solid wastes" means such unwanted residual solid or 302
semisolid material as results from industrial, commercial, 303

agricultural, and community operations, excluding earth or 304
material from construction, mining, or demolition operations, or 305
other waste materials of the type that normally would be included 306
in demolition debris, nontoxic fly ash and bottom ash, including 307
at least ash that results from the combustion of coal and ash that 308
results from the combustion of coal in combination with scrap 309
tires where scrap tires comprise not more than fifty per cent of 310
heat input in any month, spent nontoxic foundry sand, and slag and 311
other substances that are not harmful or inimical to public 312
health, and includes, but is not limited to, garbage, scrap tires, 313
combustible and noncombustible material, street dirt, and debris. 314
"Solid wastes" does not include any material that is an infectious 315
waste or a hazardous waste. 316

(F) "Disposal" means the discharge, deposit, injection, 317
dumping, spilling, leaking, emitting, or placing of any solid 318
wastes or hazardous waste into or on any land or ground or surface 319
water or into the air, except if the disposition or placement 320
constitutes storage or treatment or, if the solid wastes consist 321
of scrap tires, the disposition or placement constitutes a 322
beneficial use or occurs at a scrap tire recovery facility 323
licensed under section 3734.81 of the Revised Code. 324

(G) "Person" includes the state, any political subdivision 325
and other state or local body, the United States and any agency or 326
instrumentality thereof, and any legal entity defined as a person 327
under section 1.59 of the Revised Code. 328

(H) "Open burning" means the burning of solid wastes in an 329
open area or burning of solid wastes in a type of chamber or 330
vessel that is not approved or authorized in rules adopted by the 331
director under section 3734.02 of the Revised Code or, if the 332
solid wastes consist of scrap tires, in rules adopted under 333
division (V) of this section or section 3734.73 of the Revised 334
Code, or the burning of treated or untreated infectious wastes in 335

an open area or in a type of chamber or vessel that is not 336
approved in rules adopted by the director under section 3734.021 337
of the Revised Code. 338

(I) "Open dumping" means the depositing of solid wastes into 339
a body or stream of water or onto the surface of the ground at a 340
site that is not licensed as a solid waste facility under section 341
3734.05 of the Revised Code or, if the solid wastes consist of 342
scrap tires, as a scrap tire collection, storage, monocell, 343
monofill, or recovery facility under section 3734.81 of the 344
Revised Code; the depositing of solid wastes that consist of scrap 345
tires onto the surface of the ground at a site or in a manner not 346
specifically identified in divisions (C)(2) to (5), (7), or (10) 347
of section 3734.85 of the Revised Code; the depositing of 348
untreated infectious wastes into a body or stream of water or onto 349
the surface of the ground; or the depositing of treated infectious 350
wastes into a body or stream of water or onto the surface of the 351
ground at a site that is not licensed as a solid waste facility 352
under section 3734.05 of the Revised Code. 353

(J) "Hazardous waste" means any waste or combination of 354
wastes in solid, liquid, semisolid, or contained gaseous form that 355
in the determination of the director, because of its quantity, 356
concentration, or physical or chemical characteristics, may do 357
either of the following: 358

(1) Cause or significantly contribute to an increase in 359
mortality or an increase in serious irreversible or incapacitating 360
reversible illness; 361

(2) Pose a substantial present or potential hazard to human 362
health or safety or to the environment when improperly stored, 363
treated, transported, disposed of, or otherwise managed. 364

"Hazardous waste" includes any substance identified by 365
regulation as hazardous waste under the "Resource Conservation and 366

Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 367
amended, and does not include any substance that is subject to the 368
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 369
amended. 370

(K) "Treat" or "treatment," when used in connection with 371
hazardous waste, means any method, technique, or process designed 372
to change the physical, chemical, or biological characteristics or 373
composition of any hazardous waste; to neutralize the waste; to 374
recover energy or material resources from the waste; to render the 375
waste nonhazardous or less hazardous, safer to transport, store, 376
or dispose of, or amenable for recovery, storage, further 377
treatment, or disposal; or to reduce the volume of the waste. When 378
used in connection with infectious wastes, "treat" or "treatment" 379
means any method, technique, or process designed to render the 380
wastes noninfectious, including, without limitation, steam 381
sterilization and incineration, ~~or~~ and, in the instance of wastes 382
identified in division (R)(7) of this section, to substantially 383
reduce or eliminate the potential for the wastes to cause 384
lacerations or puncture wounds. 385

(L) "Manifest" means the form used for identifying the 386
quantity, composition, origin, routing, and destination of 387
hazardous waste during its transportation from the point of 388
generation to the point of disposal, treatment, or storage. 389

(M) "Storage," when used in connection with hazardous waste, 390
means the holding of hazardous waste for a temporary period in 391
such a manner that it remains retrievable and substantially 392
unchanged physically and chemically and, at the end of the period, 393
is treated; disposed of; stored elsewhere; or reused, recycled, or 394
reclaimed in a beneficial manner. When used in connection with 395
solid wastes that consist of scrap tires, "storage" means the 396
holding of scrap tires for a temporary period in such a manner 397
that they remain retrievable and, at the end of that period, are 398

beneficially used; stored elsewhere; placed in a scrap tire 399
monocell or monofill facility licensed under section 3734.81 of 400
the Revised Code; processed at a scrap tire recovery facility 401
licensed under that section or a solid waste incineration or 402
energy recovery facility subject to regulation under this chapter; 403
or transported to a scrap tire monocell, monofill, or recovery 404
facility, any other solid waste facility authorized to dispose of 405
scrap tires, or a facility that will beneficially use the scrap 406
tires, that is located in another state and is operating in 407
compliance with the laws of the state in which the facility is 408
located. 409

(N) "Facility" means any site, location, tract of land, 410
installation, or building used for incineration, composting, 411
sanitary landfilling, or other methods of disposal of solid wastes 412
or, if the solid wastes consist of scrap tires, for the 413
collection, storage, or processing of the solid wastes; for the 414
transfer of solid wastes; for the treatment of infectious wastes; 415
or for the storage, treatment, or disposal of hazardous waste. 416

(O) "Closure" means the time at which a hazardous waste 417
facility will no longer accept hazardous waste for treatment, 418
storage, or disposal, the time at which a solid waste facility 419
will no longer accept solid wastes for transfer or disposal or, if 420
the solid wastes consist of scrap tires, for storage or 421
processing, or the effective date of an order revoking the permit 422
for a hazardous waste facility or the registration certificate, 423
permit, or license for a solid waste facility, as applicable. 424
"Closure" includes measures performed to protect public health or 425
safety, to prevent air or water pollution, or to make the facility 426
suitable for other uses, if any, including, but not limited to, 427
the removal of processing residues resulting from solid wastes 428
that consist of scrap tires; the establishment and maintenance of 429
a suitable cover of soil and vegetation over cells in which 430

hazardous waste or solid wastes are buried; minimization of 431
erosion, the infiltration of surface water into such cells, the 432
production of leachate, and the accumulation and runoff of 433
contaminated surface water; the final construction of facilities 434
for the collection and treatment of leachate and contaminated 435
surface water runoff, except as otherwise provided in this 436
division; the final construction of air and water quality 437
monitoring facilities, except as otherwise provided in this 438
division; the final construction of methane gas extraction and 439
treatment systems; or the removal and proper disposal of hazardous 440
waste or solid wastes from a facility when necessary to protect 441
public health or safety or to abate or prevent air or water 442
pollution. With regard to a solid waste facility that is a scrap 443
tire facility, "closure" includes the final construction of 444
facilities for the collection and treatment of leachate and 445
contaminated surface water runoff and the final construction of 446
air and water quality monitoring facilities only if those actions 447
are determined to be necessary. 448

(P) "Premises" means either of the following: 449

(1) Geographically contiguous property owned by a generator; 450

(2) Noncontiguous property that is owned by a generator and 451
connected by a right-of-way that the generator controls and to 452
which the public does not have access. Two or more pieces of 453
property that are geographically contiguous and divided by public 454
or private right-of-way or rights-of-way are a single premises. 455

(Q) "Post-closure" means that period of time following 456
closure during which a hazardous waste facility is required to be 457
monitored and maintained under this chapter and rules adopted 458
under it, including, without limitation, operation and maintenance 459
of methane gas extraction and treatment systems, or the period of 460
time after closure during which a scrap tire monocell or monofill 461
facility licensed under section 3734.81 of the Revised Code is 462

required to be monitored and maintained under this chapter and 463
rules adopted under it. 464

(R) "Infectious wastes" ~~includes all of the following~~ 465
~~substances or categories of substances:~~ 466

~~(1) Cultures means any wastes or combination of wastes that~~ 467
~~include cultures and stocks of infectious agents and associated~~ 468
~~biologicals, including, without limitation, specimen cultures,~~ 469
~~cultures and stocks of infectious agents, wastes from production~~ 470
~~of biologicals, and discarded live and attenuated vaccines;~~ 471

~~(2) human blood and blood products, and substances that were~~ 472
~~or are likely to have been exposed to or contaminated with or are~~ 473
~~likely to transmit an infectious agent or zoonotic agent,~~ 474
~~including all of the following:~~ 475

~~(1) Laboratory wastes that were, or are likely to have been,~~ 476
~~in contact with infectious agents that may present a substantial~~ 477
~~threat to public health if improperly managed;~~ 478

~~(3)(2) Pathological wastes, including, without limitation,~~ 479
~~human and animal tissues, organs, and body parts, and body fluids~~ 480
~~and excreta that are contaminated with or are likely to be~~ 481
~~contaminated with infectious agents, removed or obtained during~~ 482
~~surgery or autopsy or for diagnostic evaluation, provided that,~~ 483
~~with regard to pathological wastes from animals, the animals have~~ 484
~~or are likely to have been exposed to a zoonotic or infectious~~ 485
~~agent;~~ 486

(3) Animal blood and blood products; 487

(4) Animal carcasses and parts; 488

(5) Waste materials from the rooms of humans, or the 489
enclosures of animals, that have been isolated because of 490
diagnosed communicable disease that are likely to transmit 491
infectious agents. Such waste materials from the rooms of humans 492

do not include any wastes of patients who have been placed on 493
blood and body fluid precautions under the universal precaution 494
system established by the centers for disease control in the 495
public health service of the United States department of health 496
and human services, except to the extent specific wastes generated 497
under the universal precautions system have been identified as 498
infectious wastes by rules adopted under division (R)~~(8)~~(7) of 499
this section. 500

~~(5) Human and animal blood specimens and blood products that 501
are being disposed of, provided that, with regard to blood 502
specimens and blood products from animals, the animals were or are 503
likely to have been exposed to a zoonotic or infectious agent. 504
"Blood products" does not include patient care waste such as 505
bandages or disposable gowns that are lightly soiled with blood or 506
other body fluids unless those wastes are soiled to the extent 507
that the generator of the wastes determines that they should be 508
managed as infectious wastes. 509~~

~~(6) Contaminated carcasses, body parts, and bedding of 510
animals that were intentionally exposed to infectious agents from 511
zoonotic or human diseases during research, production of 512
biologicals, or testing of pharmaceuticals, and carcasses and 513
bedding of animals otherwise infected by zoonotic or infectious 514
agents that may present a substantial threat to public health if 515
improperly managed; 516~~

~~(7) Sharp wastes used in the treatment, diagnosis, or 517
inoculation of human beings or animals or that have, or are likely 518
to have, come in contact with infectious agents in medical, 519
research, or industrial laboratories, including, without 520
limitation, hypodermic needles and syringes, scalpel blades, and 521
glass articles that have been broken; 522~~

~~(8)~~(7) Any other waste materials generated in the diagnosis, 523
treatment, or immunization of human beings or animals, in research 524

pertaining thereto, or in the production or testing of 525
biologicals, that the public health council created in section 526
3701.33 of the Revised Code, by rules adopted in accordance with 527
Chapter 119. of the Revised Code, identifies as infectious wastes 528
after determining that the wastes present a substantial threat to 529
human health when improperly managed because they are contaminated 530
with, or are likely to be contaminated with, infectious agents. 531

(S) "Infectious agent" means a type of microorganism, 532
~~helminth, or pathogen, virus, or proteinaceous infectious particle~~ 533
that ~~causes, can cause~~ or significantly ~~contributes~~ contribute to 534
~~the cause of, increased morbidity~~ disease in or ~~mortality~~ death of 535
human beings. 536

(T) "Zoonotic agent" means a type of microorganism, ~~helminth~~ 537
pathogen, or virus that causes disease in vertebrate animals ~~and~~ 538
~~that,~~ is transmissible to human beings, ~~and causes~~ can cause or 539
significantly ~~contributes~~ contribute to ~~the cause of increased~~ 540
~~morbidity~~ disease in or ~~mortality~~ death of human beings. 541

(U) "Solid waste transfer facility" means any site, location, 542
tract of land, installation, or building that is used or intended 543
to be used primarily for the purpose of transferring solid wastes 544
that were generated off the premises of the facility from vehicles 545
or containers into other vehicles for transportation to a solid 546
waste disposal facility. "Solid waste transfer facility" does not 547
include any facility that consists solely of portable containers 548
that have an aggregate volume of fifty cubic yards or less nor any 549
facility where legitimate recycling activities are conducted. 550

(V) "Beneficially use" means to use a scrap tire in a manner 551
that results in a commodity for sale or exchange or in any other 552
manner authorized as a beneficial use in rules adopted by the 553
director in accordance with Chapter 119. of the Revised Code. 554

(W) "Commercial car," "commercial tractor," "farm machinery," 555

"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 556
the same meanings as in section 4501.01 of the Revised Code. 557

(X) "Construction equipment" means road rollers, traction 558
engines, power shovels, power cranes, and other equipment used in 559
construction work, or in mining or producing or processing 560
aggregates, and not designed for or used in general highway 561
transportation. 562

(Y) "Motor vehicle salvage dealer" has the same meaning as in 563
section 4738.01 of the Revised Code. 564

(Z) "Scrap tire" means an unwanted or discarded tire. 565

(AA) "Scrap tire collection facility" means any facility that 566
meets all of the following qualifications: 567

(1) The facility is used for the receipt and storage of whole 568
scrap tires from the public prior to their transportation to a 569
scrap tire storage, monocell, monofill, or recovery facility 570
licensed under section 3734.81 of the Revised Code; a solid waste 571
incineration or energy recovery facility subject to regulation 572
under this chapter; a premises within the state where the scrap 573
tires will be beneficially used; or a scrap tire storage, 574
monocell, monofill, or recovery facility, any other solid waste 575
disposal facility authorized to dispose of scrap tires, or a 576
facility that will beneficially use the scrap tires, that is 577
located in another state, and that is operating in compliance with 578
the laws of the state in which the facility is located. 579

(2) The facility exclusively stores scrap tires in portable 580
containers. 581

(3) The aggregate storage of the portable containers in which 582
the scrap tires are stored does not exceed five thousand cubic 583
feet. 584

(BB) "Scrap tire monocell facility" means an individual site 585

within a solid waste landfill that is used exclusively for the 586
environmentally sound storage or disposal of whole scrap tires or 587
scrap tires that have been shredded, chipped, or otherwise 588
mechanically processed. 589

(CC) "Scrap tire monofill facility" means an engineered 590
facility used or intended to be used exclusively for the storage 591
or disposal of scrap tires, including at least facilities for the 592
submergence of whole scrap tires in a body of water. 593

(DD) "Scrap tire recovery facility" means any facility, or 594
portion thereof, for the processing of scrap tires for the purpose 595
of extracting or producing usable products, materials, or energy 596
from the scrap tires through a controlled combustion process, 597
mechanical process, or chemical process. "Scrap tire recovery 598
facility" includes any facility that uses the controlled 599
combustion of scrap tires in a manufacturing process to produce 600
process heat or steam or any facility that produces usable heat or 601
electric power through the controlled combustion of scrap tires in 602
combination with another fuel, but does not include any solid 603
waste incineration or energy recovery facility that is designed, 604
constructed, and used for the primary purpose of incinerating 605
mixed municipal solid wastes and that burns scrap tires in 606
conjunction with mixed municipal solid wastes, or any tire 607
retreading business, tire manufacturing finishing center, or tire 608
adjustment center having on the premises of the business a single, 609
covered scrap tire storage area at which not more than four 610
thousand scrap tires are stored. 611

(EE) "Scrap tire storage facility" means any facility where 612
whole scrap tires are stored prior to their transportation to a 613
scrap tire monocell, monofill, or recovery facility licensed under 614
section 3734.81 of the Revised Code; a solid waste incineration or 615
energy recovery facility subject to regulation under this chapter; 616
a premises within the state where the scrap tires will be 617

beneficially used; or a scrap tire storage, monocell, monofill, or 618
recovery facility, any other solid waste disposal facility 619
authorized to dispose of scrap tires, or a facility that will 620
beneficially use the scrap tires, that is located in another 621
state, and that is operating in compliance with the laws of the 622
state in which the facility is located. 623

(FF) "Used oil" means any oil that has been refined from 624
crude oil, or any synthetic oil, that has been used and, as a 625
result of that use, is contaminated by physical or chemical 626
impurities. "Used oil" includes only those substances identified 627
as used oil by the United States environmental protection agency 628
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 629
U.S.C.A. 6901a, as amended. 630

(GG) "Accumulated speculatively" has the same meaning as in 631
rules adopted by the director under section 3734.12 of the Revised 632
Code. 633

Sec. 3734.02. (A) The director of environmental protection, 634
in accordance with Chapter 119. of the Revised Code, shall adopt 635
and may amend, suspend, or rescind rules having uniform 636
application throughout the state governing solid waste facilities 637
and the inspections of and issuance of permits and licenses for 638
all solid waste facilities in order to ensure that the facilities 639
will be located, maintained, and operated, and will undergo 640
closure and post-closure care, in a sanitary manner so as not to 641
create a nuisance, cause or contribute to water pollution, create 642
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 643
257.3-8, as amended. The rules may include, without limitation, 644
financial assurance requirements for closure and post-closure care 645
and corrective action and requirements for taking corrective 646
action in the event of the surface or subsurface discharge or 647
migration of explosive gases or leachate from a solid waste 648

facility, or of ground water contamination resulting from the 649
transfer or disposal of solid wastes at a facility, beyond the 650
boundaries of any area within a facility that is operating or is 651
undergoing closure or post-closure care where solid wastes were 652
disposed of or are being disposed of. The rules shall not concern 653
or relate to personnel policies, salaries, wages, fringe benefits, 654
or other conditions of employment of employees of persons owning 655
or operating solid waste facilities. The director, in accordance 656
with Chapter 119. of the Revised Code, shall adopt and may amend, 657
suspend, or rescind rules governing the issuance, modification, 658
revocation, suspension, or denial of variances from the director's 659
solid waste rules, including, without limitation, rules adopted 660
under this chapter governing the management of scrap tires. 661

Variances shall be issued, modified, revoked, suspended, or 662
rescinded in accordance with this division, rules adopted under 663
it, and Chapter 3745. of the Revised Code. The director may order 664
the person to whom a variance is issued to take such action within 665
such time as the director may determine to be appropriate and 666
reasonable to prevent the creation of a nuisance or a hazard to 667
the public health or safety or the environment. Applications for 668
variances shall contain such detail plans, specifications, and 669
information regarding objectives, procedures, controls, and other 670
pertinent data as the director may require. The director shall 671
grant a variance only if the applicant demonstrates to the 672
director's satisfaction that construction and operation of the 673
solid waste facility in the manner allowed by the variance and any 674
terms or conditions imposed as part of the variance will not 675
create a nuisance or a hazard to the public health or safety or 676
the environment. In granting any variance, the director shall 677
state the specific provision or provisions whose terms are to be 678
varied and also shall state specific terms or conditions imposed 679
upon the applicant in place of the provision or provisions. The 680
director may hold a public hearing on an application for a 681

variance or renewal of a variance at a location in the county 682
where the operations that are the subject of the application for 683
the variance are conducted. The director shall give not less than 684
twenty days' notice of the hearing to the applicant by certified 685
mail or by another type of mail accompanied by a receipt and shall 686
publish at least one notice of the hearing in a newspaper with 687
general circulation in the county where the hearing is to be held. 688
The director shall make available for public inspection at the 689
principal office of the environmental protection agency a current 690
list of pending applications for variances and a current schedule 691
of pending variance hearings. The director shall make a complete 692
stenographic record of testimony and other evidence submitted at 693
the hearing. Within ten days after the hearing, the director shall 694
make a written determination to issue, renew, or deny the variance 695
and shall enter the determination and the basis for it into the 696
record of the hearing. The director shall issue, renew, or deny an 697
application for a variance or renewal of a variance within six 698
months of the date upon which the director receives a complete 699
application with all pertinent information and data required. No 700
variance shall be issued, revoked, modified, or denied until the 701
director has considered the relative interests of the applicant, 702
other persons and property affected by the variance, and the 703
general public. Any variance granted under this division shall be 704
for a period specified by the director and may be renewed from 705
time to time on such terms and for such periods as the director 706
determines to be appropriate. No application shall be denied and 707
no variance shall be revoked or modified without a written order 708
stating the findings upon which the denial, revocation, or 709
modification is based. A copy of the order shall be sent to the 710
applicant or variance holder by certified mail or by another type
of mail accompanied by a receipt. 712

(B) The director shall prescribe and furnish the forms 713
necessary to administer and enforce this chapter. The director may 714

cooperate with and enter into agreements with other state, local, 715
or federal agencies to carry out the purposes of this chapter. The 716
director may exercise all incidental powers necessary to carry out 717
the purposes of this chapter. 718

The director may use moneys in the infectious waste 719
management fund created in section 3734.021 of the Revised Code 720
exclusively for administering and enforcing the provisions of this 721
chapter governing the management of infectious wastes. ~~Of each 722~~
~~registration and renewal fee collected under rules adopted under 723~~
~~division (A)(2)(a) of section 3734.021 or under section 3734.022 724~~
~~of the Revised Code, the director, within forty five days of its 725~~
~~receipt, shall remit from the fund one half of the fee received to 726~~
~~the board of health of the health district in which the registered 727~~
~~premises is located, or, in the instance of an infectious wastes 728~~
~~transporter, to the board of health of the health district in 729~~
~~which the transporter's principal place of business is located. 730~~
~~However, if the board of health having jurisdiction over a 731~~
~~registrant's premises or principal place of business is not on the 732~~
~~approved list under section 3734.08 of the Revised Code, the 733~~
~~director shall not make that payment to the board of health. 734~~

(C) Except as provided in this division and divisions (N)(2) 735
and (3) of this section, no person shall establish a new solid 736
waste facility or infectious waste treatment facility, or modify 737
an existing solid waste facility or infectious waste treatment 738
facility, without submitting an application for a permit with 739
accompanying detail plans, specifications, and information 740
regarding the facility and method of operation and receiving a 741
permit issued by the director, except that no permit shall be 742
required under this division to install or operate a solid waste 743
facility for sewage sludge treatment or disposal when the 744
treatment or disposal is authorized by a current permit issued 745
under Chapter 3704. or 6111. of the Revised Code. 746

No person shall continue to operate a solid waste facility 747
for which the director has denied a permit for which an 748
application was required under division (A)(3) of section 3734.05 749
of the Revised Code, or for which the director has disapproved 750
plans and specifications required to be filed by an order issued 751
under division (A)(5) of that section, after the date prescribed 752
for commencement of closure of the facility in the order issued 753
under division (A)(6) of section 3734.05 of the Revised Code 754
denying the permit application or approval. 755

On and after the effective date of the rules adopted under 756
division (A) of this section and division (D) of section 3734.12 757
of the Revised Code governing solid waste transfer facilities, no 758
person shall establish a new, or modify an existing, solid waste 759
transfer facility without first submitting an application for a 760
permit with accompanying engineering detail plans, specifications, 761
and information regarding the facility and its method of operation 762
to the director and receiving a permit issued by the director. 763

No person shall establish a new compost facility or continue 764
to operate an existing compost facility that accepts exclusively 765
source separated yard wastes without submitting a completed 766
registration for the facility to the director in accordance with 767
rules adopted under divisions (A) and (N)(3) of this section. 768

This division does not apply to ~~an a generator of~~ infectious 769
~~waste treatment facility wastes~~ that ~~meets~~ does any of the 770
following ~~conditions~~: 771

(1) ~~Is owned or operated by the generator of the wastes and~~ 772
~~exclusively treats~~ Treats, by methods, techniques, and practices 773
established by rules adopted under division ~~(C)(1) or (3)(B)(2)(a)~~ 774
of section 3734.021 of the Revised Code, ~~wastes that are generated~~ 775
~~at any premises owned or operated by that generator regardless of~~ 776
~~whether the wastes are generated on the premises where the~~ 777
~~generator's treatment facility is located or, if the generator is~~ 778

~~a hospital as defined in section 3727.01 of the Revised Code,~~ 779
~~infectious wastes that are described in division (A)(1)(g), (h),~~ 780
~~or (i) of section 3734.021 of the Revised Code; any of the~~ 781
following: 782

(a) Infectious wastes that are generated on any premises that 783
are owned or operated by the generator; 784

(b) Infectious wastes that are generated by a generator who 785
has staff privileges at a hospital as defined in section 3727.01 786
of the Revised Code; 787

(c) Infectious wastes that are generated in providing care to 788
a patient by an emergency medical services organization as defined 789
in section 4765.01 of the Revised Code. 790

(2) Holds a license or renewal of a license to operate a 791
crematory facility issued under Chapter 4717. and a permit issued 792
under Chapter 3704. of the Revised Code; 793

(3) Treats or disposes of dead animals or parts thereof, or 794
the blood of animals, and is subject to any of the following: 795

(a) Inspection under the "Federal Meat Inspection Act," 81 796
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 797

(b) Chapter 918. of the Revised Code; 798

(c) Chapter 953. of the Revised Code. 799

(D) Neither this chapter nor any rules adopted under it apply 800
to single-family residential premises; to infectious wastes 801
generated by individuals for purposes of their own care or 802
treatment ~~that are disposed of with solid wastes from the~~ 803
~~individual's residence;~~ to the temporary storage of solid wastes, 804
other than scrap tires, prior to their collection for disposal; to 805
the storage of one hundred or fewer scrap tires unless they are 806
stored in such a manner that, in the judgment of the director or 807
the board of health of the health district in which the scrap 808

tires are stored, the storage causes a nuisance, a hazard to 809
public health or safety, or a fire hazard; or to the collection of 810
solid wastes, other than scrap tires, by a political subdivision 811
or a person holding a franchise or license from a political 812
subdivision of the state; to composting, as defined in section 813
1511.01 of the Revised Code, conducted in accordance with section 814
1511.022 of the Revised Code; or to any person who is licensed to 815
transport raw rendering material to a compost facility pursuant to 816
section 953.23 of the Revised Code. 817

(E)(1) As used in this division: 818

(a) "On-site facility" means a facility that stores, treats, 819
or disposes of hazardous waste that is generated on the premises 820
of the facility. 821

(b) "Off-site facility" means a facility that stores, treats, 822
or disposes of hazardous waste that is generated off the premises 823
of the facility and includes such a facility that is also an 824
on-site facility. 825

(c) "Satellite facility" means any of the following: 826

(i) An on-site facility that also receives hazardous waste 827
from other premises owned by the same person who generates the 828
waste on the facility premises; 829

(ii) An off-site facility operated so that all of the 830
hazardous waste it receives is generated on one or more premises 831
owned by the person who owns the facility; 832

(iii) An on-site facility that also receives hazardous waste 833
that is transported uninterruptedly and directly to the facility 834
through a pipeline from a generator who is not the owner of the 835
facility. 836

(2) Except as provided in division (E)(3) of this section, no 837
person shall establish or operate a hazardous waste facility, or 838

use a solid waste facility for the storage, treatment, or disposal 839
of any hazardous waste, without a hazardous waste facility 840
installation and operation permit issued in accordance with 841
section 3734.05 of the Revised Code and subject to the payment of 842
an application fee not to exceed one thousand five hundred 843
dollars, payable upon application for a hazardous waste facility 844
installation and operation permit and upon application for a 845
renewal permit issued under division (H) of section 3734.05 of the 846
Revised Code, to be credited to the hazardous waste facility 847
management fund created in section 3734.18 of the Revised Code. 848
The term of a hazardous waste facility installation and operation 849
permit shall not exceed ten years. 850

In addition to the application fee, there is hereby levied an 851
annual permit fee to be paid by the permit holder upon the 852
anniversaries of the date of issuance of the hazardous waste 853
facility installation and operation permit and of any subsequent 854
renewal permits and to be credited to the hazardous waste facility 855
management fund. Annual permit fees totaling forty thousand 856
dollars or more for any one facility may be paid on a quarterly 857
basis with the first quarterly payment each year being due on the 858
anniversary of the date of issuance of the hazardous waste 859
facility installation and operation permit and of any subsequent 860
renewal permits. The annual permit fee shall be determined for 861
each permit holder by the director in accordance with the 862
following schedule: 863

TYPE OF BASIC				864
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	865
Storage facility using:				866
Containers	On-site, off-site, and			867
	satellite		\$ 500	868
Tanks	On-site, off-site, and			869
	satellite		500	870

Waste pile	On-site, off-site, and		871
	satellite	3,000	872
Surface impoundment	On-site and satellite	8,000	873
	Off-site	10,000	874
Disposal facility using:			875
Deep well injection	On-site and satellite	15,000	876
	Off-site	25,000	877
Landfill	On-site and satellite	25,000	878
	Off-site	40,000	879
Land application	On-site and satellite	2,500	880
	Off-site	5,000	881
Surface impoundment	On-site and satellite	10,000	882
	Off-site	20,000	883
Treatment facility using:			884
Tanks	On-site, off-site, and		885
	satellite	700	886
Surface impoundment	On-site and satellite	8,000	887
	Off-site	10,000	888
Incinerator	On-site and satellite	5,000	889
	Off-site	10,000	890
Other forms			891
of treatment	On-site, off-site, and		892
	satellite	1,000	893

A hazardous waste disposal facility that disposes of 894
hazardous waste by deep well injection and that pays the annual 895
permit fee established in section 6111.046 of the Revised Code is 896
not subject to the permit fee established in this division for 897
disposal facilities using deep well injection unless the director 898
determines that the facility is not in compliance with applicable 899
requirements established under this chapter and rules adopted 900
under it. 901

In determining the annual permit fee required by this 902
section, the director shall not require additional payments for 903

multiple units of the same method of storage, treatment, or 904
disposal or for individual units that are used for both storage 905
and treatment. A facility using more than one method of storage, 906
treatment, or disposal shall pay the permit fee indicated by the 907
schedule for each such method. 908

The director shall not require the payment of that portion of 909
an annual permit fee of any permit holder that would apply to a 910
hazardous waste management unit for which a permit has been 911
issued, but for which construction has not yet commenced. Once 912
construction has commenced, the director shall require the payment 913
of a part of the appropriate fee indicated by the schedule that 914
bears the same relationship to the total fee that the number of 915
days remaining until the next anniversary date at which payment of 916
the annual permit fee is due bears to three hundred sixty-five. 917

The director, by rules adopted in accordance with Chapters 918
119. and 3745. of the Revised Code, shall prescribe procedures for 919
collecting the annual permit fee established by this division and 920
may prescribe other requirements necessary to carry out this 921
division. 922

(3) The prohibition against establishing or operating a 923
hazardous waste facility without a hazardous waste facility 924
installation and operation permit does not apply to either of the 925
following: 926

(a) A facility that is operating in accordance with a permit 927
renewal issued under division (H) of section 3734.05 of the 928
Revised Code, a revision issued under division (I) of that section 929
as it existed prior to August 20, 1996, or a modification issued 930
by the director under division (I) of that section on and after 931
August 20, 1996; 932

(b) Except as provided in division (J) of section 3734.05 of 933
the Revised Code, a facility that will operate or is operating in 934

accordance with a permit by rule, or that is not subject to permit 935
requirements, under rules adopted by the director. In accordance 936
with Chapter 119. of the Revised Code, the director shall adopt, 937
and subsequently may amend, suspend, or rescind, rules for the 938
purposes of division (E)(3)(b) of this section. Any rules so 939
adopted shall be consistent with and equivalent to regulations 940
pertaining to interim status adopted under the "Resource 941
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 942
6921, as amended, except as otherwise provided in this chapter. 943

If a modification is requested or proposed for a facility 944
described in division (E)(3)(a) or (b) of this section, division 945
(I)(7) of section 3734.05 of the Revised Code applies. 946

(F) No person shall store, treat, or dispose of hazardous 947
waste identified or listed under this chapter and rules adopted 948
under it, regardless of whether generated on or off the premises 949
where the waste is stored, treated, or disposed of, or transport 950
or cause to be transported any hazardous waste identified or 951
listed under this chapter and rules adopted under it to any other 952
premises, except at or to any of the following: 953

(1) A hazardous waste facility operating under a permit 954
issued in accordance with this chapter; 955

(2) A facility in another state operating under a license or 956
permit issued in accordance with the "Resource Conservation and 957
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 958
amended; 959

(3) A facility in another nation operating in accordance with 960
the laws of that nation; 961

(4) A facility holding a permit issued pursuant to Title I of 962
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 963
Stat. 1052, 33 U.S.C.A. 1401, as amended; 964

(5) A hazardous waste facility as described in division 965

(E)(3)(a) or (b) of this section. 966

(G) The director, by order, may exempt any person generating, 967
collecting, storing, treating, disposing of, or transporting solid 968
wastes, infectious wastes, or hazardous waste, or processing solid 969
wastes that consist of scrap tires, in such quantities or under 970
such circumstances that, in the determination of the director, are 971
unlikely to adversely affect the public health or safety or the 972
environment from any requirement to obtain a registration 973
certificate, permit, or license or comply with the manifest system 974
or other requirements of this chapter. Such an exemption shall be 975
consistent with and equivalent to any regulations adopted by the 976
administrator of the United States environmental protection agency 977
under the "Resource Conservation and Recovery Act of 1976," 90 978
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 979
provided in this chapter. 980

(H) No person shall engage in filling, grading, excavating, 981
building, drilling, or mining on land where a hazardous waste 982
facility, or a solid waste facility, was operated without prior 983
authorization from the director, who shall establish the procedure 984
for granting such authorization by rules adopted in accordance 985
with Chapter 119. of the Revised Code. 986

A public utility that has main or distribution lines above or 987
below the land surface located on an easement or right-of-way 988
across land where a solid waste facility was operated may engage 989
in any such activity within the easement or right-of-way without 990
prior authorization from the director for purposes of performing 991
emergency repair or emergency replacement of its lines; of the 992
poles, towers, foundations, or other structures supporting or 993
sustaining any such lines; or of the appurtenances to those 994
structures, necessary to restore or maintain existing public 995
utility service. A public utility may enter upon any such easement 996
or right-of-way without prior authorization from the director for 997

purposes of performing necessary or routine maintenance of those 998
portions of its existing lines; of the existing poles, towers, 999
foundations, or other structures sustaining or supporting its 1000
lines; or of the appurtenances to any such supporting or 1001
sustaining structure, located on or above the land surface on any 1002
such easement or right-of-way. Within twenty-four hours after 1003
commencing any such emergency repair, replacement, or maintenance 1004
work, the public utility shall notify the director or the 1005
director's authorized representative of those activities and shall 1006
provide such information regarding those activities as the 1007
director or the director's representative may request. Upon 1008
completion of the emergency repair, replacement, or maintenance 1009
activities, the public utility shall restore any land of the solid 1010
waste facility disturbed by those activities to the condition 1011
existing prior to the commencement of those activities. 1012

(I) No owner or operator of a hazardous waste facility, in 1013
the operation of the facility, shall cause, permit, or allow the 1014
emission therefrom of any particulate matter, dust, fumes, gas, 1015
mist, smoke, vapor, or odorous substance that, in the opinion of 1016
the director, unreasonably interferes with the comfortable 1017
enjoyment of life or property by persons living or working in the 1018
vicinity of the facility, or that is injurious to public health. 1019
Any such action is hereby declared to be a public nuisance. 1020

(J) Notwithstanding any other provision of this chapter, in 1021
the event the director finds an imminent and substantial danger to 1022
public health or safety or the environment that creates an 1023
emergency situation requiring the immediate treatment, storage, or 1024
disposal of hazardous waste, the director may issue a temporary 1025
emergency permit to allow the treatment, storage, or disposal of 1026
the hazardous waste at a facility that is not otherwise authorized 1027
by a hazardous waste facility installation and operation permit to 1028
treat, store, or dispose of the waste. The emergency permit shall 1029

not exceed ninety days in duration and shall not be renewed. The 1030
director shall adopt, and may amend, suspend, or rescind, rules in 1031
accordance with Chapter 119. of the Revised Code governing the 1032
issuance, modification, revocation, and denial of emergency 1033
permits. 1034

(K) ~~No~~ Except for infectious wastes generated by a person who 1035
produces fewer than fifty pounds of infectious wastes at a 1036
premises during any one month, no owner or operator of a sanitary 1037
landfill shall knowingly accept for disposal, or dispose of, any 1038
infectious wastes, ~~other than those subject to division (A)(1)(c)~~ 1039
~~of section 3734.021 of the Revised Code,~~ that have not been 1040
treated to render them noninfectious. ~~For the purposes of this~~ 1041
~~division, certification by the owner or operator of the treatment~~ 1042
~~facility where the wastes were treated on the shipping paper~~ 1043
~~required by rules adopted under division (D)(2) of that section~~ 1044
~~creates a rebuttable presumption that the wastes have been so~~ 1045
~~treated.~~ 1046

(L) The director, in accordance with Chapter 119. of the 1047
Revised Code, shall adopt, and may amend, suspend, or rescind, 1048
rules having uniform application throughout the state establishing 1049
a training and certification program that shall be required for 1050
employees of boards of health who are responsible for enforcing 1051
the solid waste and infectious waste provisions of this chapter 1052
and rules adopted under them and for persons who are responsible 1053
for the operation of solid waste facilities or infectious waste 1054
treatment facilities. The rules shall provide all of the 1055
following, without limitation: 1056

(1) The program shall be administered by the director and 1057
shall consist of a course on new solid waste and infectious waste 1058
technologies, enforcement procedures, and rules; 1059

(2) The course shall be offered on an annual basis; 1060

(3) Those persons who are required to take the course under 1061
division (L) of this section shall do so triennially; 1062

(4) Persons who successfully complete the course shall be 1063
certified by the director; 1064

(5) Certification shall be required for all employees of 1065
boards of health who are responsible for enforcing the solid waste 1066
or infectious waste provisions of this chapter and rules adopted 1067
under them and for all persons who are responsible for the 1068
operation of solid waste facilities or infectious waste treatment 1069
facilities; 1070

(6)(a) All employees of a board of health who, on the 1071
effective date of the rules adopted under this division, are 1072
responsible for enforcing the solid waste or infectious waste 1073
provisions of this chapter and the rules adopted under them shall 1074
complete the course and be certified by the director not later 1075
than January 1, 1995; 1076

(b) All employees of a board of health who, after the 1077
effective date of the rules adopted under division (L) of this 1078
section, become responsible for enforcing the solid waste or 1079
infectious waste provisions of this chapter and rules adopted 1080
under them and who do not hold a current and valid certification 1081
from the director at that time shall complete the course and be 1082
certified by the director within two years after becoming 1083
responsible for performing those activities. 1084

No person shall fail to obtain the certification required 1085
under this division. 1086

(M) The director shall not issue a permit under section 1087
3734.05 of the Revised Code to establish a solid waste facility, 1088
or to modify a solid waste facility operating on December 21, 1089
1988, in a manner that expands the disposal capacity or geographic 1090
area covered by the facility, that is or is to be located within 1091

the boundaries of a state park established or dedicated under 1092
Chapter 1541. of the Revised Code, a state park purchase area 1093
established under section 1541.02 of the Revised Code, any unit of 1094
the national park system, or any property that lies within the 1095
boundaries of a national park or recreation area, but that has not 1096
been acquired or is not administered by the secretary of the 1097
United States department of the interior, located in this state, 1098
or any candidate area located in this state and identified for 1099
potential inclusion in the national park system in the edition of 1100
the "national park system plan" submitted under paragraph (b) of 1101
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 1102
U.S.C.A. 1a-5, as amended, current at the time of filing of the 1103
application for the permit, unless the facility or proposed 1104
facility is or is to be used exclusively for the disposal of solid 1105
wastes generated within the park or recreation area and the 1106
director determines that the facility or proposed facility will 1107
not degrade any of the natural or cultural resources of the park 1108
or recreation area. The director shall not issue a variance under 1109
division (A) of this section and rules adopted under it, or issue 1110
an exemption order under division (G) of this section, that would 1111
authorize any such establishment or expansion of a solid waste 1112
facility within the boundaries of any such park or recreation 1113
area, state park purchase area, or candidate area, other than a 1114
solid waste facility exclusively for the disposal of solid wastes 1115
generated within the park or recreation area when the director 1116
determines that the facility will not degrade any of the natural 1117
or cultural resources of the park or recreation area. 1118

(N)(1) The rules adopted under division (A) of this section, 1119
other than those governing variances, do not apply to scrap tire 1120
collection, storage, monocell, monofill, and recovery facilities. 1121
Those facilities are subject to and governed by rules adopted 1122
under sections 3734.70 to 3734.73 of the Revised Code, as 1123
applicable. 1124

(2) Division (C) of this section does not apply to scrap tire 1125
collection, storage, monocell, monofill, and recovery facilities. 1126
The establishment and modification of those facilities are subject 1127
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 1128
Code, as applicable. 1129

(3) The director may adopt, amend, suspend, or rescind rules 1130
under division (A) of this section creating an alternative system 1131
for authorizing the establishment, operation, or modification of a 1132
solid waste compost facility in lieu of the requirement that a 1133
person seeking to establish, operate, or modify a solid waste 1134
compost facility apply for and receive a permit under division (C) 1135
of this section and section 3734.05 of the Revised Code and a 1136
license under division (A)(1) of that section. The rules may 1137
include requirements governing, without limitation, the 1138
classification of solid waste compost facilities, the submittal of 1139
operating records for solid waste compost facilities, and the 1140
creation of a registration or notification system in lieu of the 1141
issuance of permits and licenses for solid waste compost 1142
facilities. The rules shall specify the applicability of divisions 1143
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 1144
Code to a solid waste compost facility. 1145

(O) No owner or operator of a sanitary landfill shall dispose 1146
of commingled municipal solid waste and aluminum production wastes 1147
at the landfill. 1148

Sec. 3734.021. (A) Infectious wastes shall be segregated, 1149
~~packaged~~ managed, treated, ~~transported~~, and disposed of in 1150
accordance with rules adopted under this section. 1151

(B) The director of environmental protection, in accordance 1152
with Chapter 119. of the Revised Code, shall adopt, ~~and may amend~~ 1153
~~and rescind~~, rules necessary or appropriate to protect human 1154
health or safety or the environment that do both of the following: 1155

~~(A) Establishing~~ (1) Establish standards for generators of 1156
infectious wastes that include, without limitation, the following 1157
requirements and authorizations that: 1158

~~(1)(a)~~ (a) All generators of infectious wastes: 1159

~~(a) Place all infectious wastes identified in division (R)(7)~~ 1160
~~of section 3734.01 of the Revised Code, and all unused, discarded~~ 1161
~~hypodermic needles, syringes, and scalpel blades, in rigid,~~ 1162
~~tightly closed, puncture resistant containers on the premises~~ 1163
~~where they are generated before they are transported off that~~ 1164
~~premises. Containers containing such wastes shall be labeled~~ 1165
~~"sharps" and, if the wastes have not been treated to render them~~ 1166
~~noninfectious, shall be conspicuously labeled with the~~ 1167
~~international biohazard symbol.~~ 1168

~~(b)(i)~~ (i) Either treat all specimen cultures and cultures of 1169
viable infectious agents on the premises where they are generated 1170
to render them noninfectious by methods, techniques, or practices 1171
prescribed by rules adopted under division ~~(C)(1)(B)(2)(a)~~ (a) of this 1172
section before they are transported off that premises for disposal 1173
or ensure that such wastes are treated to render them 1174
noninfectious at an infectious waste treatment facility off that 1175
premises ~~that is owned or operated by the generator, an infectious~~ 1176
~~waste treatment facility that holds a license issued under~~ 1177
~~division (B) of section 3734.05 of the Revised Code, an infectious~~ 1178
~~waste treatment facility that is located in another state that is~~ 1179
~~in compliance with applicable state and federal laws, or a~~ 1180
~~treatment facility that is authorized by rules adopted under~~ 1181
~~division (C)(6) of this section, prior to disposal of the wastes.~~ 1182

~~(c) Except as otherwise provided in division (A)(1)(c) of~~ 1183
~~this section, wastes generated by a generator who produces fewer~~ 1184
~~than fifty pounds of infectious wastes during any one month that~~ 1185
~~are subject to and packaged and labeled in accordance with rules~~ 1186
~~adopted under division (A)(1)(a) of this section shall be~~ 1187

~~transported and disposed of in the same manner as solid wastes. 1188
Such generators who treat specimen cultures and cultures of viable 1189
infectious agents on the premises where they are generated shall 1190
not be considered treatment facilities as "treatment" and 1191
"facility" are defined in section 3734.01 of the Revised Code. 1192~~

~~(d) Wastes; 1193~~

~~(ii) Dispose of infectious wastes subject to and treated in 1194
accordance with rules adopted under division (A)(1)(b)(B)(1)(a)(i) 1195
of this section shall be transported and disposed of in the same 1196
manner as solid wastes. 1197~~

~~(e) For the purposes of this section and rules adopted under 1198
it, no wastes consisting of dead animals or parts thereof shall be 1199
considered when determining the quantity of infectious wastes 1200
produced by any generator if the dead animals or parts meet either 1201
of the following: 1202~~

~~(i) Were not intentionally exposed to infectious agents 1203
during research, production of biologicals, or testing of 1204
pharmaceuticals; 1205~~

~~(ii) Either were produced by a veterinarian holding a license 1206
issued under Chapter 4741. of the Revised Code or were treated or 1207
disposed of by a person holding a license issued under Chapter 1208
953. of the Revised Code. 1209~~

~~(f) For the purposes of this section and rules adopted under 1210
it, no blood, blood products, other body fluids, or embalming 1211
fluids that are discharged on the site of their generation into a 1212
disposal system, as defined in section 6111.01 of the Revised 1213
Code, by a facility that holds a license or renewal of a license 1214
issued under Chapter 4717. of the Revised Code shall be considered 1215
when determining the quantity of infectious wastes produced by 1216
that generator. 1217~~

~~(g) Wastes generated by a generator who produces fewer than 1218~~

~~fifty pounds of infectious wastes during any one month that are 1219
subject to and packaged in accordance with rules adopted under 1220
division (A)(1)(a) of this section may be transported to a 1221
treatment facility owned or operated by a hospital with which the 1222
generator has staff privileges, as "hospital" is defined in 1223
section 3727.01 of the Revised Code. Such a generator who so 1224
transports infectious wastes, other than untreated specimen 1225
cultures and cultures and stocks of viable infectious agents, that 1226
are generated on the generator's premises is not a transporter for 1227
the purposes of this section or section 3734.022 of the Revised 1228
Code. 1229~~

~~(h) Wastes; 1230~~

~~(iii) May take wastes generated in providing care to a 1231
patient by an emergency medical services organization, as defined 1232
in section 4765.01 of the Revised Code, ~~may be taken~~ to and ~~left~~ 1233
leave them at a hospital, as defined in section 3727.01 of the 1234
Revised Code, for treatment at a treatment facility owned or 1235
operated by the hospital or, in conjunction with infectious wastes 1236
generated by the hospital, at another treatment facility 1237
regardless of whether the wastes were generated in providing care 1238
to the patient at the scene of an emergency or during the 1239
transportation of the patient to a hospital. ~~An emergency medical~~ 1240
~~services organization that transports infectious wastes that are~~ 1241
~~so generated to a hospital for that purpose is not a transporter~~ 1242
~~for the purposes of this section or section 3734.022 of the~~ 1243
~~Revised Code. 1244~~~~

~~(i) Wastes; 1245~~

~~(iv) May take wastes generated by an individual for purposes 1246
of the individual's own care or treatment ~~may be taken~~ to and ~~left~~ 1247
leave them at a hospital, as defined in section 3727.01 of the 1248
Revised Code, for treatment at a treatment facility owned or 1249
operated by the hospital or, in conjunction with infectious wastes 1250~~

generated by the hospital, at another treatment facility. An 1251
~~individual or member of an individual's household who transports~~ 1252
~~wastes so generated by the individual to a hospital for that~~ 1253
~~purpose is not a transporter for the purposes of this section or~~ 1254
~~section 3734.022 of the Revised Code.~~ 1255

~~(2)(b) Each generator of fifty pounds or more of infectious~~ 1256
~~wastes during any one month regardless of the amount of infectious~~ 1257
~~wastes generated:~~ 1258

~~(a) Register with (i) Notify the environmental protection~~ 1259
~~agency as to the generator's status as a generator of infectious~~ 1260
~~wastes and obtain a registration certificate. The fee for issuance~~ 1261
~~of If a generator registration certificate is three hundred~~ 1262
~~produces fifty pounds or more of infectious wastes during any one~~ 1263
~~month, the generator shall submit to the director a fee of fifty~~ 1264
~~dollars payable at the time of application notification. The~~ 1265
~~registration certificate applies to all the premises owned or~~ 1266
~~operated by the generator in this state where infectious wastes~~ 1267
~~are generated and shall list the address of each such premises. If~~ 1268
~~a generator owns or operates facilities for the treatment of a~~ 1269
~~facility that treats the infectious wastes it that the generator~~ 1270
~~generates, the certificate notification shall list the address and~~ 1271
~~method of treatment used at each such the facility.~~ 1272

~~A generator registration certificate is valid for three years~~ 1273
~~from the date of issuance and shall be renewed for a term of three~~ 1274
~~update the notification that is required by division (B)(1)(b)(i)~~ 1275
~~of this section every two years upon the generator's submission of~~ 1276
~~an application for renewal and payment of a three hundred dollar~~ 1277
~~renewal fee.~~ 1278

~~The rules may establish a system of staggered renewal dates~~ 1279
~~with approximately one third of such certificates subject to~~ 1280
~~renewal each year. The applicable renewal date shall be prescribed~~ 1281
~~on each registration certificate. Registration fees shall be~~ 1282

~~prorated according to the time remaining in the registration cycle 1283
to the nearest year. A generator that produces fifty pounds or 1284
more of infectious wastes during any one month shall submit to the 1285
director a notification renewal fee of fifty dollars with the 1286
updated notification. 1287~~

~~The registration and renewal fees collected under division 1288
(B)(1)(b)(i) of this section shall be credited to the infectious 1289
wastes management fund, hereby created in the state treasury. 1290~~

~~(b)(ii) Segregate infectious wastes from other wastes at the 1291
point of generation. Nothing in this section and rules adopted 1292
under it prohibits a generator of infectious wastes from 1293
designating and managing any wastes, in addition to those defined 1294
as infectious wastes under section 3734.01 of the Revised Code, as 1295
infectious wastes ~~when, in the judgment of the generator, those 1296
other wastes should be managed as infectious wastes because they 1297
are, or are likely to be, contaminated with infectious agents. 1298~~
After designating any such other wastes as infectious, the 1299
generator shall manage those wastes in compliance with the 1300
requirements of this chapter and rules adopted under it applicable 1301
to the management of infectious wastes. 1302~~

~~(c) For purposes of containment, place infectious wastes, 1303
other than those subject to rules adopted under division (A)(1)(a) 1304
of this section, in plastic bags that are impervious to moisture 1305
and are sufficiently strong to preclude ripping, tearing, or 1306
bursting under normal conditions of handling and ensure that the 1307
filled bags are securely tied to prevent leakage or expulsion of 1308
the wastes from them during storage, handling, or transport. The 1309
generator shall ensure that, prior to transportation off the 1310
premises where generated, infectious wastes that have not been 1311
treated to render them noninfectious, other than those subject to 1312
division (A)(1)(a) of this section, are contained in bags that 1313
either are red in color or conspicuously labeled with the 1314~~

~~international biohazard symbol.~~ 1315

~~(d)(iii)~~ Either treat the infectious wastes that it generates 1316
at a facility owned or operated by the generator by methods, 1317
techniques, or practices prescribed by rules adopted under 1318
division ~~(C)(1)(B)(2)(a)~~ of this section to render them 1319
noninfectious, or designate the wastes for treatment off that 1320
premises at an infectious waste treatment facility holding a 1321
license issued under division (B) of section 3734.05 of the 1322
Revised Code, at an infectious waste treatment facility that is 1323
located in another state that is in compliance with applicable 1324
state and federal laws, or at a treatment facility authorized by 1325
rules adopted under division ~~(C)(6)(B)(2)(d)~~ of this section, 1326
prior to disposal of the wastes. After being treated to render 1327
them noninfectious, the wastes shall be disposed of at a solid 1328
waste disposal facility holding a license issued under division 1329
(A) of section 3734.05 of the Revised Code or at a disposal 1330
facility in another state that is in compliance with applicable 1331
state and federal laws. 1332

~~(e)(iv)~~ Not ~~grind any infectious wastes identified in~~ 1333
~~division (R)(7) of section 3734.01 of the Revised Code, not~~ 1334
~~compact any such wastes until after the wastes have been treated~~ 1335
~~in accordance with rules adopted under divisions (C)(1) and (3) of~~ 1336
~~this section, and not compact or grind any other type of~~ 1337
~~infectious wastes until after the wastes have been treated~~ 1338
prior to treatment in accordance with rules adopted under division 1339
~~(C)(1)(B)(2)(a)~~ of this section; 1340

~~(f)(v)~~ May discharge untreated liquid or semiliquid 1341
infectious wastes consisting of blood, blood products, body 1342
fluids, and excreta into a disposal system, as defined in section 1343
6111.01 of the Revised Code, unless the discharge of those wastes 1344
into a disposal system is inconsistent with the terms and 1345
conditions of the permit for the system issued under Chapter 6111. 1346

of the Revised Code; 1347

~~(g) Employ only transporters who are registered under section 1348
3734.022 of the Revised Code to transport off the premises where 1349
they were generated infectious wastes that have not been treated 1350
to render them noninfectious; 1351~~

~~(h) Cause all infectious wastes that have not been treated to 1352
render them noninfectious, and those subject to rules adopted 1353
under division (A)(1)(a) of this section that have not also been 1354
treated in accordance with rules adopted under division (C)(3) of 1355
this section, to be transported in shipments consisting only of 1356
untreated infectious wastes; 1357~~

~~(i)(vi) May transport or cause to be transported infectious 1358
wastes that have been treated to render them noninfectious, and 1359
those wastes subject to rules adopted under division (A)(1)(a) of 1360
this section that have also been treated in accordance with rules 1361
adopted under division (C)(3) of this section, in the same manner 1362
as solid wastes are transported; 1363~~

~~(j) Provide information on the composition of its infectious 1364
wastes, the treatment of the wastes to render them noninfectious, 1365
and the generator's system for distinguishing between waste 1366
packages that contain treated and untreated wastes to persons with 1367
whom the generator has entered into a contract or agreement to 1368
transport, treat, or dispose of the wastes upon receiving a 1369
written request from those persons; 1370~~

~~(k) Ensure that all infectious wastes, whether treated or 1371
untreated, that are transported off the premises where they are 1372
generated are accompanied by a shipping paper that meets the 1373
requirements of rules adopted under division (D)(1) or (2) of this 1374
section, as appropriate. 1375~~

~~(B) Establishing standards for transporters of infectious 1376
wastes that include, without limitation, the following 1377~~

requirements that the transporters:	1378
(1) Transport only properly packaged and labeled wastes;	1379
(2) Transport wastes that have not been treated to render them noninfectious only in a leak resistant, fully covered vehicle compartment;	1380 1381 1382
(3) Not compact infectious wastes that have not been treated to render them noninfectious and not compact any infectious wastes subject to rules adopted under division (A)(1)(a) of this section that have not also been treated in accordance with rules adopted under division (C)(3) of this section;	1383 1384 1385 1386 1387
(4) Transport infectious wastes that have not been treated to render them noninfectious and infectious wastes subject to rules adopted under division (A)(1)(a) of this section, that have not also been treated in accordance with rules adopted under division (C)(3) of this section, in shipments consisting only of untreated infectious wastes;	1388 1389 1390 1391 1392 1393
(5) Transport infectious wastes that have been treated to render them noninfectious, and, in the case of wastes subject to rules adopted under division (A)(1)(a) of this section, have also been treated in accordance with rules adopted under division (C)(3) of this section, in the same manner as solid wastes;	1394 1395 1396 1397 1398
(6) Promptly disinfect surfaces of transport vehicles that have had untreated infectious wastes leaked or spilled onto them, in accordance with methods prescribed by the director by rule;	1399 1400 1401
(7) Transport infectious wastes that have not been treated to render them noninfectious only to an infectious waste treatment facility holding an operating license issued under division (B) of section 3734.05 of the Revised Code, to an infectious waste treatment facility that is located in another state that is in compliance with applicable state and federal laws, to a treatment facility authorized by rules adopted under division (C)(6) of this	1402 1403 1404 1405 1406 1407 1408

~~section, or to an infectious waste treatment facility owned or 1409
operated by the generator of the wastes. If the generator 1410
designates a treatment facility on the shipping paper accompanying 1411
the wastes, the transporter shall deliver the wastes to that 1412
treatment facility. 1413~~

~~(8) Comply with the shipping paper system established by 1414
rules adopted under division (D) of this section. 1415~~

~~(C) Establishing~~ (2) Establish standards for owners and 1416
operators of infectious waste treatment facilities that include, 1417
without limitation, the following requirements and authorizations 1418
that: 1419

~~(1) Treatment~~ (a) Require treatment of all wastes received to 1420
be performed in accordance with methods, techniques, and practices 1421
approved by the director; 1422

~~(2)(b)~~ Govern the location, design, construction, and 1423
operation of infectious waste treatment facilities. The rules 1424
adopted under division ~~(C)(2)(B)(2)(b)~~ of this section shall 1425
require that a new infectious waste incineration facility be 1426
located so that the incinerator unit and all areas where 1427
infectious wastes are handled on the premises where the facility 1428
is proposed to be located are at least three hundred feet inside 1429
the property line of the tract of land on which the facility is 1430
proposed to be located and are at least one thousand feet from any 1431
domicile, school, prison, or jail that is in existence on the date 1432
on which the application for the permit to establish the 1433
incinerator is submitted under division (B)(2)(b) of section 1434
3734.05 of the Revised Code. 1435

~~(3) Establish methods, techniques, and practices for 1436
treatment of wastes subject to rules adopted under division 1437
(A)(1)(a) of this section that may be used to substantially reduce 1438
or eliminate the potential of those wastes to cause lacerations or 1439~~

~~puncture wounds during handling, transportation, and disposal;~~ 1440

~~(4)(c)~~ Establish quality control and testing procedures to 1441
ensure compliance with the rules adopted under ~~divisions (C)(2)~~ 1442
~~and (3)~~ division (B)(2)(b) of this section; 1443

~~(5) Owners and operators of such facilities comply with the~~ 1444
~~shipping paper system established by rules adopted under division~~ 1445
~~(D) of this section;~~ 1446

~~(6) Infectious~~ (d) Authorize infectious wastes ~~may to~~ be 1447
treated at a facility that holds a license or renewal of a license 1448
to operate a crematory facility issued under Chapter 4717., and a 1449
permit issued under Chapter 3704., of the Revised Code to the 1450
extent that the treatment of those wastes is consistent with that 1451
permit and its terms and conditions. The rules adopted under 1452
~~divisions (C)(2)(B)(2)(b)~~ and ~~(4)(c)~~ of this section do not apply 1453
to a facility holding such a license and permit. 1454

In adopting the rules required by divisions ~~(C)(1)(B)(2)(a)~~ 1455
to ~~(4)(d)~~ of this section, the director shall consider and, to the 1456
maximum feasible extent, utilize existing standards and guidelines 1457
established by professional and governmental organizations having 1458
expertise in the fields of infection control and infectious wastes 1459
management. 1460

~~(D) Establishing a system of shipping papers to accompany~~ 1461
~~shipments of infectious wastes that are transported off the~~ 1462
~~premises where they are generated, including the following~~ 1463
~~requirements:~~ 1464

~~(1) Shipping papers that accompany shipments of wastes that~~ 1465
~~have not been treated to render them noninfectious shall include~~ 1466
~~the following elements:~~ 1467

~~(a) The name of the generator and address of the premises~~ 1468
~~where the wastes were generated;~~ 1469

~~(b) A brief, general description of the nature of the wastes being shipped;~~ 1470
1471

~~(c) A method by which the person causing the transportation of a shipment of wastes may designate the treatment or disposal facility, as appropriate, to which the transporter shall deliver the wastes;~~ 1472
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~~(d) The requirement that when a shipment of wastes is transported off the premises where generated to a treatment facility owned or operated by the generator, the shipment need not be accompanied by a shipping paper and that, after treatment, the generator shall prepare a shipping paper that meets the requirements of rules adopted under division (D)(2) of this section to accompany the further shipment of the treated wastes to a solid waste disposal facility. When a shipment of untreated wastes is transported to a treatment facility not owned or operated by the generator of the waste, the owner or operator of the treatment facility shall prepare a separate shipping paper that meets the requirements of rules adopted under division (D)(2) of this section to accompany the shipment of the treated wastes from the owner's or operator's premises to a solid waste disposal facility.~~ 1476
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~~(e) A certification by the person causing the wastes to be transported that the wastes are packaged and labeled in accordance with the rules adopted under this section and that the description of the wastes is accurate.~~ 1491
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~~(2) Shipping papers that accompany shipments of wastes that have been treated to render them noninfectious shall include only the following elements:~~ 1495
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~~(a) The name of the owner or operator of the facility where the wastes were treated and the address of the treatment facility;~~ 1498
1499

~~(b) A certification by the owner or operator of the treatment~~ 1500

~~facility where the wastes were treated that the wastes have been 1501
treated by methods, techniques, and practices prescribed by rules 1502
adopted under division (C)(1) of this section. If the treated 1503
wastes are to be compacted prior to transportation and contain any 1504
wastes subject to rules adopted under division (A)(1)(a) of this 1505
section, the shipping paper shall include an additional 1506
certification by the owner or operator of the treatment facility 1507
where the wastes were treated that they also have been treated in 1508
accordance with rules adopted under division (C)(3) of this 1509
section. 1510~~

~~(E)(C)~~ This section and rules adopted under it do not apply 1511
to the treatment or disposal of wastes consisting of dead animals 1512
or parts thereof, or the blood of animals: 1513

(1) By the owner of the animal after slaughter by the owner 1514
on the owner's premises to obtain meat for consumption by the 1515
owner and the members of the owner's household; 1516

(2) In accordance with Chapter 941. of the Revised Code; or 1517

(3) By persons who are subject to any of the following: 1518

(a) Inspection under the "Federal Meat Inspection Act," 81 1519
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 1520

(b) Chapter 918. of the Revised Code; 1521

(c) Chapter 953. of the Revised Code. 1522

~~(F)(D)~~ As used in this section, "generator" means a person 1523
who produces infectious wastes at a specific premises. 1524

~~(G)(E)~~ Rules adopted under this section shall not concern or 1525
relate to personnel policies, salaries, wages, fringe benefits, or 1526
other conditions of employment of employees of persons owning or 1527
operating infectious waste treatment facilities. 1528

~~(H)~~ ~~The director shall not issue any variance from the rules~~ 1529
~~adopted under this section~~ (F)(1) The director, in accordance with 1530

Chapter 119. of the Revised Code, shall adopt rules governing the 1531
issuance, modification, revocation, suspension, and denial of 1532
variances from the rules adopted under division (B) of this 1533
section. Variances shall be issued, modified, revoked, suspended, 1534
or denied in accordance with division (F) of this section, rules 1535
adopted under it, and Chapter 3745. of the Revised Code. 1536

(2) A person who desires to obtain a variance or renew a 1537
variance from the rules adopted under division (B) of this section 1538
shall submit to the director an application as prescribed by the 1539
director. The application shall contain detail plans, 1540
specifications, and information regarding objectives, procedures, 1541
controls, and any other information that the director may require. 1542
The director shall issue, renew, or deny a variance or renewal of 1543
a variance within six months of the date on which the director 1544
receives a complete application with all required information and 1545
data. 1546

(3) The director may hold a public hearing on an application 1547
submitted under division (F) of this section for a variance at a 1548
location in the county in which the operations that are the 1549
subject of the application for a variance or renewal of variance 1550
are conducted. Not less than twenty days before the hearing, the 1551
director shall provide to the applicant notice of the hearing by 1552
certified mail or by another type of mail that is accompanied by a 1553
receipt and shall publish notice of the hearing at least one time 1554
in a newspaper of general circulation in the county in which the 1555
hearing is to be held. The director shall make a complete 1556
stenographic record of testimony and other evidence submitted at 1557
the hearing. Not later than ten days after the hearing, the 1558
director shall make a written determination to issue, renew, or 1559
deny the variance and shall enter the determination and the basis 1560
for it into the record of the hearing. 1561

(4) A variance shall not be issued, modified, revoked, or 1562

denied under division (F) of this section until the director has 1563
considered the relative interests of the applicant, other persons 1564
and property that will be affected by the variance, and the 1565
general public. The director shall grant a variance only if the 1566
applicant demonstrates to the director's satisfaction that the 1567
requested action will not create a nuisance or a hazard to the 1568
health or safety of the public or to the environment. In granting 1569
a variance, the director shall state the specific provision or 1570
provisions whose terms are to be varied and also shall state 1571
specific terms or conditions imposed on the applicant in place of 1572
the provision or provisions. 1573

(5) A variance granted under division (F) of this section 1574
shall be for a period specified by the director and may be renewed 1575
from time to time on terms and for periods that the director 1576
determines to be appropriate. The director may order the person to 1577
whom a variance has been issued to take action within the time 1578
that the director determines to be appropriate and reasonable to 1579
prevent the creation of a nuisance or a hazard to the health or 1580
safety of the public or to the environment. 1581

(6) An application submitted under division (F) of this 1582
section shall not be denied and a variance shall not be revoked or 1583
modified under that division without a written order of the 1584
director stating the findings on which the denial, revocation, or 1585
modification is based. A copy of the order shall be sent to the 1586
applicant or holder of a variance by certified mail or by another 1587
type of mail that is accompanied by a receipt. 1588

(7) The director shall make available for public inspection 1589
at the principal office of the environmental protection agency a 1590
current list of pending applications for variances submitted under 1591
division (F) of this section and a current schedule of pending 1592
variance hearings under it. 1593

Sec. 3734.027. (A) No person shall commingle with any type of 1594
solid wastes, hazardous waste, or infectious wastes any low-level 1595
radioactive waste whose treatment, recycling, storage, or disposal 1596
is governed under division (B) of section 3748.10 of the Revised 1597
Code. 1598

(B) ~~No~~ Except as authorized by the director of health under 1599
Chapter 3748. of the Revised Code and rules adopted under it, no 1600
owner or operator of a solid waste facility, infectious waste 1601
treatment facility, or hazardous waste facility shall accept for 1602
transfer, storage, treatment, or disposal or shall transfer, 1603
store, treat, or dispose of, ~~as applicable,~~ any ~~such~~ radioactive 1604
waste specified in division (A) of this section. 1605

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 1606
(8), and (9) of this section, no person shall operate or maintain 1607
a solid waste facility without a license issued under this 1608
division by the board of health of the health district in which 1609
the facility is located or by the director of environmental 1610
protection when the health district in which the facility is 1611
located is not on the approved list under section 3734.08 of the 1612
Revised Code. 1613

During the month of December, but before the first day of 1614
January of the next year, every person proposing to continue to 1615
operate an existing solid waste facility shall procure a license 1616
under this division to operate the facility for that year from the 1617
board of health of the health district in which the facility is 1618
located or, if the health district is not on the approved list 1619
under section 3734.08 of the Revised Code, from the director. The 1620
application for such a license shall be submitted to the board of 1621
health or to the director, as appropriate, on or before the last 1622
day of September of the year preceding that for which the license 1623
is sought. In addition to the application fee prescribed in 1624

division (A)(2) of this section, a person who submits an 1625
application after that date shall pay an additional ten per cent 1626
of the amount of the application fee for each week that the 1627
application is late. Late payment fees accompanying an application 1628
submitted to the board of health shall be credited to the special 1629
fund of the health district created in division (B) of section 1630
3734.06 of the Revised Code, and late payment fees accompanying an 1631
application submitted to the director shall be credited to the 1632
general revenue fund. A person who has received a license, upon 1633
sale or disposition of a solid waste facility, and upon consent of 1634
the board of health and the director, may have the license 1635
transferred to another person. The board of health or the director 1636
may include such terms and conditions in a license or revision to 1637
a license as are appropriate to ensure compliance with this 1638
chapter and rules adopted under it. The terms and conditions may 1639
establish the authorized maximum daily waste receipts for the 1640
facility. Limitations on maximum daily waste receipts shall be 1641
specified in cubic yards of volume for the purpose of regulating 1642
the design, construction, and operation of solid waste facilities. 1643
Terms and conditions included in a license or revision to a 1644
license by a board of health shall be consistent with, and pertain 1645
only to the subjects addressed in, the rules adopted under 1646
division (A) of section 3734.02 and division (D) of section 1647
3734.12 of the Revised Code. 1648

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 1649
(9) of this section, each person proposing to open a new solid 1650
waste facility or to modify an existing solid waste facility shall 1651
submit an application for a permit with accompanying detail plans 1652
and specifications to the environmental protection agency for 1653
required approval under the rules adopted by the director pursuant 1654
to division (A) of section 3734.02 of the Revised Code and 1655
applicable rules adopted under division (D) of section 3734.12 of 1656
the Revised Code at least two hundred seventy days before proposed 1657

operation of the facility and shall concurrently make application 1658
for the issuance of a license under division (A)(1) of this 1659
section with the board of health of the health district in which 1660
the proposed facility is to be located. 1661

(b) On and after the effective date of the rules adopted 1662
under division (A) of section 3734.02 of the Revised Code and 1663
division (D) of section 3734.12 of the Revised Code governing 1664
solid waste transfer facilities, each person proposing to open a 1665
new solid waste transfer facility or to modify an existing solid 1666
waste transfer facility shall submit an application for a permit 1667
with accompanying engineering detail plans, specifications, and 1668
information regarding the facility and its method of operation to 1669
the environmental protection agency for required approval under 1670
those rules at least two hundred seventy days before commencing 1671
proposed operation of the facility and concurrently shall make 1672
application for the issuance of a license under division (A)(1) of 1673
this section with the board of health of the health district in 1674
which the facility is located or proposed. 1675

(c) Each application for a permit under division (A)(2)(a) or 1676
(b) of this section shall be accompanied by a nonrefundable 1677
application fee of four hundred dollars that shall be credited to 1678
the general revenue fund. Each application for an annual license 1679
under division (A)(1) or (2) of this section shall be accompanied 1680
by a nonrefundable application fee of one hundred dollars. If the 1681
application for an annual license is submitted to a board of 1682
health on the approved list under section 3734.08 of the Revised 1683
Code, the application fee shall be credited to the special fund of 1684
the health district created in division (B) of section 3734.06 of 1685
the Revised Code. If the application for an annual license is 1686
submitted to the director, the application fee shall be credited 1687
to the general revenue fund. If a permit or license is issued, the 1688
amount of the application fee paid shall be deducted from the 1689

amount of the permit fee due under division (Q) of section 3745.11 1690
of the Revised Code or the amount of the license fee due under 1691
division (A)(1), (2), (3), (4), or (5) of section 3734.06 of the 1692
Revised Code. 1693

(d) As used in divisions (A)(2)(d), (e), and (f) of this 1694
section, "modify" means any of the following: 1695

(i) Any increase of more than ten per cent in the total 1696
capacity of a solid waste facility; 1697

(ii) Any expansion of the limits of solid waste placement at 1698
a solid waste facility; 1699

(iii) Any increase in the depth of excavation at a solid 1700
waste facility; 1701

(iv) Any change in the technique of waste receipt or type of 1702
waste received at a solid waste facility that may endanger human 1703
health, as determined by the director by rules adopted in 1704
accordance with Chapter 119. of the Revised Code. 1705

Not later than forty-five days after submitting an 1706
application under division (A)(2)(a) or (b) of this section for a 1707
permit to open a new or modify an existing solid waste facility, 1708
the applicant, in conjunction with an officer or employee of the 1709
environmental protection agency, shall hold a public meeting on 1710
the application within the county in which the new or modified 1711
solid waste facility is or is proposed to be located or within a 1712
contiguous county. Not less than thirty days before holding the 1713
public meeting on the application, the applicant shall publish 1714
notice of the meeting in each newspaper of general circulation 1715
that is published in the county in which the facility is or is 1716
proposed to be located. If no newspaper of general circulation is 1717
published in the county, the applicant shall publish the notice in 1718
a newspaper of general circulation in the county. The notice shall 1719
contain the date, time, and location of the public meeting and a 1720

general description of the proposed new or modified facility. Not 1721
later than five days after publishing the notice, the applicant 1722
shall send by certified mail a copy of the notice and the date the 1723
notice was published to the director and the legislative authority 1724
of each municipal corporation, township, and county, and to the 1725
chief executive officer of each municipal corporation, in which 1726
the facility is or is proposed to be located. At the public 1727
meeting, the applicant shall provide information and describe the 1728
application and respond to comments or questions concerning the 1729
application, and the officer or employee of the agency shall 1730
describe the permit application process. At the public meeting, 1731
any person may submit written or oral comments on or objections to 1732
the application. Not more than thirty days after the public 1733
meeting, the applicant shall provide the director with a copy of a 1734
transcript of the full meeting, copies of any exhibits, displays, 1735
or other materials presented by the applicant at the meeting, and 1736
the original copy of any written comments submitted at the 1737
meeting. 1738

(e) Except as provided in division (A)(2)(f) of this section, 1739
prior to taking an action, other than a proposed or final denial, 1740
upon an application submitted under division (A)(2)(a) of this 1741
section for a permit to open a new or modify an existing solid 1742
waste facility, the director shall hold a public information 1743
session and a public hearing on the application within the county 1744
in which the new or modified solid waste facility is or is 1745
proposed to be located or within a contiguous county. If the 1746
application is for a permit to open a new solid waste facility, 1747
the director shall hold the hearing not less than fourteen days 1748
after the information session. If the application is for a permit 1749
to modify an existing solid waste facility, the director may hold 1750
both the information session and the hearing on the same day 1751
unless any individual affected by the application requests in 1752
writing that the information session and the hearing not be held 1753

on the same day, in which case the director shall hold the hearing 1754
not less than fourteen days after the information session. The 1755
director shall publish notice of the public information session or 1756
public hearing not less than thirty days before holding the 1757
information session or hearing, as applicable. The notice shall be 1758
published in each newspaper of general circulation that is 1759
published in the county in which the facility is or is proposed to 1760
be located. If no newspaper of general circulation is published in 1761
the county, the director shall publish the notice in a newspaper 1762
of general circulation in the county. The notice shall contain the 1763
date, time, and location of the information session or hearing, as 1764
applicable, and a general description of the proposed new or 1765
modified facility. At the public information session, an officer 1766
or employee of the environmental protection agency shall describe 1767
the status of the permit application and be available to respond 1768
to comments or questions concerning the application. At the public 1769
hearing, any person may submit written or oral comments on or 1770
objections to the approval of the application. The applicant, or a 1771
representative of the applicant who has knowledge of the location, 1772
construction, and operation of the facility, shall attend the 1773
information session and public hearing to respond to comments or 1774
questions concerning the facility directed to the applicant or 1775
representative by the officer or employee of the environmental 1776
protection agency presiding at the information session and 1777
hearing. 1778

(f) The solid waste management policy committee of a county 1779
or joint solid waste management district may adopt a resolution 1780
requesting expeditious consideration of a specific application 1781
submitted under division (A)(2)(a) of this section for a permit to 1782
modify an existing solid waste facility within the district. The 1783
resolution shall make the finding that expedited consideration of 1784
the application without the public information session and public 1785
hearing under division (A)(2)(e) of this section is in the public 1786

interest and will not endanger human health, as determined by the 1787
director by rules adopted in accordance with Chapter 119. of the 1788
Revised Code. Upon receiving such a resolution, the director, at 1789
the director's discretion, may issue a final action upon the 1790
application without holding a public information session or public 1791
hearing pursuant to division (A)(2)(e) of this section. 1792

(3) Except as provided in division (A)(10) of this section, 1793
and unless the owner or operator of any solid waste facility, 1794
other than a solid waste transfer facility or a compost facility 1795
that accepts exclusively source separated yard wastes, that 1796
commenced operation on or before July 1, 1968, has obtained an 1797
exemption from the requirements of division (A)(3) of this section 1798
in accordance with division (G) of section 3734.02 of the Revised 1799
Code, the owner or operator shall submit to the director an 1800
application for a permit with accompanying engineering detail 1801
plans, specifications, and information regarding the facility and 1802
its method of operation for approval under rules adopted under 1803
division (A) of section 3734.02 of the Revised Code and applicable 1804
rules adopted under division (D) of section 3734.12 of the Revised 1805
Code in accordance with the following schedule: 1806

(a) Not later than September 24, 1988, if the facility is 1807
located in the city of Garfield Heights or Parma in Cuyahoga 1808
county; 1809

(b) Not later than December 24, 1988, if the facility is 1810
located in Delaware, Greene, Guernsey, Hamilton, Madison, 1811
Mahoning, Ottawa, or Vinton county; 1812

(c) Not later than March 24, 1989, if the facility is located 1813
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 1814
Washington county, or is located in the city of Brooklyn or 1815
Cuyahoga Heights in Cuyahoga county; 1816

(d) Not later than June 24, 1989, if the facility is located 1817

in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 1818
Summit county or is located in Cuyahoga county outside the cities 1819
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 1820

(e) Not later than September 24, 1989, if the facility is 1821
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 1822
county; 1823

(f) Not later than December 24, 1989, if the facility is 1824
located in a county not listed in divisions (A)(3)(a) to (e) of 1825
this section; 1826

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 1827
section, not later than December 31, 1990, if the facility is a 1828
solid waste facility owned by a generator of solid wastes when the 1829
solid waste facility exclusively disposes of solid wastes 1830
generated at one or more premises owned by the generator 1831
regardless of whether the facility is located on a premises where 1832
the wastes are generated and if the facility disposes of more than 1833
one hundred thousand tons of solid wastes per year, provided that 1834
any such facility shall be subject to division (A)(5) of this 1835
section. 1836

(4) Except as provided in divisions (A)(8), (9), and (10) of 1837
this section, unless the owner or operator of any solid waste 1838
facility for which a permit was issued after July 1, 1968, but 1839
before January 1, 1980, has obtained an exemption from the 1840
requirements of division (A)(4) of this section under division (G) 1841
of section 3734.02 of the Revised Code, the owner or operator 1842
shall submit to the director an application for a permit with 1843
accompanying engineering detail plans, specifications, and 1844
information regarding the facility and its method of operation for 1845
approval under those rules. 1846

(5) The director may issue an order in accordance with 1847
Chapter 3745. of the Revised Code to the owner or operator of a 1848

solid waste facility requiring the person to submit to the 1849
director updated engineering detail plans, specifications, and 1850
information regarding the facility and its method of operation for 1851
approval under rules adopted under division (A) of section 3734.02 1852
of the Revised Code and applicable rules adopted under division 1853
(D) of section 3734.12 of the Revised Code if, in the director's 1854
judgment, conditions at the facility constitute a substantial 1855
threat to public health or safety or are causing or contributing 1856
to or threatening to cause or contribute to air or water pollution 1857
or soil contamination. Any person who receives such an order shall 1858
submit the updated engineering detail plans, specifications, and 1859
information to the director within one hundred eighty days after 1860
the effective date of the order. 1861

(6) The director shall act upon an application submitted 1862
under division (A)(3) or (4) of this section and any updated 1863
engineering plans, specifications, and information submitted under 1864
division (A)(5) of this section within one hundred eighty days 1865
after receiving them. If the director denies any such permit 1866
application, the order denying the application or disapproving the 1867
plans shall include the requirements that the owner or operator 1868
submit a plan for closure and post-closure care of the facility to 1869
the director for approval within six months after issuance of the 1870
order, cease accepting solid wastes for disposal or transfer at 1871
the facility, and commence closure of the facility not later than 1872
one year after issuance of the order. If the director determines 1873
that closure of the facility within that one-year period would 1874
result in the unavailability of sufficient solid waste management 1875
facility capacity within the county or joint solid waste 1876
management district in which the facility is located to dispose of 1877
or transfer the solid waste generated within the district, the 1878
director in the order of denial or disapproval may postpone 1879
commencement of closure of the facility for such period of time as 1880
the director finds necessary for the board of county commissioners 1881

or directors of the district to secure access to or for there to 1882
be constructed within the district sufficient solid waste 1883
management facility capacity to meet the needs of the district, 1884
provided that the director shall certify in the director's order 1885
that postponing the date for commencement of closure will not 1886
endanger ground water or any property surrounding the facility, 1887
allow methane gas migration to occur, or cause or contribute to 1888
any other type of environmental damage. 1889

If an emergency need for disposal capacity that may affect 1890
public health and safety exists as a result of closure of a 1891
facility under division (A)(6) of this section, the director may 1892
issue an order designating another solid waste facility to accept 1893
the wastes that would have been disposed of at the facility to be 1894
closed. 1895

(7) If the director determines that standards more stringent 1896
than those applicable in rules adopted under division (A) of 1897
section 3734.02 of the Revised Code and division (D) of section 1898
3734.12 of the Revised Code, or standards pertaining to subjects 1899
not specifically addressed by those rules, are necessary to ensure 1900
that a solid waste facility constructed at the proposed location 1901
will not cause a nuisance, cause or contribute to water pollution, 1902
or endanger public health or safety, the director may issue a 1903
permit for the facility with such terms and conditions as the 1904
director finds necessary to protect public health and safety and 1905
the environment. If a permit is issued, the director shall state 1906
in the order issuing it the specific findings supporting each such 1907
term or condition. 1908

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 1909
not apply to a solid waste compost facility that accepts 1910
exclusively source separated yard wastes and that is registered 1911
under division (C) of section 3734.02 of the Revised Code or, 1912
unless otherwise provided in rules adopted under division (N)(3) 1913

of section 3734.02 of the Revised Code, to a solid waste compost 1914
facility if the director has adopted rules establishing an 1915
alternative system for authorizing the establishment, operation, 1916
or modification of a solid waste compost facility under that 1917
division. 1918

(9) Divisions (A)(1) to (7) of this section do not apply to 1919
scrap tire collection, storage, monocell, monofill, and recovery 1920
facilities. The approval of plans and specifications, as 1921
applicable, and the issuance of registration certificates, 1922
permits, and licenses for those facilities are subject to sections 1923
3734.75 to 3734.78 of the Revised Code, as applicable, and section 1924
3734.81 of the Revised Code. 1925

(10) Divisions (A)(3) and (4) of this section do not apply to 1926
a solid waste incinerator that was placed into operation on or 1927
before October 12, 1994, and that is not authorized to accept and 1928
treat infectious wastes pursuant to division (B) of this section. 1929

~~(B)(1) Each person who is engaged in the business of treating 1930
infectious wastes for profit at a treatment facility located off 1931
the premises where the wastes are generated that is in operation 1932
on August 10, 1988, and who proposes to continue operating the 1933
facility shall submit to the board of health of the health 1934
district in which the facility is located an application for a 1935
license to operate the facility. 1936~~

~~Thereafter, no~~ No person shall operate or maintain an 1937
infectious waste treatment facility without a license issued by 1938
the board of health of the health district in which the facility 1939
is located or by the director when the health district in which 1940
the facility is located is not on the approved list under section 1941
3734.08 of the Revised Code. 1942

(2)(a) During the month of December, but before the first day 1943
of January of the next year, every person proposing to continue to 1944

operate an existing infectious waste treatment facility shall 1945
procure a license to operate the facility for that year from the 1946
board of health of the health district in which the facility is 1947
located or, if the health district is not on the approved list 1948
under section 3734.08 of the Revised Code, from the director. The 1949
application for such a license shall be submitted to the board of 1950
health or to the director, as appropriate, on or before the last 1951
day of September of the year preceding that for which the license 1952
is sought. In addition to the application fee prescribed in 1953
division (B)(2)(c) of this section, a person who submits an 1954
application after that date shall pay an additional ten per cent 1955
of the amount of the application fee for each week that the 1956
application is late. Late payment fees accompanying an application 1957
submitted to the board of health shall be credited to the special 1958
infectious waste fund of the health district created in division 1959
(C) of section 3734.06 of the Revised Code, and late payment fees 1960
accompanying an application submitted to the director shall be 1961
credited to the general revenue fund. A person who has received a 1962
license, upon sale or disposition of an infectious waste treatment 1963
facility and upon consent of the board of health and the director, 1964
may have the license transferred to another person. The board of 1965
health or the director may include such terms and conditions in a 1966
license or revision to a license as are appropriate to ensure 1967
compliance with the infectious waste provisions of this chapter 1968
and rules adopted under them. 1969

(b) Each person proposing to open a new infectious waste 1970
treatment facility or to modify an existing infectious waste 1971
treatment facility shall submit an application for a permit with 1972
accompanying detail plans and specifications to the environmental 1973
protection agency for required approval under the rules adopted by 1974
the director pursuant to section 3734.021 of the Revised Code two 1975
hundred seventy days before proposed operation of the facility and 1976
concurrently shall make application for a license with the board 1977

of health of the health district in which the facility is or is 1978
proposed to be located. Not later than ninety days after receiving 1979
a ~~completed~~ complete application under division (B)(2)(b) of this 1980
section for a permit to open a new infectious waste treatment 1981
facility or modify an existing infectious waste treatment facility 1982
to expand its treatment capacity, or receiving a ~~completed~~ 1983
complete application under division (A)(2)(a) of this section for 1984
a permit to open a new solid waste incineration facility, or 1985
modify an existing solid waste incineration facility to also treat 1986
infectious wastes or to increase its infectious waste treatment 1987
capacity, that pertains to a facility for which a notation 1988
authorizing infectious waste treatment is included or proposed to 1989
be included in the solid waste incineration facility's license 1990
pursuant to division (B)(3) of this section, the director shall 1991
hold a public hearing on the application within the county in 1992
which the new or modified infectious waste or solid waste facility 1993
is or is proposed to be located or within a contiguous county. Not 1994
less than thirty days before holding the public hearing on the 1995
application, the director shall publish notice of the hearing in 1996
each newspaper that has general circulation and that is published 1997
in the county in which the facility is or is proposed to be 1998
located. If there is no newspaper that has general circulation and 1999
that is published in the county, the director shall publish the 2000
notice in a newspaper of general circulation in the county. The 2001
notice shall contain the date, time, and location of the public 2002
hearing and a general description of the proposed new or modified 2003
facility. At the public hearing, any person may submit written or 2004
oral comments on or objections to the approval or disapproval of 2005
the application. The applicant, or a representative of the 2006
applicant who has knowledge of the location, construction, and 2007
operation of the facility, shall attend the public hearing to 2008
respond to comments or questions concerning the facility directed 2009
to the applicant or representative by the officer or employee of 2010

the environmental protection agency presiding at the hearing. 2011

(c) Each application for a permit under division (B)(2)(b) of 2012
this section shall be accompanied by a nonrefundable application 2013
fee of four hundred dollars that shall be credited to the general 2014
revenue fund. Each application for an annual license under 2015
division (B)(2)(a) of this section shall be accompanied by a 2016
nonrefundable application fee of one hundred dollars. If the 2017
application for an annual license is submitted to a board of 2018
health on the approved list under section 3734.08 of the Revised 2019
Code, the application fee shall be credited to the special 2020
infectious waste fund of the health district created in division 2021
(C) of section 3734.06 of the Revised Code. If the application for 2022
an annual license is submitted to the director, the application 2023
fee shall be credited to the general revenue fund. If a permit or 2024
license is issued, the amount of the application fee paid shall be 2025
deducted from the amount of the permit fee due under division (Q) 2026
of section 3745.11 of the Revised Code or the amount of the 2027
license fee due under division (C) of section 3734.06 of the 2028
Revised Code. 2029

~~(d) The owner or operator of any infectious waste treatment 2030
facility that commenced operation on or before July 1, 1968, shall 2031
submit to the director an application for a permit with 2032
accompanying engineering detail plans, specifications, and 2033
information regarding the facility and its method of operation for 2034
approval under rules adopted under section 3734.021 of the Revised 2035
Code in accordance with the following schedule:~~ 2036

~~(i) Not later than December 24, 1988, if the facility is 2037
located in Delaware, Greene, Guernsey, Hamilton, Madison, 2038
Mahoning, Ottawa, or Vinton county:~~ 2039

~~(ii) Not later than March 24, 1989, if the facility is 2040
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 2041
or Washington county, or is located in the city of Brooklyn,~~ 2042

~~Cuyahoga Heights, or Parma in Cuyahoga county;~~ 2043

~~(iii) Not later than June 24, 1989, if the facility is~~ 2044
~~located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain,~~ 2045
~~Lucas, or Summit county or is located in Cuyahoga county outside~~ 2046
~~the cities of Brooklyn, Cuyahoga Heights, and Parma;~~ 2047

~~(iv) Not later than September 24, 1989, if the facility is~~ 2048
~~located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross~~ 2049
~~county;~~ 2050

~~(v) Not later than December 24, 1989, if the facility is~~ 2051
~~located in a county not listed in divisions (B)(2)(d)(i) to (iv)~~ 2052
~~of this section.~~ 2053

~~The owner or operator of an infectious waste treatment~~ 2054
~~facility required to submit a permit application under division~~ 2055
~~(B)(2)(d) of this section is not required to pay any permit~~ 2056
~~application fee under division (B)(2)(c) of this section, or~~ 2057
~~permit fee under division (Q) of section 3745.11 of the Revised~~ 2058
~~Code, with respect thereto unless the owner or operator also~~ 2059
~~proposes to modify the facility.~~ 2060

~~(e) The director may issue an order in accordance with~~ 2061
~~Chapter 3745. of the Revised Code to the owner or operator of an~~ 2062
~~infectious waste treatment facility requiring the person to submit~~ 2063
~~to the director updated engineering detail plans, specifications,~~ 2064
~~and information regarding the facility and its method of operation~~ 2065
~~for approval under rules adopted under section 3734.021 of the~~ 2066
~~Revised Code if, in the director's judgment, conditions at the~~ 2067
~~facility constitute a substantial threat to public health or~~ 2068
~~safety or are causing or contributing to or threatening to cause~~ 2069
~~or contribute to air or water pollution or soil contamination. Any~~ 2070
~~person who receives such an order shall submit the updated~~ 2071
~~engineering detail plans, specifications, and information to the~~ 2072
~~director within one hundred eighty days after the effective date~~ 2073

of the order. 2074

~~(f)(e)~~ The director shall act ~~upon an application submitted~~ 2075
~~under division (B)(2)(d) of this section and on~~ any updated 2076
engineering plans, specifications, and information submitted under 2077
division (B)(2)~~(e)~~(d) of this section within one hundred eighty 2078
days after receiving them. If the director ~~denies any such permit~~ 2079
~~application or~~ disapproves any such updated engineering plans, 2080
specifications, and information, the director shall include in the 2081
order ~~denying the application or~~ disapproving the plans the 2082
requirement that the owner or operator cease accepting infectious 2083
wastes for treatment at the facility. 2084

(3) Division (B) of this section does not apply to ~~an a~~ 2085
generator of infectious waste treatment facility wastes that meets 2086
any of the following conditions: 2087

(a) ~~Is owned or operated by the generator of the wastes and~~ 2088
~~exclusively treats~~ Treats, by methods, techniques, and practices 2089
established by rules adopted under division ~~(C)(1) or (3)(B)(2)(a)~~ 2090
of section 3734.021 of the Revised Code, any of the following 2091
~~wastes that are generated at any premises owned or operated by~~ 2092
~~that generator regardless of whether the wastes are generated on~~ 2093
~~the same premises where the generator's treatment facility is~~ 2094
~~located or, if the generator is a hospital as defined in section~~ 2095
~~3727.01 of the Revised Code, infectious wastes that are described~~ 2096
~~in division (A)(1)(g), (h), or (i) of section 3734.021 of the~~ 2097
Revised Code; 2098

(i) Infectious wastes that are generated on any premises that 2099
are owned or operated by the generator; 2100

(ii) Infectious wastes that are generated by a generator who 2101
has staff privileges at a hospital as defined in section 3727.01 2102
of the Revised Code; 2103

(iii) Infectious wastes that are generated in providing care 2104

to a patient by an emergency medical services organization as 2105
defined in section 4765.01 of the Revised Code. 2106

(b) Holds a license or renewal of a license to operate a 2107
crematory facility issued under Chapter 4717. and a permit issued 2108
under Chapter 3704. of the Revised Code; 2109

(c) Treats or disposes of dead animals or parts thereof, or 2110
the blood of animals, and is subject to any of the following: 2111

(i) Inspection under the "Federal Meat Inspection Act," 81 2112
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 2113

(ii) Chapter 918. of the Revised Code; 2114

(iii) Chapter 953. of the Revised Code. 2115

Nothing in division (B) of this section requires a facility 2116
that holds a license issued under division (A) of this section as 2117
a solid waste facility and that also treats infectious wastes by 2118
the same method, technique, or process to obtain a license under 2119
division (B) of this section as an infectious waste treatment 2120
facility. However, the solid waste facility license for the 2121
facility shall include the notation that the facility also treats 2122
infectious wastes. 2123

~~On and after the effective date of the amendments to the~~ 2124
~~rules adopted under division (C)(2) of section 3734.021 of the~~ 2125
~~Revised Code that are required by Section 6 of Substitute House~~ 2126
~~Bill No. 98 of the 120th General Assembly, the~~ The director shall 2127
not issue a permit to open a new solid waste incineration facility 2128
unless the proposed facility complies with the requirements for 2129
the location of new infectious waste incineration facilities 2130
established in ~~the required amendments to those rules~~ adopted 2131
under division (B)(2)(b) of section 3734.021 of the Revised Code. 2132

(C) Except for a facility or activity described in division 2133
(E)(3) of section 3734.02 of the Revised Code, a person who 2134

proposes to establish or operate a hazardous waste facility shall 2135
submit a complete application for a hazardous waste facility 2136
installation and operation permit and accompanying detail plans, 2137
specifications, and such information as the director may require 2138
to the environmental protection agency at least one hundred eighty 2139
days before the proposed beginning of operation of the facility. 2140
The applicant shall notify by certified mail the legislative 2141
authority of each municipal corporation, township, and county in 2142
which the facility is proposed to be located of the submission of 2143
the application within ten days after the submission or at such 2144
earlier time as the director may establish by rule. If the 2145
application is for a proposed new hazardous waste disposal or 2146
thermal treatment facility, the applicant also shall give actual 2147
notice of the general design and purpose of the facility to the 2148
legislative authority of each municipal corporation, township, and 2149
county in which the facility is proposed to be located at least 2150
ninety days before the permit application is submitted to the 2151
environmental protection agency. 2152

In accordance with rules adopted under section 3734.12 of the 2153
Revised Code, prior to the submission of a complete application 2154
for a hazardous waste facility installation and operation permit, 2155
the applicant shall hold at least one meeting in the township or 2156
municipal corporation in which the facility is proposed to be 2157
located, whichever is geographically closer to the proposed 2158
location of the facility. The meeting shall be open to the public 2159
and shall be held to inform the community of the proposed 2160
hazardous waste management activities and to solicit questions 2161
from the community concerning the activities. 2162

(D)(1) Except as provided in section 3734.123 of the Revised 2163
Code, upon receipt of a complete application for a hazardous waste 2164
facility installation and operation permit under division (C) of 2165
this section, the director shall consider the application and 2166

accompanying information to determine whether the application 2167
complies with agency rules and the requirements of division (D)(2) 2168
of this section. After making a determination, the director shall 2169
issue either a draft permit or a notice of intent to deny the 2170
permit. The director, in accordance with rules adopted under 2171
section 3734.12 of the Revised Code or with rules adopted to 2172
implement Chapter 3745. of the Revised Code, shall provide public 2173
notice of the application and the draft permit or the notice of 2174
intent to deny the permit, provide an opportunity for public 2175
comments, and, if significant interest is shown, schedule a public 2176
meeting in the county in which the facility is proposed to be 2177
located and give public notice of the date, time, and location of 2178
the public meeting in a newspaper of general circulation in that 2179
county. 2180

(2) The director shall not approve an application for a 2181
hazardous waste facility installation and operation permit or an 2182
application for a modification under division (I)(3) of this 2183
section unless the director finds and determines as follows: 2184

(a) The nature and volume of the waste to be treated, stored, 2185
or disposed of at the facility; 2186

(b) That the facility complies with the director's hazardous 2187
waste standards adopted pursuant to section 3734.12 of the Revised 2188
Code; 2189

(c) That the facility represents the minimum adverse 2190
environmental impact, considering the state of available 2191
technology and the nature and economics of various alternatives, 2192
and other pertinent considerations; 2193

(d) That the facility represents the minimum risk of all of 2194
the following: 2195

(i) Fires or explosions from treatment, storage, or disposal 2196
methods; 2197

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;	2198 2199
(iii) Adverse impact on the public health and safety.	2200
(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;	2201 2202 2203
(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.	2204 2205 2206 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224 2225 2226 2227
(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33	2228 2229

(e), as amended, or organic waste that is toxic and is listed 2230
under 40 C.F.R. 261, as amended, is being stored, treated, or 2231
disposed of and where the aggregate of the storage design capacity 2232
and the disposal design capacity of all hazardous waste in those 2233
areas is greater than two hundred fifty thousand gallons, are not 2234
located or operated within any of the following: 2235

(i) Two thousand feet of any residence, school, hospital, 2236
jail, or prison; 2237

(ii) Any naturally occurring wetland; 2238

(iii) Any flood hazard area if the applicant cannot show that 2239
the facility will be designed, constructed, operated, and 2240
maintained to prevent washout by a one-hundred-year flood. 2241

Division (D)(2)(g) of this section does not apply to the 2242
facility of any applicant who demonstrates to the director that 2243
the limitations specified in that division are not necessary 2244
because of the nature or volume of the waste and the manner of 2245
management applied, the facility will impose no substantial danger 2246
to the health and safety of persons occupying the structures 2247
listed in division (D)(2)(g)(i) of this section, and the facility 2248
is to be located or operated in an area where the proposed 2249
hazardous waste activities will not be incompatible with existing 2250
land uses in the area. 2251

(h) That the facility will not be located within the 2252
boundaries of a state park established or dedicated under Chapter 2253
1541. of the Revised Code, a state park purchase area established 2254
under section 1541.02 of the Revised Code, any unit of the 2255
national park system, or any property that lies within the 2256
boundaries of a national park or recreation area, but that has not 2257
been acquired or is not administered by the secretary of the 2258
United States department of the interior, located in this state, 2259
or any candidate area located in this state identified for 2260

potential inclusion in the national park system in the edition of 2261
the "national park system plan" submitted under paragraph (b) of 2262
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 2263
U.S.C.A. 1a-5, as amended, current at the time of filing of the 2264
application for the permit, unless the facility will be used 2265
exclusively for the storage of hazardous waste generated within 2266
the park or recreation area in conjunction with the operation of 2267
the park or recreation area. Division (D)(2)(h) of this section 2268
does not apply to the facility of any applicant for modification 2269
of a permit unless the modification application proposes to 2270
increase the land area included in the facility or to increase the 2271
quantity of hazardous waste that will be treated, stored, or 2272
disposed of at the facility. 2273

(3) Not later than one hundred eighty days after the end of 2274
the public comment period, the director, without prior hearing, 2275
shall issue or deny the permit in accordance with Chapter 3745. of 2276
the Revised Code. If the director approves an application for a 2277
hazardous waste facility installation and operation permit, the 2278
director shall issue the permit, upon such terms and conditions as 2279
the director finds are necessary to ensure the construction and 2280
operation of the hazardous waste facility in accordance with the 2281
standards of this section. 2282

(E) No political subdivision of this state shall require any 2283
additional zoning or other approval, consent, permit, certificate, 2284
or condition for the construction or operation of a hazardous 2285
waste facility authorized by a hazardous waste facility 2286
installation and operation permit issued pursuant to this chapter, 2287
nor shall any political subdivision adopt or enforce any law, 2288
ordinance, or rule that in any way alters, impairs, or limits the 2289
authority granted in the permit. 2290

(F) The director may issue a single hazardous waste facility 2291
installation and operation permit to a person who operates two or 2292

more adjoining facilities where hazardous waste is stored, 2293
treated, or disposed of if the application includes detail plans, 2294
specifications, and information on all facilities. For the 2295
purposes of this section, "adjoining" means sharing a common 2296
boundary, separated only by a public road, or in such proximity 2297
that the director determines that the issuance of a single permit 2298
will not create a hazard to the public health or safety or the 2299
environment. 2300

(G) No person shall falsify or fail to keep or submit any 2301
plans, specifications, data, reports, records, manifests, or other 2302
information required to be kept or submitted to the director by 2303
this chapter or the rules adopted under it. 2304

(H)(1) Each person who holds an installation and operation 2305
permit issued under this section and who wishes to obtain a permit 2306
renewal shall submit a completed application for an installation 2307
and operation permit renewal and any necessary accompanying 2308
general plans, detail plans, specifications, and such information 2309
as the director may require to the director no later than one 2310
hundred eighty days prior to the expiration date of the existing 2311
permit or upon a later date prior to the expiration of the 2312
existing permit if the permittee can demonstrate good cause for 2313
the late submittal. The director shall consider the application 2314
and accompanying information, inspection reports of the facility, 2315
results of performance tests, a report regarding the facility's 2316
compliance or noncompliance with the terms and conditions of its 2317
permit and rules adopted by the director under this chapter, and 2318
such other information as is relevant to the operation of the 2319
facility and shall issue a draft renewal permit or a notice of 2320
intent to deny the renewal permit. The director, in accordance 2321
with rules adopted under this section or with rules adopted to 2322
implement Chapter 3745. of the Revised Code, shall give public 2323
notice of the application and draft renewal permit or notice of 2324

intent to deny the renewal permit, provide for the opportunity for 2325
public comments within a specified time period, schedule a public 2326
meeting in the county in which the facility is located if 2327
significant interest is shown, and give public notice of the 2328
public meeting. 2329

(2) Within sixty days after the public meeting or close of 2330
the public comment period, the director, without prior hearing, 2331
shall issue or deny the renewal permit in accordance with Chapter 2332
3745. of the Revised Code. The director shall not issue a renewal 2333
permit unless the director determines that the facility under the 2334
existing permit has a history of compliance with this chapter, 2335
rules adopted under it, the existing permit, or orders entered to 2336
enforce such requirements that demonstrates sufficient 2337
reliability, expertise, and competency to operate the facility 2338
henceforth under this chapter, rules adopted under it, and the 2339
renewal permit. If the director approves an application for a 2340
renewal permit, the director shall issue the permit subject to the 2341
payment of the annual permit fee required under division (E) of 2342
section 3734.02 of the Revised Code and upon such terms and 2343
conditions as the director finds are reasonable to ensure that 2344
continued operation, maintenance, closure, and post-closure care 2345
of the hazardous waste facility are in accordance with the rules 2346
adopted under section 3734.12 of the Revised Code. 2347

(3) An installation and operation permit renewal application 2348
submitted to the director that also contains or would constitute 2349
an application for a modification shall be acted upon by the 2350
director in accordance with division (I) of this section in the 2351
same manner as an application for a modification. In approving or 2352
disapproving the renewal portion of a permit renewal application 2353
containing an application for a modification, the director shall 2354
apply the criteria established under division (H)(2) of this 2355
section. 2356

(4) An application for renewal or modification of a permit 2357
that does not contain an application for a modification as 2358
described in divisions (I)(3)(a) to (d) of this section shall not 2359
be subject to division (D)(2) of this section. 2360

(I)(1) As used in this section, "modification" means a change 2361
or alteration to a hazardous waste facility or its operations that 2362
is inconsistent with or not authorized by its existing permit or 2363
authorization to operate. Modifications shall be classified as 2364
Class 1, 2, or 3 modifications in accordance with rules adopted 2365
under division (K) of this section. Modifications classified as 2366
Class 3 modifications, in accordance with rules adopted under that 2367
division, shall be further classified by the director as either 2368
Class 3 modifications that are to be approved or disapproved by 2369
the director under divisions (I)(3)(a) to (d) of this section or 2370
as Class 3 modifications that are to be approved or disapproved by 2371
the director under division (I)(5) of this section. Not later than 2372
thirty days after receiving a request for a modification under 2373
division (I)(4) of this section that is not listed in Appendix I 2374
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 2375
section, the director shall classify the modification and shall 2376
notify the owner or operator of the facility requesting the 2377
modification of the classification. Notwithstanding any other law 2378
to the contrary, a modification that involves the transfer of a 2379
hazardous waste facility installation and operation permit to a 2380
new owner or operator for any off-site facility as defined in 2381
section 3734.41 of the Revised Code shall be classified as a Class 2382
3 modification. The transfer of a hazardous waste facility 2383
installation and operation permit to a new owner or operator for a 2384
facility that is not an off-site facility shall be classified as a 2385
Class 1 modification requiring prior approval of the director. 2386

(2) Except as provided in section 3734.123 of the Revised 2387
Code, a hazardous waste facility installation and operation permit 2388

may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over

the capacity so authorized. The authorized disposal capacity for a 2420
facility shall be calculated from the approved design plans for 2421
the disposal units at that facility. In no case during a five-year 2422
period shall a facility's storage capacity or treatment rate be 2423
modified to increase by more than twenty-five per cent in the 2424
aggregate without the director's approval in accordance with 2425
division (D)(2) of this section. Notwithstanding any provision of 2426
division (I) of this section to the contrary, a request for 2427
modification of a facility's annual total waste receipt limit 2428
shall be classified and approved or disapproved by the director 2429
under division (I)(5) of this section. 2430

(c) Authority to add any of the following categories of 2431
regulated activities not previously authorized at a facility by 2432
the facility's permit: storage at a facility not previously 2433
authorized to store hazardous waste, treatment at a facility not 2434
previously authorized to treat hazardous waste, or disposal at a 2435
facility not previously authorized to dispose of hazardous waste; 2436
or authority to add a category of hazardous waste management unit 2437
not previously authorized at the facility by the facility's 2438
permit. Notwithstanding any provision of division (I) of this 2439
section to the contrary, a request for authority to add or to 2440
modify an activity or a hazardous waste management unit for the 2441
purposes of performing a corrective action shall be classified and 2442
approved or disapproved by the director under division (I)(5) of 2443
this section. 2444

(d) Authority to treat, store, or dispose of waste types 2445
listed or characterized as reactive or explosive, in rules adopted 2446
under section 3734.12 of the Revised Code, or any acute hazardous 2447
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 2448
previously authorized to treat, store, or dispose of those types 2449
of wastes by the facility's permit unless the requested authority 2450
is limited to wastes that no longer exhibit characteristics 2451

meeting the criteria for listing or characterization as reactive 2452
or explosive wastes, or for listing as acute hazardous waste, but 2453
still are required to carry those waste codes as established in 2454
rules adopted under section 3734.12 of the Revised Code because of 2455
the requirements established in 40 C.F.R. 261(a) and (e), as 2456
amended, that is, the "mixture," "derived-from," or "contained-in" 2457
regulations. 2458

(4) A written request for a modification from the permittee 2459
shall be submitted to the director and shall contain such 2460
information as is necessary to support the request. Requests for 2461
modifications shall be acted upon by the director in accordance 2462
with this section and rules adopted under it. 2463

(5) Class 1 modification applications that require prior 2464
approval of the director, as provided in division (I)(1) of this 2465
section or as determined in accordance with rules adopted under 2466
division (K) of this section, Class 2 modification applications, 2467
and Class 3 modification applications that are not described in 2468
divisions (I)(3)(a) to (d) of this section shall be approved or 2469
disapproved by the director in accordance with rules adopted under 2470
division (K) of this section. The board of county commissioners of 2471
the county, the board of township trustees of the township, and 2472
the city manager or mayor of the municipal corporation in which a 2473
hazardous waste facility is located shall receive notification of 2474
any application for a modification for that facility and shall be 2475
considered as interested persons with respect to the director's 2476
consideration of the application. 2477

As used in division (I) of this section: 2478

(a) "Owner" means the person who owns a majority or 2479
controlling interest in a facility. 2480

(b) "Operator" means the person who is responsible for the 2481
overall operation of a facility. 2482

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, 2515
an owner or operator of a hazardous waste facility that is 2516
operating in accordance with a permit by rule under rules adopted 2517
by the director under division (E)(3)(b) of section 3734.02 of the 2518
Revised Code shall submit either a hazardous waste facility 2519
installation and operation permit application for the facility or 2520
a modification application, whichever is required under division 2521
(J)(1)(a) or (b) of this section, within one hundred eighty days 2522
after the director has requested the application or upon a later 2523
date if the owner or operator demonstrates to the director good 2524
cause for the late submittal. 2525

(a) If the owner or operator does not have a hazardous waste 2526
facility installation and operation permit for any hazardous waste 2527
treatment, storage, or disposal activities at the facility, the 2528
owner or operator shall submit an application for such a permit to 2529
the director for the activities authorized by the permit by rule. 2530
Notwithstanding any other provision of law to the contrary, the 2531
director shall approve or disapprove the application for the 2532
permit in accordance with the procedures governing the approval or 2533
disapproval of permit renewals under division (H) of this section. 2534

(b) If the owner or operator has a hazardous waste facility 2535
installation and operation permit for hazardous waste treatment, 2536
storage, or disposal activities at the facility other than those 2537
authorized by the permit by rule, the owner or operator shall 2538
submit to the director a request for modification in accordance 2539
with division (I) of this section. Notwithstanding any other 2540
provision of law to the contrary, the director shall approve or 2541
disapprove the modification application in accordance with 2542
division (I)(5) of this section. 2543

(2) The owner or operator of a boiler or industrial furnace 2544
that is conducting thermal treatment activities in accordance with 2545
a permit by rule under rules adopted by the director under 2546

division (E)(3)(b) of section 3734.02 of the Revised Code shall 2547
submit a hazardous waste facility installation and operation 2548
permit application if the owner or operator does not have such a 2549
permit for any hazardous waste treatment, storage, or disposal 2550
activities at the facility or, if the owner or operator has such a 2551
permit for hazardous waste treatment, storage, or disposal 2552
activities at the facility other than thermal treatment activities 2553
authorized by the permit by rule, a modification application to 2554
add those activities authorized by the permit by rule, whichever 2555
is applicable, within one hundred eighty days after the director 2556
has requested the submission of the application or upon a later 2557
date if the owner or operator demonstrates to the director good 2558
cause for the late submittal. The application shall be accompanied 2559
by information necessary to support the request. The director 2560
shall approve or disapprove an application for a hazardous waste 2561
facility installation and operation permit in accordance with 2562
division (D) of this section and approve or disapprove an 2563
application for a modification in accordance with division (I)(3) 2564
of this section, except that the director shall not disapprove an 2565
application for the thermal treatment activities on the basis of 2566
the criteria set forth in division (D)(2)(g) or (h) of this 2567
section. 2568

(3) As used in division (J) of this section: 2569

(a) "Modification application" means a request for a 2570
modification submitted in accordance with division (I) of this 2571
section. 2572

(b) "Thermal treatment," "boiler," and "industrial furnace" 2573
have the same meanings as in rules adopted under section 3734.12 2574
of the Revised Code. 2575

(K) The director shall adopt, and may amend, suspend, or 2576
rescind, rules in accordance with Chapter 119. of the Revised Code 2577
in order to implement divisions (H) and (I) of this section. 2578

Except when in actual conflict with this section, rules governing 2579
the classification of and procedures for the modification of 2580
hazardous waste facility installation and operation permits shall 2581
be substantively and procedurally identical to the regulations 2582
governing hazardous waste facility permitting and permit 2583
modifications adopted under the "Resource Conservation and 2584
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2585
amended. 2586

Sec. 3734.06. (A)(1) Except as provided in divisions (A)(2), 2587
(3), (4), and (5) of this section and in section 3734.82 of the 2588
Revised Code, the annual fee for a solid waste facility license 2589
shall be in accordance with the following schedule: 2590

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
100 or less	\$ 5,000	2594
101 to 200	12,500	2595
201 to 500	30,000	2596
501 or more	60,000	2597

For the purpose of determining the applicable license fee 2598
under divisions (A)(1), (2), and (3) of this section, the 2599
authorized maximum daily waste receipt shall be the maximum amount 2600
of wastes the facility is authorized to receive daily that is 2601
established in the permit for the facility, and any modifications 2602
to that permit, issued under division (A)(2) or (3) of section 2603
3734.05 of the Revised Code; the annual license for the facility, 2604
and any revisions to that license, issued under division (A)(1) of 2605
section 3734.05 of the Revised Code; the approved operating plan 2606
or operational report for which submission and approval are 2607
required by rules adopted by the director of environmental 2608
protection under section 3734.02 of the Revised Code; an order 2609
issued by the director as authorized by rule; or the updated 2610

engineering plans, specifications, and facility and operation 2611
information approved under division (A)(4) of section 3734.05 of 2612
the Revised Code. If no authorized maximum daily waste receipt is 2613
so established, the annual license fee is sixty thousand dollars 2614
under division (A)(1) of this section and thirty thousand dollars 2615
under divisions (A)(2) and (3) of this section. 2616

The authorized maximum daily waste receipt set forth in any 2617
such document shall be stated in terms of cubic yards of volume 2618
for the purpose of regulating the design, construction, and 2619
operation of a solid waste facility. For the purpose of 2620
determining applicable license fees under this section, the 2621
authorized maximum daily waste receipt so stated shall be 2622
converted from cubic yards to tons as the unit of measurement 2623
based upon a conversion factor of three cubic yards per ton for 2624
compacted wastes generally and one cubic yard per ton for baled 2625
wastes. 2626

(2) The annual license fee for a facility that is an 2627
incinerator facility is one-half the amount shown in division 2628
(A)(1) of this section. When a municipal corporation, county, or 2629
township owns and operates more than one incinerator within its 2630
boundaries, the municipal corporation, county, or township shall 2631
pay one fee for the licenses for all of its incinerators. The fee 2632
shall be determined on the basis of the aggregate maximum daily 2633
waste receipt for all the incinerators owned and operated by the 2634
municipal corporation, county, or township in an amount that is 2635
one-half the amount shown in division (A)(1) of this section. 2636

(3) The annual fee for a solid waste compost facility license 2637
shall be in accordance with the following schedule: 2638

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
12 or less	\$ 300	2642

13 to 25	600	2643
26 to 50	1,200	2644
51 to 75	1,800	2645
76 to 100	2,500	2646
101 to 150	3,750	2647
151 to 200	5,000	2648
201 to 250	6,250	2649
251 to 300	7,500	2650
301 to 400	10,000	2651
401 to 500	12,500	2652
501 or more	30,000	2653

(4) The annual license fee for a solid waste facility, 2654
regardless of its authorized maximum daily waste receipt, is five 2655
thousand dollars for a facility meeting either of the following 2656
qualifications: 2657

(a) The facility is owned by a generator of solid wastes when 2658
the solid waste facility exclusively disposes of solid wastes 2659
generated at one or more premises owned by the generator 2660
regardless of whether the facility is located on a premises where 2661
the wastes are generated. 2662

(b) The facility exclusively disposes of wastes that are 2663
generated from the combustion of coal, or from the combustion of 2664
primarily coal in combination with scrap tires, that is not 2665
combined in any way with garbage at one or more premises owned by 2666
the generator. 2667

(5) The annual license fee for a facility that is a transfer 2668
facility is seven hundred fifty dollars. 2669

(6) The same fees shall apply to private operators and to the 2670
state and its political subdivisions and shall be paid within 2671
thirty days after issuance of a license. The fee includes the cost 2672
of licensing, all inspections, and other costs associated with the 2673
administration of the solid waste provisions of this chapter and 2674

rules adopted under them, excluding the provisions governing scrap 2675
tires. Each such license shall specify that it is conditioned upon 2676
payment of the applicable fee to the board of health or the 2677
director, as appropriate, within thirty days after issuance of the 2678
license. 2679

(B) The board of health shall retain two thousand five 2680
hundred dollars of each license fee collected by the board under 2681
divisions (A)(1), (2), (3), and (4) of this section or the entire 2682
amount of any such fee that is less than two thousand five hundred 2683
dollars. The moneys retained shall be paid into a special fund, 2684
which is hereby created in each health district, and used solely 2685
to administer and enforce the solid waste provisions of this 2686
chapter and the rules adopted under them, excluding the provisions 2687
governing scrap tires. The remainder of each license fee collected 2688
by the board shall be transmitted to the director within 2689
forty-five days after receipt of the fee. The director shall 2690
transmit these moneys to the treasurer of state to be credited to 2691
the general revenue fund. The board of health shall retain the 2692
entire amount of each fee collected under division (A)(5) of this 2693
section, which moneys shall be paid into the special fund of the 2694
health district. 2695

(C)(1) Except as provided in divisions (C)(2) and (3) of this 2696
section, the annual fee for an infectious waste treatment facility 2697
license shall be in accordance with the following schedule: 2698

<u>AVERAGE</u>	<u>MAXIMUM</u>	ANNUAL	2699
		LICENSE	2700
		FEE	2701
100 or less		\$ 5,000	2702
101 to 200		12,500	2703
201 to 500		30,000	2704
501 or more		60,000	2705

For the purpose of determining the applicable license fee 2706

under divisions (C)(1) and (2) of this section, the ~~average~~ 2707
~~maximum~~ daily waste receipt shall be the ~~average maximum~~ amount of 2708
infectious wastes the facility is authorized to receive daily that 2709
is established in the permit for the facility, and any 2710
modifications to that permit, issued under division (B)(2)(b) ~~or~~ 2711
~~(d)~~ of section 3734.05 of the Revised Code; or the annual license 2712
for the facility, and any revisions to that license, issued under 2713
division (B)(2)(a) of section 3734.05 of the Revised Code. If no 2714
~~average maximum~~ daily waste receipt is so established, the annual 2715
license fee is sixty thousand dollars under division (C)(1) of 2716
this section and thirty thousand dollars under division (C)(2) of 2717
this section. 2718

(2) The annual license fee for an infectious waste treatment 2719
facility that is an incinerator is one-half the amount shown in 2720
division (C)(1) of this section. 2721

(3) Fees levied under divisions (C)(1) and (2) of this 2722
section shall apply to private operators and to the state and its 2723
political subdivisions and shall be paid within thirty days after 2724
issuance of a license. The fee includes the cost of licensing, all 2725
inspections, and other costs associated with the administration of 2726
the infectious waste provisions of this chapter and rules adopted 2727
under them. Each such license shall specify that it is conditioned 2728
upon payment of the applicable fee to the board of health or the 2729
director, as appropriate, within thirty days after issuance of the 2730
license. 2731

(4) The board of health shall retain two thousand five 2732
hundred dollars of each license fee collected by the board under 2733
divisions (C)(1) and (2) of this section. The moneys retained 2734
shall be paid into a special infectious waste fund, which is 2735
hereby created in each health district, and used solely to 2736
administer and enforce the infectious waste provisions of this 2737
chapter and the rules adopted under them. The remainder of each 2738

license fee collected by the board shall be transmitted to the 2739
director within forty-five days after receipt of the fee. The 2740
director shall transmit these moneys to the treasurer of state to 2741
be credited to the general revenue fund. 2742

Sec. 3734.12. The As used in this section, "Resource 2743
Conservation and Recovery Act" means the Resource Conservation and 2744
Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. 6921, as amended. 2745

The director of environmental protection shall adopt ~~and may~~ 2746
~~amend, suspend, and rescind~~ rules in accordance with Chapter 119. 2747
of the Revised Code, which shall be consistent with and equivalent 2748
to the regulations adopted under the "Resource Conservation and 2749
Recovery Act of 1976," ~~90 Stat. 2806, 42 U.S.C.A. 6921, as~~ 2750
~~amended,~~ except for rules adopted under divisions (D) and (F) of 2751
this section governing solid waste facilities and except as 2752
otherwise provided in this chapter, doing all of the following: 2753

(A) Adopting the criteria and procedures established under 2754
the "Resource Conservation and Recovery Act ~~of 1976," 90 Stat.~~ 2755
~~2806, 42 U.S.C.A. 6921, as amended,~~ for identifying hazardous 2756
waste. The director shall prepare, revise when appropriate, and 2757
publish a list of substances or categories of substances 2758
identified to be hazardous using the criteria specified in 40 2759
C.F.R. 261, as amended, which shall be composed of at least those 2760
substances identified as hazardous pursuant to section 3001(B) of 2761
that act. The director shall not list any waste that the 2762
administrator of the United States environmental protection agency 2763
delisted or excluded by an amendment to the federal regulations, 2764
any waste that the administrator declined to list by publishing a 2765
denial of a rulemaking petition or by withdrawal of a proposed 2766
listing in the United States federal register after May 18, 1980, 2767
or any waste oil or polychlorinated biphenyl not listed by the 2768
administrator. 2769

(B) Establishing standards for generators of hazardous waste 2770
necessary to protect human health or safety or the environment in 2771
accordance with this chapter, including, but not limited to, 2772
requirements respecting all of the following: 2773

(1) Record-keeping practices that accurately identify the 2774
quantities of hazardous waste generated, the constituents that are 2775
significant in quantity or in potential harm to human health or 2776
safety or the environment, and the disposition of the waste; 2777

(2) Labeling of containers used for storage, transportation, 2778
or disposal of hazardous waste to identify the waste accurately; 2779

(3) Use of appropriate containers for hazardous waste; 2780

(4) Providing information on the general chemical composition 2781
of hazardous waste to persons transporting, treating, storing, or 2782
disposing of the waste; 2783

(5) A manifest system requiring a manifest consistent with 2784
that prescribed under the "Resource Conservation and Recovery Act 2785
~~of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended,~~ requiring a 2786
manifest for any hazardous waste transported off the premises 2787
where generated and assuring that all hazardous waste that is 2788
transported off the premises where generated is designated for 2789
treatment, storage, or disposal in facilities for which a permit 2790
has been issued or in the other facilities specified in division 2791
(F) of section 3734.02 of the Revised Code; 2792

(6) Submission of such reports to the director as the 2793
director determines necessary; 2794

(7) Establishment of quality control and testing procedures 2795
that ensure compliance with the rules adopted under this section; 2796

(8) Obtainment of a United States environmental protection 2797
agency identification number. 2798

(C) Establishing standards for transporters of hazardous 2799

waste necessary to protect human health or safety or the	2800
environment in accordance with this chapter, including, but not	2801
limited to, requirements respecting all of the following:	2802
(1) Record-keeping concerning hazardous waste transported,	2803
including source and delivery points;	2804
(2) Submission of such reports to the director as the	2805
director determines necessary;	2806
(3) Transportation of only properly labeled waste;	2807
(4) Compliance with the manifest system required by division	2808
(B) of this section;	2809
(5) Transportation of hazardous waste only to the treatment,	2810
storage, or disposal facility that the shipper designates on the	2811
manifest to be a facility holding a permit or another facility	2812
specified in division (F) of section 3734.02 of the Revised Code;	2813
(6) Contingency plans to minimize unanticipated damage from	2814
transportation of hazardous waste;	2815
(7) Financial responsibility, including, but not limited to,	2816
provisions requiring a financial mechanism to cover the costs of	2817
spill cleanup and liability for sudden accidental occurrences that	2818
result in damage to persons, property, or the environment;	2819
(8) Obtainment of a United States environmental protection	2820
agency identification number.	2821
In the case of any hazardous waste that is subject to the	2822
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49	2823
U.S.C.A. 1801, as amended, the rules shall be consistent with that	2824
act and regulations adopted under it.	2825
(D) Establishing performance standards for owners and	2826
operators of hazardous waste facilities and owners and operators	2827
of solid waste facilities, necessary to protect human health or	2828
safety or the environment in accordance with this chapter,	2829

including, but not limited to, requirements respecting all of the 2830
following: 2831

(1) Maintaining records of all hazardous waste that is 2832
treated, stored, or disposed of and of the manner in which the 2833
waste was treated, stored, or disposed of or records of all solid 2834
wastes transferred or disposed of and of the manner in which the 2835
wastes were disposed of; 2836

(2) Submission of such reports to the director as the 2837
director determines necessary; 2838

(3) Reporting, monitoring, inspection, and, except with 2839
respect to solid waste facilities, compliance with the manifest 2840
system referred to in division (B) of this section; 2841

(4) Treatment, storage, or disposal of all hazardous waste 2842
received by methods, techniques, and practices approved by the 2843
director and disposal or transfer of all solid wastes received by 2844
methods, techniques, and practices approved by the director; 2845

(5) Location, design, and construction of hazardous waste 2846
facilities and location, design, and construction of solid waste 2847
facilities; 2848

(6) Contingency plans for effective action to minimize 2849
unanticipated damage from treatment, storage, or disposal of 2850
hazardous waste and the disposal or transfer of solid wastes; 2851

(7) Ownership, continuity of operation, training for 2852
personnel, and financial responsibility, including the filing of 2853
closure and post-closure financial assurance, if applicable. No 2854
private entity shall be precluded by reason of these requirements 2855
from the ownership or operation of facilities providing hazardous 2856
waste treatment, storage, or disposal services if the entity can 2857
provide assurances of financial responsibility and continuity of 2858
operation consistent with the degree and duration of risks 2859
associated with the treatment, storage, or disposal of specified 2860

hazardous waste.	2861
(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;	2862 2863 2864 2865
(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	2866 2867
(10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;	2868 2869 2870
(11) Trial burns and land treatment demonstrations.	2871
The rules adopted under divisions (D) and (F) of this section pertaining to solid waste facilities 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.	2872 2873 2874 2875 2876 2877
(E) Governing the issuance, modification, revocation, suspension, withdrawal, and denial of installation and operation permits, draft permits, and transportation certificates of registration;	2878 2879 2880 2881
(F) Specifying information required to be included in applications for hazardous waste facility installation and operation permits and solid waste permits, including, but not limited to, detail plans, specifications, and information respecting all of the following:	2882 2883 2884 2885 2886
(1) The composition, quantities, and concentrations of hazardous waste and solid wastes to be stored, treated, transported, or disposed of and such other information as the director may require regarding the method of operation;	2887 2888 2889 2890

(2) The facility to which the waste will be transported or 2891
where it will be stored, treated, or disposed of; 2892

(3) The closure and post-closure care of a facility where 2893
hazardous waste will no longer be treated, stored, or disposed of 2894
and of a solid waste facility where solid wastes will no longer be 2895
disposed of or transferred. 2896

(G) Establishing procedures ensuring that all information 2897
entitled to protection as trade secrets disclosed to the director 2898
or the director's authorized representative is not disclosed 2899
without the consent of the owner, except that such information may 2900
be disclosed, upon request, to authorized representatives of the 2901
United States environmental protection agency, or as required by 2902
law. As used in this section, "trade secrets" means any formula, 2903
plan, pattern, process, tool, mechanism, compound, procedure, 2904
production date, or compilation of information that is not 2905
patented, that is known only to certain individuals within a 2906
commercial concern who are using it to fabricate, produce, or 2907
compound an article, trade, or service having commercial value, 2908
and that gives its user an opportunity to obtain a business 2909
advantage over competitors who do not know or use it. 2910

(H) Prohibiting the disposal of specified hazardous wastes in 2911
this state if the director has determined both of the following: 2912

(1) The potential impacts on human health or safety or the 2913
environment are such that disposal of those wastes should not be 2914
allowed. 2915

(2) A technically feasible and environmentally sound 2916
alternative is reasonably available, either within or outside this 2917
state, for processing, recycling, fixation of, neutralization of, 2918
or other treatment of those wastes. Such reasonable availability 2919
shall not be determined without a consideration of the costs to 2920
the generator of implementing the alternatives. 2921

The director shall adopt, and may amend, suspend, or rescind, 2922
rules to specify hazardous wastes that shall not be disposed of in 2923
accordance with this division. Nothing in this division, either 2924
prior to or after adoption of those rules, shall preclude the 2925
director from prohibiting the disposal of specified hazardous 2926
wastes at particular facilities under the terms or conditions of a 2927
permit or by order. 2928

(I)(1)(a) Governing the following that may be more stringent 2929
than the regulations adopted under the "Resource Conservation and 2930
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2931
~~amended~~, when the director determines that such more stringent 2932
rules are reasonable in order to protect human health or safety or 2933
the environment: 2934

(i) Specific wastes that the director determines, because of 2935
their physical, chemical, or biological characteristics, are so 2936
extremely hazardous that the storage, treatment, or disposal of 2937
the wastes in compliance with those regulations would present an 2938
imminent danger to human health or safety or the environment; 2939

(ii) The use of only properly designed, operated, and 2940
approved transfer facilities; 2941

(iii) Preventing illegitimate activities relating to the 2942
reuse, recycling, or reclaiming of hazardous waste, including 2943
record-keeping, reporting, and manifest requirements. 2944

(b) In adopting such more stringent rules, the director shall 2945
give consideration to and base the rules on evidence concerning 2946
factors including, but not limited to, the following insofar as 2947
pertinent: 2948

(i) Geography of the state; 2949

(ii) Geology of the state; 2950

(iii) Hydrogeology of the state; 2951

(iv) Climate of the state;	2952
(v) Engineering and technical feasibility;	2953
(vi) Availability of alternative technologies or methods of storage, treatment, or disposal.	2954 2955
(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, to the extent that such reports contain information that the generator, transporter, or facility owner or operator is required to obtain in order to comply with the 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, or to the extent that such reports are required by the director to meet the requirements of division (B)(7), (D)(9), or (H) of this section or section 3734.121 of the Revised Code.	2956 2957 2958 2959 2960 2961 2962 2963 2964 2965 2966 2967 2968 2969
(J) Governing the storage, treatment, or disposal of hazardous waste in, and the permitting, design, construction, operation, monitoring, inspection, closure, and post-closure care of, hazardous waste underground injection wells, surface impoundments, waste piles other than those composed of materials removed from the ground as part of coal or mineral extraction or cleaning processes, land treatment facilities, thermal treatment facilities, and landfills that may be more stringent than the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, whenever the director reasonably determines that federal regulations will not adequately protect the public health or safety or the environment of this state with respect to the subject matter of the more stringent rules. Such more stringent	2970 2971 2972 2973 2974 2975 2976 2977 2978 2979 2980 2981 2982 2983

rules shall be developed to achieve a degree of protection, as 2984
determined by the director, consistent with the degree of hazard 2985
potentially posed by the various wastes or categories of wastes to 2986
be treated, stored, or disposed of and the types of facilities at 2987
which they are to be treated, stored, or disposed of. In adopting 2988
such more stringent rules, the director shall give consideration 2989
to and base the rules on evidence concerning factors including, 2990
but not limited to, the following insofar as pertinent: 2991

(1) Geography of the state; 2992

(2) Geology of the state; 2993

(3) Hydrogeology of the state; 2994

(4) Climate of the state; 2995

(5) Engineering and technical feasibility; 2996

(6) Availability of alternative technologies or methods of 2997
storage, treatment, or disposal. 2998

(K) Establishing performance standards and other requirements 2999
necessary to protect public health and the environment from 3000
hazards associated with used oil, including, without limitation, 3001
standards and requirements respecting all of the following: 3002

(1) Material that is subject to regulation as used oil; 3003

(2) Generation of used oil; 3004

(3) Used oil collection centers and aggregation points; 3005

(4) Transportation of used oil; 3006

(5) Processing and re-refining of used oil; 3007

(6) Burning of used oil; 3008

(7) Marketing of used oil; 3009

(8) Disposal of used oil; 3010

(9) Use of used oil as a dust suppressant. 3011

(L) Establishing any other requirements, standards, or 3012
criteria that are consistent with and equivalent to the Resource 3013
Conservation and Recovery Act governing any matter not 3014
specifically addressed by divisions (A) to (K) of this section. 3015

Sec. 3734.121. (A) The director of environmental protection 3016
shall: 3017

~~(1) No, no~~ later than the first day of ~~June~~ October each 3018
even-numbered year, compile and make available to the extent 3019
allowed by rules adopted under division (G) of section 3734.12 of 3020
the Revised Code a list of hazardous wastes generated within the 3021
state during the preceding calendar year by any person who is not 3022
exempt from regulation under this chapter and rules adopted under 3023
it. The list shall contain at least: 3024

~~(a)(1)~~ (1) The name and address of each person generating 3025
hazardous waste; 3026

~~(b)(2)~~ (2) The waste description of each waste generated and the 3027
United States environmental protection agency hazardous waste 3028
number assigned to each waste under regulations promulgated under 3029
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 3030
2806, 42 U.S.C.A. 6921, as amended; and 3031

~~(c)(3)~~ (3) The quantity of waste generated during the ~~reporting~~ 3032
period preceding calendar year. 3033

~~(2) No later than December 31, 1986, compile and make~~ 3034
~~available a list of technically feasible and environmentally sound~~ 3035
~~alternatives reasonably available within and outside this state~~ 3036
~~for processing, recycling, fixating, neutralizing, or otherwise~~ 3037
~~treating hazardous wastes identified in the lists compiled under~~ 3038
~~division (A)(1) of this section.~~ 3039

(B) The director of environmental protection may: 3040

(1) From funds made available by the general assembly, make 3041

grants on a fifty per cent matching basis to a municipal corporation or county for the purposes of:

(a) Providing training for local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous waste facilities in their jurisdictions;

(b) Providing special clothing and equipment needed by local public health and public safety officers for dealing with emergencies involving hazardous waste facilities in their jurisdictions; and

(c) Reviewing materials provided to them by the director relating to applications for a hazardous waste facility installation and operation permit.

(2) From funds made available by the general assembly, make grants to any generator wishing to conduct applied research on technically feasible and environmentally sound alternatives for waste reduction, processing, recycling, fixating, neutralizing, or otherwise treating its own hazardous waste.

Sec. 3734.41. As used in sections 3734.41 to 3734.47 of the Revised Code:

(A) "Applicant" means any person seeking a permit or license for an off-site facility.

(B) "Application" means the forms and accompanying documents filed in connection with the applicant's request for a permit.

(C) "Business concern" means any corporation, association, firm, partnership, trust, or other form of commercial organization.

(D) "Disclosure statement" means a statement submitted to the director of environmental protection and the attorney general by an applicant. The statement shall include all of the following:

(1) The full name, business address, and social security number of the applicant or, if the applicant is a business concern, of all officers, directors, partners, or key employees thereof and all individuals or business concerns holding any equity in or debt liability of that business concern or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(2) The full name, business address, and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or debt liability of any business concern so disclosed or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(3) The full name and business address of any company in which the applicant holds an equity interest and that collects, transfers, transports, treats, stores, or disposes of solid wastes, infectious wastes, or hazardous waste or processes solid wastes that consist of scrap tires;

(4) A description of the experience and credentials, including any past or present permits or licenses, for the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, or the processing of solid wastes that consist of scrap tires, possessed by the applicant or, if the applicant is a business

concern, by the officers, directors, partners, or key employees 3104
thereof; 3105

(5) A listing and explanation of any civil or criminal 3106
prosecution by government agencies, administrative enforcement 3107
actions resulting in the imposition of sanctions, or license 3108
revocations or denials issued by any state or federal authority in 3109
the ten years immediately preceding the filing of the application, 3110
that are pending or have resulted in a finding or a settlement of 3111
a violation of any law or rule or regulation relating to the 3112
collection, transfer, transportation, treatment, storage, or 3113
disposal of solid wastes, infectious wastes, or hazardous waste, 3114
or the processing of solid wastes that consist of scrap tires, or 3115
of any other environmental protection statute, by the applicant 3116
or, if the applicant is a business concern, by the business 3117
concern or any officer, director, partner, or key employee 3118
thereof. For the purposes of division (D)(5) of this section, 3119
violations of any law or rule relating to the transportation of 3120
solid wastes, infectious wastes, or hazardous waste do not include 3121
violations that also apply to the transportation of commodities 3122
that are not wastes. 3123

(6) A listing and explanation of any judgment of liability or 3124
conviction that was rendered pursuant to any state or federal law 3125
or local ordinance resulting in the imposition of a sanction 3126
against the applicant or, if the applicant is a business concern, 3127
against the business concern or any officer, director, partner, or 3128
key employee thereof; 3129

(7) A listing of any agency outside this state that has or 3130
has had regulatory responsibility over the applicant in connection 3131
with its collection, transfer, transportation, treatment, storage, 3132
or disposal of solid wastes, infectious wastes, or hazardous waste 3133
or processing of solid wastes that consist of scrap tires; 3134

(8) Any other information the attorney general or the 3135

director may require that relates to the competency, reliability, 3136
or good character of the applicant. 3137

(E) "Key employee" means any individual, other than a public 3138
official or employee as defined in division (B) of section 102.01 3139
of the Revised Code who is required to file a statement under 3140
section 102.02 of the Revised Code, employed by the applicant or 3141
the licensee in a supervisory capacity or empowered to make 3142
discretionary decisions with respect to the solid waste, 3143
infectious waste, or hazardous waste operations of the business 3144
concern, but does not include any employee exclusively engaged in 3145
the physical or mechanical collection, transfer, transportation, 3146
treatment, storage, or disposal of solid wastes, infectious 3147
wastes, or hazardous waste or processing of solid wastes that 3148
consist of scrap tires. If the applicant or permittee has entered 3149
into a contract with another person to operate the facility that 3150
is the subject of the permit or license or application for a 3151
permit or license, "key employee" also includes those employees of 3152
the contractor who act in a supervisory capacity, or are empowered 3153
to make discretionary decisions, with respect to the operation of 3154
the solid, infectious, or hazardous waste facility. An officer or 3155
director of a business concern required to file a disclosure 3156
statement under section 3734.42 of the Revised Code who meets the 3157
definition of "key employee" shall be considered a key employee 3158
for purposes of the filing and disclosure requirements of sections 3159
3734.42 to 3734.47 of the Revised Code. 3160

(F) "License" means the annual license required by section 3161
3734.05 of the Revised Code for an off-site solid waste disposal 3162
or transfer facility or an off-site infectious waste treatment 3163
facility. 3164

(G) "Off-site facility" means a facility that is located off 3165
the premises where the solid wastes, infectious wastes, or 3166
hazardous waste is generated, but does not include any such 3167

facility that exclusively disposes of wastes that are generated 3168
from the combustion of coal, or from the combustion of primarily 3169
coal in combination with scrap tires, that is not combined in any 3170
way with garbage or any such facility that is owned and operated 3171
by the generator of the waste and that exclusively stores, 3172
processes, or disposes of or transfers solid wastes, exclusively 3173
treats infectious wastes, or exclusively disposes of hazardous 3174
waste, generated at one or more premises owned by the generator. 3175

(H) "Permit" means a permit to install ~~and any subsequent~~ 3176
~~modifications for an~~ a new off-site solid waste disposal facility, 3177
including an incineration facility, or a new transfer facility, 3178
issued under section 3734.05 of the Revised Code; a permit to 3179
install ~~and any subsequent modifications for an~~ a new off-site 3180
solid waste facility that is a scrap tire storage, monocell, 3181
monofill, or recovery facility issued under section 3734.76, 3182
3734.77, or 3734.78 of the Revised Code, as applicable; a permit 3183
to install ~~and any subsequent modifications for an~~ a new off-site 3184
infectious waste treatment facility issued under section 3734.05 3185
of the Revised Code; and a permit to install and operate ~~an~~ a new 3186
off-site hazardous waste treatment, storage, or disposal facility 3187
~~and the modification or renewal of a hazardous waste permit for~~ 3188
~~the treatment, storage, or disposal of hazardous waste~~ issued 3189
under section 3734.05 of the Revised Code. 3190

(I) "Permittee" means any person who has received a permit or 3191
license for an off-site facility. 3192

Sec. 3734.42. (A)(1) ~~Except as otherwise provided in division~~ 3193
~~(E)(2) of this section, every~~ Every applicant for a permit ~~other~~ 3194
~~than a permit modification or renewal~~ shall file a disclosure 3195
statement, on a form developed by the attorney general, with the 3196
director of environmental protection and the attorney general at 3197
the same time the applicant files an application for ~~a~~ the permit 3198

~~other than a permit modification or renewal~~ with the director. 3199

3200

(2) Any individual required to be listed in the disclosure 3201
statement shall be fingerprinted for identification and 3202
investigation purposes in accordance with procedures established 3203
by the attorney general. An individual required to be 3204
fingerprinted under this section shall not be required to be 3205
fingerprinted more than once under this section. 3206

(3) The attorney general, within one hundred eighty days 3207
after receipt of the disclosure statement from an applicant for a 3208
permit, shall prepare and transmit to the director an 3209
investigative report on the applicant, based in part upon the 3210
disclosure statement, except that this deadline may be extended 3211
for a reasonable period of time, for good cause, by the director 3212
or the attorney general. In preparing this report, the attorney 3213
general may request and receive criminal history information from 3214
the federal bureau of investigation and any other law enforcement 3215
agency or organization. The attorney general may provide such 3216
confidentiality regarding the information received from a law 3217
enforcement agency as may be imposed by that agency as a condition 3218
for providing that information to the attorney general. 3219

(4) The review of the application by the director shall 3220
include a review of the disclosure statement and investigative 3221
report. 3222

(B) All applicants and permittees shall provide any 3223
assistance or information requested by the director or the 3224
attorney general and shall cooperate in any inquiry or 3225
investigation conducted by the attorney general and any inquiry, 3226
investigation, or hearing conducted by the director. If, upon 3227
issuance of a formal request to answer any inquiry or produce 3228
information, evidence, or testimony, any applicant or permittee, 3229
any officer, director, or partner of any business concern, or any 3230

key employee of the applicant or permittee refuses to comply, the 3231
permit of the applicant or permittee may be denied or revoked by 3232
the director. 3233

(C) The attorney general may charge and collect such fees 3234
from applicants and permittees as are necessary to cover the costs 3235
of administering and enforcing the investigative procedures 3236
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 3237
attorney general shall transmit moneys collected under this 3238
division to the treasurer of state to be credited to the solid and 3239
hazardous waste background investigations fund, which is hereby 3240
created in the state treasury. Moneys in the fund shall be used 3241
solely for paying the attorney general's costs of administering 3242
and enforcing the investigative procedures authorized in sections 3243
3734.41 to 3734.47 of the Revised Code. 3244

(D) Annually on the anniversary date of the submission to the 3245
director by the attorney general of the investigative report for a 3246
specific facility, or annually on another date assigned by the 3247
attorney general, the appropriate applicant, permittee, or 3248
prospective owner shall submit to the attorney general, on a form 3249
provided by the attorney general, any and all information required 3250
to be included in a disclosure statement that has changed or been 3251
added in the immediately preceding year. If, in the immediately 3252
preceding year, there have been no changes in or additions to the 3253
information required to be included in a disclosure statement, the 3254
appropriate applicant, permittee, or prospective owner shall 3255
submit to the attorney general an affidavit stating that there 3256
have been no changes in or additions to that information during 3257
that time period. 3258

Notwithstanding the requirement for an annual submission of 3259
information, the following information shall be submitted within 3260
the periods specified: 3261

(1) Information required to be included in the disclosure 3262

statement for any new officer, director, partner, or key employee, 3263
to be submitted within ninety days from the addition of the 3264
officer, director, partner, or key employee; 3265

(2) Information required to be included in a disclosure 3266
statement for any new business concern, to be submitted within 3267
ninety days from the addition of the new business concern; 3268

(3) Information regarding any new criminal conviction, to be 3269
submitted within ninety days from the judgment entry of 3270
conviction. 3271

The failure to provide such information may constitute the 3272
basis for the revocation or denial of renewal of any permit or 3273
license issued in accordance with this chapter, provided that 3274
prior to any such denial or revocation, the director shall notify 3275
the applicant or permittee of the director's intention to do so 3276
and give the applicant or permittee fourteen days from the date of 3277
the notice to explain why the information was not provided. The 3278
director shall consider this information when determining whether 3279
to revoke or deny the permit or license. 3280

Nothing in this division affects the rights of the director 3281
or the attorney general granted under sections 3734.40 to 3734.47 3282
of the Revised Code to request information from a person at any 3283
other time. 3284

~~(E)(1) Except as otherwise provided in division (E)(2) of 3285
this section, every permittee who is not otherwise required to 3286
file a disclosure statement shall file a disclosure statement 3287
within five years after June 24, 1988, pursuant to a schedule for 3288
submissions of disclosure statements developed by the attorney 3289
general. The schedule shall provide all permittees and holders of 3290
a license with at least one hundred eighty days' notice prior to 3291
the date upon which the statement is to be submitted. All other 3292
terms of the schedule shall be established at the discretion of 3293~~

~~the attorney general and shall not be subject to judicial review.~~ 3294

~~(2) An applicant for a permit for an off site solid waste 3295
facility that is a scrap tire storage, monocell, monofill, or 3296
recovery facility issued under section 3734.76, 3734.77, or 3297
3734.78 of the Revised Code, as applicable, shall file a 3298
disclosure statement within five years after October 29, 1993, 3299
pursuant to a schedule for submissions of disclosure statements 3300
developed by the attorney general. The schedule shall provide all 3301
such applicants with at least one hundred eighty days' notice 3302
prior to the date upon which the statement shall be submitted. All 3303
other terms of the schedule shall be established at the discretion 3304
of the attorney general and shall not be subject to judicial 3305
review. 3306~~

~~Beginning five years after October 29, 1993, an applicant for 3307
such a permit shall file a disclosure statement in accordance with 3308
division (A)(1) of this section. 3309~~

~~(3) When a permittee submits a disclosure statement at the 3310
time it submits an application for a renewal or modification of 3311
its permit, the attorney general shall remove the permittee from 3312
the submission schedule established pursuant to division (E)(1) or 3313
(2) of this section. 3314~~

~~(4) After receiving a disclosure statement under division 3315
(E)(1) or (2) of this section, the attorney general shall prepare 3316
an investigative report and transmit it to the director. The 3317
director shall review the disclosure statement and investigative 3318
report to determine whether the statement or report contains 3319
information that if submitted with a permit application would 3320
require a denial of the permit pursuant to section 3734.44 of the 3321
Revised Code. If the director determines that the statement or 3322
report contains such information, the director may revoke any 3323
previously issued permit pursuant to section 3734.45 of the 3324
Revised Code, or the director shall deny any application for a 3325~~

~~renewal of a permit or license. When the renewal of the license is 3326
being performed by a board of health, the director shall instruct 3327
the board of health about those circumstances under which the 3328
renewal is required to be denied by this section. 3329~~

~~(F)(1) Whenever there is a change in ownership of any 3330
operating off-site solid waste facility, including incinerators; 3331
any operating transfer facility; any operating off-site 3332
infectious waste treatment facility; or any operating off-site 3333
hazardous waste treatment, storage, or disposal facility, the 3334
prospective owner shall file a disclosure statement with the 3335
attorney general and the director at least one hundred eighty days 3336
prior to the proposed change in ownership. In addition, whenever 3337
there is a change in ownership of any operating on-site solid 3338
waste facility, including incinerators; any operating transfer 3339
facility; any operating on-site infectious waste treatment 3340
facility; or any operating on-site hazardous waste treatment, 3341
storage, or disposal facility and the prospective owner intends to 3342
operate the facility as an off-site facility by accepting wastes 3343
other than wastes generated by the facility owner, the prospective 3344
owner shall file a disclosure statement with the attorney general 3345
and the director. The prospective owner shall file the disclosure 3346
statement at least one hundred eighty days prior to the proposed 3347
change in ownership. Upon 3348~~

Upon receipt of the disclosure statement, the attorney 3349
general shall prepare an investigative report and transmit it to 3350
the director. The director shall review the disclosure statement 3351
and investigative report to determine whether the statement or 3352
report contains information that if submitted with a permit 3353
application would require a denial of the permit pursuant to 3354
section 3734.44 of the Revised Code. If the director determines 3355
that the statement or report contains such information, the 3356
director shall disapprove the change in ownership. 3357

(2) If the parties to a change in ownership decide to proceed 3358
with the change prior to the action of the director on the 3359
disclosure statement and investigative report, the parties shall 3360
include in all contracts or other documents reflecting the change 3361
in ownership language expressly making the change in ownership 3362
subject to the approval of the director and expressly negating the 3363
change if it is disapproved by the director pursuant to division 3364
(F)(E)(1) of this section. 3365

(3) As used in this section, "change in ownership" includes 3366
~~any a change in the names, other than those of the individuals or~~ 3367
entities who own a solid waste facility, infectious waste 3368
treatment facility, or hazardous waste treatment, storage, or 3369
disposal facility. "Change in ownership" does not include a legal 3370
change in a business concern's name when its ownership otherwise 3371
remains the same. "Change in ownership" also does not include a 3372
personal name change of officers, directors, partners, or key 3373
employees, contained in ~~the~~ a disclosure statement. 3374

Sec. 3734.573. (A) For the purposes specified in division (G) 3375
of section 3734.57 of the Revised Code, the solid waste management 3376
policy committee of a county or joint solid waste management 3377
district may levy a fee on the generation of solid wastes within 3378
the district. 3379

The initial or amended solid waste management plan of the 3380
county or joint district approved under section 3734.521, 3734.55, 3381
or 3734.56 of the Revised Code, an amendment to the district's 3382
plan adopted under division (E) of section 3734.56 of the Revised 3383
Code, or the resolution adopted and ratified under division (B) of 3384
this section shall establish the rate of the fee levied under this 3385
division and shall specify whether the fee is levied on the basis 3386
of tons or cubic yards as the unit of measurement. 3387

(B) Prior to the approval under division (A) of section 3388

3734.56 of the Revised Code of the first amended plan that the 3389
district is required to submit for approval under that section, 3390
the approval of an initial plan under section 3734.521 of the 3391
Revised Code, the approval of an amended plan under section 3392
3734.521 or division (D) of section 3734.56 of the Revised Code, 3393
or the amendment of the district's plan under division (E) of 3394
section 3734.56 of the Revised Code, the solid waste management 3395
policy committee of a county or joint district that is operating 3396
under an initial plan approved under section 3734.55 of the 3397
Revised Code, or one for which approval of its initial plan is 3398
pending before the director of environmental protection on October 3399
29, 1993, under section 3734.55 of the Revised Code, may levy a 3400
fee under division (A) of this section by adopting and obtaining 3401
ratification of a resolution establishing the amount of the fee. A 3402
policy committee that, after December 1, 1993, concurrently 3403
proposes to levy a fee under division (A) of this section and to 3404
amend the fees levied by the district under divisions (B)(1) to 3405
(3) of section 3734.57 of the Revised Code may adopt and obtain 3406
ratification of one resolution proposing to do both. The 3407
requirements and procedures set forth in division (B) of section 3408
3734.57 of the Revised Code governing the adoption, amendment, and 3409
repeal of resolutions levying fees under divisions (B)(1) to (3) 3410
of that section, the ratification of those resolutions, and the 3411
notification of owners and operators of solid waste facilities 3412
required to collect fees levied under those divisions govern the 3413
adoption of the resolutions authorized to be adopted under this 3414
division, the ratification thereof, and the notification of owners 3415
and operators required to collect the fees, except as otherwise 3416
specifically provided in division (C) of this section. 3417

(C) Any initial or amended plan of a district adopted under 3418
section 3734.521 or 3734.56 of the Revised Code, or resolution 3419
adopted under division (B) of this section, that proposes to levy 3420
a fee under division (A) of this section that exceeds five dollars 3421

per ton shall be ratified in accordance with the provisions of 3422
section 3734.55 or division (B) of section 3734.57 of the Revised 3423
Code, as applicable, except that such an initial or amended plan 3424
or resolution shall be approved by a combination of municipal 3425
corporations and townships with a combined population within the 3426
boundaries of the district comprising at least seventy-five per 3427
cent, rather than at least sixty per cent, of the total population 3428
of the district. 3429

(D) The policy committee of a county or joint district may 3430
amend the fee levied by the district under division (A) of this 3431
section by adopting and obtaining ratification of a resolution 3432
establishing the amount of the amended fee. The policy committee 3433
may abolish the fee or an amended fee established under this 3434
division by adopting and obtaining ratification of a resolution 3435
proposing to repeal it. The requirements and procedures under 3436
division (B) and, if applicable, division (C) of this section 3437
govern the adoption and ratification of a resolution authorized to 3438
be adopted under this division and the notification of owners and 3439
operators of solid waste facilities required to collect the fees. 3440

(E) Collection of a fee or amended fee levied under division 3441
(A) or (D) of this section shall commence or cease in accordance 3442
with division (B) of section 3734.57 of the Revised Code. If a 3443
district is levying a fee under section 3734.572 of the Revised 3444
Code, collection of that fee shall cease on the date on which 3445
collection of the fee levied under division (A) of this section 3446
commences in accordance with division (B) of section 3734.57 of 3447
the Revised Code. 3448

(F) In the case of solid wastes that are taken to a solid 3449
waste transfer facility prior to being transported to a solid 3450
waste disposal facility for disposal, the fee levied under 3451
division (A) of this section shall be collected by the owner or 3452
operator of the transfer facility as a trustee for the district. 3453

In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or disposal facility who is required to collect the fee shall collect and forward the fee to the district in accordance with section 3734.57 of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes specified in that division. Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under that section or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under

division (E) of section 3734.56 of the Revised Code, moneys 3486
credited to the special fund arising from the fee levied pursuant 3487
to a resolution adopted and ratified under division (B) of this 3488
section shall be expended for those purposes in the manner 3489
prescribed by the solid waste management policy committee by 3490
resolution. 3491

(H) The fee levied under division (A) of this section does 3492
not apply to the management of solid wastes that: 3493

(1) Are disposed of at a facility owned by the generator of 3494
the wastes when the solid waste facility exclusively disposes of 3495
solid wastes generated at one or more premises owned by the 3496
generator regardless of whether the facility is located on a 3497
premises where the wastes were generated; 3498

(2) ~~Are disposed of at facilities that exclusively dispose of~~ 3499
~~wastes that are~~ generated from the combustion of coal, or from the 3500
combustion of primarily coal in combination with scrap tires, ~~that~~ 3501
~~is not combined in any way with garbage at one or more~~ regardless 3502
of whether the disposal facility is located on the premises owned 3503
by the generator where the wastes are generated. 3504

(I) When solid wastes that are burned in a disposal facility 3505
that is an incinerator or energy recovery facility are delivered 3506
to a solid waste transfer facility prior to being transported to 3507
the incinerator or energy recovery facility where they are burned, 3508
the fee levied under division (A) of this section shall be levied 3509
on the wastes delivered to the transfer facility. 3510

(J) When solid wastes that are burned in a disposal facility 3511
that is an incinerator or energy recovery facility are not 3512
delivered to a solid waste transfer facility prior to being 3513
transported to the incinerator or energy recovery facility where 3514
they are burned, the fee levied under division (A) of this section 3515
shall be levied on the wastes delivered to the incinerator or 3516

energy recovery facility. 3517

(K) The fee levied under division (A) of this section does 3518
not apply to sewage sludge that is generated by a waste water 3519
treatment facility holding a national pollutant discharge 3520
elimination system permit and that is disposed of through 3521
incineration, land application, or composting or at another 3522
resource recovery or disposal facility that is not a landfill. 3523

(L) The fee levied under division (A) of this section does 3524
not apply to solid waste delivered to a solid waste composting 3525
facility for processing. If any unprocessed solid waste or compost 3526
product is transported off the premises of a composting facility 3527
for disposal at a landfill, the fee levied under division (A) of 3528
this section applies and shall be collected by the owner or 3529
operator of the landfill. 3530

(M) The fee levied under division (A) of this section does 3531
not apply to materials separated from a mixed waste stream for 3532
recycling by the generator or materials removed from the solid 3533
waste stream as a result of recycling, as "recycling" is defined 3534
in rules adopted under section 3734.02 of the Revised Code. 3535

(N) The director of environmental protection may issue an 3536
order exempting from the fees levied under this section solid 3537
wastes, including, but not limited to, scrap tires, that are 3538
generated, transferred, or disposed of as a result of a contract 3539
providing for the expenditure of public funds entered into by the 3540
administrator or regional administrator of the United States 3541
environmental protection agency, the director of environmental 3542
protection, or the director of administrative services on behalf 3543
of the director of environmental protection for the purpose of 3544
remediating conditions at a hazardous waste facility, solid waste 3545
facility, or other location at which the administrator or regional 3546
administrator or the director of environmental protection has 3547
reason to believe that there is a substantial threat to public 3548

health or safety or the environment or that the conditions are 3549
causing or contributing to air or water pollution or soil 3550
contamination. An order issued by the director of environmental 3551
protection under this division shall include a determination that 3552
the amount of fees not received by a solid waste management 3553
district as a result of the order will not adversely impact the 3554
implementation and financing of the district's approved solid 3555
waste management plan and any approved amendments to the plan. 3556
Such an order is a final action of the director of environmental 3557
protection. 3558

Sec. 3734.85. (A) On and after the effective date of the 3559
rules adopted under sections 3734.70, 3734.71, 3734.72, and 3560
3734.73 of the Revised Code, the director of environmental 3561
protection may take action under this section to abate 3562
accumulations of scrap tires. If the director determines that an 3563
accumulation of scrap tires constitutes a danger to the public 3564
health or safety or to the environment, the director shall issue 3565
an order under section 3734.13 of the Revised Code to the person 3566
responsible for the accumulation of scrap tires directing that 3567
person, within one hundred twenty days after the issuance of the 3568
order, to remove the accumulation of scrap tires from the premises 3569
on which it is located and transport the tires to a scrap tire 3570
storage, monocell, monofill, or recovery facility licensed under 3571
section 3734.81 of the Revised Code, to such a facility in another 3572
state operating in compliance with the laws of the state in which 3573
it is located, or to any other solid waste disposal facility in 3574
another state that is operating in compliance with the laws of 3575
that state. If the person responsible for causing the accumulation 3576
of scrap tires is a person different from the owner of the land on 3577
which the accumulation is located, the director may issue such an 3578
order to the landowner. 3579

If the director is unable to ascertain immediately the 3580

identity of the person responsible for causing the accumulation of 3581
scrap tires, the director shall examine the records of the 3582
applicable board of health and law enforcement agencies to 3583
ascertain that person's identity. Before initiating any 3584
enforcement or removal actions under this division against the 3585
owner of the land on which the accumulation is located, the 3586
director shall initiate any such actions against the person that 3587
the director has identified as responsible for causing the 3588
accumulation of scrap tires. Failure of the director to make 3589
diligent efforts to ascertain the identity of the person 3590
responsible for causing the accumulation of scrap tires or to 3591
initiate an action against the person responsible for causing the 3592
accumulation shall not constitute an affirmative defense by a 3593
landowner to an enforcement action initiated by the director under 3594
this division requiring immediate removal of any accumulation of 3595
scrap tires. 3596

Upon the written request of the recipient of an order issued 3597
under this division, the director may extend the time for 3598
compliance with the order if the request demonstrates that the 3599
recipient has acted in good faith to comply with the order. If the 3600
recipient of an order issued under this division fails to comply 3601
with the order within one hundred twenty days after the issuance 3602
of the order or, if the time for compliance with the order was so 3603
extended, within that time, the director shall take such actions 3604
as the director considers reasonable and necessary to remove and 3605
properly manage the scrap tires located on the land named in the 3606
order. The director, through employees of the environmental 3607
protection agency or a contractor, may enter upon the land on 3608
which the accumulation of scrap tires is located and remove and 3609
transport them to a scrap tire recovery facility for processing, 3610
to a scrap tire storage facility for storage, or to a scrap tire 3611
monocell or monofill facility for storage or disposal. 3612

The director shall enter into contracts for the storage, 3613
disposal, or processing of scrap tires removed through removal 3614
operations conducted under this section. 3615

If a person to whom a removal order is issued under this 3616
division fails to comply with the order and if the director 3617
performs a removal action under this section, the person to whom 3618
the removal order is issued is liable to the director for the 3619
costs incurred by the director for conducting the removal 3620
operation, storage at a scrap tire storage facility, storage or 3621
disposal at a scrap tire monocell or monofill facility, or 3622
processing of the scrap tires so removed, the transportation of 3623
the scrap tires from the site of the accumulation to the scrap 3624
tire storage, monocell, monofill, or recovery facility where the 3625
scrap tires were stored, disposed of, or processed, and the 3626
administrative and legal expenses incurred by the director in 3627
connection with the removal operation. The director shall keep an 3628
itemized record of those costs. Upon completion of the actions for 3629
which the costs were incurred, the director shall record the costs 3630
at the office of the county recorder of the county in which the 3631
accumulation of scrap tires was located. The costs so recorded 3632
constitute a lien on the property on which the accumulation of 3633
scrap tires was located until discharged. Upon the written request 3634
of the director, the attorney general shall bring a civil action 3635
against the person responsible for the accumulation of the scrap 3636
tires that were the subject of the removal operation to recover 3637
the costs for which the person is liable under this division. Any 3638
money so received or recovered shall be credited to the scrap tire 3639
management fund created in section 3734.82 of the Revised Code. 3640

If, in a civil action brought under this division, an owner 3641
of real property is ordered to pay to the director the costs of a 3642
removal action that removed an accumulation of scrap tires from 3643
the person's land or if a lien is placed on the person's land for 3644

the costs of such a removal action, and, in either case, if the
landowner was not the person responsible for causing the
accumulation of scrap tires so removed, the landowner may bring a
civil action against the person who was responsible for causing
the accumulation to recover the amount of the removal costs that
the court ordered the landowner to pay to the director or the
amount of the removal costs certified to the county recorder as a
lien on the landowner's property, whichever is applicable. If the
landowner prevails in the civil action against the person who was
responsible for causing the accumulation of scrap tires, the
court, as it considers appropriate, may award to the landowner the
reasonable attorney's fees incurred by the landowner for bringing
the action, court costs, and other reasonable expenses incurred by
the landowner in connection with the civil action. A landowner
shall bring such a civil action within two years after making the
final payment of the removal costs to the director pursuant to the
judgment rendered against the landowner in the civil action
brought under this division upon the director's request or within
two years after the director certified the costs of the removal
action to the county recorder, as appropriate. A person who, at
the time that a removal action was conducted under this division,
owned the land on which the removal action was performed may bring
an action under this division to recover the costs of the removal
action from the person responsible for causing the accumulation of
scrap tires so removed regardless of whether the person owns the
land at the time of bringing the action.

Subject to the limitations set forth in division (G) of
section 3734.82 of the Revised Code, the director may use moneys
in the scrap tire management fund for conducting removal actions
under this division. Any moneys recovered under this division
shall be credited to the scrap tire management fund.

(B) The director shall initiate enforcement and removal

actions under division (A) of this section in accordance with the 3677
following descending listing of priorities: 3678

(1) Accumulations of scrap tires that the director finds 3679
constitute a fire hazard or threat to public health; 3680

(2) Accumulations of scrap tires determined by the director 3681
to contain more than one million scrap tires; 3682

(3) Accumulations of scrap tires in densely populated areas; 3683

(4) Other accumulations of scrap tires that the director or 3684
board of health of the health district in which the accumulation 3685
is located determines constitute a public nuisance; 3686

(5) Any other accumulations of scrap tires present on 3687
premises operating without a valid license issued under section 3688
3734.05 or 3734.81 of the Revised Code. 3689

(C) The director shall not take enforcement and removal 3690
actions under division (A) of this section against the owner or 3691
operator of, or the owner of the land on which is located, any of 3692
the following: 3693

(1) A premises where not more than one hundred scrap tires 3694
are present at any time; 3695

(2) The premises of a business engaging in the sale of tires 3696
at retail that meets either of the following criteria: 3697

(a) Not more than one thousand scrap tires are present on the 3698
premises at any time in an unsecured, uncovered outdoor location. 3699

(b) Any number of scrap tires are secured in a building or a 3700
covered, enclosed container, trailer, or installation. 3701

(3) The premises of a tire retreading business, a tire 3702
manufacturing finishing center, or a tire adjustment center on 3703
which is located a single, covered scrap tire storage area where 3704
not more than four thousand scrap tires are stored; 3705

- (4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet; 3706
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- (5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet; 3710
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- (6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use; 3714
3715
- (7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments; 3716
3717
- (8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; 3718
3719
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- (9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires; 3721
3722
3723
- (10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 3734.84 of the Revised Code has been given; 3724
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3726
- (11) A transporter registered under section 3734.83 of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination. 3727
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- (D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief. 3731
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3734
- (E) An owner of real property upon which there is located an 3735

accumulation of not more than ~~two~~ five thousand scrap tires is not 3736
liable under division (A) of this section for the cost of the 3737
removal of the scrap tires, and no lien shall attach to the 3738
property under this section, if all of the following conditions 3739
are met: 3740

(1) The tires were placed on the property after the owner 3741
acquired title to the property, or the tires were placed on the 3742
property before the owner acquired title to the property and the 3743
owner acquired title to the property by bequest or devise. 3744

(2) The owner of the property did not have knowledge that the 3745
tires were being placed on the property, or the owner posted on 3746
the property signs prohibiting dumping or took other action to 3747
prevent the placing of tires on the property. 3748

(3) The owner of the property did not participate in or 3749
consent to the placing of the tires on the property. 3750

(4) The owner of the property received no financial benefit 3751
from the placing of the tires on the property or otherwise having 3752
the tires on the property. 3753

(5) Title to the property was not transferred to the owner 3754
for the purpose of evading liability under division (A) of this 3755
section. 3756

(6) The person responsible for placing the tires on the 3757
property, in doing so, was not acting as an agent for the owner of 3758
the property. 3759

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the 3760
Revised Code: 3761

(A) "Accidental release" means any sudden or nonsudden 3762
release of petroleum that was neither expected nor intended by the 3763
owner or operator of the applicable underground storage tank 3764
system and that results in the need for corrective action or 3765

compensation for bodily injury or property damage. 3766

(B) "Corrective action" means any action necessary to protect 3767
human health and the environment in the event of a release of 3768
petroleum into the environment, including, without limitation, any 3769
action necessary to monitor, assess, and evaluate the release. In 3770
the instance of a suspected release, "corrective action" includes, 3771
without limitation, an investigation to confirm or disprove the 3772
occurrence of the release. In the instance of a confirmed release, 3773
"corrective action" includes, without limitation, the initial 3774
corrective action taken under section 3737.88 or 3737.882 of the 3775
Revised Code and rules adopted or orders issued under those 3776
sections and any action taken consistent with a remedial action to 3777
clean up contaminated ground water, surface water, soils, and 3778
subsurface material and to address the residual effects of a 3779
release after the initial corrective action is taken. 3780

(C) "Eligible lending institution" means a financial 3781
institution that is eligible to make commercial loans, is a public 3782
depository of state funds under section 135.03 of the Revised 3783
Code, and agrees to participate in the petroleum underground 3784
storage tank linked deposit program provided for in sections 3785
3737.95 to 3737.98 of the Revised Code. 3786

(D) "Eligible owner" means any person that owns six or fewer 3787
petroleum underground storage tanks comprising a petroleum 3788
underground storage tank or underground storage tank system. 3789

(E) "Installer" means a person who supervises the 3790
installation of, performance of major repairs on site to, 3791
abandonment of, or removal of underground storage tank systems. 3792

(F) "Major repair" means the restoration of a tank or an 3793
underground storage tank system component that has caused a 3794
release of a product from the underground storage tank system, ~~the~~ 3795
~~upgrading of a tank or an underground storage tank system~~ 3796

~~component, or the modification of a tank or an underground storage~~ 3797
~~tank system component.~~ "Major repair" does not include 3798
modifications, upgrades, or routine maintenance for normal 3799
operational upkeep to prevent an underground storage tank system 3800
from releasing a product. 3801

(G) "Operator" means the person in daily control of, or 3802
having responsibility for the daily operation of, an underground 3803
storage tank system. 3804

(H) "Owner" means: 3805

(1) In the instance of an underground storage tank system in 3806
use on November 8, 1984, or brought into use after that date, the 3807
person who owns the underground storage tank system; 3808

(2) In the instance of an underground storage tank system in 3809
use before November 8, 1984, that was no longer in use on that 3810
date, the person who owned the underground storage tank system 3811
immediately before the discontinuation of its use. 3812

"Owner" includes any person who holds, or, in the instance of 3813
an underground storage tank system in use before November 8, 1984, 3814
but no longer in use on that date, any person who held immediately 3815
before the discontinuation of its use, a legal, equitable, or 3816
possessory interest of any kind in an underground storage tank 3817
system or in the property on which the underground storage tank 3818
system is located, including, without limitation, a trust, vendor, 3819
vendee, lessor, or lessee. "Owner" does not include any person 3820
who, without participating in the management of an underground 3821
storage tank system and without otherwise being engaged in 3822
petroleum production, refining, or marketing, holds indicia of 3823
ownership in an underground storage tank system primarily to 3824
protect the person's security interest in it. 3825

(I) "Person," in addition to the meaning in section 3737.01 3826
of the Revised Code, means the United States and any department, 3827

agency, or instrumentality thereof. 3828

(J) "Petroleum" means petroleum, including crude oil or any 3829
fraction thereof, that is a liquid at the temperature of sixty 3830
degrees Fahrenheit and the pressure of fourteen and seven-tenths 3831
pounds per square inch absolute. "Petroleum" includes, without 3832
limitation, motor fuels, jet fuels, distillate fuel oils, residual 3833
fuel oils, lubricants, petroleum solvents, and used oils. 3834

(K) "Petroleum underground storage tank linked deposit" means 3835
a certificate of deposit placed by the treasurer of state with an 3836
eligible lending institution pursuant to sections 3737.95 to 3837
3737.98 of the Revised Code. 3838

(L) "Regulated substance" means petroleum or any substance 3839
identified or listed as a hazardous substance in rules adopted 3840
under division (D) of section 3737.88 of the Revised Code. 3841

(M) "Release" means any spilling, leaking, emitting, 3842
discharging, escaping, leaching, or disposing of from an 3843
underground storage tank system into ground or surface water or 3844
subsurface soils or otherwise into the environment. 3845

(N) Notwithstanding division (F) of section 3737.01 of the 3846
Revised Code, "responsible person" means the person who is the 3847
owner or operator of an underground storage tank system. 3848

(O) "Tank" means a stationary device designed to contain an 3849
accumulation of regulated substances that is constructed of 3850
manufactured materials. 3851

(P) "Underground storage tank" means one or any combination 3852
of tanks, including the underground pipes connected thereto, that 3853
are used to contain an accumulation of regulated substances the 3854
volume of which, including the volume of the underground pipes 3855
connected thereto, is ten per cent or more beneath the surface of 3856
the ground. 3857

"Underground storage tank" does not include any of the	3858
following or any pipes connected to any of the following:	3859
(1) Pipeline facilities, including gathering lines, regulated	3860
under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720,	3861
49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline	3862
Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended;	3863
(2) Farm or residential tanks of one thousand one hundred	3864
gallons or less capacity used for storing motor fuel for	3865
noncommercial purposes;	3866
(3) Tanks used for storing heating fuel for consumptive use	3867
on the premises where stored;	3868
(4) Surface impoundments, pits, ponds, or lagoons;	3869
(5) Storm or waste water collection systems;	3870
(6) Flow-through process tanks;	3871
(7) Storage tanks located in underground areas, including,	3872
without limitation, basements, cellars, mine workings, drifts,	3873
shafts, or tunnels, when the tanks are located on or above the	3874
surface of the floor;	3875
(8) Septic tanks;	3876
(9) Liquid traps or associated gathering lines directly	3877
related to oil or gas production and gathering operations.	3878
(Q) "Underground storage tank system" means an underground	3879
storage tank and the connected underground piping, underground	3880
ancillary equipment, and containment system, if any.	3881
(R) "Revenues" means all fees, premiums, and charges paid by	3882
owners and operators of petroleum underground storage tanks to the	3883
petroleum underground storage tank release compensation board	3884
created in section 3737.90 of the Revised Code; proceeds received	3885
by the board from any insurance, condemnation, or guaranty; the	3886
proceeds of petroleum underground storage tank revenue bonds; and	3887

the income and profits from the investment of any such revenues. 3888

(S) "Revenue bonds," unless the context indicates a different 3889
meaning or intent, means petroleum underground storage tank 3890
revenue bonds and petroleum underground storage tank revenue 3891
refunding bonds that are issued by the petroleum underground 3892
storage tank release compensation board pursuant to sections 3893
3737.90 to 3737.948 of the Revised Code. 3894

(T) "Class C release" means a release of petroleum occurring 3895
or identified from an underground storage tank system subject to 3896
sections 3737.87 to 3737.89 of the Revised Code for which the 3897
responsible person for the release is specifically determined by 3898
the fire marshal not to be a viable person capable of undertaking 3899
or completing the corrective actions required under those sections 3900
for the release. "Class C release" also includes any release 3901
designated as a "class C release" in accordance with rules adopted 3902
under section 3737.88 of the Revised Code. 3903

Sec. 3737.88. (A)(1) The fire marshal shall have 3904
responsibility for implementation of the underground storage tank 3905
program and corrective action program for releases of petroleum 3906
from underground storage tanks established by the "Resource 3907
Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 3908
6901, as amended. To implement the programs, the fire marshal may 3909
adopt, amend, and rescind such rules, conduct such inspections, 3910
require annual registration of underground storage tanks, issue 3911
such citations and orders to enforce those rules, enter into 3912
environmental covenants in accordance with sections 5301.80 to 3913
5301.92 of the Revised Code, and perform such other duties, as are 3914
consistent with those programs. The fire marshal, by rule, may 3915
delegate the authority to conduct inspections of underground 3916
storage tanks to certified fire safety inspectors. 3917

(2) In the place of any rules regarding release containment 3918

and release detection for underground storage tanks adopted under 3919
division (A)(1) of this section, the fire marshal, by rule, shall 3920
designate areas as being sensitive for the protection of human 3921
health and the environment and adopt alternative rules regarding 3922
release containment and release detection methods for new and 3923
upgraded underground storage tank systems located in those areas. 3924
In designating such areas, the fire marshal shall take into 3925
consideration such factors as soil conditions, hydrogeology, water 3926
use, and the location of public and private water supplies. Not 3927
later than July 11, 1990, the fire marshal shall file the rules 3928
required under this division with the secretary of state, director 3929
of the legislative service commission, and joint committee on 3930
agency rule review in accordance with divisions (B) and (H) of 3931
section 119.03 of the Revised Code. 3932

(3) Notwithstanding sections 3737.87 to 3737.89 of the 3933
Revised Code, a person who is not a responsible person, as 3934
determined by the fire marshal pursuant to this chapter, may 3935
conduct a voluntary action in accordance with Chapter 3746. of the 3936
Revised Code and rules adopted under it for a either of the 3937
following: 3938

(a) A class C release; 3939

(b) A release, other than a class C release, that is subject 3940
to the rules adopted by the fire marshal under division (B) of 3941
section 3737.882 of the Revised Code pertaining to a corrective 3942
action, provided that both of the following apply: 3943

(i) The voluntary action also addresses hazardous substances 3944
or petroleum that is not subject to the rules adopted under 3945
division (B) of section 3737.882 of the Revised Code pertaining to 3946
a corrective action. 3947

(ii) The fire marshal has not issued an administrative order 3948
concerning the release or referred the release to the attorney 3949

general for enforcement. The 3950

The director of environmental protection, pursuant to section 3951
3746.12 of the Revised Code, may issue a covenant not to sue to 3952
any person who properly completes a voluntary action with respect 3953
to ~~a class~~ any such release in accordance with Chapter 3746. of 3954
the Revised Code and rules adopted under it. 3955

(B) Before adopting any rule under this section or section 3956
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 3957
file written notice of the proposed rule with the chairperson of 3958
the state fire council, and, within sixty days after notice is 3959
filed, the council may file responses to or comments on and may 3960
recommend alternative or supplementary rules to the fire marshal. 3961
At the end of the sixty-day period or upon the filing of 3962
responses, comments, or recommendations by the council, the fire 3963
marshal may adopt the rule filed with the council or any 3964
alternative or supplementary rule recommended by the council. 3965

(C) The state fire council may recommend courses of action to 3966
be taken by the fire marshal in carrying out the fire marshal's 3967
duties under this section. The council shall file its 3968
recommendations in the office of the fire marshal, and, within 3969
sixty days after the recommendations are filed, the fire marshal 3970
shall file with the chairperson of the council comments on, and 3971
proposed action in response to, the recommendations. 3972

(D) For the purpose of sections 3737.87 to 3737.89 of the 3973
Revised Code, the fire marshal shall adopt, and may amend and 3974
rescind, rules identifying or listing hazardous substances. The 3975
rules shall be consistent with and equivalent in scope, coverage, 3976
and content to regulations identifying or listing hazardous 3977
substances adopted under the "Comprehensive Environmental 3978
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 3979
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 3980
not identify or list as a hazardous substance any hazardous waste 3981

identified or listed in rules adopted under division (A) of 3982
section 3734.12 of the Revised Code. 3983

(E) Except as provided in division (A)(3) of this section, 3984
the fire marshal shall have exclusive jurisdiction to regulate the 3985
storage, treatment, and disposal of petroleum contaminated soil 3986
generated from corrective actions undertaken in response to 3987
releases of petroleum from underground storage tank systems. The 3988
fire marshal may adopt, amend, or rescind such rules as the fire 3989
marshal considers to be necessary or appropriate to regulate the 3990
storage, treatment, or disposal of petroleum contaminated soil so 3991
generated. 3992

(F) The fire marshal shall adopt, amend, and rescind rules 3993
under sections 3737.88 to 3737.882 of the Revised Code in 3994
accordance with Chapter 119. of the Revised Code. 3995

Sec. 3745.017. (A) As used in this section: 3996

(1) "Environmental law" means a law that is administered by 3997
the environmental protection agency. 3998

(2) "Regulated entity" means an entity that is regulated 3999
under an environmental law. 4000

(B)(1) The director of environmental protection may establish 4001
within the agency a program for providing compliance and pollution 4002
prevention assistance to regulated entities. Services provided 4003
under the program may include all of the following: 4004

(a) Establishment of a statewide toll-free telephone hotline 4005
to respond to questions about environmental requirements and 4006
pollution prevention; 4007

(b) Development and distribution of educational materials 4008
regarding environmental requirements and pollution prevention; 4009

(c) Provision of outreach and training on environmental 4010
requirements and pollution prevention; 4011

(d) Provision of on-site assistance to regulated entities to help them identify applicable requirements and opportunities for pollution prevention and waste reduction; 4012
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(e) Provision of assistance to regulated entities that are small businesses in completing forms and permit applications, including assistance with permit applications pursuant to section 3704.18 of the Revised Code; 4015
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(f) Additional services that the director determines are necessary to assist regulated entities. 4019
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(2) The director may assign employees of the agency to administer the program and assist in providing the services specified in division (B)(1) of this section. 4021
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(C) Except as provided in division (D) of this section, information obtained or created by employees of the agency who administer the program when providing any of the services specified in division (B)(1) of this section shall be held confidential unless any of the following applies: 4024
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(1) The information reveals a clear and immediate danger to the environment and to the health, safety, or welfare of the public. 4029
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(2) The information is obtained independently by the director or the director's authorized representatives as part of a compliance inspection, record review, investigation, or enforcement proceeding by the agency. 4032
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(3) The information is emissions data or other information concerning which holding the information as either confidential business information or trade secrets is expressly prohibited pursuant to the federal Clean Air Act as defined in section 3704.01 of the Revised Code, the federal Water Pollution Control Act as defined in section 6111.01 of the Revised Code, or another applicable federal law. 4036
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(4) The information is otherwise required by state or federal law to be disclosed publicly or made available to a government agency. 4043
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(D) When information has been submitted by a regulated entity to a division or office of the agency as part of a permit application, required report, or notification or to comply with any other regulatory reporting requirement, that information shall not be considered confidential by other divisions or offices of the agency unless it is determined to be a trade secret as defined in section 1333.61 of the Revised Code. 4046
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(E) No information that is submitted to, acquired by, or exchanged with employees of the agency who administer or provide services under the program that is authorized to be established under this section and that is confidential pursuant to division (C) of this section shall be used in any manner for the purpose of the enforcement of any requirement established in an environmental law or used as evidence in any judicial or administrative enforcement proceeding. 4053
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(F) Nothing in this section confers immunity on persons from enforcement that is based on information that is obtained by the director or the director's authorized representatives who are not employees of the agency who administer or provide services under the program that is authorized to be established under this section. 4061
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Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has 4067
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been submitted to the director. 4074

(B) Each person who is issued a permit to install prior to 4075
July 1, 2003, pursuant to rules adopted under division (F) of 4076
section 3704.03 of the Revised Code shall pay the fees specified 4077
in the following schedules: 4078

(1) Fuel-burning equipment (boilers) 4079

Input capacity (maximum) 4080

(million British thermal units per hour) Permit to install 4081

Greater than 0, but less than 10 \$ 200 4082

10 or more, but less than 100 400 4083

100 or more, but less than 300 800 4084

300 or more, but less than 500 1500 4085

500 or more, but less than 1000 2500 4086

1000 or more, but less than 5000 4000 4087

5000 or more 6000 4088

Units burning exclusively natural gas, number two fuel oil, 4089
or both shall be assessed a fee that is one-half of the applicable 4090
amount established in division (F)(1) of this section. 4091

(2) Incinerators 4092

Input capacity (pounds per hour) Permit to install 4093

0 to 100 \$ 100 4094

101 to 500 400 4095

501 to 2000 750 4096

2001 to 20,000 1000 4097

more than 20,000 2500 4098

(3)(a) Process 4099

Process weight rate (pounds per hour) Permit to install 4100

0 to 1000 \$ 200 4101

1001 to 5000 400 4102

5001 to 10,000 600 4103

10,001 to 50,000 800 4104

more than 50,000 1000 4105

In any process where process weight rate cannot be 4106

ascertained, the minimum fee shall be assessed. 4107

(b) Notwithstanding division (B)(3)(a) of this section, any 4108

person issued a permit to install pursuant to rules adopted under 4109

division (F) of section 3704.03 of the Revised Code shall pay the 4110

fees established in division (B)(3)(c) of this section for a 4111

process used in any of the following industries, as identified by 4112

the applicable four-digit standard industrial classification code 4113

according to the Standard Industrial Classification Manual 4114

published by the United States office of management and budget in 4115

the executive office of the president, 1972, as revised: 4116

1211 Bituminous coal and lignite mining; 4117

1213 Bituminous coal and lignite mining services; 4118

1411 Dimension stone; 4119

1422 Crushed and broken limestone; 4120

1427 Crushed and broken stone, not elsewhere classified; 4121

1442 Construction sand and gravel; 4122

1446 Industrial sand; 4123

3281 Cut stone and stone products; 4124

3295 Minerals and earth, ground or otherwise treated. 4125

(c) The fees established in the following schedule apply to 4126

the issuance of a permit to install pursuant to rules adopted 4127

under division (F) of section 3704.03 of the Revised Code for a 4128

process listed in division (B)(3)(b) of this section: 4129

Process weight rate (pounds per hour) Permit to install 4130

0 to 1000 \$ 200 4131

10,001 to 50,000 300 4132

50,001 to 100,000 400 4133

100,001 to 200,000	500	4134
200,001 to 400,000	600	4135
400,001 or more	700	4136
(4) Storage tanks		4137
Gallons (maximum useful capacity)	Permit to install	4138
0 to 20,000	\$ 100	4139
20,001 to 40,000	150	4140
40,001 to 100,000	200	4141
100,001 to 250,000	250	4142
250,001 to 500,000	350	4143
500,001 to 1,000,000	500	4144
1,000,001 or greater	750	4145
(5) Gasoline/fuel dispensing facilities		4146
For each gasoline/fuel dispensing	Permit to install	4147
facility	\$ 100	4148
(6) Dry cleaning facilities		4149
For each dry cleaning facility	Permit to install	4150
(includes all units at the facility)	\$ 100	4151
(7) Registration status		4152
For each source covered	Permit to install	4153
by registration status	\$ 75	4154
(C)(1) Except as otherwise provided in division (C)(2) of		4155
this section, beginning July 1, 1994, each person who owns or		4156
operates an air contaminant source and who is required to apply		4157
for and obtain a Title V permit under section 3704.036 of the		4158
Revised Code shall pay the fees set forth in division (C)(1) of		4159
this section. For the purposes of that division, total emissions		4160
of air contaminants may be calculated using engineering		4161
calculations, emissions factors, material balance calculations, or		4162
performance testing procedures, as authorized by the director.		4163
The following fees shall be assessed on the total actual		4164

emissions from a source in tons per year of the regulated 4165
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 4166
organic compounds, and lead: 4167

(a) Fifteen dollars per ton on the total actual emissions of 4168
each such regulated pollutant during the period July through 4169
December 1993, to be collected no sooner than July 1, 1994; 4170

(b) Twenty dollars per ton on the total actual emissions of 4171
each such regulated pollutant during calendar year 1994, to be 4172
collected no sooner than April 15, 1995; 4173

(c) Twenty-five dollars per ton on the total actual emissions 4174
of each such regulated pollutant in calendar year 1995, and each 4175
subsequent calendar year, to be collected no sooner than the 4176
fifteenth day of April of the year next succeeding the calendar 4177
year in which the emissions occurred. 4178

The fees levied under division (C)(1) of this section do not 4179
apply to that portion of the emissions of a regulated pollutant at 4180
a facility that exceed four thousand tons during a calendar year. 4181

(2) The fees assessed under division (C)(1) of this section 4182
are for the purpose of providing funding for the Title V permit 4183
program. 4184

(3) The fees assessed under division (C)(1) of this section 4185
do not apply to emissions from any electric generating unit 4186
designated as a Phase I unit under Title IV of the federal Clean 4187
Air Act prior to calendar year 2000. Those fees shall be assessed 4188
on the emissions from such a generating unit commencing in 4189
calendar year 2001 based upon the total actual emissions from the 4190
generating unit during calendar year 2000 and shall continue to be 4191
assessed each subsequent calendar year based on the total actual 4192
emissions from the generating unit during the preceding calendar 4193
year. 4194

(4) The director shall issue invoices to owners or operators 4195

of air contaminant sources who are required to pay a fee assessed 4196
under division (C) or (D) of this section. Any such invoice shall 4197
be issued no sooner than the applicable date when the fee first 4198
may be collected in a year under the applicable division, shall 4199
identify the nature and amount of the fee assessed, and shall 4200
indicate that the fee is required to be paid within thirty days 4201
after the issuance of the invoice. 4202

(D)(1) Except as provided in division (D)(3) of this section, 4203
from January 1, 1994, through December 31, 2003, each person who 4204
owns or operates an air contaminant source; who is required to 4205
apply for a permit to operate pursuant to rules adopted under 4206
division (G), or a variance pursuant to division (H), of section 4207
3704.03 of the Revised Code; and who is not required to apply for 4208
and obtain a Title V permit under section 3704.036 of the Revised 4209
Code shall pay a single fee based upon the sum of the actual 4210
annual emissions from the facility of the regulated pollutants 4211
particulate matter, sulfur dioxide, nitrogen oxides, organic 4212
compounds, and lead in accordance with the following schedule: 4213

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 50	\$ 75	4217
50 or more, but less than 100	300	4218
100 or more	700	4219

(2) Except as provided in division (D)(3) of this section, 4220
beginning January 1, 2004, each person who owns or operates an air 4221
contaminant source; who is required to apply for a permit to 4222
operate pursuant to rules adopted under division (G), or a 4223
variance pursuant to division (H), of section 3704.03 of the 4224
Revised Code; and who is not required to apply for and obtain a 4225
Title V permit under section 3704.03 of the Revised Code shall pay 4226
a single fee based upon the sum of the actual annual emissions 4227

from the facility of the regulated pollutants particulate matter, 4228
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 4229
accordance with the following schedule: 4230

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	4234
10 or more, but less than 50	200	4235
50 or more, but less than 100	300	4236
100 or more	700	4237

(3)(a) As used in division (D) of this section, "synthetic 4238
minor facility" means a facility for which one or more permits to 4239
install or permits to operate have been issued for the air 4240
contaminant sources at the facility that include terms and 4241
conditions that lower the facility's potential to emit air 4242
contaminants below the major source thresholds established in 4243
rules adopted under section 3704.036 of the Revised Code. 4244

(b) Beginning January 1, 2000, through June 30, 2014, each 4245
person who owns or operates a synthetic minor facility shall pay 4246
an annual fee based on the sum of the actual annual emissions from 4247
the facility of particulate matter, sulfur dioxide, nitrogen 4248
dioxide, organic compounds, and lead in accordance with the 4249
following schedule: 4250

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility	
Less than 10	\$ 170	4254
10 or more, but less than 20	340	4255
20 or more, but less than 30	670	4256
30 or more, but less than 40	1,010	4257
40 or more, but less than 50	1,340	4258
50 or more, but less than 60	1,680	4259

60 or more, but less than 70	2,010	4260
70 or more, but less than 80	2,350	4261
80 or more, but less than 90	2,680	4262
90 or more, but less than 100	3,020	4263
100 or more	3,350	4264

(4) The fees assessed under division (D)(1) of this section 4265
shall be collected annually no sooner than the fifteenth day of 4266
April, commencing in 1995. The fees assessed under division (D)(2) 4267
of this section shall be collected annually no sooner than the 4268
fifteenth day of April, commencing in 2005. The fees assessed 4269
under division (D)(3) of this section shall be collected no sooner 4270
than the fifteenth day of April, commencing in 2000. The fees 4271
assessed under division (D) of this section in a calendar year 4272
shall be based upon the sum of the actual emissions of those 4273
regulated pollutants during the preceding calendar year. For the 4274
purpose of division (D) of this section, emissions of air 4275
contaminants may be calculated using engineering calculations, 4276
emission factors, material balance calculations, or performance 4277
testing procedures, as authorized by the director. The director, 4278
by rule, may require persons who are required to pay the fees 4279
assessed under division (D) of this section to pay those fees 4280
biennially rather than annually. 4281

(E)(1) Consistent with the need to cover the reasonable costs 4282
of the Title V permit program, the director annually shall 4283
increase the fees prescribed in division (C)(1) of this section by 4284
the percentage, if any, by which the consumer price index for the 4285
most recent calendar year ending before the beginning of a year 4286
exceeds the consumer price index for calendar year 1989. Upon 4287
calculating an increase in fees authorized by division (E)(1) of 4288
this section, the director shall compile revised fee schedules for 4289
the purposes of division (C)(1) of this section and shall make the 4290
revised schedules available to persons required to pay the fees 4291
assessed under that division and to the public. 4292

(2) For the purposes of division (E)(1) of this section:	4293
(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.	4294 4295 4296 4297 4298
(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.	4299 4300 4301
(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:	4302 4303 4304 4305
(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)	4306 4307 4308
Input capacity (maximum)	4309
(million British thermal units per hour) Permit to install	4310
Greater than 0, but less than 10 \$ 200	4311
10 or more, but less than 100 400	4312
100 or more, but less than 300 1000	4313
300 or more, but less than 500 2250	4314
500 or more, but less than 1000 3750	4315
1000 or more, but less than 5000 6000	4316
5000 or more 9000	4317
Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.	4318 4319 4320
(2) Combustion turbines and stationary internal combustion engines designed to generate electricity	4321 4322
Generating capacity (mega watts) Permit to install	4323

0 or more, but less than 10	\$ 25	4324
10 or more, but less than 25	150	4325
25 or more, but less than 50	300	4326
50 or more, but less than 100	500	4327
100 or more, but less than 250	1000	4328
250 or more	2000	4329

(3) Incinerators 4330

Input capacity (pounds per hour)	Permit to install	4331
0 to 100	\$ 100	4332
101 to 500	500	4333
501 to 2000	1000	4334
2001 to 20,000	1500	4335
more than 20,000	3750	4336

(4)(a) Process 4337

Process weight rate (pounds per hour)	Permit to install	4338
0 to 1000	\$ 200	4339
1001 to 5000	500	4340
5001 to 10,000	750	4341
10,001 to 50,000	1000	4342
more than 50,000	1250	4343

In any process where process weight rate cannot be 4344
ascertained, the minimum fee shall be assessed. A boiler, furnace, 4345
combustion turbine, stationary internal combustion engine, or 4346
process heater designed to provide direct heat or power to a 4347
process not designed to generate electricity shall be assessed a 4348
fee established in division (F)(4)(a) of this section. A 4349
combustion turbine or stationary internal combustion engine 4350
designed to generate electricity shall be assessed a fee 4351
established in division (F)(2) of this section. 4352

(b) Notwithstanding division (F)(4)(a) of this section, any 4353
person issued a permit to install pursuant to rules adopted under 4354
division (F) of section 3704.03 of the Revised Code shall pay the 4355

fees set forth in division (F)(4)(c) of this section for a process 4356
used in any of the following industries, as identified by the 4357
applicable two-digit, three-digit, or four-digit standard 4358
industrial classification code according to the Standard 4359
Industrial Classification Manual published by the United States 4360
office of management and budget in the executive office of the 4361
president, 1987, as revised: 4362

Major group 10, metal mining; 4363

Major group 12, coal mining; 4364

Major group 14, mining and quarrying of nonmetallic minerals; 4365

Industry group 204, grain mill products; 4366

2873 Nitrogen fertilizers; 4367

2874 Phosphatic fertilizers; 4368

3281 Cut stone and stone products; 4369

3295 Minerals and earth, ground or otherwise treated; 4370

4221 Grain elevators (storage only); 4371

5159 Farm related raw materials; 4372

5261 Retail nurseries and lawn and garden supply stores. 4373

(c) The fees set forth in the following schedule apply to the 4374
issuance of a permit to install pursuant to rules adopted under 4375
division (F) of section 3704.03 of the Revised Code for a process 4376
identified in division (F)(4)(b) of this section: 4377

Process weight rate (pounds per hour)	Permit to install	
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0 to 10,000	\$ 200	4379
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10,001 to 50,000	400	4380
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50,001 to 100,000	500	4381
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100,001 to 200,000	600	4382
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200,001 to 400,000	750	4383
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400,001 or more	900	4384
(5) Storage tanks		4385
Gallons (maximum useful capacity)	Permit to install	4386
0 to 20,000	\$ 100	4387
20,001 to 40,000	150	4388
40,001 to 100,000	250	4389
100,001 to 500,000	400	4390
500,001 or greater	750	4391
(6) Gasoline/fuel dispensing facilities		4392
For each gasoline/fuel		4393
dispensing facility (includes all	Permit to install	4394
units at the facility)	\$ 100	4395
(7) Dry cleaning facilities		4396
For each dry cleaning		4397
facility (includes all units	Permit to install	4398
at the facility)	\$ 100	4399
(8) Registration status		4400
For each source covered	Permit to install	4401
by registration status	\$ 75	4402
(G) An owner or operator who is responsible for an asbestos		4403
demolition or renovation project pursuant to rules adopted under		4404
section 3704.03 of the Revised Code shall pay the fees set forth		4405
in the following schedule:		4406
Action	Fee	4407
Each notification	\$75	4408
Asbestos removal	\$3/unit	4409
Asbestos cleanup	\$4/cubic yard	4410
For purposes of this division, "unit" means any combination of		4411
linear feet or square feet equal to fifty.		4412
(H) A person who is issued an extension of time for a permit		4413
to install an air contaminant source pursuant to rules adopted		4414

under division (F) of section 3704.03 of the Revised Code shall 4415
pay a fee equal to one-half the fee originally assessed for the 4416
permit to install under this section, except that the fee for such 4417
an extension shall not exceed two hundred dollars. 4418

(I) A person who is issued a modification to a permit to 4419
install an air contaminant source pursuant to rules adopted under 4420
section 3704.03 of the Revised Code shall pay a fee equal to 4421
one-half of the fee that would be assessed under this section to 4422
obtain a permit to install the source. The fee assessed by this 4423
division only applies to modifications that are initiated by the 4424
owner or operator of the source and shall not exceed two thousand 4425
dollars. 4426

(J) Notwithstanding division (B) or (F) of this section, a 4427
person who applies for or obtains a permit to install pursuant to 4428
rules adopted under division (F) of section 3704.03 of the Revised 4429
Code after the date actual construction of the source began shall 4430
pay a fee for the permit to install that is equal to twice the fee 4431
that otherwise would be assessed under the applicable division 4432
unless the applicant received authorization to begin construction 4433
under division (W) of section 3704.03 of the Revised Code. This 4434
division only applies to sources for which actual construction of 4435
the source begins on or after July 1, 1993. The imposition or 4436
payment of the fee established in this division does not preclude 4437
the director from taking any administrative or judicial 4438
enforcement action under this chapter, Chapter 3704., 3714., 4439
3734., or 6111. of the Revised Code, or a rule adopted under any 4440
of them, in connection with a violation of rules adopted under 4441
division (F) of section 3704.03 of the Revised Code. 4442

As used in this division, "actual construction of the source" 4443
means the initiation of physical on-site construction activities 4444
in connection with improvements to the source that are permanent 4445
in nature, including, without limitation, the installation of 4446

building supports and foundations and the laying of underground 4447
pipework. 4448

(K) Fifty cents per ton of each fee assessed under division 4449
(C) of this section on actual emissions from a source and received 4450
by the environmental protection agency pursuant to that division 4451
shall be deposited into the state treasury to the credit of the 4452
small business assistance fund created in section 3706.19 of the 4453
Revised Code. The remainder of the moneys received by the division 4454
pursuant to that division and moneys received by the agency 4455
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 4456
section shall be deposited in the state treasury to the credit of 4457
the clean air fund created in section 3704.035 of the Revised 4458
Code. 4459

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 4460
or (c) of this section, a person issued a water discharge permit 4461
or renewal of a water discharge permit pursuant to Chapter 6111. 4462
of the Revised Code shall pay a fee based on each point source to 4463
which the issuance is applicable in accordance with the following 4464
schedule: 4465

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	4466
1,001 to 5000	100	4467
5,001 to 50,000	200	4468
50,001 to 100,000	300	4469
100,001 to 300,000	525	4470
over 300,000	750	4471

(b) Notwithstanding the fee schedule specified in division 4473
(L)(1)(a) of this section, the fee for a water discharge permit 4474
that is applicable to coal mining operations regulated under 4475
Chapter 1513. of the Revised Code shall be two hundred fifty 4476
dollars per mine. 4477

(c) Notwithstanding the fee schedule specified in division 4478

(L)(1)(a) of this section, the fee for a water discharge permit 4479
for a public discharger identified by I in the third character of 4480
the permittee's NPDES permit number shall not exceed seven hundred 4481
fifty dollars. 4482

(2) A person applying for a plan approval for a wastewater 4483
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 4484
of the Revised Code shall pay a fee of one hundred dollars plus 4485
sixty-five one-hundredths of one per cent of the estimated project 4486
cost through June 30, 2014, and one hundred dollars plus 4487
two-tenths of one per cent of the estimated project cost on and 4488
after July 1, 2014, except that the total fee shall not exceed 4489
fifteen thousand dollars through June 30, 2014, and five thousand 4490
dollars on and after July 1, 2014. The fee shall be paid at the 4491
time the application is submitted. 4492

(3) A person issued a modification of a water discharge 4493
permit shall pay a fee equal to one-half the fee that otherwise 4494
would be charged for a water discharge permit, except that the fee 4495
for the modification shall not exceed four hundred dollars. 4496

(4) A person who has entered into an agreement with the 4497
director under section 6111.14 of the Revised Code shall pay an 4498
administrative service fee for each plan submitted under that 4499
section for approval that shall not exceed the minimum amount 4500
necessary to pay administrative costs directly attributable to 4501
processing plan approvals. The director annually shall calculate 4502
the fee and shall notify all persons who have entered into 4503
agreements under that section, or who have applied for agreements, 4504
of the amount of the fee. 4505

(5)(a)(i) Not later than January 30, 2012, and January 30, 4506
2013, a person holding an NPDES discharge permit issued pursuant 4507
to Chapter 6111. of the Revised Code with an average daily 4508
discharge flow of five thousand gallons or more shall pay a 4509
nonrefundable annual discharge fee. Any person who fails to pay 4510

the fee at that time shall pay an additional amount that equals 4511
ten per cent of the required annual discharge fee. 4512

(ii) The billing year for the annual discharge fee 4513
established in division (L)(5)(a)(i) of this section shall consist 4514
of a twelve-month period beginning on the first day of January of 4515
the year preceding the date when the annual discharge fee is due. 4516
In the case of an existing source that permanently ceases to 4517
discharge during a billing year, the director shall reduce the 4518
annual discharge fee, including the surcharge applicable to 4519
certain industrial facilities pursuant to division (L)(5)(c) of 4520
this section, by one-twelfth for each full month during the 4521
billing year that the source was not discharging, but only if the 4522
person holding the NPDES discharge permit for the source notifies 4523
the director in writing, not later than the first day of October 4524
of the billing year, of the circumstances causing the cessation of 4525
discharge. 4526

(iii) The annual discharge fee established in division 4527
(L)(5)(a)(i) of this section, except for the surcharge applicable 4528
to certain industrial facilities pursuant to division (L)(5)(c) of 4529
this section, shall be based upon the average daily discharge flow 4530
in gallons per day calculated using first day of May through 4531
thirty-first day of October flow data for the period two years 4532
prior to the date on which the fee is due. In the case of NPDES 4533
discharge permits for new sources, the fee shall be calculated 4534
using the average daily design flow of the facility until actual 4535
average daily discharge flow values are available for the time 4536
period specified in division (L)(5)(a)(iii) of this section. The 4537
annual discharge fee may be prorated for a new source as described 4538
in division (L)(5)(a)(ii) of this section. 4539

(b) An NPDES permit holder that is a public discharger shall 4540
pay the fee specified in the following schedule: 4541

Average daily	Fee due by	4542
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discharge flow	January 30,	4543
	2012, and	4544
	January 30, 2013	4545
5,000 to 49,999	\$ 200	4546
50,000 to 100,000	500	4547
100,001 to 250,000	1,050	4548
250,001 to 1,000,000	2,600	4549
1,000,001 to 5,000,000	5,200	4550
5,000,001 to 10,000,000	10,350	4551
10,000,001 to 20,000,000	15,550	4552
20,000,001 to 50,000,000	25,900	4553
50,000,001 to 100,000,000	41,400	4554
100,000,001 or more	62,100	4555

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily	Fee due by	4568
discharge flow	January 30,	4569
	2012, and	4570
	January 30, 2013	4571
5,000 to 49,999	\$ 250	4572
50,000 to 250,000	1,200	4573
250,001 to 1,000,000	2,950	4574

1,000,001 to 5,000,000	5,850	4575
5,000,001 to 10,000,000	8,800	4576
10,000,001 to 20,000,000	11,700	4577
20,000,001 to 100,000,000	14,050	4578
100,000,001 to 250,000,000	16,400	4579
250,000,001 or more	18,700	4580

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall

pay an additional amount per year equal to ten per cent of the 4607
annual fee that is unpaid. 4608

(7) The director shall transmit all moneys collected under 4609
division (L) of this section to the treasurer of state for deposit 4610
into the state treasury to the credit of the surface water 4611
protection fund created in section 6111.038 of the Revised Code. 4612

(8) As used in division (L) of this section: 4613

(a) "NPDES" means the federally approved national pollutant 4614
discharge elimination system program for issuing, modifying, 4615
revoking, reissuing, terminating, monitoring, and enforcing 4616
permits and imposing and enforcing pretreatment requirements under 4617
Chapter 6111. of the Revised Code and rules adopted under it. 4618

(b) "Public discharger" means any holder of an NPDES permit 4619
identified by P in the second character of the NPDES permit number 4620
assigned by the director. 4621

(c) "Industrial discharger" means any holder of an NPDES 4622
permit identified by I in the second character of the NPDES permit 4623
number assigned by the director. 4624

(d) "Major discharger" means any holder of an NPDES permit 4625
classified as major by the regional administrator of the United 4626
States environmental protection agency in conjunction with the 4627
director. 4628

(M) Through June 30, 2014, a person applying for a license or 4629
license renewal to operate a public water system under section 4630
6109.21 of the Revised Code shall pay the appropriate fee 4631
established under this division at the time of application to the 4632
director. Any person who fails to pay the fee at that time shall 4633
pay an additional amount that equals ten per cent of the required 4634
fee. The director shall transmit all moneys collected under this 4635
division to the treasurer of state for deposit into the drinking 4636
water protection fund created in section 6109.30 of the Revised 4637

Code. 4638

Except as provided in division (M)(4) of this section, fees 4639
required under this division shall be calculated and paid in 4640
accordance with the following schedule: 4641

(1) For the initial license required under division (A)(1) of 4642
section 6109.21 of the Revised Code for any public water system 4643
that is a community water system as defined in section 6109.01 of 4644
the Revised Code, and for each license renewal required for such a 4645
system prior to January 31, 2014, the fee is: 4646

Number of service connections	Fee amount	
Not more than 49	\$ 112	4648
50 to 99	176	4649
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	4651
2,500 to 4,999	1.48	4652
5,000 to 7,499	1.42	4653
7,500 to 9,999	1.34	4654
10,000 to 14,999	1.16	4655
15,000 to 24,999	1.10	4656
25,000 to 49,999	1.04	4657
50,000 to 99,999	.92	4658
100,000 to 149,999	.86	4659
150,000 to 199,999	.80	4660
200,000 or more	.76	4661

A public water system may determine how it will pay the total 4662
amount of the fee calculated under division (M)(1) of this 4663
section, including the assessment of additional user fees that may 4664
be assessed on a volumetric basis. 4665

As used in division (M)(1) of this section, "service 4666
connection" means the number of active or inactive pipes, 4667
goosenecks, pigtails, and any other fittings connecting a water 4668
main to any building outlet. 4669

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 112	
150 to 299	176	
300 to 749	384	
750 to 1,499	628	
1,500 to 2,999	1,268	
3,000 to 7,499	2,816	
7,500 to 14,999	5,510	
15,000 to 22,499	9,048	
22,500 to 29,999	12,430	
30,000 or more	16,820	

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Number of wells or sources, other than surface water, supplying system	Fee amount	
1	\$112	
2	112	
3	176	

4	278	4701
5	568	4702
System designated as using a		4703
surface water source	792	4704
As used in division (M)(3) of this section, "number of wells		4705
or sources, other than surface water, supplying system" means		4706
those wells or sources that are physically connected to the		4707
plumbing system serving the public water system.		4708
(4) A public water system designated as using a surface water		4709
source shall pay a fee of seven hundred ninety-two dollars or the		4710
amount calculated under division (M)(1) or (2) of this section,		4711
whichever is greater.		4712
(N)(1) A person applying for a plan approval for a public		4713
water supply system under section 6109.07 of the Revised Code		4714
shall pay a fee of one hundred fifty dollars plus thirty-five		4715
hundredths of one per cent of the estimated project cost, except		4716
that the total fee shall not exceed twenty thousand dollars		4717
through June 30, 2014, and fifteen thousand dollars on and after		4718
July 1, 2014. The fee shall be paid at the time the application is		4719
submitted.		4720
(2) A person who has entered into an agreement with the		4721
director under division (A)(2) of section 6109.07 of the Revised		4722
Code shall pay an administrative service fee for each plan		4723
submitted under that section for approval that shall not exceed		4724
the minimum amount necessary to pay administrative costs directly		4725
attributable to processing plan approvals. The director annually		4726
shall calculate the fee and shall notify all persons that have		4727
entered into agreements under that division, or who have applied		4728
for agreements, of the amount of the fee.		4729
(3) Through June 30, 2014, the following fee, on a per survey		4730
basis, shall be charged any person for services rendered by the		4731
state in the evaluation of laboratories and laboratory personnel		4732

for compliance with accepted analytical techniques and procedures		4733
established pursuant to Chapter 6109. of the Revised Code for		4734
determining the qualitative characteristics of water:		4735
microbiological		4736
MMO-MUG	\$2,000	4737
MF	2,100	4738
MMO-MUG and MF	2,550	4739
organic chemical	5,400	4740
trace metals	5,400	4741
standard chemistry	2,800	4742
limited chemistry	1,550	4743

On and after July 1, 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	4746
organic chemicals	3,500	4747
trace metals	3,500	4748
standard chemistry	1,800	4749
limited chemistry	1,000	4750

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration. 4759
- (b) "MMO" means minimal medium ONPG. 4760
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 4761
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 4762

The director shall transmit all moneys collected under this 4763
division to the treasurer of state for deposit into the drinking 4764
water protection fund created in section 6109.30 of the Revised 4765
Code. 4766

(O) Any person applying to the director ~~for~~ to take an 4767
examination for certification as an operator of a water supply 4768
system or wastewater system under Chapter 6109. or 6111. of the 4769
Revised Code that is administered by the director, at the time the 4770
application is submitted, shall pay ~~an application fee of~~ 4771
~~forty five dollars through November 30, 2014, and twenty five~~ 4772
~~dollars on and after December 1, 2014. Upon approval from the~~ 4773
~~director that the applicant is eligible to take the examination~~ 4774
~~therefor, the applicant shall pay~~ a fee in accordance with the 4775
following schedule through November 30, 2014: 4776

Class A operator	\$35 <u>80</u>	4777
Class I operator	60 <u>105</u>	4778
Class II operator	75 <u>120</u>	4779
Class III operator	85 <u>130</u>	4780
Class IV operator	100 <u>145</u>	4781

On and after December 1, 2014, the applicant shall pay a fee 4782
in accordance with the following schedule: 4783

Class A operator	\$25 <u>50</u>	4784
Class I operator	\$45 <u>70</u>	4785
Class II operator	55 <u>80</u>	4786
Class III operator	65 <u>90</u>	4787
Class IV operator	75 <u>100</u>	4788

Any person applying to the director for certification as an 4789
operator of a water supply system or wastewater system who has 4790
passed an examination administered by an examination provider 4791
approved by the director shall pay a certification fee of 4792
forty-five dollars. 4793

A person shall pay a biennial certification renewal fee for 4794

each applicable class of certification in accordance with the 4795
following schedule: 4796

Class A operator	\$25	4797
Class I operator	35	4798
Class II operator	45	4799
Class III operator	55	4800
Class IV operator	65	4801

If a certification renewal fee is received by the director 4802
more than thirty days, but not more than one year after the 4803
expiration date of the certification, the person shall pay a 4804
certification renewal fee in accordance with the following 4805
schedule: 4806

Class A operator	\$45	4807
Class I operator	55	4808
Class II operator	65	4809
Class III operator	75	4810
Class IV operator	85	4811

A person who requests a replacement certificate shall pay a 4812
fee of twenty-five dollars at the time the request is made. 4813

Any person applying to be a water supply system or wastewater 4814
treatment system examination provider shall pay an application fee 4815
of five hundred dollars. Any person approved by the director as a 4816
water supply system or wastewater treatment system examination 4817
provider shall pay an annual fee that is equal to ten per cent of 4818
the fees that the provider assesses and collects for administering 4819
water supply system or wastewater treatment system certification 4820
examinations in this state for the calendar year. The fee shall be 4821
paid not later than forty-five days after the end of a calendar 4822
year. 4823

The director shall transmit all moneys collected under this 4824
division to the treasurer of state for deposit into the drinking 4825
water protection fund created in section 6109.30 of the Revised 4826

Code. 4827

(P) Any person submitting an application for an industrial 4828
water pollution control certificate under section 6111.31 of the 4829
Revised Code, as that section existed before its repeal by H.B. 95 4830
of the 125th general assembly, shall pay a nonrefundable fee of 4831
five hundred dollars at the time the application is submitted. The 4832
director shall transmit all moneys collected under this division 4833
to the treasurer of state for deposit into the surface water 4834
protection fund created in section 6111.038 of the Revised Code. A 4835
person paying a certificate fee under this division shall not pay 4836
an application fee under division (S)(1) of this section. On and 4837
after June 26, 2003, persons shall file such applications and pay 4838
the fee as required under sections 5709.20 to 5709.27 of the 4839
Revised Code, and proceeds from the fee shall be credited as 4840
provided in section 5709.212 of the Revised Code. 4841

(Q) Except as otherwise provided in division (R) of this 4842
section, a person issued a permit by the director for a new solid 4843
waste disposal facility other than an incineration or composting 4844
facility, a new infectious waste treatment facility other than an 4845
incineration facility, or a modification of such an existing 4846
facility that includes an increase in the total disposal or 4847
treatment capacity of the facility pursuant to Chapter 3734. of 4848
the Revised Code shall pay a fee of ten dollars per thousand cubic 4849
yards of disposal or treatment capacity, or one thousand dollars, 4850
whichever is greater, except that the total fee for any such 4851
permit shall not exceed eighty thousand dollars. A person issued a 4852
modification of a permit for a solid waste disposal facility or an 4853
infectious waste treatment facility that does not involve an 4854
increase in the total disposal or treatment capacity of the 4855
facility shall pay a fee of one thousand dollars. A person issued 4856
a permit to install a new, or modify an existing, solid waste 4857
transfer facility under that chapter shall pay a fee of two 4858

thousand five hundred dollars. A person issued a permit to install 4859
a new or to modify an existing solid waste incineration or 4860
composting facility, or an existing infectious waste treatment 4861
facility using incineration as its principal method of treatment, 4862
under that chapter shall pay a fee of one thousand dollars. The 4863
increases in the permit fees under this division resulting from 4864
the amendments made by Amended Substitute House Bill 592 of the 4865
117th general assembly do not apply to any person who submitted an 4866
application for a permit to install a new, or modify an existing, 4867
solid waste disposal facility under that chapter prior to 4868
September 1, 1987; any such person shall pay the permit fee 4869
established in this division as it existed prior to June 24, 1988. 4870
In addition to the applicable permit fee under this division, a 4871
person issued a permit to install or modify a solid waste facility 4872
or an infectious waste treatment facility under that chapter who 4873
fails to pay the permit fee to the director in compliance with 4874
division (V) of this section shall pay an additional ten per cent 4875
of the amount of the fee for each week that the permit fee is 4876
late. 4877

Permit and late payment fees paid to the director under this 4878
division shall be credited to the general revenue fund. 4879

(R)(1) A person issued a registration certificate for a scrap 4880
tire collection facility under section 3734.75 of the Revised Code 4881
shall pay a fee of two hundred dollars, except that if the 4882
facility is owned or operated by a motor vehicle salvage dealer 4883
licensed under Chapter 4738. of the Revised Code, the person shall 4884
pay a fee of twenty-five dollars. 4885

(2) A person issued a registration certificate for a new 4886
scrap tire storage facility under section 3734.76 of the Revised 4887
Code shall pay a fee of three hundred dollars, except that if the 4888
facility is owned or operated by a motor vehicle salvage dealer 4889
licensed under Chapter 4738. of the Revised Code, the person shall 4890

pay a fee of twenty-five dollars. 4891

(3) A person issued a permit for a scrap tire storage 4892
facility under section 3734.76 of the Revised Code shall pay a fee 4893
of one thousand dollars, except that if the facility is owned or 4894
operated by a motor vehicle salvage dealer licensed under Chapter 4895
4738. of the Revised Code, the person shall pay a fee of fifty 4896
dollars. 4897

(4) A person issued a permit for a scrap tire monocell or 4898
monofill facility under section 3734.77 of the Revised Code shall 4899
pay a fee of ten dollars per thousand cubic yards of disposal 4900
capacity or one thousand dollars, whichever is greater, except 4901
that the total fee for any such permit shall not exceed eighty 4902
thousand dollars. 4903

(5) A person issued a registration certificate for a scrap 4904
tire recovery facility under section 3734.78 of the Revised Code 4905
shall pay a fee of one hundred dollars. 4906

(6) A person issued a permit for a scrap tire recovery 4907
facility under section 3734.78 of the Revised Code shall pay a fee 4908
of one thousand dollars. 4909

(7) In addition to the applicable registration certificate or 4910
permit fee under divisions (R)(1) to (6) of this section, a person 4911
issued a registration certificate or permit for any such scrap 4912
tire facility who fails to pay the registration certificate or 4913
permit fee to the director in compliance with division (V) of this 4914
section shall pay an additional ten per cent of the amount of the 4915
fee for each week that the fee is late. 4916

(8) The registration certificate, permit, and late payment 4917
fees paid to the director under divisions (R)(1) to (7) of this 4918
section shall be credited to the scrap tire management fund 4919
created in section 3734.82 of the Revised Code. 4920

(S)(1) Except as provided by divisions (L), (M), (N), (O), 4921

(P), and (S)(2) of this section, division (A)(2) of section 4922
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 4923
and rules adopted under division (T)(1) of this section, any 4924
person applying for a registration certificate under section 4925
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 4926
variance, or plan approval under Chapter 3734. of the Revised Code 4927
shall pay a nonrefundable fee of fifteen dollars at the time the 4928
application is submitted. 4929

Except as otherwise provided, any person applying for a 4930
permit, variance, or plan approval under Chapter 6109. or 6111. of 4931
the Revised Code shall pay a nonrefundable fee of one hundred 4932
dollars at the time the application is submitted through June 30, 4933
2014, and a nonrefundable fee of fifteen dollars at the time the 4934
application is submitted on and after July 1, 2014. Except as 4935
provided in division (S)(3) of this section, through June 30, 4936
2014, any person applying for a national pollutant discharge 4937
elimination system permit under Chapter 6111. of the Revised Code 4938
shall pay a nonrefundable fee of two hundred dollars at the time 4939
of application for the permit. On and after July 1, 2014, such a 4940
person shall pay a nonrefundable fee of fifteen dollars at the 4941
time of application. 4942

In addition to the application fee established under division 4943
(S)(1) of this section, any person applying for a national 4944
pollutant discharge elimination system general storm water 4945
construction permit shall pay a nonrefundable fee of twenty 4946
dollars per acre for each acre that is permitted above five acres 4947
at the time the application is submitted. However, the per acreage 4948
fee shall not exceed three hundred dollars. In addition, any 4949
person applying for a national pollutant discharge elimination 4950
system general storm water industrial permit shall pay a 4951
nonrefundable fee of one hundred fifty dollars at the time the 4952
application is submitted. 4953

The director shall transmit all moneys collected under 4954
division (S)(1) of this section pursuant to Chapter 6109. of the 4955
Revised Code to the treasurer of state for deposit into the 4956
drinking water protection fund created in section 6109.30 of the 4957
Revised Code. 4958

The director shall transmit all moneys collected under 4959
division (S)(1) of this section pursuant to Chapter 6111. of the 4960
Revised Code and under division (S)(3) of this section to the 4961
treasurer of state for deposit into the surface water protection 4962
fund created in section 6111.038 of the Revised Code. 4963

If a registration certificate is issued under section 4964
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 4965
the application fee paid shall be deducted from the amount of the 4966
registration certificate fee due under division (R)(1), (2), or 4967
(5) of this section, as applicable. 4968

If a person submits an electronic application for a 4969
registration certificate, permit, variance, or plan approval for 4970
which an application fee is established under division (S)(1) of 4971
this section, the person shall pay the applicable application fee 4972
as expeditiously as possible after the submission of the 4973
electronic application. An application for a registration 4974
certificate, permit, variance, or plan approval for which an 4975
application fee is established under division (S)(1) of this 4976
section shall not be reviewed or processed until the applicable 4977
application fee, and any other fees established under this 4978
division, are paid. 4979

(2) Division (S)(1) of this section does not apply to an 4980
application for a registration certificate for a scrap tire 4981
collection or storage facility submitted under section 3734.75 or 4982
3734.76 of the Revised Code, as applicable, if the owner or 4983
operator of the facility or proposed facility is a motor vehicle 4984
salvage dealer licensed under Chapter 4738. of the Revised Code. 4985

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from

taxation by section 5709.07 or 5709.12 of the Revised Code, from 5017
any fee required by this section; 5018

(3) Provide for the waiver of any fee, or any part thereof, 5019
otherwise required by this section whenever the director 5020
determines that the imposition of the fee would constitute an 5021
unreasonable cost of doing business for any applicant, class of 5022
applicants, or other person subject to the fee; 5023

(4) Prescribe measures that the director considers necessary 5024
to carry out this section. 5025

(U) When the director reasonably demonstrates that the direct 5026
cost to the state associated with the issuance of a permit to 5027
install, license, variance, plan approval, or certification 5028
exceeds the fee for the issuance or review specified by this 5029
section, the director may condition the issuance or review on the 5030
payment by the person receiving the issuance or review of, in 5031
addition to the fee specified by this section, the amount, or any 5032
portion thereof, in excess of the fee specified under this 5033
section. The director shall not so condition issuances for which 5034
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 5035
section. 5036

(V) Except as provided in divisions (L), (M), and (P) of this 5037
section or unless otherwise prescribed by a rule of the director 5038
adopted pursuant to Chapter 119. of the Revised Code, all fees 5039
required by this section are payable within thirty days after the 5040
issuance of an invoice for the fee by the director or the 5041
effective date of the issuance of the license, permit, variance, 5042
plan approval, or certification. If payment is late, the person 5043
responsible for payment of the fee shall pay an additional ten per 5044
cent of the amount due for each month that it is late. 5045

(W) As used in this section, "fuel-burning equipment," 5046
"fuel-burning equipment input capacity," "incinerator," 5047

"incinerator input capacity," "process," "process weight rate," 5048
"storage tank," "gasoline dispensing facility," "dry cleaning 5049
facility," "design flow discharge," and "new source treatment 5050
works" have the meanings ascribed to those terms by applicable 5051
rules or standards adopted by the director under Chapter 3704. or 5052
6111. of the Revised Code. 5053

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 5054
and (J) of this section, and in any other provision of this 5055
section pertaining to fees paid pursuant to Chapter 3704. of the 5056
Revised Code: 5057

(1) "Facility," "federal Clean Air Act," "person," and "Title 5058
V permit" have the same meanings as in section 3704.01 of the 5059
Revised Code. 5060

(2) "Title V permit program" means the following activities 5061
as necessary to meet the requirements of Title V of the federal 5062
Clean Air Act and 40 C.F.R. part 70, including at least: 5063

(a) Preparing and adopting, if applicable, generally 5064
applicable rules or guidance regarding the permit program or its 5065
implementation or enforcement; 5066

(b) Reviewing and acting on any application for a Title V 5067
permit, permit revision, or permit renewal, including the 5068
development of an applicable requirement as part of the processing 5069
of a permit, permit revision, or permit renewal; 5070

(c) Administering the permit program, including the 5071
supporting and tracking of permit applications, compliance 5072
certification, and related data entry; 5073

(d) Determining which sources are subject to the program and 5074
implementing and enforcing the terms of any Title V permit, not 5075
including any court actions or other formal enforcement actions; 5076

(e) Emission and ambient monitoring; 5077

(f) Modeling, analyses, or demonstrations; 5078

(g) Preparing inventories and tracking emissions; 5079

(h) Providing direct and indirect support to small business 5080
stationary sources to determine and meet their obligations under 5081
the federal Clean Air Act pursuant to the small business 5082
stationary source technical and environmental compliance 5083
assistance program required by section 507 of that act and 5084
established in sections 3704.18, 3704.19, and 3706.19 of the 5085
Revised Code. 5086

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 5087
of this section, each sewage sludge facility shall pay a 5088
nonrefundable annual sludge fee equal to three dollars and fifty 5089
cents per dry ton of sewage sludge, including the dry tons of 5090
sewage sludge in materials derived from sewage sludge, that the 5091
sewage sludge facility treats or disposes of in this state. The 5092
annual volume of sewage sludge treated or disposed of by a sewage 5093
sludge facility shall be calculated using the first day of January 5094
through the thirty-first day of December of the calendar year 5095
preceding the date on which payment of the fee is due. 5096

(2)(a) Except as provided in division (Y)(2)(d) of this 5097
section, each sewage sludge facility shall pay a minimum annual 5098
sewage sludge fee of one hundred dollars. 5099

(b) The annual sludge fee required to be paid by a sewage 5100
sludge facility that treats or disposes of exceptional quality 5101
sludge in this state shall be thirty-five per cent less per dry 5102
ton of exceptional quality sludge than the fee assessed under 5103
division (Y)(1) of this section, subject to the following 5104
exceptions: 5105

(i) Except as provided in division (Y)(2)(d) of this section, 5106
a sewage sludge facility that treats or disposes of exceptional 5107
quality sludge shall pay a minimum annual sewage sludge fee of one 5108

hundred dollars. 5109

(ii) A sewage sludge facility that treats or disposes of 5110
exceptional quality sludge shall not be required to pay the annual 5111
sludge fee for treatment or disposal in this state of exceptional 5112
quality sludge generated outside of this state and contained in 5113
bags or other containers not greater than one hundred pounds in 5114
capacity. 5115

A thirty-five per cent reduction for exceptional quality 5116
sludge applies to the maximum annual fees established under 5117
division (Y)(3) of this section. 5118

(c) A sewage sludge facility that transfers sewage sludge to 5119
another sewage sludge facility in this state for further treatment 5120
prior to disposal in this state shall not be required to pay the 5121
annual sludge fee for the tons of sewage sludge that have been 5122
transferred. In such a case, the sewage sludge facility that 5123
disposes of the sewage sludge shall pay the annual sludge fee. 5124
However, the facility transferring the sewage sludge shall pay the 5125
one-hundred-dollar minimum fee required under division (Y)(2)(a) 5126
of this section. 5127

In the case of a sewage sludge facility that treats sewage 5128
sludge in this state and transfers it out of this state to another 5129
entity for disposal, the sewage sludge facility in this state 5130
shall be required to pay the annual sludge fee for the tons of 5131
sewage sludge that have been transferred. 5132

(d) A sewage sludge facility that generates sewage sludge 5133
resulting from an average daily discharge flow of less than five 5134
thousand gallons per day is not subject to the fees assessed under 5135
division (Y) of this section. 5136

(3) No sewage sludge facility required to pay the annual 5137
sludge fee shall be required to pay more than the maximum annual 5138
fee for each disposal method that the sewage sludge facility uses. 5139

The maximum annual fee does not include the additional amount that
may be charged under division (Y)(5) of this section for late
payment of the annual sludge fee. The maximum annual fee for the
following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a
landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or
any other disposal method not specified in division (Y)(3)(a) or
(b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge
or a sewage sludge facility that treats sewage sludge and
transfers the sewage sludge to an incineration facility for
disposal, the incineration facility, and not the entity generating
the sewage sludge or the sewage sludge facility treating the
sewage sludge, shall pay the annual sludge fee for the tons of
sewage sludge that are transferred. However, the entity or
facility generating or treating the sewage sludge shall pay the
one-hundred-dollar minimum fee required under division (Y)(2)(a)
of this section.

(b) In the case of an entity that generates sewage sludge and
transfers the sewage sludge to a landfill for disposal or to a
sewage sludge facility for land reclamation or surface disposal,
the entity generating the sewage sludge, and not the landfill or
sewage sludge facility, shall pay the annual sludge fee for the
tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar
year following March 17, 2000, and each first day of April
thereafter, the director shall issue invoices to persons who are
required to pay the annual sludge fee. The invoice shall identify
the nature and amount of the annual sludge fee assessed and state

the first day of May as the deadline for receipt by the director 5171
of objections regarding the amount of the fee and the first day of 5172
July as the deadline for payment of the fee. 5173

Not later than the first day of May following receipt of an 5174
invoice, a person required to pay the annual sludge fee may submit 5175
objections to the director concerning the accuracy of information 5176
regarding the number of dry tons of sewage sludge used to 5177
calculate the amount of the annual sludge fee or regarding whether 5178
the sewage sludge qualifies for the exceptional quality sludge 5179
discount established in division (Y)(2)(b) of this section. The 5180
director may consider the objections and adjust the amount of the 5181
fee to ensure that it is accurate. 5182

If the director does not adjust the amount of the annual 5183
sludge fee in response to a person's objections, the person may 5184
appeal the director's determination in accordance with Chapter 5185
119. of the Revised Code. 5186

Not later than the first day of June, the director shall 5187
notify the objecting person regarding whether the director has 5188
found the objections to be valid and the reasons for the finding. 5189
If the director finds the objections to be valid and adjusts the 5190
amount of the annual sludge fee accordingly, the director shall 5191
issue with the notification a new invoice to the person 5192
identifying the amount of the annual sludge fee assessed and 5193
stating the first day of July as the deadline for payment. 5194

Not later than the first day of July, any person who is 5195
required to do so shall pay the annual sludge fee. Any person who 5196
is required to pay the fee, but who fails to do so on or before 5197
that date shall pay an additional amount that equals ten per cent 5198
of the required annual sludge fee. 5199

(6) The director shall transmit all moneys collected under 5200
division (Y) of this section to the treasurer of state for deposit 5201

into the surface water protection fund created in section 6111.038 5202
of the Revised Code. The moneys shall be used to defray the costs 5203
of administering and enforcing provisions in Chapter 6111. of the 5204
Revised Code and rules adopted under it that govern the use, 5205
storage, treatment, or disposal of sewage sludge. 5206

(7) Beginning in fiscal year 2001, and every two years 5207
thereafter, the director shall review the total amount of moneys 5208
generated by the annual sludge fees to determine if that amount 5209
exceeded six hundred thousand dollars in either of the two 5210
preceding fiscal years. If the total amount of moneys in the fund 5211
exceeded six hundred thousand dollars in either fiscal year, the 5212
director, after review of the fee structure and consultation with 5213
affected persons, shall issue an order reducing the amount of the 5214
fees levied under division (Y) of this section so that the 5215
estimated amount of moneys resulting from the fees will not exceed 5216
six hundred thousand dollars in any fiscal year. 5217

If, upon review of the fees under division (Y)(7) of this 5218
section and after the fees have been reduced, the director 5219
determines that the total amount of moneys collected and 5220
accumulated is less than six hundred thousand dollars, the 5221
director, after review of the fee structure and consultation with 5222
affected persons, may issue an order increasing the amount of the 5223
fees levied under division (Y) of this section so that the 5224
estimated amount of moneys resulting from the fees will be 5225
approximately six hundred thousand dollars. Fees shall never be 5226
increased to an amount exceeding the amount specified in division 5227
(Y)(7) of this section. 5228

Notwithstanding section 119.06 of the Revised Code, the 5229
director may issue an order under division (Y)(7) of this section 5230
without the necessity to hold an adjudicatory hearing in 5231
connection with the order. The issuance of an order under this 5232
division is not an act or action for purposes of section 3745.04 5233

of the Revised Code. 5234

(8) As used in division (Y) of this section: 5235

(a) "Sewage sludge facility" means an entity that performs 5236
treatment on or is responsible for the disposal of sewage sludge. 5237

(b) "Sewage sludge" means a solid, semi-solid, or liquid 5238
residue generated during the treatment of domestic sewage in a 5239
treatment works as defined in section 6111.01 of the Revised Code. 5240
"Sewage sludge" includes, but is not limited to, scum or solids 5241
removed in primary, secondary, or advanced wastewater treatment 5242
processes. "Sewage sludge" does not include ash generated during 5243
the firing of sewage sludge in a sewage sludge incinerator, grit 5244
and screenings generated during preliminary treatment of domestic 5245
sewage in a treatment works, animal manure, residue generated 5246
during treatment of animal manure, or domestic septage. 5247

(c) "Exceptional quality sludge" means sewage sludge that 5248
meets all of the following qualifications: 5249

(i) Satisfies the class A pathogen standards in 40 C.F.R. 5250
503.32(a); 5251

(ii) Satisfies one of the vector attraction reduction 5252
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 5253

(iii) Does not exceed the ceiling concentration limitations 5254
for metals listed in table one of 40 C.F.R. 503.13; 5255

(iv) Does not exceed the concentration limitations for metals 5256
listed in table three of 40 C.F.R. 503.13. 5257

(d) "Treatment" means the preparation of sewage sludge for 5258
final use or disposal and includes, but is not limited to, 5259
thickening, stabilization, and dewatering of sewage sludge. 5260

(e) "Disposal" means the final use of sewage sludge, 5261
including, but not limited to, land application, land reclamation, 5262
surface disposal, or disposal in a landfill or an incinerator. 5263

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.31. (A) As used in this section, "environmental law" means sections 903.08, 903.17, and 3737.87 to 3737.882 and Chapters 3704., 3714., 3734., 3745., 3750., 3751., 3752., 3753., 6109., and 6111. of the Revised Code; any rule adopted under those sections or chapters or adopted for the purpose of implementing those sections or chapters; and any applicable provisions of Chapter 3767. of the Revised Code when an environmentally related nuisance action is brought.

(B)(1) Except as provided in division (B)(2) of this section, any action under any environmental law for civil or administrative penalties of any kind brought by any agency or department of the state or by any other governmental authority charged with enforcing environmental laws shall be commenced within five years of the time when the agency, department, or governmental authority actually knew or was informed of the occurrence, omission, or facts on which the cause of action is based.

(2) If an agency, department, or governmental authority actually knew or was informed of an occurrence, omission, or facts on which a cause of action is based prior to ~~the effective date of this section~~ July 23, 2002, the cause of action for civil or administrative penalties of any kind for the alleged violation shall be commenced not later than five years after ~~the effective date of this section~~ July 23, 2002.

(C) Division (B) of this section applies only if, during the time periods established in that division, proper service of process can be given in accordance with the Rules of Civil Procedure and jurisdiction of a court in this state can be obtained.

(D) The time periods established in division (B) of this section may be tolled by mutual agreement between the enforcing agency, department, or authority and the person who is subject to

a civil or administrative penalty of any kind under an 5325
environmental law. 5326

(E) When an action seeks injunctive relief or another remedy 5327
in addition to a remedy of civil or administrative penalties of 5328
any kind under an environmental law, division (B) of this section 5329
applies only to the remedy of civil or administrative penalties of 5330
any kind. 5331

~~(F) Beginning on the first anniversary of the effective date 5332
of this section and for four years thereafter, the director of 5333
environmental protection and the fire marshal shall each annually 5334
submit a report concerning the aggregate number of enforcement 5335
cases that are based on occurrences, omissions, or facts about 5336
which the director or the fire marshal actually knew or was 5337
informed prior to the effective date of this section for which a 5338
cause of action has not been brought pursuant to division (B)(2) 5339
of this section as of the date of the report. The respective 5340
reports submitted by the director and the fire marshal shall only 5341
address the aggregate number of occurrences, omissions, or facts 5342
under environmental laws concerning which the director or fire 5343
marshal has regulatory authority. The respective reports submitted 5344
by the director and the fire marshal shall not include any names, 5345
addresses, or other identifying information. The report shall be 5346
submitted to the speaker of the house of representatives, the 5347
president of the senate, and the chairpersons of the standing 5348
committees of the house of representatives and the senate that are 5349
primarily responsible for considering environmental issues. 5350~~

Sec. 3746.02. (A) Nothing in this chapter applies to any of 5351
the following: 5352

(1) Property for which a voluntary action under this chapter 5353
is precluded by federal law or regulations adopted under federal 5354
law, including, without limitation, any of the following federal 5355

laws or regulations adopted thereunder:	5356
(a) The "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended;	5357 5358
(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;	5359 5360
(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;	5361 5362
(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;	5363 5364 5365
(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.	5366 5367
(2) Those portions of property where closure of a hazardous waste facility or solid waste facility is required under Chapter 3734. of the Revised Code or rules adopted under it;	5368 5369 5370
(3) Except for a class C release as defined <u>provided</u> in <u>division (A)(3) of section 3737.87 3737.88</u> of the Revised Code, properties regardless of ownership that are subject to remediation rules adopted under the authority of <u>by</u> the division of fire marshal in the department of commerce, including remediation rules adopted under sections 3737.88, 3737.882, and 3737.889 <u>Chapter 3737. of the Revised Code pertaining to corrective actions as defined in section 3737.87 of the Revised Code;</u>	5371 5372 5373 5374 5375 5376 5377 5378
(4) Property that is subject to Chapter 1509. of the Revised Code;	5379 5380
(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that the director will issue an enforcement order under Chapter 3704., 3734., or 6111. of the Revised Code, a release or threatened release of a hazardous substance or	5381 5382 5383 5384 5385

petroleum from or at the property poses a substantial threat to 5386
public health or safety or the environment, and the person subject 5387
to the ~~order~~ letter does not present sufficient evidence to the 5388
director that the person has entered into the voluntary action 5389
program under this chapter and is proceeding expeditiously to 5390
address that threat. For the purposes of this division, the 5391
evidence constituting sufficient evidence of entry into the 5392
voluntary action program under this chapter shall be defined by 5393
the director by rules adopted under section 3746.04 of the Revised 5394
Code. ~~Until such time as the director has adopted those rules, the~~ 5395
~~director, at a minimum, shall consider the existence of a contract~~ 5396
~~with a certified professional to appropriately respond to the~~ 5397
~~threat named in the director's letter informing the person of the~~ 5398
~~director's intent to issue an enforcement order and the~~ 5399
~~availability of financial resources to complete the contract to be~~ 5400
~~sufficient evidence of entry into the program.~~ 5401

(B) The application of any provision of division (A) of this 5402
section to a portion of property does not preclude participation 5403
in the voluntary action program under this chapter in connection 5404
with other portions of the property where those provisions do not 5405
apply. 5406

(C) As used in this section, "property" means any parcel of 5407
real property, or portion thereof, and any improvements thereto. 5408

Sec. 6109.31. (A) No person shall violate this chapter, ~~any a~~ 5409
rule adopted under it, or any order or term or condition of a 5410
license, license renewal, variance, or exemption granted by the 5411
director of environmental protection under it. Each day of 5412
noncompliance is a separate violation. 5413

(B) No person shall make a false material statement or 5414
representation in an application, license, record, report, or 5415
other document that is required to be submitted to the director or 5416

to the attorney general under this chapter, a rule adopted under 5417
it, or any order or term or condition of a license, license 5418
renewal, variance, or exemption granted by the director under it. 5419

(C) No person shall alter, substitute, falsify, conceal, or 5420
purposefully omit a sample that is required to be collected 5421
pursuant to any reporting requirement that is established under 5422
this chapter or a rule adopted under it. 5423

(D) No person shall tamper with, alter, or interfere with the 5424
operation of a public water system without the authorization of 5425
the owner or operator of the system or of the director. 5426

Sec. 6109.32. The director of environmental protection may on 5427
his the director's own initiative investigate or make inquiries 5428
into any suspected violation of section 6109.31 of the Revised 5429
Code. 5430

The attorney general, upon written request by the director, 5431
shall bring an action for injunction or other appropriate civil 5432
action or criminal prosecution against any person violating or 5433
threatening to violate ~~such~~ that section. In an action for 5434
injunction to enforce any final order of the director, the finding 5435
by the director, after hearing, is prima-facie evidence of the 5436
facts found therein. 5437

Sec. 6109.99. (A) Except as provided in division (C) of this 5438
section, whoever recklessly violates section 6109.31 of the 5439
Revised Code is guilty of a misdemeanor and, notwithstanding 5440
section 2929.28 of the Revised Code, shall be fined not more than 5441
ten thousand dollars or imprisoned for not more than four years, 5442
or both. Each day of violation constitutes a separate offense. 5443

(B) Whoever knowingly violates division (B), (C), or (D) of 5444
section 6109.31 of the Revised Code is guilty of a felony and, 5445
notwithstanding section 2929.18 of the Revised Code, shall be 5446

fined not more than twenty-five thousand dollars or imprisoned for 5447
not more than four years, or both. Each day of violation 5448
constitutes a separate offense. 5449

(C) Whoever recklessly or knowingly violates division (A) of 5450
section 6109.31 of the Revised Code is guilty of a felony if the 5451
violation poses a significant threat to or causes significant harm 5452
to public health and, notwithstanding section 2929.18 of the 5453
Revised Code, shall be fined not more than twenty-five thousand 5454
dollars or imprisoned for not more than four years, or both. Each 5455
day of violation constitutes a separate offense. 5456

Sec. 6111.02. As used in this section and sections 6111.021 5457
to 6111.028 of the Revised Code: 5458

(A) "Category 1 wetland," "category 2 wetland," or "category 5459
3 wetland" means a category 1 wetland, category 2 wetland, or 5460
category 3 wetland, respectively, as described in rule 3745-1-54 5461
of the Administrative Code, as that rule existed on ~~the effective~~ 5462
~~date of this section~~ July 17, 2001, and as determined to be a 5463
category 1, category 2, or category 3 wetland, respectively, 5464
through application of the "Ohio rapid assessment method for 5465
wetlands version 5.0," including the Ohio rapid assessment method 5466
for wetlands version 5.0 quantitative score calibration dated 5467
August 15, 2000, unless an application for a section 401 water 5468
quality certification was submitted prior to February 28, 2001, in 5469
which case the applicant for the permit may elect to proceed in 5470
accordance with Ohio rapid assessment method for wetlands version 5471
4.1. 5472

(B) "Creation" means the establishment of a wetland where one 5473
did not formerly exist and that involves wetland construction on 5474
nonhydric soils. 5475

(C) "Enhancement" means activities conducted in an existing 5476
wetland to improve or repair existing or natural wetland functions 5477

and values of that wetland. 5478

(D) "Fill material" means any material that is used to fill 5479
an aquatic area, to replace an aquatic area with dry land, or to 5480
change the bottom elevation of a wetland for any purpose and that 5481
consists of suitable material that is free from toxic contaminants 5482
in other than trace quantities. "Fill material" does not include 5483
either of the following: 5484

(1) Material resulting from normal farming, silviculture, and 5485
ranching activities, such as plowing, cultivating, seeding, and 5486
harvesting, for the production of food, fiber, and forest 5487
products; 5488

(2) Material placed for the purpose of maintenance of 5489
existing structures, including emergency reconstruction of 5490
recently damaged parts of currently serviceable structures such as 5491
dikes, dams, levees, groins, riprap, breakwaters, causeways, and 5492
bridge abutments or approaches, and transportation structures. 5493

(E) "Filling" means the addition of fill material into a 5494
wetland for the purpose of creating upland, changing the bottom 5495
elevation of the wetland, or creating impoundments of water. 5496
"Filling" includes, without limitation, the placement of the 5497
following in wetlands: fill material that is necessary for the 5498
construction of any structure; structures or impoundments 5499
requiring rock, sand, dirt, or other material for its 5500
construction; site-development fills for recreational, industrial, 5501
commercial, residential, or other uses; causeways or road fills; 5502
dams and dikes; artificial islands, property protection, or 5503
reclamation devices such as riprap, groins, seawalls, breakwalls, 5504
and bulkheads and fills; beach nourishment; levees; sanitary 5505
landfills; fill material for structures such as sewage treatment 5506
facilities, intake and outfall pipes associated with power plants, 5507
and underwater utility lines; and artificial reefs. 5508

(F) "Isolated wetland" means a wetland that is not subject to regulation under the Federal Water Pollution Control Act.

(G) "Mitigation" means the restoration, creation, enhancement, or, in exceptional circumstances, preservation of wetlands expressly for the purpose of compensating for wetland impacts.

(H) "Mitigation bank service area" means the designated area where a mitigation bank can reasonably be expected to provide appropriate compensation for impacts to wetlands and other aquatic resources and that is designated as such in accordance with the process established in ~~the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (1995)," 60 FR 58605~~ 33 C.F.R. 332.8 and 40 C.F.R. 230.98.

(I) "Off-site mitigation" means wetland restoration, creation, enhancement, or preservation occurring farther than one mile from a project boundary, but within the same watershed.

(J) "On-site mitigation" means wetland restoration, creation, enhancement, or preservation occurring within and not more than one mile from the project boundary and within the same watershed.

(K) "Practicable" means available and capable of being executed with existing technology and without significant adverse effect on the economic feasibility of the project in light of the overall project purposes and in consideration of the relative environmental benefit.

(L) "Preservation" means the protection of ecologically important wetlands in perpetuity through the implementation of appropriate legal mechanisms to prevent harm to the wetlands. "Preservation" may include protection of adjacent upland areas as necessary to ensure protection of a wetland.

(M) "Restoration" means the reestablishment of a previously existing wetland at a site where it has ceased to exist.

(N) "State isolated wetland permit" means a permit issued in accordance with sections 6111.02 to 6111.027 of the Revised Code authorizing the filling of an isolated wetland.

(O) "Watershed" means ~~a common surface drainage area corresponding to one from the list of thirty seven adapted from the forty four cataloging units as depicted on the hydrologic unit map of Ohio, United States geological survey, 1988, and as described in division (F)(2) of rule 3745-1-54 of the Administrative Code or as otherwise shown on map number 1 found in rule 3745-1-54 of the Administrative Code.~~ "Watershed" is limited to those parts of the cataloging units that geographically lie within the borders of this state an eight-digit hydrologic unit.

(P) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" includes swamps, marshes, bogs, and similar areas that are delineated in accordance with the 1987 United States army corps of engineers wetland delineation manual and any other procedures and requirements adopted by the United States army corps of engineers for delineating wetlands.

(Q) "Wetland mitigation bank" means a site where wetlands have been restored, created, enhanced, or, in exceptional circumstances, preserved expressly for the purpose of providing mitigation for impacts to wetlands and that has been approved in accordance with the process established in ~~the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (1995)," 60 FR 58605~~ 33 C.F.R. 332.8 and 40 C.F.R. 230.98.

(R) "Eight-digit hydrologic unit" means a common surface drainage area corresponding to one from the list of thirty-seven adapted from the forty-four cataloging units as depicted on the

hydrologic unit map of Ohio, United States geological survey, 5572
1988, and as described in division (F)(2) of rule 3745-1-54 of the 5573
Administrative Code or as otherwise shown on map number 1 found in 5574
rule 3745-1-54 of the Administrative Code. "Eight-digit hydrologic 5575
unit" is limited to those parts of the cataloging units that 5576
geographically lie within the borders of this state. 5577

(S) "Ten-digit hydrologic unit" means a fifth level watershed 5578
as defined in the United States geological survey and United 5579
States department of agriculture, natural resources conservation 5580
service, 2011, federal standards and procedures of the national 5581
watershed boundary dataset, second edition: United States 5582
geological survey techniques and methods 11-A3 62p. "Ten-digit 5583
hydrologic unit" is a subdivision of an eight-digit hydrologic 5584
unit. 5585

(T) "Twelve-digit hydrologic unit" means a sixth level 5586
subwatershed as defined in the United States geological survey and 5587
United States department of agriculture, natural resources 5588
conservation service, 2011, federal standards and procedures of 5589
the national watershed boundary dataset, second edition: United 5590
States geological survey techniques and methods 11-A3 62p. 5591
"Twelve-digit hydrologic unit" is a subdivision of a ten-digit 5592
hydrologic unit. 5593

(U) "In-lieu fee mitigation" means a payment made by an 5594
applicant to satisfy a wetland mitigation requirement established 5595
in sections 6111.02 to 6111.027 of the Revised Code. 5596

Sec. 6111.022. (A) A proposed filling of a category 1 or a 5597
category 2 isolated wetland of one-half acre or less shall require 5598
a general state isolated wetland permit and be subject to level 5599
one review requirements established under division (B) of this 5600
section. 5601

(B) Level one review shall apply only to the filling of a 5602

category 1 or a category 2 isolated wetland as described in 5603
division (A) of this section requiring a general state isolated 5604
wetland permit. A level one review shall require the submission of 5605
a pre-activity notice that includes an application, an acceptable 5606
wetland delineation, a wetland categorization, a description of 5607
the project, a description of the acreage of the isolated wetland 5608
that will be subject to filling, site photographs, and a 5609
mitigation proposal for the impact to the isolated wetland. 5610

(C) The proposed filling of an isolated wetland that is 5611
subject to level one review is authorized by a general state 5612
isolated wetland permit unless the director of environmental 5613
protection notifies the applicant within thirty days after receipt 5614
of a pre-activity notice that the filling of the isolated wetland 5615
will result in a significant negative impact on state water 5616
quality. An applicant that receives such a notice may apply for an 5617
individual state isolated wetland permit in accordance with the 5618
procedures and requirements established under section 6111.023 of 5619
the Revised Code. 5620

(D) Required mitigation for the proposed filling of an 5621
isolated wetland that is subject to level one review shall be 5622
conducted by the applicant. ~~Without the objection of the director~~ 5623
~~and at the discretion of the applicant, the~~ The applicant shall 5624
conduct ~~either~~ mitigation in the following preferred order: 5625

(1) Without the objection of the director and at the 5626
discretion of the applicant, either on site mitigation, mitigation 5627
at a wetland mitigation bank within the same United States army 5628
corps of engineers district as the location of the proposed 5629
filling of the isolated wetland, or off-site mitigation; 5630

(2) In-lieu fee mitigation. 5631

The director, at the director's discretion, may allow an 5632
applicant to deviate from the preferred order established in 5633

division (D) of this section. 5634

(E) A person that has submitted a pre-activity notice for 5635
coverage under a general state isolated wetland permit under this 5636
section shall complete the filling within two years after the end 5637
of the thirty-day period following the receipt of the pre-activity 5638
notice by the director. If the person does not complete the 5639
filling within that two-year period, the person shall submit a new 5640
pre-activity notice in accordance with this section. 5641

Sec. 6111.023. (A) A proposed filling of a category 1 5642
isolated wetland of greater than one-half acre or the proposed 5643
filling of a category 2 isolated wetland of greater than one-half 5644
acre, but less than or equal to three acres shall require an 5645
individual state isolated wetland permit and be subject to level 5646
two review requirements established under division (B) of this 5647
section. 5648

(B) Level two review shall apply to the filling of a category 5649
1 or a category 2 isolated wetland described in division (A) of 5650
this section and shall require all of the following: 5651

(1) All of the information required to be submitted with a 5652
pre-activity notice as described in division (B) of section 5653
6111.022 of the Revised Code; 5654

(2) The submission of an analysis of practicable on-site 5655
alternatives to the proposed filling of the isolated wetland that 5656
would have a less adverse impact on the isolated wetland 5657
ecosystem; 5658

(3) The submission of information indicating whether high 5659
quality waters, as defined in rule 3745-1-05 of the Administrative 5660
Code, are to be avoided by the proposed filling of the isolated 5661
wetland. 5662

(C) The director of environmental protection shall issue or 5663

deny an individual state isolated wetland permit for the proposed 5664
filling of an isolated wetland that is subject to level two review 5665
not later than ninety days after the receipt of an application for 5666
the permit. The director shall issue an individual state isolated 5667
wetland permit for the proposed filling of an isolated wetland 5668
that is subject to level two review unless the director determines 5669
that the applicant for the permit has failed to demonstrate all of 5670
the following: 5671

(1) There is no practicable on-site alternative to the 5672
proposed filling of the isolated wetland that would have a less 5673
adverse impact on the isolated wetland ecosystem. 5674

(2) Reasonable buffers have been provided for any isolated 5675
wetland that will be avoided at the site where the proposed 5676
filling of the isolated wetland will take place. 5677

(3) The isolated wetland that will be subject to filling is 5678
not locally or regionally scarce within the watershed in which it 5679
is located and does not contain rare, threatened, or endangered 5680
species. 5681

(4) The impact would not result in significant degradation to 5682
the aquatic ecosystem. 5683

(5) Appropriate mitigation has been proposed for any 5684
unavoidable impacts. 5685

(6) Storm water and water quality controls will be installed 5686
to ensure that peak post-development rates of surface water runoff 5687
from the impacted isolated wetland do not exceed the peak 5688
pre-development rates of runoff from the on-site isolated wetland. 5689
Water quality improvement measures shall be incorporated into the 5690
design of the storm water control measures to the maximum extent 5691
practicable. Examples of these measures include, but are not 5692
limited to, incorporating vegetated areas in a storm water control 5693
plan. 5694

(7) Any additional, practicable, site-specific requirements 5695
that are determined necessary by the director to protect water 5696
quality have been satisfied. 5697

(D)(1) Notwithstanding an applicant's demonstration under 5698
division (C) of this section, the director may deny an application 5699
for an individual state isolated wetland permit submitted under 5700
this section if the director determines that the proposed filling 5701
of the isolated wetland will result in an adverse short-term or 5702
long-term impact on water quality. 5703

(2) The director may impose any practicable terms and 5704
conditions on an individual state isolated wetland permit issued 5705
under this section that are appropriate or necessary to ensure 5706
adequate protection of state water quality and to ensure 5707
compliance with this chapter and rules adopted under it. 5708

(3) Prior to the issuance of an individual state isolated 5709
wetland permit under this section, or prior to, during, or after 5710
the filling of the isolated wetland that is the subject of the 5711
permit, the director may require that the applicant or permit 5712
holder perform various environmental quality tests, including, 5713
without limitation, chemical analyses of water, sediment, or fill 5714
material and bioassays, in order to ensure adequate protection of 5715
water quality. 5716

(E)(1) Mitigation for the proposed filling of a category 1 5717
isolated wetland that is subject to level two review shall be 5718
conducted by the applicant. ~~Without~~ The applicant shall conduct 5719
mitigation in the following preferred order: 5720

(a) Without the objection of the director and at the 5721
discretion of the applicant, ~~the applicant shall conduct~~ either 5722
on-site mitigation, mitigation at a wetland mitigation bank within 5723
the same United States army corps of engineers district as the 5724
location of the proposed filling of the isolated wetland, or 5725

off-site mitigation; 5726

(b) In-lieu fee mitigation. 5727

The director, at the director's discretion, may allow an applicant to deviate from the preferred order established in division (E)(1) of this section. 5728
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(2) Mitigation for the proposed filling of a category 2 isolated wetland that is subject to level two review shall be conducted by the applicant and shall occur in the following preferred order: 5731
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(a) ~~Practicable on-site mitigation;~~ 5735

~~(b) Mitigation at a wetland mitigation bank within the same watershed as the location of the proposed filling of the isolated wetland. When multiple mitigation banks are available within the same watershed, mitigation shall occur at a wetland mitigation bank that is located in the same twelve-digit hydrologic unit nearest to the location of the proposed filling of the isolated wetland. If a wetland mitigation bank is not available in that twelve-digit hydrologic unit, mitigation shall occur in a wetland mitigation bank in the ten-digit hydrologic unit nearest to the location of the proposed filling of the isolated wetland.~~ 5736
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(b) Mitigation at a wetland mitigation bank located within a watershed that is adjacent to the watershed in which the proposed filling of the isolated wetland is located, provided that the watershed is located within the same United States army corps of engineers district. If mitigation occurs in accordance with division (E)(2)(b) of this section, the applicable mitigation ratio calculated under section 6111.027 of the Revised Code shall be multiplied by one and one-half. When multiple mitigation banks are available within the adjacent watershed, mitigation shall occur at the mitigation bank nearest to the location of the proposed filling of the isolated wetlands. 5746
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<u>(c) In-lieu fee mitigation;</u>	5757
<u>(d) Reasonably identifiable, available, and practicable</u>	5758
off-site mitigation within the same watershed;	5759
(c) If the proposed filling of the isolated wetland will take	5760
place within a mitigation bank service area, within that	5761
mitigation bank service area;	5762
(d) If there is a significant ecological reason that the	5763
mitigation location should not be limited to the watershed in	5764
which the isolated wetland is located and if the proposed	5765
mitigation will result in a substantially greater ecological	5766
benefit, in a watershed that is adjacent to the watershed in which	5767
the isolated wetland is located.	5768
<u>The director, at the director's discretion, may allow an</u>	5769
<u>applicant to deviate from the preferred order established in</u>	5770
<u>division (E)(2) of this section.</u>	5771
Sec. 6111.024. (A) A proposed filling of a category 2	5772
isolated wetland of greater than three acres or a category 3	5773
isolated wetland shall require an individual state isolated	5774
wetland permit and be subject to level three review requirements	5775
established under division (B) of this section.	5776
(B) Level three review shall apply to the filling of a	5777
category 2 or a category 3 isolated wetland described in division	5778
(A) of this section and shall require all of the following:	5779
(1) All of the information required to be submitted with a	5780
pre-activity notice as described in division (B) of section	5781
6111.022 of the Revised Code;	5782
(2) A full antidegradation review conducted in accordance	5783
with rules adopted under section 6111.12 of the Revised Code;	5784
(3) The submission of information indicating whether high	5785
quality waters, as defined in rule 3745-1-05 of the Administrative	5786

Code, are to be avoided by the proposed filling of the isolated wetland. 5787
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(C) The director of environmental protection shall issue or deny an individual state isolated wetland permit for the proposed filling of an isolated wetland that is subject to level three review not later than one hundred eighty days after the receipt of an application for the permit. The director shall not issue an individual state isolated wetland permit for the proposed filling of an isolated wetland that is subject to level three review unless the director determines that the applicant for the permit has demonstrated that the proposed filling will not prevent or interfere with the attainment or maintenance of applicable state water quality standards. 5789
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(D)(1) Notwithstanding division (C) of this section, the director also may deny an application for an individual state isolated wetland permit submitted under this section if the director determines that the proposed filling of the isolated wetland will result in an adverse short-term or long-term impact on water quality. 5800
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(2) The director may impose terms and conditions on an individual state isolated wetland permit issued under this section that are appropriate or necessary to ensure adequate protection of state water quality and to ensure compliance with this chapter and rules adopted under it. 5806
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(3) Prior to the issuance of an individual state isolated wetland permit under this section, or prior to, during, or after the filling of the isolated wetland that is the subject of the permit, the director may require that the applicant or permit holder perform various environmental quality tests, including, without limitation, chemical analyses of water, sediment, or fill material and bioassays, in order to ensure adequate protection of water quality. 5811
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(E) Mitigation for the proposed filling of a category 2 or a category 3 isolated wetland that is subject to level three review shall occur in the following preferred order:

(1) ~~Practicable on-site mitigation;~~

~~(2) Reasonably identifiable, available, and practicable off-site mitigation within the same watershed;~~

~~(3) If the proposed filling of the isolated wetland will take place within a mitigation bank service area, within that mitigation bank service area;~~

(2) Mitigation at a wetland mitigation bank within the same watershed as the location of the proposed filling of the isolated wetland. When multiple mitigation banks are available within the same watershed, mitigation shall occur at a wetland mitigation bank that is located in the same twelve-digit hydrologic unit nearest to the location of the proposed filling of the isolated wetland. If a wetland mitigation bank is not available in that twelve-digit hydrologic unit, mitigation shall occur in a wetland mitigation bank in the ten-digit hydrologic unit nearest to the location of the proposed filling of the isolated wetland.

(3) Mitigation at a wetland mitigation bank located within a watershed that is adjacent to the watershed in which the proposed filling of the isolated wetland is located, provided that the watershed is located within the same United States army corps of engineers district. If mitigation occurs in accordance with division (E)(3) of this section, the applicable mitigation ratio calculated under section 6111.027 of the Revised Code shall be multiplied by one and one-half. When multiple mitigation banks are available within the adjacent watershed, mitigation shall occur at the mitigation bank nearest to the location of the proposed filling of the isolated wetlands.

(4) In-lieu fee mitigation;

(5) If there is a significant ecological reason that the mitigation location should not be limited to the watershed in which the isolated wetland is located and if the proposed mitigation will result in a substantially greater ecological benefit, in a watershed that is adjacent to the watershed in which the isolated wetland is located.

The director, at the director's discretion, may allow an applicant to deviate from the preferred order established in division (E) of this section.

Sec. 6111.025. (A) The department of natural resources, the division of wildlife in that department, or any other division in that department that is designated by the director of natural resources may establish and operate a wetland mitigation bank for purposes of sections 6111.02 to 6111.027 of the Revised Code. A mitigation bank so established may be used by any individual or entity, including any agency or department of the state, for mitigation purposes under those sections. Nothing in this division precludes any other private or public entity from developing a mitigation bank, provided that it is approved by the director of environmental protection under division (C) of this section.

(B) The environmental protection agency, the department of natural resources, the division of wildlife in that department, or any other division in that department that is designated by the director of natural resources may establish and operate an in-lieu fee mitigation program for purposes of sections 6111.02 to 6111.027 of the Revised Code. An in-lieu fee mitigation program so established may be used by any individual or entity, including any agency or department of the state, for mitigation purposes under those sections.

Nothing in this division precludes any other private or public entity from developing an in-lieu fee mitigation program.

provided that it is approved by the director of environmental 5881
protection under division (C) of this section. 5882

(C) The director of ~~natural resources~~ environmental 5883
protection in consultation with the director of environmental 5884
protection natural resources shall ~~establish~~ approve and publish a 5885
list of approved wetland mitigation banks and in-lieu fee 5886
mitigation programs that shall be used by applicants for state 5887
isolated wetland permits for mitigation purposes ~~and shall submit~~ 5888
~~the list to the director of environmental protection.~~ In 5889
establishing the approved list, the director of ~~natural resources~~ 5890
environmental protection shall give preference to wetland 5891
mitigation banks that are comprised of areas involving the 5892
restoration of previously existing wetlands. ~~The list established~~ 5893
~~under this division shall not exclude state or local agencies from~~ 5894
~~developing wetland mitigation banks~~ Applicants for isolated 5895
wetland permits shall not use mitigation from a mitigation bank or 5896
an in-lieu fee mitigation program that has not been approved under 5897
this section. 5898

~~(B) The department of natural resources, the division of~~ 5899
~~wildlife in that department, or any other division in that~~ 5900
~~department that is designated by the director of natural resources~~ 5901
~~may establish and operate a wetland mitigation bank for purposes~~ 5902
~~of sections 6111.02 to 6111.027 of the Revised Code. A mitigation~~ 5903
~~bank so established may be used by any individual or entity,~~ 5904
~~including any agency or department of the state, for mitigation~~ 5905
~~purposes under those sections.~~ 5906

~~(C)~~(D) The director of environmental protection annually 5907
shall issue a report to the members of the general assembly on the 5908
total number of acres of isolated wetlands that were subject to 5909
filling during the immediately preceding year as well as the total 5910
number of acres of isolated wetlands that were restored, created, 5911
enhanced, or preserved through mitigation that same year as a 5912

result of state isolated wetland permits issued under sections 5913
6111.02 to 6111.027 of the Revised Code. 5914

Sec. 6111.027. (A) Mitigation for impacts to isolated 5915
wetlands under sections 6111.02 to 6111.027 shall be conducted in 5916
accordance with the following ratios: 5917

(1) For category 1 and category 2 isolated wetlands, other 5918
than forested category 2 isolated wetlands, mitigation located at 5919
an approved wetland mitigation bank shall be conducted, or 5920
mitigation shall be paid for under an in-lieu fee mitigation 5921
program, at a rate of two times the size of the area of isolated 5922
wetland that is being impacted. 5923

(2) For forested category 2 isolated wetlands, mitigation 5924
located at an approved wetland mitigation bank shall be conducted, 5925
or mitigation shall be paid for under an in-lieu fee mitigation 5926
program, at a rate of two and one-half times the size of the area 5927
of isolated wetland that is being impacted. 5928

(3) All other mitigation shall be subject to mitigation 5929
ratios established in division (F) of rule 3745-1-54 of the 5930
Administrative Code. 5931

(B) Mitigation that involves the enhancement or preservation 5932
of isolated wetlands shall be calculated and performed in 5933
accordance with rule 3745-1-54 of the Administrative Code. 5934

(C) An applicant for coverage under a general state isolated 5935
wetland permit or for an individual state isolated wetland permit 5936
under sections 6111.022 to 6111.024 of the Revised Code shall 5937
demonstrate that the mitigation site will be protected in 5938
perpetuity and that appropriate practicable management measures 5939
are, or will be, in place to restrict harmful activities that 5940
jeopardize the mitigation. 5941

Sec. 6111.03. The director of environmental protection may do 5942

any of the following: 5943

(A) Develop plans and programs for the prevention, control, 5944
and abatement of new or existing pollution of the waters of the 5945
state; 5946

(B) Advise, consult, and cooperate with other agencies of the 5947
state, the federal government, other states, and interstate 5948
agencies and with affected groups, political subdivisions, and 5949
industries in furtherance of the purposes of this chapter. Before 5950
adopting, amending, or rescinding a standard or rule pursuant to 5951
division (G) of this section or section 6111.041 or 6111.042 of 5952
the Revised Code, the director shall do all of the following: 5953

(1) Mail notice to each statewide organization that the 5954
director determines represents persons who would be affected by 5955
the proposed standard or rule, amendment thereto, or rescission 5956
thereof at least thirty-five days before any public hearing 5957
thereon; 5958

(2) Mail a copy of each proposed standard or rule, amendment 5959
thereto, or rescission thereof to any person who requests a copy, 5960
within five days after receipt of the request therefor; 5961

(3) Consult with appropriate state and local government 5962
agencies or their representatives, including statewide 5963
organizations of local government officials, industrial 5964
representatives, and other interested persons. 5965

Although the director is expected to discharge these duties 5966
diligently, failure to mail any such notice or copy or to so 5967
consult with any person shall not invalidate any proceeding or 5968
action of the director. 5969

(C) Administer grants from the federal government and from 5970
other sources, public or private, for carrying out any of its 5971
functions, all such moneys to be deposited in the state treasury 5972

and kept by the treasurer of state in a separate fund subject to	5973
the lawful orders of the director;	5974
(D) Administer state grants for the construction of sewage	5975
and waste collection and treatment works;	5976
(E) Encourage, participate in, or conduct studies,	5977
investigations, research, and demonstrations relating to water	5978
pollution, and the causes, prevention, control, and abatement	5979
thereof, that are advisable and necessary for the discharge of the	5980
director's duties under this chapter;	5981
(F) Collect and disseminate information relating to water	5982
pollution and prevention, control, and abatement thereof;	5983
(G) Adopt, amend, and rescind rules in accordance with	5984
Chapter 119. of the Revised Code governing the procedure for	5985
hearings, the filing of reports, the issuance of permits, the	5986
issuance of industrial water pollution control certificates, and	5987
all other matters relating to procedure;	5988
(H) Issue, modify, or revoke orders to prevent, control, or	5989
abate water pollution by such means as the following:	5990
(1) Prohibiting or abating discharges of sewage, industrial	5991
waste, or other wastes into the waters of the state;	5992
(2) Requiring the construction of new disposal systems or any	5993
parts thereof, or the modification, extension, or alteration of	5994
existing disposal systems or any parts thereof;	5995
(3) Prohibiting additional connections to or extensions of a	5996
sewerage system when the connections or extensions would result in	5997
an increase in the polluting properties of the effluent from the	5998
system when discharged into any waters of the state;	5999
(4) Requiring compliance with any standard or rule adopted	6000
under sections 6111.01 to 6111.05 of the Revised Code or term or	6001
condition of a permit.	6002

In the making of those orders, wherever compliance with a rule adopted under section 6111.042 of the Revised Code is not involved, consistent with the Federal Water Pollution Control Act, the director shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of complying with those orders and to evidence relating to conditions calculated to result from compliance with those orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of this chapter.

(I) Review plans, specifications, or other data relative to disposal systems or any part thereof in connection with the issuance of orders, permits, and industrial water pollution control certificates under this chapter;

(J)(1) Issue, revoke, modify, or deny sludge management permits and permits for the discharge of sewage, industrial waste, or other wastes into the waters of the state, and for the installation or modification of disposal systems or any parts thereof in compliance with all requirements of the Federal Water Pollution Control Act and mandatory regulations adopted thereunder, including regulations adopted under section 405 of the Federal Water Pollution Control Act, and set terms and conditions of permits, including schedules of compliance, where necessary. Any person who discharges, transports, or handles storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or pollutants from a concentrated animal feeding operation, as both terms are defined in that section, is not required to obtain a permit under division (J)(1) of this section for the installation or modification of a disposal system involving pollutants or storm water or any parts of such a system on and after the date on which the director of agriculture has finalized the program required under division (A)(1) of section

903.02 of the Revised Code. In addition, any person who 6035
discharges, transports, or handles storm water from an animal 6036
feeding facility, as defined in section 903.01 of the Revised 6037
Code, or pollutants from a concentrated animal feeding operation, 6038
as both terms are defined in that section, is not required to 6039
obtain a permit under division (J)(1) of this section for the 6040
discharge of storm water from an animal feeding facility or 6041
pollutants from a concentrated animal feeding operation on and 6042
after the date on which the United States environmental protection 6043
agency approves the NPDES program submitted by the director of 6044
agriculture under section 903.08 of the Revised Code. 6045

Any permit terms and conditions set by the director shall be 6046
designed to achieve and maintain full compliance with the national 6047
effluent limitations, national standards of performance for new 6048
sources, and national toxic and pretreatment effluent standards 6049
set under that act, and any other mandatory requirements of that 6050
act that are imposed by regulation of the administrator of the 6051
United States environmental protection agency. If an applicant for 6052
a sludge management permit also applies for a related permit for 6053
the discharge of sewage, industrial waste, or other wastes into 6054
the waters of the state, the director may combine the two permits 6055
and issue one permit to the applicant. 6056

A sludge management permit is not required for an entity that 6057
treats or transports sewage sludge or for a sanitary landfill when 6058
all of the following apply: 6059

(a) The entity or sanitary landfill does not generate the 6060
sewage sludge. 6061

(b) Prior to receipt at the sanitary landfill, the entity has 6062
ensured that the sewage sludge meets the requirements established 6063
in rules adopted by the director under section 3734.02 of the 6064
Revised Code concerning disposal of municipal solid waste in a 6065
sanitary landfill. 6066

(c) Disposal of the sewage sludge occurs at a sanitary landfill that complies with rules adopted by the director under section 3734.02 of the Revised Code.

As used in division (J)(1) of this section, "sanitary landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed as a solid waste facility under section 3734.05 of the Revised Code.

(2) An application for a permit or renewal thereof shall be denied if any of the following applies:

(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby;

(b) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act;

(c) The administrator of the United States environmental protection agency objects in writing to the issuance or renewal of the permit in accordance with section 402 (d) of the Federal Water Pollution Control Act;

(d) The application is for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the United States.

(3) To achieve and maintain applicable standards of quality for the waters of the state adopted pursuant to section 6111.041 of the Revised Code, the director shall impose, where necessary and appropriate, as conditions of each permit, water quality related effluent limitations in accordance with sections 301, 302, 306, 307, and 405 of the Federal Water Pollution Control Act and, to the extent consistent with that act, shall give consideration to, and base the determination on, evidence relating to the

technical feasibility and economic reasonableness of removing the 6098
polluting properties from those wastes and to evidence relating to 6099
conditions calculated to result from that action and their 6100
relation to benefits to the people of the state and to 6101
accomplishment of the purposes of this chapter. 6102

(4) Where a discharge having a thermal component from a 6103
source that is constructed or modified on or after October 18, 6104
1972, meets national or state effluent limitations or more 6105
stringent permit conditions designed to achieve and maintain 6106
compliance with applicable standards of quality for the waters of 6107
the state, which limitations or conditions will ensure protection 6108
and propagation of a balanced, indigenous population of shellfish, 6109
fish, and wildlife in or on the body of water into which the 6110
discharge is made, taking into account the interaction of the 6111
thermal component with sewage, industrial waste, or other wastes, 6112
the director shall not impose any more stringent limitation on the 6113
thermal component of the discharge, as a condition of a permit or 6114
renewal thereof for the discharge, during a ten-year period 6115
beginning on the date of completion of the construction or 6116
modification of the source, or during the period of depreciation 6117
or amortization of the source for the purpose of section 167 or 6118
169 of the Internal Revenue Code of 1954, whichever period ends 6119
first. 6120

(5) The director shall specify in permits for the discharge 6121
of sewage, industrial waste, and other wastes, the net volume, net 6122
weight, duration, frequency, and, where necessary, concentration 6123
of the sewage, industrial waste, and other wastes that may be 6124
discharged into the waters of the state. The director shall 6125
specify in those permits and in sludge management permits that the 6126
permit is conditioned upon payment of applicable fees as required 6127
by section 3745.11 of the Revised Code and upon the right of the 6128
director's authorized representatives to enter upon the premises 6129

of the person to whom the permit has been issued for the purpose 6130
of determining compliance with this chapter, rules adopted 6131
thereunder, or the terms and conditions of a permit, order, or 6132
other determination. The director shall issue or deny an 6133
application for a sludge management permit or a permit for a new 6134
discharge, for the installation or modification of a disposal 6135
system, or for the renewal of a permit, within one hundred eighty 6136
days of the date on which a complete application with all plans, 6137
specifications, construction schedules, and other pertinent 6138
information required by the director is received. 6139

(6) The director may condition permits upon the installation 6140
of discharge or water quality monitoring equipment or devices and 6141
the filing of periodic reports on the amounts and contents of 6142
discharges and the quality of receiving waters that the director 6143
prescribes. The director shall condition each permit for a 6144
government-owned disposal system or any other "treatment works" as 6145
defined in the Federal Water Pollution Control Act upon the 6146
reporting of new introductions of industrial waste or other wastes 6147
and substantial changes in volume or character thereof being 6148
introduced into those systems or works from "industrial users" as 6149
defined in section 502 of that act, as necessary to comply with 6150
section 402(b)(8) of that act; upon the identification of the 6151
character and volume of pollutants subject to pretreatment 6152
standards being introduced into the system or works; and upon the 6153
existence of a program to ensure compliance with pretreatment 6154
standards by "industrial users" of the system or works. In 6155
requiring monitoring devices and reports, the director, to the 6156
extent consistent with the Federal Water Pollution Control Act, 6157
shall give consideration to technical feasibility and economic 6158
reasonableness and shall allow reasonable time for compliance. 6159

(7) A permit may be issued for a period not to exceed five 6160
years and may be renewed upon application for renewal ~~and upon a~~ 6161

~~finding by the director. In renewing a permit, the director shall~~ 6162
~~consider the compliance history of the permit holder and may deny~~ 6163
~~the renewal if the director determines that the permit holder is~~ 6164
~~making satisfactory progress toward the achievement of all~~ 6165
~~applicable standards and has not~~ complied with the terms and 6166
conditions of the existing permit. A permit may be modified, 6167
suspended, or revoked for cause, including, but not limited to, 6168
violation of any condition of the permit, obtaining a permit by 6169
misrepresentation or failure to disclose fully all relevant facts 6170
of the permitted discharge or of the sludge use, storage, 6171
treatment, or disposal practice, or changes in any condition that 6172
requires either a temporary or permanent reduction or elimination 6173
of the permitted activity. No application shall be denied or 6174
permit revoked or modified without a written order stating the 6175
findings upon which the denial, revocation, or modification is 6176
based. A copy of the order shall be sent to the applicant or 6177
permit holder by certified mail. 6178

(K) Institute or cause to be instituted in any court of 6179
competent jurisdiction proceedings to compel compliance with this 6180
chapter or with the orders of the director issued under this 6181
chapter, or to ensure compliance with sections 204(b), 307, 308, 6182
and 405 of the Federal Water Pollution Control Act; 6183

(L) Issue, deny, revoke, or modify industrial water pollution 6184
control certificates; 6185

(M) Certify to the government of the United States or any 6186
agency thereof that an industrial water pollution control facility 6187
is in conformity with the state program or requirements for the 6188
control of water pollution whenever the certification may be 6189
required for a taxpayer under the Internal Revenue Code of the 6190
United States, as amended; 6191

(N) Issue, modify, and revoke orders requiring any 6192
"industrial user" of any publicly owned "treatment works" as 6193

defined in sections 212(2) and 502(18) of the Federal Water 6194
Pollution Control Act to comply with pretreatment standards; 6195
establish and maintain records; make reports; install, use, and 6196
maintain monitoring equipment or methods, including, where 6197
appropriate, biological monitoring methods; sample discharges in 6198
accordance with methods, at locations, at intervals, and in a 6199
manner that the director determines; and provide other information 6200
that is necessary to ascertain whether or not there is compliance 6201
with toxic and pretreatment effluent standards. In issuing, 6202
modifying, and revoking those orders, the director, to the extent 6203
consistent with the Federal Water Pollution Control Act, shall 6204
give consideration to technical feasibility and economic 6205
reasonableness and shall allow reasonable time for compliance. 6206

(O) Exercise all incidental powers necessary to carry out the 6207
purposes of this chapter; 6208

(P) Certify or deny certification to any applicant for a 6209
federal license or permit to conduct any activity that may result 6210
in any discharge into the waters of the state that the discharge 6211
will comply with the Federal Water Pollution Control Act; 6212

(Q) Administer and enforce the publicly owned treatment works 6213
pretreatment program in accordance with the Federal Water 6214
Pollution Control Act. In the administration of that program, the 6215
director may do any of the following: 6216

(1) Apply and enforce pretreatment standards; 6217

(2) Approve and deny requests for approval of publicly owned 6218
treatment works pretreatment programs, oversee those programs, and 6219
implement, in whole or in part, those programs under any of the 6220
following conditions: 6221

(a) The director has denied a request for approval of the 6222
publicly owned treatment works pretreatment program; 6223

(b) The director has revoked the publicly owned treatment 6224

works pretreatment program;	6225
(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;	6226 6227
(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.	6228 6229 6230
(3) Require that a publicly owned treatment works pretreatment program be incorporated in a permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards;	6231 6232 6233 6234 6235 6236
(4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works;	6237 6238 6239
(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;	6240 6241
(6) Make determinations on categorization of industrial users;	6242 6243
(7) Adopt, amend, or rescind rules and issue, modify, or revoke orders necessary for the administration and enforcement of the publicly owned treatment works pretreatment program.	6244 6245 6246
Any approval of a publicly owned treatment works pretreatment program may contain any terms and conditions, including schedules of compliance, that are necessary to achieve compliance with this chapter.	6247 6248 6249 6250
(R) Except as otherwise provided in this division, adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of	6251 6252 6253 6254

oil and hazardous substances into the waters of the state. The 6255
rules shall be consistent with and equivalent in scope, content, 6256
and coverage to section 311(j)(1)(c) of the Federal Water 6257
Pollution Control Act and regulations adopted under it. The 6258
director shall not adopt rules under this division relating to 6259
discharges of oil from oil production facilities and oil drilling 6260
and workover facilities as those terms are defined in that act and 6261
regulations adopted under it. 6262

(S)(1) Administer and enforce a program for the regulation of 6263
sludge management in this state. In administering the program, the 6264
director, in addition to exercising the authority provided in any 6265
other applicable sections of this chapter, may do any of the 6266
following: 6267

(a) Develop plans and programs for the disposal and 6268
utilization of sludge and sludge materials; 6269

(b) Encourage, participate in, or conduct studies, 6270
investigations, research, and demonstrations relating to the 6271
disposal and use of sludge and sludge materials and the impact of 6272
sludge and sludge materials on land located in the state and on 6273
the air and waters of the state; 6274

(c) Collect and disseminate information relating to the 6275
disposal and use of sludge and sludge materials and the impact of 6276
sludge and sludge materials on land located in the state and on 6277
the air and waters of the state; 6278

(d) Issue, modify, or revoke orders to prevent, control, or 6279
abate the use and disposal of sludge and sludge materials or the 6280
effects of the use of sludge and sludge materials on land located 6281
in the state and on the air and waters of the state; 6282

(e) Adopt and enforce, modify, or rescind rules necessary for 6283
the implementation of division (S) of this section. The rules 6284
reasonably shall protect public health and the environment, 6285

encourage the beneficial reuse of sludge and sludge materials, and 6286
minimize the creation of nuisance odors. 6287

The director may specify in sludge management permits the net 6288
volume, net weight, quality, and pollutant concentration of the 6289
sludge or sludge materials that may be used, stored, treated, or 6290
disposed of, and the manner and frequency of the use, storage, 6291
treatment, or disposal, to protect public health and the 6292
environment from adverse effects relating to those activities. The 6293
director shall impose other terms and conditions to protect public 6294
health and the environment, minimize the creation of nuisance 6295
odors, and achieve compliance with this chapter and rules adopted 6296
under it and, in doing so, shall consider whether the terms and 6297
conditions are consistent with the goal of encouraging the 6298
beneficial reuse of sludge and sludge materials. 6299

The director may condition permits on the implementation of 6300
treatment, storage, disposal, distribution, or application 6301
management methods and the filing of periodic reports on the 6302
amounts, composition, and quality of sludge and sludge materials 6303
that are disposed of, used, treated, or stored. 6304

An approval of a treatment works sludge disposal program may 6305
contain any terms and conditions, including schedules of 6306
compliance, necessary to achieve compliance with this chapter and 6307
rules adopted under it. 6308

(2) As a part of the program established under division 6309
(S)(1) of this section, the director has exclusive authority to 6310
regulate sewage sludge management in this state. For purposes of 6311
division (S)(2) of this section, that program shall be consistent 6312
with section 405 of the Federal Water Pollution Control Act and 6313
regulations adopted under it and with this section, except that 6314
the director may adopt rules under division (S) of this section 6315
that establish requirements that are more stringent than section 6316
405 of the Federal Water Pollution Control Act and regulations 6317

adopted under it with regard to monitoring sewage sludge and 6318
sewage sludge materials and establishing acceptable sewage sludge 6319
management practices and pollutant levels in sewage sludge and 6320
sewage sludge materials. 6321

This chapter authorizes the state to participate in any 6322
national sludge management program and the national pollutant 6323
discharge elimination system, to administer and enforce the 6324
publicly owned treatment works pretreatment program, and to issue 6325
permits for the discharge of dredged or fill materials, in 6326
accordance with the Federal Water Pollution Control Act. This 6327
chapter shall be administered, consistent with the laws of this 6328
state and federal law, in the same manner that the Federal Water 6329
Pollution Control Act is required to be administered. 6330

This section does not apply to animal waste disposal systems 6331
and related management and conservation practices subject to rules 6332
adopted pursuant to division (E)(4) of section 1511.02 of the 6333
Revised Code. However, until the date on which the United States 6334
environmental protection agency approves the NPDES program 6335
submitted by the director of agriculture under section 903.08 of 6336
the Revised Code, this exclusion does not apply to animal waste 6337
treatment works having a controlled direct discharge to the waters 6338
of the state or any concentrated animal feeding operation, as 6339
defined in 40 C.F.R. 122.23(b)(2). On and after the date on which 6340
the United States environmental protection agency approves the 6341
NPDES program submitted by the director of agriculture under 6342
section 903.08 of the Revised Code, this section does not apply to 6343
storm water from an animal feeding facility, as defined in section 6344
903.01 of the Revised Code, or to pollutants discharged from a 6345
concentrated animal feeding operation, as both terms are defined 6346
in that section. Neither of these exclusions applies to the 6347
discharge of animal waste into a publicly owned treatment works. 6348

Sec. 6111.0382. (A) There is hereby created in the state 6349
treasury the surface water improvement fund. The fund shall 6350
include, but is not limited to, money derived from any of the 6351
following: 6352

(1) Payments, contributions, and donations made to the 6353
environmental protection agency for water quality restoration and 6354
protection projects; 6355

(2) Payments made under an in-lieu fee mitigation program 6356
established by the agency under section 6111.025 of the Revised 6357
Code; 6358

(3) Funds for supplemental environmental projects for water 6359
quality improvements required by orders of the director of 6360
environmental protection, settlement agreements, consent decrees, 6361
or court orders; 6362

(4) Mitigation fees for impacts to waters of the state for 6363
mitigation not required by the United States environmental 6364
protection agency or the United States army corps of engineers. 6365

(B) Money in the fund shall be used by the director to 6366
complete water quality protection and restoration projects. The 6367
director may enter into contracts and agreements, including grant 6368
agreements with federal, state, or local government agencies, 6369
environmental nonprofit organizations, and universities, for 6370
purposes of those projects. 6371

(C) If the agency becomes an approved sponsor of a federal 6372
in-lieu fee mitigation program in accordance with 33 C.F.R. 332, 6373
money for the federally approved program may be maintained in the 6374
fund, provided that the money is segregated from all other money 6375
in the fund. 6376

Sec. 6111.30. (A) Applications for a section 401 water 6377
quality certification required under division (P) of section 6378

6111.03 of the Revised Code shall be submitted on forms provided 6379
by the director of environmental protection and shall include all 6380
information required on those forms as well as all of the 6381
following: 6382

(1) A copy of a letter from the United States army corps of 6383
engineers documenting its jurisdiction over the wetlands, streams, 6384
or other waters of the state that are the subject of the section 6385
401 water quality certification application; 6386

(2) If the project involves impacts to a wetland, a wetland 6387
characterization analysis consistent with the Ohio rapid 6388
assessment method; 6389

(3) If the project involves a stream for which a specific 6390
aquatic life use designation has not been made, a use 6391
attainability analysis; 6392

(4) A specific and detailed mitigation proposal, including 6393
the location and proposed legal mechanism for protecting the 6394
property in perpetuity; 6395

(5) Applicable fees; 6396

(6) Site photographs; 6397

(7) Adequate documentation confirming that the applicant has 6398
requested comments from the department of natural resources and 6399
the United States fish and wildlife service regarding threatened 6400
and endangered species, including the presence or absence of 6401
critical habitat; 6402

(8) Descriptions, schematics, and appropriate economic 6403
information concerning the applicant's preferred alternative, 6404
nondegradation alternatives, and minimum degradation alternatives 6405
for the design and operation of the project; 6406

(9) The applicant's investigation report of the waters of the 6407
United States in support of a section 404 permit application 6408

concerning the project; 6409

(10) A copy of the United States army corps of engineers' 6410
public notice regarding the section 404 permit application 6411
concerning the project. 6412

(B) Not later than fifteen business days after the receipt of 6413
an application for a section 401 water quality certification, the 6414
director shall review the application to determine if it is 6415
complete and shall notify the applicant in writing as to whether 6416
the application is complete. If the director fails to notify the 6417
applicant within fifteen business days regarding the completeness 6418
of the application, the application is considered complete. If the 6419
director determines that the application is not complete, the 6420
director shall include with the written notification an itemized 6421
list of the information or materials that are necessary to 6422
complete the application. If the applicant fails to provide the 6423
information or materials within sixty days after the director's 6424
receipt of the application, the director may return the incomplete 6425
application to the applicant and take no further action on the 6426
application. If the application is returned to the applicant 6427
because it is incomplete, the director shall return the review fee 6428
levied under division (A)(1), (2), or (3) of section 3745.114 of 6429
the Revised Code to the applicant, but shall retain the 6430
application fee levied under that section. 6431

(C) Not later than twenty-one days after a determination that 6432
an application is complete under division (B) of this section, the 6433
applicant shall publish public notice of the director's receipt of 6434
the complete application in a newspaper of general circulation in 6435
the county in which the project that is the subject of the 6436
application is located. The public notice shall be in a form 6437
acceptable to the director. The applicant shall promptly provide 6438
the director with proof of publication. The applicant may choose, 6439
subject to review by and approval of the director, to include in 6440

the public notice an advertisement for an antidegradation public 6441
hearing on the application pursuant to section 6111.12 of the 6442
Revised Code. There shall be a public comment period of thirty 6443
days following the publication of the public notice. 6444

(D) If the director determines that there is significant 6445
public interest in a public hearing as evidenced by the public 6446
comments received concerning the application and by other requests 6447
for a public hearing on the application, the director or the 6448
director's representative shall conduct a public hearing 6449
concerning the application. Notice of the public hearing shall be 6450
published by the applicant, subject to review and approval by the 6451
director, at least thirty days prior to the date of the hearing in 6452
a newspaper of general circulation in the county in which the 6453
project that is the subject of the application is to take place. 6454
If a public hearing is requested concerning an application, the 6455
director shall accept comments concerning the application until 6456
five business days after the public hearing. A public hearing 6457
conducted under this division shall take place not later than one 6458
hundred days after the application is determined to be complete. 6459

(E) The director shall forward all public comments concerning 6460
an application submitted under this section that are received 6461
through the public involvement process required by rules adopted 6462
under this chapter to the applicant not later than five business 6463
days after receipt of the comments by the director. 6464

(F) The applicant shall respond in writing to written 6465
comments or to deficiencies identified by the director during the 6466
course of reviewing the application not later than fifteen days 6467
after receiving or being notified of them. 6468

(G) The director shall issue or deny a section 401 water 6469
quality certification not later than one hundred eighty days after 6470
the complete application for the certification is received. The 6471
director shall provide an applicant for a section 401 water 6472

quality certification with an opportunity to review the 6473
certification prior to its issuance. 6474

(H) The director shall maintain an accessible database that 6475
includes environmentally beneficial water restoration and 6476
protection projects that may serve as potential mitigation 6477
projects for projects in the state for which a section 401 water 6478
quality certification is required. A project's inclusion in the 6479
database does not constitute an approval of the project. 6480

(I) Mitigation required by a section 401 water quality 6481
certification may be accomplished by any of the following: 6482

(1) Purchasing credits at a mitigation bank approved in 6483
accordance with 33 C.F.R. 332.8; 6484

(2) Participating in an in-lieu fee mitigation program 6485
approved in accordance with 33 C.F.R. 332.8; 6486

(3) Constructing individual mitigation projects. 6487

Notwithstanding the mitigation hierarchy specified in section 6488
3745-1-54 of the Administrative Code, mitigation projects shall be 6489
approved in accordance with the hierarchy specified in 33 C.F.R. 6490
332.3 unless the director determines that the size or quality of 6491
the impacted resource necessitates reasonably identifiable, 6492
available, and practicable mitigation conducted by the applicant. 6493
The director shall adopt rules in accordance with Chapter 119. of 6494
the Revised Code consistent with the mitigation hierarchy 6495
specified in 33 C.F.R. 332.3. 6496

(J) As used in this section and ~~sections~~ section 6111.31 and 6497
~~6111.32~~ of the Revised Code, "section 401 water quality 6498
certification" means certification pursuant to section 401 of the 6499
Federal Water Pollution Control Act and this chapter and rules 6500
adopted under it that any discharge, as set forth in section 401, 6501
will comply with sections 301, 302, 303, 306, and 307 of the 6502
Federal Water Pollution Control Act. 6503

Section 2. That existing sections 3714.07, 3714.073, 3734.01, 6504
3734.02, 3734.021, 3734.027, 3734.05, 3734.06, 3734.12, 3734.121, 6505
3734.41, 3734.42, 3734.573, 3734.85, 3737.87, 3737.88, 3745.11, 6506
3745.31, 3746.02, 6109.31, 6109.32, 6111.02, 6111.022, 6111.023, 6507
6111.024, 6111.025, 6111.027, 6111.03, and 6111.30 and sections 6508
3734.022, 3734.131, 3734.132, and 3734.133 of the Revised Code are 6509
hereby repealed. 6510

Section 3. The Surface Water Improvement Fund created in 6511
section 6111.0382 of the Revised Code, as enacted by this act, is 6512
a continuation of the Surface Water Improvement Fund (5Y30) 6513
established by the Controlling Board on August 18, 2008, and 6514
continued in Section 277.10 of Am. Sub. H.B. 1 of the 128th 6515
General Assembly. 6516

Section 4. Section 3737.88 of the Revised Code is presented 6517
in this act as a composite of the section as amended by both Am. 6518
Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. The 6519
General Assembly, applying the principle stated in division (B) of 6520
section 1.52 of the Revised Code that amendments are to be 6521
harmonized if reasonably capable of simultaneous operation, finds 6522
that the composite is the resulting version of the section in 6523
effect prior to the effective date of the section as presented in 6524
this act. 6525