

**As Reported by the Committee of Conference**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Am. Sub. H. B. No. 432**

**Representatives Webster, McGregor, Wolpert, Niehaus, Aslanides, Setzer,  
Flowers**

**Senators Spada, Armbruster, Jacobson**

**—**

**A B I L L**

To amend sections 3714.01, 3714.09, and 3734.02, to	1
enact new section 3714.07 and sections 3714.021,	2
3714.071, and 3714.072, and to repeal section	3
3714.07 of the Revised Code to replace the	4
construction and demolition debris facility	5
license fee with a fee on the disposal of	6
construction and demolition debris at construction	7
and demolition debris facilities and solid waste	8
facilities, to authorize the Director of	9
Environmental Protection to levy an additional	10
disposal fee at a construction and demolition	11
debris facility to pay for ground water monitoring	12
at construction and demolition debris facilities,	13
to require ground water monitoring at construction	14
and demolition debris facilities under certain	15
circumstances, to revise the definition of	16
"construction and demolition debris," and to	17
extend the term of hazardous waste facility	18
installation and operation permits from five to	19
ten years.	20

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

Section 1. That sections 3714.01, 3714.09, and 3734.02 be 21  
amended and new section 3714.07 and sections 3714.021, 3714.071, 22  
and 3714.072 of the Revised Code be enacted to read as follows: 23

Sec. 3714.01. As used in this chapter: 24

(A) "Board of health" means the board of health of a city or 25  
general health district or the authority having the duties of a 26  
board of health in any city as authorized by section 3709.05 of 27  
the Revised Code. 28

(B) "Closure" means either the time at which a construction 29  
and demolition debris facility will no longer accept construction 30  
and demolition debris for disposal or the effective date of an 31  
order revoking the license of the facility. ~~The term~~ "Closure" 32  
includes measures performed to protect public health or safety, to 33  
prevent air or water pollution, or to make the facility suitable 34  
for other uses, if any, including, without limitation, the 35  
establishment and maintenance of suitable cover of soil and 36  
vegetation over areas where construction and demolition debris is 37  
buried and the minimization of erosion, the infiltration of 38  
surface water into such areas, the production of leachate, and the 39  
accumulation and runoff of contaminated surface water. 40

(C) "Construction and demolition debris" means those 41  
materials resulting from the alteration, construction, 42  
destruction, rehabilitation, or repair of any ~~manmade~~ physical 43  
structure that is built by humans, including, without limitation, 44  
houses, buildings, industrial or commercial facilities, or 45  
roadways. "Construction and demolition debris" includes particles 46  
and dust created during demolition activities. "Construction and 47  
demolition debris" does not include materials identified or listed 48  
as solid wastes or hazardous waste pursuant to Chapter 3734. of 49  
the Revised Code and rules adopted under it; materials from mining 50

operations, nontoxic fly ash, spent nontoxic foundry sand, and 51  
slag; or reinforced or nonreinforced concrete, asphalt, building 52  
or paving brick, or building or paving stone that is stored for a 53  
period of less than two years for recycling into a usable 54  
construction material. 55

(D) "Disposal" means the discharge, deposit, injection, 56  
dumping, spilling, leaking, emitting, or placing of any 57  
construction and demolition debris into or on any land or ground 58  
or surface water or into the air, except if the disposition or 59  
placement constitutes storage. 60

(E) "Facility" means any site, location, tract of land, 61  
installation, or building used for the disposal of construction 62  
and demolition debris. "Facility" does not include any 63  
construction site where construction debris and trees and brush 64  
removed in clearing the construction site are used as fill 65  
material on the site where the materials are generated or removed 66  
and does not include any site where materials composed exclusively 67  
of reinforced or nonreinforced concrete, asphalt, clay tile, 68  
building or paving brick, or building or paving stone are used as 69  
fill material, either alone or in conjunction with clean soil, 70  
sand, gravel, or other clean aggregates, in legitimate fill 71  
operations for construction purposes or to bring the site up to a 72  
consistent grade. 73

(F) "Health district" means a city or general health district 74  
created by or under the authority of Chapter 3709. of the Revised 75  
Code. 76

(G) "Person" includes the state, any political subdivision of 77  
the state or other state or local body, the United States and any 78  
agency or instrumentality thereof, and any legal entity or 79  
organization defined as a person under section 1.59 of the Revised 80  
Code. 81

(H) "Storage" means the holding of construction and demolition debris for a temporary period in such a manner that it remains retrievable and substantially unchanged and, at the end of the period, is disposed of or reused or recycled in a beneficial manner.

Sec. 3714.021. (A) As used in this section, "working face" means the portion of a construction and demolition debris facility where construction and demolition debris is placed for final disposal.

(B) The owner or operator of a construction and demolition debris facility that is licensed under this chapter shall attempt to remove all solid wastes from construction and demolition debris prior to the disposal of the construction and demolition debris on the working face of the facility. Except as otherwise provided in this division, the existence of solid wastes on the working face of a construction and demolition debris facility does not constitute a violation of this chapter and rules adopted under it if both of the following apply:

(1) The wastes constitute not more than two cubic yards per one thousand cubic yards of construction and demolition debris or four cubic yards per one thousand tons of construction and demolition debris disposed of at the construction and demolition debris facility based on the amount of construction and demolition debris disposed of at the facility on the preceding full business day as determined by using the amount of disposal fees collected under section 3714.07 of the Revised Code for wastes disposed of at the facility on that preceding full business day.

(2) The owner or operator or the employees of the facility remove the solid wastes from the working face of the facility.

The existence of solid wastes on the working face of a

construction and demolition debris facility that is located within  
the boundaries of a sole source aquifer as described in division  
(B) of section 3714.03 of the Revised Code constitutes a violation  
of this chapter and rules adopted under it.

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(C) The board of health of the health district in which a  
construction and demolition debris facility is located, the  
director of environmental protection, or an authorized  
representative of either shall request the removal of specific,  
visible solid wastes that are located on the working face of a  
construction and demolition debris facility, and the owner or  
operator or the employees of the facility shall remove those solid  
wastes.

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**Sec. 3714.07.** (A)(1) For the purpose of assisting boards of  
health and the environmental protection agency in administering  
and enforcing this chapter and rules adopted under it, there is  
hereby levied on the disposal of construction and demolition  
debris at a construction and demolition debris facility that is  
licensed under this chapter or at a solid waste facility that is  
licensed under Chapter 3734. of the Revised Code a fee of thirty  
cents per cubic yard or sixty cents per ton, as applicable.

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

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construction and demolition debris that is transported to the  
facility for disposal.

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(3) The owner or operator of a construction and demolition  
debris facility or a solid waste facility shall collect the fee  
levied under division (A) of this section as a trustee for the  
health district having jurisdiction over the facility, if that  
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 at the facility and the  
total amount of money required to be collected on the construction  
and demolition debris disposed of during that month. 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  
money required to be collected on the construction and demolition  
debris disposed of during that month. 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.

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(4) Of the money that is collected from 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

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hereby created in each health district, and used solely to  
administer and enforce this chapter and rules adopted under it.

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

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(B) The board of health of a health district or the director  
may enter into an agreement with the owner or operator of a  
construction and demolition debris facility or a solid waste  
facility for the quarterly payment of the money collected from the  
disposal fee. The board of health shall notify the director of any  
such agreement. Not later than forty-five days after receipt of  
the quarterly payment, the board of health shall transmit the  
amount established in division (A)(5) of this section to the  
director. The money retained by the board of health shall be  
deposited in the special fund of the district as required under  
that division. Upon receipt of the money from a board of health,  
the director shall transmit the money to the treasurer of state to  
be credited to the construction and demolition debris facility  
oversight fund.

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(C) If a construction and demolition debris facility or a  
solid waste facility is located within the territorial boundaries  
of a municipal corporation or the unincorporated area of a  
township, the municipal corporation or township may appropriate up  
to four cents per cubic yard or up to eight cents per ton of the  
disposal fee required to be paid by the facility under division  
(A) of this section for the same purposes that a municipal

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corporation or township may levy a fee under division (C) of  
section 3734.57 of the Revised Code.

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

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

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The legislative authority of a municipal corporation or  
township may cease collecting money under this division by  
repealing the ordinance or resolution that was enacted or adopted  
under this division.

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(D) The board of county commissioners of a county in which a 238  
construction and demolition debris facility or a solid waste 239  
facility is located may appropriate up to three cents per cubic 240  
yard or up to six cents per ton of the disposal fee required to be 241  
paid by the facility under division (A) of this section for the 242  
same purposes that a solid waste management district may levy a 243  
fee under division (B) of section 3734.57 of the Revised Code. 244

The board of county commissioners may appropriate the money 245  
from the fee by adopting a resolution establishing the amount of 246  
the fee to be appropriated. Upon doing so, the board of county 247  
commissioners shall mail a certified copy of the resolution to the 248  
board of health of the health district in which the construction 249  
and demolition debris facility or the solid waste facility is 250  
located or, if the facility is located in a health district that 251  
is not on the approved list under section 3714.09 of the Revised 252  
Code, to the director. Upon receipt of the copy of the resolution 253  
and not later than forty-five days after receipt of money 254  
collected from the fee, the board of health or the director, as 255  
applicable, shall transmit to the treasurer of the county that 256  
portion of the money collected from the disposal fee by the owner 257  
or operator of the facility that is required by the resolution to 258  
be paid to that county. 259

Money received by a county treasurer under this division 260  
shall be paid into the general fund of the county. The county 261  
treasurer shall maintain separate records of the money received 262  
under this division. 263

A board of county commissioners may cease collecting money 264  
under this division by repealing the resolution that was adopted 265  
under this division. 266

(E)(1) This section does not apply to the disposal of 267  
construction and demolition debris at a solid waste facility that 268

is licensed under Chapter 3734. of the Revised Code if there is no 269  
construction and demolition debris facility licensed under this 270  
chapter within forty miles of the solid waste facility as 271  
determined by a facility's property boundaries. 272

(2) This section does not apply to the disposal of 273  
construction and demolition debris at a solid waste facility that 274  
is licensed under Chapter 3734. of the Revised Code if the owner 275  
or operator of the facility chooses to collect fees on the 276  
disposal of the construction and demolition debris that are 277  
identical to the fees that are collected under Chapters 343. and 278  
3734. of the Revised Code on the disposal of solid wastes at that 279  
facility. 280

**Sec. 3714.071.** (A) For the purpose of funding and conducting 281  
ground water monitoring at construction and demolition debris 282  
facilities by boards of health of health districts that are on the 283  
approved list under section 3714.09 of the Revised Code and the 284  
director of environmental protection, the director may adopt rules 285  
under Chapter 119. of the Revised Code for the purpose of levying 286  
a fee of not more than five cents per cubic yard or ten cents per 287  
ton on the disposal of construction and demolition debris at a 288  
construction and demolition debris facility that is licensed under 289  
this chapter. Such a fee shall be in addition to the fee that is 290  
levied under section 3714.07 of the Revised Code. If the director 291  
adopts rules under this section establishing a fee on the disposal 292  
of construction and demolition debris at a construction and 293  
demolition debris facility, the rules shall be subject to review 294  
every five years by the joint committee on agency rule review. 295

The owner or operator of a construction and demolition debris 296  
facility shall collect the fee levied under rules adopted under 297  
this section as a trustee for the health district having 298  
jurisdiction over the facility, if that district is on the 299

approved list under section 3714.09 of the Revised Code, or for  
the state. The owner or operator shall collect and remit the fee  
in the same manner that the fee levied under section 3714.07 of  
the Revised Code is collected and remitted.

The money collected by a board of health under this section  
shall be paid into a special fund, which is hereby created in each  
health district, and used solely to fund and conduct ground water  
monitoring at construction and demolition debris facilities within  
the health district as specified in division (B) of this section.  
Of the money that is collected, a board of health shall transmit  
eighty per cent of the money received from the owner or operator  
of a facility under this section to the director not later than  
forty-five days after the receipt of the money.

The director shall transmit all money received under this  
section to the treasurer of state to be credited to the  
construction and demolition debris facility ground water  
monitoring fund, which is hereby created in the state treasury.  
The director shall administer the fund and shall use money  
credited to it solely for the purposes specified in division (B)  
of this section.

(B) A board of health or the director, as applicable, shall  
conduct ground water monitoring at construction and demolition  
debris facilities in accordance with this section. In order to  
conduct the monitoring, the board or director, as applicable,  
shall pay for the installation of ground water monitoring wells,  
ground water sampling, and the laboratory analysis of the ground  
water samples at a construction and demolition debris facility in  
accordance with either of the following, as applicable:

(1) If the facility is operating before the effective date of  
this section and the facility has not had ground water monitoring  
wells installed and operating before that date, the board of

health or director, as applicable, shall pay the cost of the  
installation of one or more ground water monitoring wells and the  
annual sampling and laboratory analysis of the ground water at the  
facility.

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(2) If the facility is operating before the effective date of  
this section and the facility has had one or more ground water  
monitoring wells installed and operating before that date, the  
board of health or director, as applicable, shall pay the cost of  
the installation of one or more additional ground water monitoring  
wells and the annual sampling and laboratory analysis of the  
ground water at the facility that exceeds the facility's annual  
cost of ground water monitoring certified under division (C) of  
this section by the owner or operator of the facility.

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(C) For purposes of division (B)(2) of this section, the  
owner or operator of a construction and demolition debris facility  
that is operating before the effective date of this section and  
that has had ground water monitoring wells installed and has  
incurred monitoring costs before that date shall retain for three  
years all documents evidencing the cost of the ground water  
monitoring. If the board or director, as applicable, requests  
documents evidencing the cost of the ground water monitoring, the  
owner or operator of the facility shall certify to the board or  
director, as applicable, the annual cost of ground water  
monitoring at the facility.

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(D) A board of health or the director, as applicable, shall  
determine the priority of purchases for ground water monitoring  
and the payment of the costs of conducting monitoring of ground  
water as provided in division (B) of this section. However, a  
board of health or the director, as applicable, shall not purchase  
ground water monitoring wells or pay the costs of conducting  
monitoring of ground water if the applicable fund does not have  
sufficient money to pay those costs. The director shall consult

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with boards of health to determine the priority of ground water 363  
monitoring at construction and demolition debris facilities that 364  
are licensed under this chapter. 365

(E) The director may adopt rules in accordance with Chapter 366  
119. of the Revised Code that are necessary to administer this 367  
section. 368

(F) A board of health or the director, as applicable, may 369  
enter into contracts for the purpose of conducting ground water 370  
monitoring that is required in this section. 371

**Sec. 3714.072.** The owner or operator of a construction and 372  
demolition debris facility that is licensed under this chapter 373  
shall allow a board of health or the director of environmental 374  
protection, as applicable, to conduct ground water monitoring at 375  
the facility to detect negative impacts to ground water quality as 376  
provided in section 3714.071 of the Revised Code unless the 377  
director determines that it is unlikely that a negative impact to 378  
the public health or the environment would occur due to the 379  
physical characteristics of the location of the facility. 380

**Sec. 3714.09.** (A) The director of environmental protection 381  
shall place each health district that is on the approved list 382  
under division (A) or (B) of section 3734.08 of the Revised Code 383  
on the approved list for the purposes of issuing licenses under 384  
section 3714.06 of the Revised Code. Any survey or resurvey of any 385  
such health district conducted under section 3734.08 of the 386  
Revised Code shall also determine whether there is substantial 387  
compliance with this chapter. If the director removes any such 388  
health district from the approved list under division (B) of that 389  
section, ~~he~~ the director shall also remove the health district 390  
from the approved list under this division and shall administer 391  
and enforce this chapter in the health district until the health 392

district is placed on the approved list under division (B) of 393  
section 3734.08 of the Revised Code or division (B)(1) of this 394  
section. 395

(B)(1) Upon the request of the board of health of a health 396  
district that is not on the approved list under division (A) or 397  
(B) of section 3734.08 of the Revised Code, the director may place 398  
the board on the approved list for the purpose of licensing 399  
construction and demolition debris facilities under section 400  
3714.06 of the Revised Code if ~~he~~ the director determines that the 401  
board is both capable of and willing to enforce all of the 402  
applicable requirements of this chapter and rules adopted under 403  
it. 404

(2) The director shall annually survey each health district 405  
on the approved list under division (B)(1) of this section to 406  
determine whether there is substantial compliance with this 407  
chapter and rules adopted under it. Upon determining that there is 408  
substantial compliance, the director shall place the health 409  
district on the approved list under that division. The director 410  
shall make a resurvey when in ~~his~~ the director's opinion a 411  
resurvey is necessary and shall remove from the approved list 412  
under division (B)(1) of this section any health district not 413  
substantially complying with this chapter and rules adopted under 414  
it. 415

(3) If, after a survey or resurvey is made under division 416  
(B)(2) of this section, the director determines that a health 417  
district is not eligible to be placed on the approved list or to 418  
continue on that list, ~~he~~ the director shall certify that fact to 419  
the board of health of the health district and shall administer 420  
and enforce this chapter and rules adopted under it in the health 421  
district until such time as the health district is placed on the 422  
approved list. 423

(4) Whenever the director is required to administer and 424

enforce this chapter in any health district under division (A) or  
(B)(3) of this section, ~~he~~ the director is hereby vested with all  
of the authority and all the duties granted to or imposed upon a  
board of health under this chapter and rules adopted under it  
within the health district. All ~~construction and demolition debris~~  
~~facility license~~ disposal fees required to be paid to a board of  
health by section 3714.07 of the Revised Code and all such  
previous fees paid to the board, together with any money from  
construction and demolition debris facility license fees that were  
required to be paid to the board under section 3714.07 of the  
Revised Code as that section existed prior to the effective date  
of this amendment, that have not been expended or encumbered shall  
be paid to the director and ~~by him~~ deposited by the director to  
the credit of the construction and demolition debris facility  
oversight fund created in section 3714.07 of the Revised Code.

(C) Nothing in this chapter limits the authority of the  
director to initiate and pursue any administrative remedy or to  
request the attorney general, the prosecuting attorney of the  
appropriate county, or the city director of law of the appropriate  
city to initiate and pursue any appropriate judicial remedy  
available under this chapter to enforce any provision of this  
chapter and any rules or terms or conditions of any license or  
order adopted or issued under this chapter with respect to any  
construction and demolition debris facility regardless of whether  
the facility is located in a health district that is on the  
approved list under division (A) or (B)(1) or (2) of this section.

**Sec. 3734.02.** (A) The director of environmental protection,  
in accordance with Chapter 119. of the Revised Code, shall adopt  
and may amend, suspend, or rescind rules having uniform  
application throughout the state governing solid waste facilities  
and the inspections of and issuance of permits and licenses for

all solid waste facilities in order to ensure that the facilities 456  
will be located, maintained, and operated, and will undergo 457  
closure and post-closure care, in a sanitary manner so as not to 458  
create a nuisance, cause or contribute to water pollution, create 459  
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 460  
257.3-8, as amended. The rules may include, without limitation, 461  
financial assurance requirements for closure and post-closure care 462  
and corrective action and requirements for taking corrective 463  
action in the event of the surface or subsurface discharge or 464  
migration of explosive gases or leachate from a solid waste 465  
facility, or of ground water contamination resulting from the 466  
transfer or disposal of solid wastes at a facility, beyond the 467  
boundaries of any area within a facility that is operating or is 468  
undergoing closure or post-closure care where solid wastes were 469  
disposed of or are being disposed of. The rules shall not concern 470  
or relate to personnel policies, salaries, wages, fringe benefits, 471  
or other conditions of employment of employees of persons owning 472  
or operating solid waste facilities. The director, in accordance 473  
with Chapter 119. of the Revised Code, shall adopt and may amend, 474  
suspend, or rescind rules governing the issuance, modification, 475  
revocation, suspension, or denial of variances from the director's 476  
solid waste rules, including, without limitation, rules adopted 477  
under this chapter governing the management of scrap tires. 478

Variances shall be issued, modified, revoked, suspended, or 479  
rescinded in accordance with this division, rules adopted under 480  
it, and Chapter 3745. of the Revised Code. The director may order 481  
the person to whom a variance is issued to take such action within 482  
such time as the director may determine to be appropriate and 483  
reasonable to prevent the creation of a nuisance or a hazard to 484  
the public health or safety or the environment. Applications for 485  
variances shall contain such detail plans, specifications, and 486  
information regarding objectives, procedures, controls, and other 487  
pertinent data as the director may require. The director shall 488



grant a variance only if the applicant demonstrates to the  
director's satisfaction that construction and operation of the  
solid waste facility in the manner allowed by the variance and any  
terms or conditions imposed as part of the variance will not  
create a nuisance or a hazard to the public health or safety or  
the environment. In granting any variance, the director shall  
state the specific provision or provisions whose terms are to be  
varied and also shall state specific terms or conditions imposed  
upon the applicant in place of the provision or provisions. The  
director may hold a public hearing on an application for a  
variance or renewal of a variance at a location in the county  
where the operations that are the subject of the application for  
the variance are conducted. The director shall give not less than  
twenty days' notice of the hearing to the applicant by certified  
mail and shall publish at least one notice of the hearing in a  
newspaper with general circulation in the county where the hearing  
is to be held. The director shall make available for public  
inspection at the principal office of the environmental protection  
agency a current list of pending applications for variances and a  
current schedule of pending variance hearings. The director shall  
make a complete stenographic record of testimony and other  
evidence submitted at the hearing. Within ten days after the  
hearing, the director shall make a written determination to issue,  
renew, or deny the variance and shall enter the determination and  
the basis for it into the record of the hearing. The director  
shall issue, renew, or deny an application for a variance or  
renewal of a variance within six months of the date upon which the  
director receives a complete application with all pertinent  
information and data required. No variance shall be issued,  
revoked, modified, or denied until the director has considered the  
relative interests of the applicant, other persons and property  
affected by the variance, and the general public. Any variance  
granted under this division shall be for a period specified by the

director and may be renewed from time to time on such terms and  
for such periods as the director determines to be appropriate. No  
application shall be denied and no variance shall be revoked or  
modified without a written order stating the findings upon which  
the denial, revocation, or modification is based. A copy of the  
order shall be sent to the applicant or variance holder by  
certified mail.

(B) The director shall prescribe and furnish the forms  
necessary to administer and enforce this chapter. The director may  
cooperate with and enter into agreements with other state, local,  
or federal agencies to carry out the purposes of this chapter. The  
director may exercise all incidental powers necessary to carry out  
the purposes of this chapter.

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

(C) Except as provided in this division and divisions (N)(2)  
and (3) of this section, no person shall establish a new solid  
waste facility or infectious waste treatment facility, or modify

an existing solid waste facility or infectious waste treatment 554  
facility, without submitting an application for a permit with 555  
accompanying detail plans, specifications, and information 556  
regarding the facility and method of operation and receiving a 557  
permit issued by the director, except that no permit shall be 558  
required under this division to install or operate a solid waste 559  
facility for sewage sludge treatment or disposal when the 560  
treatment or disposal is authorized by a current permit issued 561  
under Chapter 3704. or 6111. of the Revised Code. 562

No person shall continue to operate a solid waste facility 563  
for which the director has denied a permit for which an 564  
application was required under division (A)(3) of section 3734.05 565  
of the Revised Code, or for which the director has disapproved 566  
plans and specifications required to be filed by an order issued 567  
under division (A)(5) of that section, after the date prescribed 568  
for commencement of closure of the facility in the order issued 569  
under division (A)(6) of section 3734.05 of the Revised Code 570  
denying the permit application or approval. 571

On and after the effective date of the rules adopted under 572  
division (A) of this section and division (D) of section 3734.12 573  
of the Revised Code governing solid waste transfer facilities, no 574  
person shall establish a new, or modify an existing, solid waste 575  
transfer facility without first submitting an application for a 576  
permit with accompanying engineering detail plans, specifications, 577  
and information regarding the facility and its method of operation 578  
to the director and receiving a permit issued by the director. 579

No person shall establish a new compost facility or continue 580  
to operate an existing compost facility that accepts exclusively 581  
source separated yard wastes without submitting a completed 582  
registration for the facility to the director in accordance with 583  
rules adopted under divisions (A) and (N)(3) of this section. 584

This division does not apply to an infectious waste treatment facility that meets any of the following conditions:

(1) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

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

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

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

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

TYPE OF BASIC			
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	
Storage facility using:			
Containers	On-site, off-site, and		
	satellite	\$ 500	
Tanks	On-site, off-site, and		
	satellite	500	

Waste pile	On-site, off-site, and		677
	satellite	3,000	678
Surface impoundment	On-site and satellite	8,000	679
	Off-site	10,000	680
Disposal facility using:			681
Deep well injection	On-site and satellite	15,000	682
	Off-site	25,000	683
Landfill	On-site and satellite	25,000	684
	Off-site	40,000	685
Land application	On-site and satellite	2,500	686
	Off-site	5,000	687
Surface impoundment	On-site and satellite	10,000	688
	Off-site	20,000	689
Treatment facility using:			690
Tanks	On-site, off-site, and		691
	satellite	700	692
Surface impoundment	On-site and satellite	8,000	693
	Off-site	10,000	694
Incinerator	On-site and satellite	5,000	695
	Off-site	10,000	696
Other forms			697
of treatment	On-site, off-site, and		698
	satellite	1,000	699

A hazardous waste disposal facility that disposes of 700  
hazardous waste by deep well injection and that pays the annual 701  
permit fee established in section 6111.046 of the Revised Code is 702  
not subject to the permit fee established in this division for 703  
disposal facilities using deep well injection unless the director 704  
determines that the facility is not in compliance with applicable 705  
requirements established under this chapter and rules adopted 706  
under it. 707

In determining the annual permit fee required by this 708

section, the director shall not require additional payments for 709  
multiple units of the same method of storage, treatment, or 710  
disposal or for individual units that are used for both storage 711  
and treatment. A facility using more than one method of storage, 712  
treatment, or disposal shall pay the permit fee indicated by the 713  
schedule for each such method. 714

The director shall not require the payment of that portion of 715  
an annual permit fee of any permit holder that would apply to a 716  
hazardous waste management unit for which a permit has been 717  
issued, but for which construction has not yet commenced. Once 718  
construction has commenced, the director shall require the payment 719  
of a part of the appropriate fee indicated by the schedule that 720  
bears the same relationship to the total fee that the number of 721  
days remaining until the next anniversary date at which payment of 722  
the annual permit fee is due bears to three hundred sixty-five. 723

The director, by rules adopted in accordance with Chapters 724  
119. and 3745. of the Revised Code, shall prescribe procedures for 725  
collecting the annual permit fee established by this division and 726  
may prescribe other requirements necessary to carry out this 727  
division. 728

(3) The prohibition against establishing or operating a 729  
hazardous waste facility without a hazardous waste facility 730  
installation and operation permit does not apply to either of the 731  
following: 732

(a) A facility that is operating in accordance with a permit 733  
renewal issued under division (H) of section 3734.05 of the 734  
Revised Code, a revision issued under division (I) of that section 735  
as it existed prior to August 20, 1996, or a modification issued 736  
by the director under division (I) of that section on and after 737  
August 20, 1996; 738

(b) Except as provided in division (J) of section 3734.05 of 739



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

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

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

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

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

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

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

(5) A hazardous waste facility as described in division 771  
(E)(3)(a) or (b) of this section. 772

(G) The director, by order, may exempt any person generating, 773  
collecting, storing, treating, disposing of, or transporting solid 774  
wastes or hazardous waste, or processing solid wastes that consist 775  
of scrap tires, in such quantities or under such circumstances 776  
that, in the determination of the director, are unlikely to 777  
adversely affect the public health or safety or the environment 778  
from any requirement to obtain a registration certificate, permit, 779  
or license or comply with the manifest system or other 780  
requirements of this chapter. Such an exemption shall be 781  
consistent with and equivalent to any regulations adopted by the 782  
administrator of the United States environmental protection agency 783  
under the "Resource Conservation and Recovery Act of 1976," 90 784  
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 785  
provided in this chapter. 786

(H) No person shall engage in filling, grading, excavating, 787  
building, drilling, or mining on land where a hazardous waste 788  
facility, or a solid waste facility, was operated without prior 789  
authorization from the director, who shall establish the procedure 790  
for granting such authorization by rules adopted in accordance 791  
with Chapter 119. of the Revised Code. 792

A public utility that has main or distribution lines above or 793  
below the land surface located on an easement or right-of-way 794  
across land where a solid waste facility was operated may engage 795  
in any such activity within the easement or right-of-way without 796  
prior authorization from the director for purposes of performing 797  
emergency repair or emergency replacement of its lines; of the 798  
poles, towers, foundations, or other structures supporting or 799  
sustaining any such lines; or of the appurtenances to those 800  
structures, necessary to restore or maintain existing public 801  
utility service. A public utility may enter upon any such easement 802

or right-of-way without prior authorization from the director for  
purposes of performing necessary or routine maintenance of those  
portions of its existing lines; of the existing poles, towers,  
foundations, or other structures sustaining or supporting its  
lines; or of the appurtenances to any such supporting or  
sustaining structure, located on or above the land surface on any  
such easement or right-of-way. Within twenty-four hours after  
commencing any such emergency repair, replacement, or maintenance  
work, the public utility shall notify the director or the  
director's authorized representative of those activities and shall  
provide such information regarding those activities as the  
director or the director's representative may request. Upon  
completion of the emergency repair, replacement, or maintenance  
activities, the public utility shall restore any land of the solid  
waste facility disturbed by those activities to the condition  
existing prior to the commencement of those activities.

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

(J) Notwithstanding any other provision of this chapter, in  
the event the director finds an imminent and substantial danger to  
public health or safety or the environment that creates an  
emergency situation requiring the immediate treatment, storage, or  
disposal of hazardous waste, the director may issue a temporary  
emergency permit to allow the treatment, storage, or disposal of  
the hazardous waste at a facility that is not otherwise authorized  
by a hazardous waste facility installation and operation permit to

treat, store, or dispose of the waste. The emergency permit shall  
not exceed ninety days in duration and shall not be renewed. The  
director shall adopt, and may amend, suspend, or rescind, rules in  
accordance with Chapter 119. of the Revised Code governing the  
issuance, modification, revocation, and denial of emergency  
permits.

(K) No owner or operator of a sanitary landfill shall  
knowingly accept for disposal, or dispose of, any infectious  
wastes, other than those subject to division (A)(1)(c) of section  
3734.021 of the Revised Code, that have not been treated to render  
them noninfectious. For the purposes of this division,  
certification by the owner or operator of the treatment facility  
where the wastes were treated on the shipping paper required by  
rules adopted under division (D)(2) of that section creates a  
rebuttable presumption that the wastes have been so treated.

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

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

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

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

(4) Persons who successfully complete the course shall be 866  
certified by the director; 867

(5) Certification shall be required for all employees of 868  
boards of health who are responsible for enforcing the solid waste 869  
or infectious waste provisions of this chapter and rules adopted 870  
under them and for all persons who are responsible for the 871  
operation of solid waste facilities or infectious waste treatment 872  
facilities; 873

(6)(a) All employees of a board of health who, on the 874  
effective date of the rules adopted under this division, are 875  
responsible for enforcing the solid waste or infectious waste 876  
provisions of this chapter and the rules adopted under them shall 877  
complete the course and be certified by the director not later 878  
than January 1, 1995; 879

(b) All employees of a board of health who, after the 880  
effective date of the rules adopted under division (L) of this 881  
section, become responsible for enforcing the solid waste or 882  
infectious waste provisions of this chapter and rules adopted 883  
under them and who do not hold a current and valid certification 884  
from the director at that time shall complete the course and be 885  
certified by the director within two years after becoming 886  
responsible for performing those activities. 887

No person shall fail to obtain the certification required 888  
under this division. 889

(M) The director shall not issue a permit under section 890  
3734.05 of the Revised Code to establish a solid waste facility, 891  
or to modify a solid waste facility operating on December 21, 892  
1988, in a manner that expands the disposal capacity or geographic 893  
area covered by the facility, that is or is to be located within 894  
the boundaries of a state park established or dedicated under 895  
Chapter 1541. of the Revised Code, a state park purchase area 896

established under section 1541.02 of the Revised Code, any unit of 897  
the national park system, or any property that lies within the 898  
boundaries of a national park or recreation area, but that has not 899  
been acquired or is not administered by the secretary of the 900  
United States department of the interior, located in this state, 901  
or any candidate area located in this state and identified for 902  
potential inclusion in the national park system in the edition of 903  
the "national park system plan" submitted under paragraph (b) of 904  
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 905  
U.S.C.A. 1a-5, as amended, current at the time of filing of the 906  
application for the permit, unless the facility or proposed 907  
facility is or is to be used exclusively for the disposal of solid 908  
wastes generated within the park or recreation area and the 909  
director determines that the facility or proposed facility will 910  
not degrade any of the natural or cultural resources of the park 911  
or recreation area. The director shall not issue a variance under 912  
division (A) of this section and rules adopted under it, or issue 913  
an exemption order under division (G) of this section, that would 914  
authorize any such establishment or expansion of a solid waste 915  
facility within the boundaries of any such park or recreation 916  
area, state park purchase area, or candidate area, other than a 917  
solid waste facility exclusively for the disposal of solid wastes 918  
generated within the park or recreation area when the director 919  
determines that the facility will not degrade any of the natural 920  
or cultural resources of the park or recreation area. 921

(N)(1) The rules adopted under division (A) of this section, 922  
other than those governing variances, do not apply to scrap tire 923  
collection, storage, monocell, monofill, and recovery facilities. 924  
Those facilities are subject to and governed by rules adopted 925  
under sections 3734.70 to 3734.73 of the Revised Code, as 926  
applicable. 927

(2) Division (C) of this section does not apply to scrap tire 928

collection, storage, monocell, monofill, and recovery facilities. 929  
The establishment and modification of those facilities are subject 930  
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 931  
Code, as applicable. 932

(3) The director may adopt, amend, suspend, or rescind rules 933  
under division (A) of this section creating an alternative system 934  
for authorizing the establishment, operation, or modification of a 935  
solid waste compost facility in lieu of the requirement that a 936  
person seeking to establish, operate, or modify a solid waste 937  
compost facility apply for and receive a permit under division (C) 938  
of this section and section 3734.05 of the Revised Code and a 939  
license under division (A)(1) of that section. The rules may 940  
include requirements governing, without limitation, the 941  
classification of solid waste compost facilities, the submittal of 942  
operating records for solid waste compost facilities, and the 943  
creation of a registration or notification system in lieu of the 944  
issuance of permits and licenses for solid waste compost 945  
facilities. The rules shall specify the applicability of divisions 946  
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 947  
Code to a solid waste compost facility. 948

**Section 2.** That existing sections 3714.01, 3714.09, and 949  
3734.02 and section 3714.07 of the Revised Code are hereby 950  
repealed. 951

**Section 3.** The Construction and Demolition Debris Facility 952  
Oversight Fund that is created in section 3714.07 of the Revised 953  
Code, as enacted by this act, is a continuation of the 954  
Construction and Demolition Debris Facility Oversight Fund that 955  
was created in section 3714.07 of the Revised Code, as repealed by 956  
this act. Money credited to the Fund under former section 3714.07 957  
of the Revised Code shall be used for the purposes specified in 958

section 3714.07 of the Revised Code, as enacted by this act. 959

**Section 4.** The term of ten years for a hazardous waste 960  
facility installation and operation permit that is established in 961  
section 3734.02 of the Revised Code, as amended by this act, 962  
applies to initial and renewal permits that are issued on or after 963  
the effective date of this act. 964