

As Reported by the Committee of Conference

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Am. Sub. H. B. No. 432

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

Senators Spada, Armbruster, Jacobson

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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 143
facility for disposal. 144

(3) The owner or operator of a construction and demolition 145
debris facility or a solid waste facility shall collect the fee 146
levied under division (A) of this section as a trustee for the 147
health district having jurisdiction over the facility, if that 148
district is on the approved list under section 3714.09 of the 149
Revised Code, or for the state. The owner or operator shall 150
prepare and file with the appropriate board of health or the 151
director of environmental protection monthly returns indicating 152
the total volume or weight, as applicable, of construction and 153
demolition debris received for disposal at the facility and the 154
total amount of money required to be collected on the construction 155
and demolition debris disposed of during that month. Not later 156
than thirty days after the last day of the month to which the 157
return applies, the owner or operator shall mail to the board of 158
health or the director the return for that month together with the 159
money required to be collected on the construction and demolition 160
debris disposed of during that month. The owner or operator may 161
request, in writing, an extension of not more than thirty days 162
after the last day of the month to which the return applies. A 163
request for extension may be denied. If the owner or operator 164
submits the money late, the owner or operator shall pay a penalty 165
of ten per cent of the amount of the money due for each month that 166
it is late. 167

(4) Of the money that is collected from a construction and 168
demolition debris facility or a solid waste facility on a per 169
cubic yard or per ton basis under this section, a board of health 170
shall transmit three cents per cubic yard or six cents per ton, as 171
applicable, to the director not later than forty-five days after 172
the receipt of the money. The money retained by a board of health 173
under this section shall be paid into a special fund, which is 174

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 207
section 3734.57 of the Revised Code. 208

The legislative authority of the municipal corporation or 209
township may appropriate the money from the fee by enacting an 210
ordinance or adopting a resolution establishing the amount of the 211
fee to be appropriated. Upon doing so, the legislative authority 212
shall mail a certified copy of the ordinance or resolution to the 213
board of health of the health district in which the construction 214
and demolition debris facility or the solid waste facility is 215
located or, if the facility is located in a health district that 216
is not on the approved list under section 3714.09 of the Revised 217
Code, to the director. Upon receipt of the copy of the ordinance 218
or resolution and not later than forty-five days after receipt of 219
money collected from the fee, the board or the director, as 220
applicable, shall transmit to the treasurer or other appropriate 221
officer of the municipal corporation or clerk of the township that 222
portion of the money collected from the disposal fee by the owner 223
or operator of the facility that is required by the ordinance or 224
resolution to be paid to that municipal corporation or township. 225

Money received by the treasurer or other appropriate officer 226
of a municipal corporation under this division shall be paid into 227
the general fund of the municipal corporation. Money received by 228
the clerk of a township under this division shall be paid into the 229
general fund of the township. The treasurer or other officer of 230
the municipal corporation or the clerk of the township, as 231
appropriate, shall maintain separate records of the money received 232
under this division. 233

The legislative authority of a municipal corporation or 234
township may cease collecting money under this division by 235
repealing the ordinance or resolution that was enacted or adopted 236
under this division. 237

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six 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 solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the 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 resolution and not later than forty-five days after receipt of money collected from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

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

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

(E)(1) 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 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 300
the state. The owner or operator shall collect and remit the fee 301
in the same manner that the fee levied under section 3714.07 of 302
the Revised Code is collected and remitted. 303

The money collected by a board of health under this section 304
shall be paid into a special fund, which is hereby created in each 305
health district, and used solely to fund and conduct ground water 306
monitoring at construction and demolition debris facilities within 307
the health district as specified in division (B) of this section. 308
Of the money that is collected, a board of health shall transmit 309
eighty per cent of the money received from the owner or operator 310
of a facility under this section to the director not later than 311
forty-five days after the receipt of the money. 312

The director shall transmit all money received under this 313
section to the treasurer of state to be credited to the 314
construction and demolition debris facility ground water 315
monitoring fund, which is hereby created in the state treasury. 316
The director shall administer the fund and shall use money 317
credited to it solely for the purposes specified in division (B) 318
of this section. 319

(B) A board of health or the director, as applicable, shall 320
conduct ground water monitoring at construction and demolition 321
debris facilities in accordance with this section. In order to 322
conduct the monitoring, the board or director, as applicable, 323
shall pay for the installation of ground water monitoring wells, 324
ground water sampling, and the laboratory analysis of the ground 325
water samples at a construction and demolition debris facility in 326
accordance with either of the following, as applicable: 327

(1) If the facility is operating before the effective date of 328
this section and the facility has not had ground water monitoring 329
wells installed and operating before that date, the board of 330

health or director, as applicable, shall pay the cost of the 331
installation of one or more ground water monitoring wells and the 332
annual sampling and laboratory analysis of the ground water at the 333
facility. 334

(2) If the facility is operating before the effective date of 335
this section and the facility has had one or more ground water 336
monitoring wells installed and operating before that date, the 337
board of health or director, as applicable, shall pay the cost of 338
the installation of one or more additional ground water monitoring 339
wells and the annual sampling and laboratory analysis of the 340
ground water at the facility that exceeds the facility's annual 341
cost of ground water monitoring certified under division (C) of 342
this section by the owner or operator of the facility. 343

(C) For purposes of division (B)(2) of this section, the 344
owner or operator of a construction and demolition debris facility 345
that is operating before the effective date of this section and 346
that has had ground water monitoring wells installed and has 347
incurred monitoring costs before that date shall retain for three 348
years all documents evidencing the cost of the ground water 349
monitoring. If the board or director, as applicable, requests 350
documents evidencing the cost of the ground water monitoring, the 351
owner or operator of the facility shall certify to the board or 352
director, as applicable, the annual cost of ground water 353
monitoring at the facility. 354

(D) A board of health or the director, as applicable, shall 355
determine the priority of purchases for ground water monitoring 356
and the payment of the costs of conducting monitoring of ground 357
water as provided in division (B) of this section. However, a 358
board of health or the director, as applicable, shall not purchase 359
ground water monitoring wells or pay the costs of conducting 360
monitoring of ground water if the applicable fund does not have 361
sufficient money to pay those costs. The director shall consult 362

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 425
(B)(3) of this section, ~~he~~ the director is hereby vested with all 426
of the authority and all the duties granted to or imposed upon a 427
board of health under this chapter and rules adopted under it 428
within the health district. All ~~construction and demolition debris~~ 429
~~facility license~~ disposal fees required to be paid to a board of 430
health by section 3714.07 of the Revised Code and all such 431
previous fees paid to the board, together with any money from 432
construction and demolition debris facility license fees that were 433
required to be paid to the board under section 3714.07 of the 434
Revised Code as that section existed prior to the effective date 435
of this amendment, that have not been expended or encumbered shall 436
be paid to the director and ~~by him~~ deposited by the director to 437
the credit of the construction and demolition debris facility 438
oversight fund created in section 3714.07 of the Revised Code. 439

(C) Nothing in this chapter limits the authority of the 440
director to initiate and pursue any administrative remedy or to 441
request the attorney general, the prosecuting attorney of the 442
appropriate county, or the city director of law of the appropriate 443
city to initiate and pursue any appropriate judicial remedy 444
available under this chapter to enforce any provision of this 445
chapter and any rules or terms or conditions of any license or 446
order adopted or issued under this chapter with respect to any 447
construction and demolition debris facility regardless of whether 448
the facility is located in a health district that is on the 449
approved list under division (A) or (B)(1) or (2) of this section. 450

Sec. 3734.02. (A) The director of environmental protection, 451
in accordance with Chapter 119. of the Revised Code, shall adopt 452
and may amend, suspend, or rescind rules having uniform 453
application throughout the state governing solid waste facilities 454
and the inspections of and issuance of permits and licenses for 455

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 489
director's satisfaction that construction and operation of the 490
solid waste facility in the manner allowed by the variance and any 491
terms or conditions imposed as part of the variance will not 492
create a nuisance or a hazard to the public health or safety or 493
the environment. In granting any variance, the director shall 494
state the specific provision or provisions whose terms are to be 495
varied and also shall state specific terms or conditions imposed 496
upon the applicant in place of the provision or provisions. The 497
director may hold a public hearing on an application for a 498
variance or renewal of a variance at a location in the county 499
where the operations that are the subject of the application for 500
the variance are conducted. The director shall give not less than 501
twenty days' notice of the hearing to the applicant by certified 502
mail and shall publish at least one notice of the hearing in a 503
newspaper with general circulation in the county where the hearing 504
is to be held. The director shall make available for public 505
inspection at the principal office of the environmental protection 506
agency a current list of pending applications for variances and a 507
current schedule of pending variance hearings. The director shall 508
make a complete stenographic record of testimony and other 509
evidence submitted at the hearing. Within ten days after the 510
hearing, the director shall make a written determination to issue, 511
renew, or deny the variance and shall enter the determination and 512
the basis for it into the record of the hearing. The director 513
shall issue, renew, or deny an application for a variance or 514
renewal of a variance within six months of the date upon which the 515
director receives a complete application with all pertinent 516
information and data required. No variance shall be issued, 517
revoked, modified, or denied until the director has considered the 518
relative interests of the applicant, other persons and property 519
affected by the variance, and the general public. Any variance 520
granted under this division shall be for a period specified by the 521

director and may be renewed from time to time on such terms and 522
for such periods as the director determines to be appropriate. No 523
application shall be denied and no variance shall be revoked or 524
modified without a written order stating the findings upon which 525
the denial, revocation, or modification is based. A copy of the 526
order shall be sent to the applicant or variance holder by 527
certified mail. 528

(B) The director shall prescribe and furnish the forms 529
necessary to administer and enforce this chapter. The director may 530
cooperate with and enter into agreements with other state, local, 531
or federal agencies to carry out the purposes of this chapter. The 532
director may exercise all incidental powers necessary to carry out 533
the purposes of this chapter. 534

The director may use moneys in the infectious waste 535
management fund created in section 3734.021 of the Revised Code 536
exclusively for administering and enforcing the provisions of this 537
chapter governing the management of infectious wastes. Of each 538
registration and renewal fee collected under rules adopted under 539
division (A)(2)(a) of section 3734.021 or under section 3734.022 540
of the Revised Code, the director, within forty-five days of its 541
receipt, shall remit from the fund one-half of the fee received to 542
the board of health of the health district in which the registered 543
premises is located, or, in the instance of an infectious wastes 544
transporter, to the board of health of the health district in 545
which the transporter's principal place of business is located. 546
However, if the board of health having jurisdiction over a 547
registrant's premises or principal place of business is not on the 548
approved list under section 3734.08 of the Revised Code, the 549
director shall not make that payment to the board of health. 550

(C) Except as provided in this division and divisions (N)(2) 551
and (3) of this section, no person shall establish a new solid 552
waste facility or infectious waste treatment facility, or modify 553

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 645
of any hazardous waste, without a hazardous waste facility 646
installation and operation permit issued in accordance with 647
section 3734.05 of the Revised Code and subject to the payment of 648
an application fee not to exceed one thousand five hundred 649
dollars, payable upon application for a hazardous waste facility 650
installation and operation permit and upon application for a 651
renewal permit issued under division (H) of section 3734.05 of the 652
Revised Code, to be credited to the hazardous waste facility 653
management fund created in section 3734.18 of the Revised Code. 654
The term of a hazardous waste facility installation and operation 655
permit shall not exceed ~~five~~ ten years. 656

In addition to the application fee, there is hereby levied an 657
annual permit fee to be paid by the permit holder upon the 658
anniversaries of the date of issuance of the hazardous waste 659
facility installation and operation permit and of any subsequent 660
renewal permits and to be credited to the hazardous waste facility 661
management fund. Annual permit fees totaling forty thousand 662
dollars or more for any one facility may be paid on a quarterly 663
basis with the first quarterly payment each year being due on the 664
anniversary of the date of issuance of the hazardous waste 665
facility installation and operation permit and of any subsequent 666
renewal permits. The annual permit fee shall be determined for 667
each permit holder by the director in accordance with the 668
following schedule: 669

TYPE OF BASIC				670
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	671
Storage facility using:				672
Containers	On-site, off-site, and			673
	satellite		\$ 500	674
Tanks	On-site, off-site, and			675
	satellite		500	676

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 803
purposes of performing necessary or routine maintenance of those 804
portions of its existing lines; of the existing poles, towers, 805
foundations, or other structures sustaining or supporting its 806
lines; or of the appurtenances to any such supporting or 807
sustaining structure, located on or above the land surface on any 808
such easement or right-of-way. Within twenty-four hours after 809
commencing any such emergency repair, replacement, or maintenance 810
work, the public utility shall notify the director or the 811
director's authorized representative of those activities and shall 812
provide such information regarding those activities as the 813
director or the director's representative may request. Upon 814
completion of the emergency repair, replacement, or maintenance 815
activities, the public utility shall restore any land of the solid 816
waste facility disturbed by those activities to the condition 817
existing prior to the commencement of those activities. 818

(I) No owner or operator of a hazardous waste facility, in 819
the operation of the facility, shall cause, permit, or allow the 820
emission therefrom of any particulate matter, dust, fumes, gas, 821
mist, smoke, vapor, or odorous substance that, in the opinion of 822
the director, unreasonably interferes with the comfortable 823
enjoyment of life or property by persons living or working in the 824
vicinity of the facility, or that is injurious to public health. 825
Any such action is hereby declared to be a public nuisance. 826

(J) Notwithstanding any other provision of this chapter, in 827
the event the director finds an imminent and substantial danger to 828
public health or safety or the environment that creates an 829
emergency situation requiring the immediate treatment, storage, or 830
disposal of hazardous waste, the director may issue a temporary 831
emergency permit to allow the treatment, storage, or disposal of 832
the hazardous waste at a facility that is not otherwise authorized 833
by a hazardous waste facility installation and operation permit to 834

treat, store, or dispose of the waste. The emergency permit shall 835
not exceed ninety days in duration and shall not be renewed. The 836
director shall adopt, and may amend, suspend, or rescind, rules in 837
accordance with Chapter 119. of the Revised Code governing the 838
issuance, modification, revocation, and denial of emergency 839
permits. 840

(K) No owner or operator of a sanitary landfill shall 841
knowingly accept for disposal, or dispose of, any infectious 842
wastes, other than those subject to division (A)(1)(c) of section 843
3734.021 of the Revised Code, that have not been treated to render 844
them noninfectious. For the purposes of this division, 845
certification by the owner or operator of the treatment facility 846
where the wastes were treated on the shipping paper required by 847
rules adopted under division (D)(2) of that section creates a 848
rebuttable presumption that the wastes have been so treated. 849

(L) The director, in accordance with Chapter 119. of the 850
Revised Code, shall adopt, and may amend, suspend, or rescind, 851
rules having uniform application throughout the state establishing 852
a training and certification program that shall be required for 853
employees of boards of health who are responsible for enforcing 854
the solid waste and infectious waste provisions of this chapter 855
and rules adopted under them and for persons who are responsible 856
for the operation of solid waste facilities or infectious waste 857
treatment facilities. The rules shall provide all of the 858
following, without limitation: 859

(1) The program shall be administered by the director and 860
shall consist of a course on new solid waste and infectious waste 861
technologies, enforcement procedures, and rules; 862

(2) The course shall be offered on an annual basis; 863

(3) Those persons who are required to take the course under 864
division (L) of this section shall do so triennially; 865

(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