

AN ACT

To amend sections 3714.01, 3714.09, and 3734.02, to enact new section 3714.07 and sections 3714.021, 3714.071, and 3714.072, and to repeal section 3714.07 of the Revised Code to replace the construction and demolition debris facility license fee with a fee on the disposal of construction and demolition debris at construction and demolition debris facilities and solid waste facilities, to authorize the Director of Environmental Protection to levy an additional disposal fee at a construction and demolition debris facility to pay for ground water monitoring at construction and demolition debris facilities, to require ground water monitoring at construction and demolition debris facilities under certain circumstances, to revise the definition of "construction and demolition debris," and to extend the term of hazardous waste facility installation and operation permits from five to ten years.

Be it enacted by the General Assembly of the State of Ohio:

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

Sec. 3714.01. As used in this chapter:

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

(B) "Closure" means either the time at which a construction and demolition debris facility will no longer accept construction and demolition debris for disposal or the effective date of an order revoking the license of the facility. ~~The term~~ "Closure" includes measures performed to protect

public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, without limitation, the establishment and maintenance of suitable cover of soil and vegetation over areas where construction and demolition debris is buried and the minimization of erosion, the infiltration of surface water into such areas, the production of leachate, and the accumulation and runoff of contaminated surface water.

(C) "Construction and demolition debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any ~~manmade~~ physical structure that is built by humans, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. "Construction and demolition debris" includes particles and dust created during demolition activities. "Construction and demolition debris" does not include materials identified or listed as solid wastes or hazardous waste pursuant to Chapter 3734. of the Revised Code and rules adopted under it; materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag; or reinforced or nonreinforced concrete, asphalt, building or paving brick, or building or paving stone that is stored for a period of less than two years for recycling into a usable construction material.

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

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

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

(G) "Person" includes the state, any political subdivision of the state or other state or local body, the United States and any agency or instrumentality thereof, and any legal entity or organization defined as a

person under section 1.59 of the Revised Code.

(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.

(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.

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.

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

(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.

(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 hereby created in each health district, and used solely to administer and enforce this chapter

and rules adopted under it.

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.

(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.

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

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.

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.

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.

(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 construction and demolition debris facility licensed under this chapter within forty miles of the solid waste facility as determined by a facility's property boundaries.

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

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

The owner or operator of a construction and demolition debris facility shall collect the fee levied under rules adopted under 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 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.

(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.

(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.

(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 with boards

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

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

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

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

Sec. 3714.09. (A) The director of environmental protection shall place each health district that is on the approved list under division (A) or (B) of section 3734.08 of the Revised Code on the approved list for the purposes of issuing licenses under section 3714.06 of the Revised Code. Any survey or resurvey of any such health district conducted under section 3734.08 of the Revised Code shall also determine whether there is substantial compliance with this chapter. If the director removes any such health district from the approved list under division (B) of that section, ~~he~~ the director shall also remove the health district from the approved list under this division and shall administer and enforce this chapter in the health district until the health district is placed on the approved list under division (B) of section 3734.08 of the Revised Code or division (B)(1) of this section.

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

(2) The director shall annually survey each health district on the approved list under division (B)(1) of this section to determine whether there is substantial compliance with this chapter and rules adopted under it. Upon determining that there is substantial compliance, the director shall place the health district on the approved list under that division. The director

shall make a resurvey when in ~~his~~ the director's opinion a resurvey is necessary and shall remove from the approved list under division (B)(1) of this section any health district not substantially complying with this chapter and rules adopted under it.

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

(4) Whenever the director is required to administer and 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~~ 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 will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance,

cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail 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 facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

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

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

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

This division does not apply to 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 satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000

Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
	Surface impoundment	
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	10,000
Other forms of treatment	On-site, off-site, and satellite	1,000

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

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

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

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

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

(a) A facility that is operating in accordance with a permit renewal

issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

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

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

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

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

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

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

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

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the

environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

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

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

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

action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) 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 certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste

provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

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

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

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

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park

purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

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

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

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

SECTION 2. That existing sections 3714.01, 3714.09, and 3734.02 and section 3714.07 of the Revised Code are hereby repealed.

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

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

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____