

As Passed by the Senate

125th General Assembly

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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
section 3734.57 of the Revised Code.

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

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

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

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(D) The board of county commissioners of a county in which a 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.

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(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.

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Sec. 3714.071. (A) The director of environmental protection
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 cubic 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 two years by the joint committee
on agency rule review.

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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

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the Revised Code is collected and remitted. 300

A board of health shall transmit the money received from the 301
owner or operator of a facility under this section to the director 302
of environmental protection not later than forty-five days after 303
the receipt of the money. The director shall transmit all money so 304
received to the treasurer of state to be credited to the 305
construction and demolition debris facility ground water 306
monitoring fund, which is hereby created in the state treasury. 307
The director shall administer the fund and shall use money 308
credited to it solely for the purposes specified in division (B) 309
of this section. 310

(B) The director shall purchase ground water monitoring 311
equipment for and pay the cost of conducting ground water 312
monitoring at a construction and demolition debris facility in 313
accordance with either of the following, as applicable: 314

(1) If the facility is operating before the effective date of 315
this section and the facility has not had ground water monitoring 316
equipment installed and operating before that date, the director 317
shall pay the cost of the purchase and installation of ground 318
water monitoring equipment for and the conducting of annual ground 319
water monitoring at the facility. 320

(2) If the facility is operating before the effective date of 321
this section and the facility has had ground water monitoring 322
equipment installed and operating before that date, the director 323
shall pay the cost of the purchase and installation of additional 324
ground water monitoring equipment and the conducting of annual 325
ground water monitoring at the facility that exceeds the amount 326
certified under division (C) of this section by the owner or 327
operator of the facility. 328

(C) For purposes of division (B)(2) of this section, the 329
owner or operator of a construction and demolition debris facility 330

that is operating before the effective date of this section and 331
that has had ground water monitoring equipment installed and 332
operating before that date shall certify to the director the 333
annual cost of ground water monitoring at the facility. 334

(D) The director shall determine the priority of the 335
purchases of ground water monitoring equipment and the payment of 336
the costs of conducting monitoring of ground water as provided in 337
division (B) of this section. However, the director shall not 338
purchase ground water monitoring equipment or pay the costs of 339
conducting monitoring of ground water if the fund does not have 340
sufficient money to pay those costs. 341

Sec. 3714.072. The owner or operator of a construction and 342
demolition debris facility that is licensed under this chapter 343
shall conduct ground water monitoring to detect negative impacts 344
to ground water quality unless the director of environmental 345
protection determines that it is unlikely that a negative impact 346
to the public health or the environment would occur due to the 347
physical characteristics of the location of the facility. 348

Sec. 3714.09. (A) The director of environmental protection 349
shall place each health district that is on the approved list 350
under division (A) or (B) of section 3734.08 of the Revised Code 351
on the approved list for the purposes of issuing licenses under 352
section 3714.06 of the Revised Code. Any survey or resurvey of any 353
such health district conducted under section 3734.08 of the 354
Revised Code shall also determine whether there is substantial 355
compliance with this chapter. If the director removes any such 356
health district from the approved list under division (B) of that 357
section, ~~he~~ the director shall also remove the health district 358
from the approved list under this division and shall administer 359
and enforce this chapter in the health district until the health 360

district is placed on the approved list under division (B) of 361
section 3734.08 of the Revised Code or division (B)(1) of this 362
section. 363

(B)(1) Upon the request of the board of health of a health 364
district that is not on the approved list under division (A) or 365
(B) of section 3734.08 of the Revised Code, the director may place 366
the board on the approved list for the purpose of licensing 367
construction and demolition debris facilities under section 368
3714.06 of the Revised Code if ~~he~~ the director determines that the 369
board is both capable of and willing to enforce all of the 370
applicable requirements of this chapter and rules adopted under 371
it. 372

(2) The director shall annually survey each health district 373
on the approved list under division (B)(1) of this section to 374
determine whether there is substantial compliance with this 375
chapter and rules adopted under it. Upon determining that there is 376
substantial compliance, the director shall place the health 377
district on the approved list under that division. The director 378
shall make a resurvey when in ~~his~~ the director's opinion a 379
resurvey is necessary and shall remove from the approved list 380
under division (B)(1) of this section any health district not 381
substantially complying with this chapter and rules adopted under 382
it. 383

(3) If, after a survey or resurvey is made under division 384
(B)(2) of this section, the director determines that a health 385
district is not eligible to be placed on the approved list or to 386
continue on that list, ~~he~~ the director shall certify that fact to 387
the board of health of the health district and shall administer 388
and enforce this chapter and rules adopted under it in the health 389
district until such time as the health district is placed on the 390
approved list. 391

(4) Whenever the director is required to administer and 392

enforce this chapter in any health district under division (A) or 393
(B)(3) of this section, ~~he~~ the director is hereby vested with all 394
of the authority and all the duties granted to or imposed upon a 395
board of health under this chapter and rules adopted under it 396
within the health district. All ~~construction and demolition debris~~ 397
~~facility license~~ disposal fees required to be paid to a board of 398
health by section 3714.07 of the Revised Code and all such 399
previous fees paid to the board, together with any money from 400
construction and demolition debris facility license fees that were 401
required to be paid to the board under section 3714.07 of the 402
Revised Code as that section existed prior to the effective date 403
of this amendment, that have not been expended or encumbered shall 404
be paid to the director and ~~by him~~ deposited by the director to 405
the credit of the construction and demolition debris facility 406
oversight fund created in section 3714.07 of the Revised Code. 407

(C) Nothing in this chapter limits the authority of the 408
director to initiate and pursue any administrative remedy or to 409
request the attorney general, the prosecuting attorney of the 410
appropriate county, or the city director of law of the appropriate 411
city to initiate and pursue any appropriate judicial remedy 412
available under this chapter to enforce any provision of this 413
chapter and any rules or terms or conditions of any license or 414
order adopted or issued under this chapter with respect to any 415
construction and demolition debris facility regardless of whether 416
the facility is located in a health district that is on the 417
approved list under division (A) or (B)(1) or (2) of this section. 418

Sec. 3734.02. (A) The director of environmental protection, 419
in accordance with Chapter 119. of the Revised Code, shall adopt 420
and may amend, suspend, or rescind rules having uniform 421
application throughout the state governing solid waste facilities 422
and the inspections of and issuance of permits and licenses for 423

all solid waste facilities in order to ensure that the facilities 424
will be located, maintained, and operated, and will undergo 425
closure and post-closure care, in a sanitary manner so as not to 426
create a nuisance, cause or contribute to water pollution, create 427
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 428
257.3-8, as amended. The rules may include, without limitation, 429
financial assurance requirements for closure and post-closure care 430
and corrective action and requirements for taking corrective 431
action in the event of the surface or subsurface discharge or 432
migration of explosive gases or leachate from a solid waste 433
facility, or of ground water contamination resulting from the 434
transfer or disposal of solid wastes at a facility, beyond the 435
boundaries of any area within a facility that is operating or is 436
undergoing closure or post-closure care where solid wastes were 437
disposed of or are being disposed of. The rules shall not concern 438
or relate to personnel policies, salaries, wages, fringe benefits, 439
or other conditions of employment of employees of persons owning 440
or operating solid waste facilities. The director, in accordance 441
with Chapter 119. of the Revised Code, shall adopt and may amend, 442
suspend, or rescind rules governing the issuance, modification, 443
revocation, suspension, or denial of variances from the director's 444
solid waste rules, including, without limitation, rules adopted 445
under this chapter governing the management of scrap tires. 446

Variances shall be issued, modified, revoked, suspended, or 447
rescinded in accordance with this division, rules adopted under 448
it, and Chapter 3745. of the Revised Code. The director may order 449
the person to whom a variance is issued to take such action within 450
such time as the director may determine to be appropriate and 451
reasonable to prevent the creation of a nuisance or a hazard to 452
the public health or safety or the environment. Applications for 453
variances shall contain such detail plans, specifications, and 454
information regarding objectives, procedures, controls, and other 455
pertinent data as the director may require. The director shall 456

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 490
for such periods as the director determines to be appropriate. No 491
application shall be denied and no variance shall be revoked or 492
modified without a written order stating the findings upon which 493
the denial, revocation, or modification is based. A copy of the 494
order shall be sent to the applicant or variance holder by 495
certified mail. 496

(B) The director shall prescribe and furnish the forms 497
necessary to administer and enforce this chapter. The director may 498
cooperate with and enter into agreements with other state, local, 499
or federal agencies to carry out the purposes of this chapter. The 500
director may exercise all incidental powers necessary to carry out 501
the purposes of this chapter. 502

The director may use moneys in the infectious waste 503
management fund created in section 3734.021 of the Revised Code 504
exclusively for administering and enforcing the provisions of this 505
chapter governing the management of infectious wastes. Of each 506
registration and renewal fee collected under rules adopted under 507
division (A)(2)(a) of section 3734.021 or under section 3734.022 508
of the Revised Code, the director, within forty-five days of its 509
receipt, shall remit from the fund one-half of the fee received to 510
the board of health of the health district in which the registered 511
premises is located, or, in the instance of an infectious wastes 512
transporter, to the board of health of the health district in 513
which the transporter's principal place of business is located. 514
However, if the board of health having jurisdiction over a 515
registrant's premises or principal place of business is not on the 516
approved list under section 3734.08 of the Revised Code, the 517
director shall not make that payment to the board of health. 518

(C) Except as provided in this division and divisions (N)(2) 519
and (3) of this section, no person shall establish a new solid 520
waste facility or infectious waste treatment facility, or modify 521

an existing solid waste facility or infectious waste treatment 522
facility, without submitting an application for a permit with 523
accompanying detail plans, specifications, and information 524
regarding the facility and method of operation and receiving a 525
permit issued by the director, except that no permit shall be 526
required under this division to install or operate a solid waste 527
facility for sewage sludge treatment or disposal when the 528
treatment or disposal is authorized by a current permit issued 529
under Chapter 3704. or 6111. of the Revised Code. 530

No person shall continue to operate a solid waste facility 531
for which the director has denied a permit for which an 532
application was required under division (A)(3) of section 3734.05 533
of the Revised Code, or for which the director has disapproved 534
plans and specifications required to be filed by an order issued 535
under division (A)(5) of that section, after the date prescribed 536
for commencement of closure of the facility in the order issued 537
under division (A)(6) of section 3734.05 of the Revised Code 538
denying the permit application or approval. 539

On and after the effective date of the rules adopted under 540
division (A) of this section and division (D) of section 3734.12 541
of the Revised Code governing solid waste transfer facilities, no 542
person shall establish a new, or modify an existing, solid waste 543
transfer facility without first submitting an application for a 544
permit with accompanying engineering detail plans, specifications, 545
and information regarding the facility and its method of operation 546
to the director and receiving a permit issued by the director. 547

No person shall establish a new compost facility or continue 548
to operate an existing compost facility that accepts exclusively 549
source separated yard wastes without submitting a completed 550
registration for the facility to the director in accordance with 551
rules adopted under divisions (A) and (N)(3) of this section. 552

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 613
of any hazardous waste, without a hazardous waste facility 614
installation and operation permit issued in accordance with 615
section 3734.05 of the Revised Code and subject to the payment of 616
an application fee not to exceed one thousand five hundred 617
dollars, payable upon application for a hazardous waste facility 618
installation and operation permit and upon application for a 619
renewal permit issued under division (H) of section 3734.05 of the 620
Revised Code, to be credited to the hazardous waste facility 621
management fund created in section 3734.18 of the Revised Code. 622
The term of a hazardous waste facility installation and operation 623
permit shall not exceed ~~five~~ ten years. 624

In addition to the application fee, there is hereby levied an 625
annual permit fee to be paid by the permit holder upon the 626
anniversaries of the date of issuance of the hazardous waste 627
facility installation and operation permit and of any subsequent 628
renewal permits and to be credited to the hazardous waste facility 629
management fund. Annual permit fees totaling forty thousand 630
dollars or more for any one facility may be paid on a quarterly 631
basis with the first quarterly payment each year being due on the 632
anniversary of the date of issuance of the hazardous waste 633
facility installation and operation permit and of any subsequent 634
renewal permits. The annual permit fee shall be determined for 635
each permit holder by the director in accordance with the 636
following schedule: 637

TYPE OF BASIC				638
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	639
Storage facility using:				640
Containers	On-site, off-site, and			641
	satellite		\$ 500	642
Tanks	On-site, off-site, and			643
	satellite		500	644

Waste pile	On-site, off-site, and		645
	satellite	3,000	646
Surface impoundment	On-site and satellite	8,000	647
	Off-site	10,000	648
Disposal facility using:			649
Deep well injection	On-site and satellite	15,000	650
	Off-site	25,000	651
Landfill	On-site and satellite	25,000	652
	Off-site	40,000	653
Land application	On-site and satellite	2,500	654
	Off-site	5,000	655
Surface impoundment	On-site and satellite	10,000	656
	Off-site	20,000	657
Treatment facility using:			658
Tanks	On-site, off-site, and		659
	satellite	700	660
Surface impoundment	On-site and satellite	8,000	661
	Off-site	10,000	662
Incinerator	On-site and satellite	5,000	663
	Off-site	10,000	664
Other forms			665
of treatment	On-site, off-site, and		666
	satellite	1,000	667

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.

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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.

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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.

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(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:

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(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;

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

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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 739
(E)(3)(a) or (b) of this section. 740

(G) The director, by order, may exempt any person generating, 741
collecting, storing, treating, disposing of, or transporting solid 742
wastes or hazardous waste, or processing solid wastes that consist 743
of scrap tires, in such quantities or under such circumstances 744
that, in the determination of the director, are unlikely to 745
adversely affect the public health or safety or the environment 746
from any requirement to obtain a registration certificate, permit, 747
or license or comply with the manifest system or other 748
requirements of this chapter. Such an exemption shall be 749
consistent with and equivalent to any regulations adopted by the 750
administrator of the United States environmental protection agency 751
under the "Resource Conservation and Recovery Act of 1976," 90 752
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 753
provided in this chapter. 754

(H) No person shall engage in filling, grading, excavating, 755
building, drilling, or mining on land where a hazardous waste 756
facility, or a solid waste facility, was operated without prior 757
authorization from the director, who shall establish the procedure 758
for granting such authorization by rules adopted in accordance 759
with Chapter 119. of the Revised Code. 760

A public utility that has main or distribution lines above or 761
below the land surface located on an easement or right-of-way 762
across land where a solid waste facility was operated may engage 763
in any such activity within the easement or right-of-way without 764
prior authorization from the director for purposes of performing 765
emergency repair or emergency replacement of its lines; of the 766
poles, towers, foundations, or other structures supporting or 767
sustaining any such lines; or of the appurtenances to those 768
structures, necessary to restore or maintain existing public 769
utility service. A public utility may enter upon any such easement 770

or right-of-way without prior authorization from the director for 771
purposes of performing necessary or routine maintenance of those 772
portions of its existing lines; of the existing poles, towers, 773
foundations, or other structures sustaining or supporting its 774
lines; or of the appurtenances to any such supporting or 775
sustaining structure, located on or above the land surface on any 776
such easement or right-of-way. Within twenty-four hours after 777
commencing any such emergency repair, replacement, or maintenance 778
work, the public utility shall notify the director or the 779
director's authorized representative of those activities and shall 780
provide such information regarding those activities as the 781
director or the director's representative may request. Upon 782
completion of the emergency repair, replacement, or maintenance 783
activities, the public utility shall restore any land of the solid 784
waste facility disturbed by those activities to the condition 785
existing prior to the commencement of those activities. 786

(I) No owner or operator of a hazardous waste facility, in 787
the operation of the facility, shall cause, permit, or allow the 788
emission therefrom of any particulate matter, dust, fumes, gas, 789
mist, smoke, vapor, or odorous substance that, in the opinion of 790
the director, unreasonably interferes with the comfortable 791
enjoyment of life or property by persons living or working in the 792
vicinity of the facility, or that is injurious to public health. 793
Any such action is hereby declared to be a public nuisance. 794

(J) Notwithstanding any other provision of this chapter, in 795
the event the director finds an imminent and substantial danger to 796
public health or safety or the environment that creates an 797
emergency situation requiring the immediate treatment, storage, or 798
disposal of hazardous waste, the director may issue a temporary 799
emergency permit to allow the treatment, storage, or disposal of 800
the hazardous waste at a facility that is not otherwise authorized 801
by a hazardous waste facility installation and operation permit to 802

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 834
certified by the director; 835

(5) Certification shall be required for all employees of 836
boards of health who are responsible for enforcing the solid waste 837
or infectious waste provisions of this chapter and rules adopted 838
under them and for all persons who are responsible for the 839
operation of solid waste facilities or infectious waste treatment 840
facilities; 841

(6)(a) All employees of a board of health who, on the 842
effective date of the rules adopted under this division, are 843
responsible for enforcing the solid waste or infectious waste 844
provisions of this chapter and the rules adopted under them shall 845
complete the course and be certified by the director not later 846
than January 1, 1995; 847

(b) All employees of a board of health who, after the 848
effective date of the rules adopted under division (L) of this 849
section, become responsible for enforcing the solid waste or 850
infectious waste provisions of this chapter and rules adopted 851
under them and who do not hold a current and valid certification 852
from the director at that time shall complete the course and be 853
certified by the director within two years after becoming 854
responsible for performing those activities. 855

No person shall fail to obtain the certification required 856
under this division. 857

(M) The director shall not issue a permit under section 858
3734.05 of the Revised Code to establish a solid waste facility, 859
or to modify a solid waste facility operating on December 21, 860
1988, in a manner that expands the disposal capacity or geographic 861
area covered by the facility, that is or is to be located within 862
the boundaries of a state park established or dedicated under 863
Chapter 1541. of the Revised Code, a state park purchase area 864

established under section 1541.02 of the Revised Code, any unit of 865
the national park system, or any property that lies within the 866
boundaries of a national park or recreation area, but that has not 867
been acquired or is not administered by the secretary of the 868
United States department of the interior, located in this state, 869
or any candidate area located in this state and identified for 870
potential inclusion in the national park system in the edition of 871
the "national park system plan" submitted under paragraph (b) of 872
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 873
U.S.C.A. 1a-5, as amended, current at the time of filing of the 874
application for the permit, unless the facility or proposed 875
facility is or is to be used exclusively for the disposal of solid 876
wastes generated within the park or recreation area and the 877
director determines that the facility or proposed facility will 878
not degrade any of the natural or cultural resources of the park 879
or recreation area. The director shall not issue a variance under 880
division (A) of this section and rules adopted under it, or issue 881
an exemption order under division (G) of this section, that would 882
authorize any such establishment or expansion of a solid waste 883
facility within the boundaries of any such park or recreation 884
area, state park purchase area, or candidate area, other than a 885
solid waste facility exclusively for the disposal of solid wastes 886
generated within the park or recreation area when the director 887
determines that the facility will not degrade any of the natural 888
or cultural resources of the park or recreation area. 889

(N)(1) The rules adopted under division (A) of this section, 890
other than those governing variances, do not apply to scrap tire 891
collection, storage, monocell, monofill, and recovery facilities. 892
Those facilities are subject to and governed by rules adopted 893
under sections 3734.70 to 3734.73 of the Revised Code, as 894
applicable. 895

(2) Division (C) of this section does not apply to scrap tire 896

collection, storage, monocell, monofill, and recovery facilities. 897
The establishment and modification of those facilities are subject 898
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 899
Code, as applicable. 900

(3) The director may adopt, amend, suspend, or rescind rules 901
under division (A) of this section creating an alternative system 902
for authorizing the establishment, operation, or modification of a 903
solid waste compost facility in lieu of the requirement that a 904
person seeking to establish, operate, or modify a solid waste 905
compost facility apply for and receive a permit under division (C) 906
of this section and section 3734.05 of the Revised Code and a 907
license under division (A)(1) of that section. The rules may 908
include requirements governing, without limitation, the 909
classification of solid waste compost facilities, the submittal of 910
operating records for solid waste compost facilities, and the 911
creation of a registration or notification system in lieu of the 912
issuance of permits and licenses for solid waste compost 913
facilities. The rules shall specify the applicability of divisions 914
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 915
Code to a solid waste compost facility. 916

Section 2. That existing sections 3714.01, 3714.09, and 917
3734.02 and section 3714.07 of the Revised Code are hereby 918
repealed. 919

Section 3. The Construction and Demolition Debris Facility 920
Oversight Fund that is created in section 3714.07 of the Revised 921
Code, as enacted by this act, is a continuation of the 922
Construction and Demolition Debris Facility Oversight Fund that 923
was created in section 3714.07 of the Revised Code, as repealed by 924
this act. Money credited to the Fund under former section 3714.07 925
of the Revised Code shall be used for the purposes specified in 926

section 3714.07 of the Revised Code, as enacted by this act. 927

Section 4. The term of ten years for a hazardous waste 928
facility installation and operation permit that is established in 929
section 3734.02 of the Revised Code, as amended by this act, 930
applies to initial and renewal permits that are issued on or after 931
the effective date of this act. 932