

**As Reported by the Senate Energy, Natural Resources and
Environment Committee**

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 432

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

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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 section 3714.021,	2
and to repeal section 3714.07 of the Revised Code	3
to replace the construction and demolition debris	4
facility license fee with a fee on the disposal of	5
construction and demolition debris at construction	6
and demolition debris facilities and solid waste	7
facilities, to revise the definition of	8
"construction and demolition debris," and to	9
extend the term of hazardous waste facility	10
installation and operation permits from five to	11
ten years.	12

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

Section 1. That sections 3714.01, 3714.09, and 3734.02 be	13
amended and new section 3714.07 and section 3714.021 of the	14
Revised Code be enacted to read as follows:	15

Sec. 3714.01. As used in this chapter:	16
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(A) "Board of health" means the board of health of a city or	17
general health district or the authority having the duties of a	18

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.

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(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:

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(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.

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

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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

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

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(3) The owner or operator of a construction and demolition
debris facility or a solid waste facility shall collect the fee
levied under division (A) of this section as a trustee for the
health district having jurisdiction over the facility, if that
district is on the approved list under section 3714.09 of the

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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.

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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
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

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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 237
from the fee by adopting a resolution establishing the amount of 238
the fee to be appropriated. Upon doing so, the board of county 239
commissioners shall mail a certified copy of the resolution to the 240
board of health of the health district in which the construction 241
and demolition debris facility or the solid waste facility is 242
located or, if the facility is located in a health district that 243
is not on the approved list under section 3714.09 of the Revised 244
Code, to the director. Upon receipt of the copy of the resolution 245
and not later than forty-five days after receipt of money 246
collected from the fee, the board of health or the director, as 247
applicable, shall transmit to the treasurer of the county that 248
portion of the money collected from the disposal fee by the owner 249
or operator of the facility that is required by the resolution to 250
be paid to that county. 251

Money received by a county treasurer under this division 252
shall be paid into the general fund of the county. The county 253
treasurer shall maintain separate records of the money received 254
under this division. 255

A board of county commissioners may cease collecting money 256
under this division by repealing the resolution that was adopted 257
under this division. 258

(E)(1) This section does not apply to the disposal of 259
construction and demolition debris at a solid waste facility that 260
is licensed under Chapter 3734. of the Revised Code if there is no 261
construction and demolition debris facility licensed under this 262
chapter within forty miles of the solid waste facility as 263
determined by a facility's property boundaries. 264

(2) This section does not apply to the disposal of 265
construction and demolition debris at a solid waste facility that 266
is licensed under Chapter 3734. of the Revised Code if the owner 267

or operator of the facility chooses to collect fees on the 268
disposal of the construction and demolition debris that are 269
identical to the fees that are collected under Chapters 343. and 270
3734. of the Revised Code on the disposal of solid wastes at that 271
facility. 272

Sec. 3714.09. (A) The director of environmental protection 273
shall place each health district that is on the approved list 274
under division (A) or (B) of section 3734.08 of the Revised Code 275
on the approved list for the purposes of issuing licenses under 276
section 3714.06 of the Revised Code. Any survey or resurvey of any 277
such health district conducted under section 3734.08 of the 278
Revised Code shall also determine whether there is substantial 279
compliance with this chapter. If the director removes any such 280
health district from the approved list under division (B) of that 281
section, ~~he~~ the director shall also remove the health district 282
from the approved list under this division and shall administer 283
and enforce this chapter in the health district until the health 284
district is placed on the approved list under division (B) of 285
section 3734.08 of the Revised Code or division (B)(1) of this 286
section. 287

(B)(1) Upon the request of the board of health of a health 288
district that is not on the approved list under division (A) or 289
(B) of section 3734.08 of the Revised Code, the director may place 290
the board on the approved list for the purpose of licensing 291
construction and demolition debris facilities under section 292
3714.06 of the Revised Code if ~~he~~ the director determines that the 293
board is both capable of and willing to enforce all of the 294
applicable requirements of this chapter and rules adopted under 295
it. 296

(2) The director shall annually survey each health district 297
on the approved list under division (B)(1) of this section to 298

determine whether there is substantial compliance with this 299
chapter and rules adopted under it. Upon determining that there is 300
substantial compliance, the director shall place the health 301
district on the approved list under that division. The director 302
shall make a resurvey when in ~~his~~ the director's opinion a 303
resurvey is necessary and shall remove from the approved list 304
under division (B)(1) of this section any health district not 305
substantially complying with this chapter and rules adopted under 306
it. 307

(3) If, after a survey or resurvey is made under division 308
(B)(2) of this section, the director determines that a health 309
district is not eligible to be placed on the approved list or to 310
continue on that list, ~~he~~ the director shall certify that fact to 311
the board of health of the health district and shall administer 312
and enforce this chapter and rules adopted under it in the health 313
district until such time as the health district is placed on the 314
approved list. 315

(4) Whenever the director is required to administer and 316
enforce this chapter in any health district under division (A) or 317
(B)(3) of this section, ~~he~~ the director is hereby vested with all 318
of the authority and all the duties granted to or imposed upon a 319
board of health under this chapter and rules adopted under it 320
within the health district. All ~~construction and demolition debris~~ 321
~~facility license~~ disposal fees required to be paid to a board of 322
health by section 3714.07 of the Revised Code and all such 323
previous fees paid to the board, together with any money from 324
construction and demolition debris facility license fees that were 325
required to be paid to the board under section 3714.07 of the 326
Revised Code as that section existed prior to the effective date 327
of this amendment, that have not been expended or encumbered shall 328
be paid to the director and ~~by him~~ deposited by the director to 329
the credit of the construction and demolition debris facility 330

oversight fund created in section 3714.07 of the Revised Code. 331

(C) Nothing in this chapter limits the authority of the 332
director to initiate and pursue any administrative remedy or to 333
request the attorney general, the prosecuting attorney of the 334
appropriate county, or the city director of law of the appropriate 335
city to initiate and pursue any appropriate judicial remedy 336
available under this chapter to enforce any provision of this 337
chapter and any rules or terms or conditions of any license or 338
order adopted or issued under this chapter with respect to any 339
construction and demolition debris facility regardless of whether 340
the facility is located in a health district that is on the 341
approved list under division (A) or (B)(1) or (2) of this section. 342

Sec. 3734.02. (A) The director of environmental protection, 343
in accordance with Chapter 119. of the Revised Code, shall adopt 344
and may amend, suspend, or rescind rules having uniform 345
application throughout the state governing solid waste facilities 346
and the inspections of and issuance of permits and licenses for 347
all solid waste facilities in order to ensure that the facilities 348
will be located, maintained, and operated, and will undergo 349
closure and post-closure care, in a sanitary manner so as not to 350
create a nuisance, cause or contribute to water pollution, create 351
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 352
257.3-8, as amended. The rules may include, without limitation, 353
financial assurance requirements for closure and post-closure care 354
and corrective action and requirements for taking corrective 355
action in the event of the surface or subsurface discharge or 356
migration of explosive gases or leachate from a solid waste 357
facility, or of ground water contamination resulting from the 358
transfer or disposal of solid wastes at a facility, beyond the 359
boundaries of any area within a facility that is operating or is 360
undergoing closure or post-closure care where solid wastes were 361
disposed of or are being disposed of. The rules shall not concern 362

or relate to personnel policies, salaries, wages, fringe benefits, 363
or other conditions of employment of employees of persons owning 364
or operating solid waste facilities. The director, in accordance 365
with Chapter 119. of the Revised Code, shall adopt and may amend, 366
suspend, or rescind rules governing the issuance, modification, 367
revocation, suspension, or denial of variances from the director's 368
solid waste rules, including, without limitation, rules adopted 369
under this chapter governing the management of scrap tires. 370

Variances shall be issued, modified, revoked, suspended, or 371
rescinded in accordance with this division, rules adopted under 372
it, and Chapter 3745. of the Revised Code. The director may order 373
the person to whom a variance is issued to take such action within 374
such time as the director may determine to be appropriate and 375
reasonable to prevent the creation of a nuisance or a hazard to 376
the public health or safety or the environment. Applications for 377
variances shall contain such detail plans, specifications, and 378
information regarding objectives, procedures, controls, and other 379
pertinent data as the director may require. The director shall 380
grant a variance only if the applicant demonstrates to the 381
director's satisfaction that construction and operation of the 382
solid waste facility in the manner allowed by the variance and any 383
terms or conditions imposed as part of the variance will not 384
create a nuisance or a hazard to the public health or safety or 385
the environment. In granting any variance, the director shall 386
state the specific provision or provisions whose terms are to be 387
varied and also shall state specific terms or conditions imposed 388
upon the applicant in place of the provision or provisions. The 389
director may hold a public hearing on an application for a 390
variance or renewal of a variance at a location in the county 391
where the operations that are the subject of the application for 392
the variance are conducted. The director shall give not less than 393
twenty days' notice of the hearing to the applicant by certified 394
mail and shall publish at least one notice of the hearing in a 395

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 428
exclusively for administering and enforcing the provisions of this 429
chapter governing the management of infectious wastes. Of each 430
registration and renewal fee collected under rules adopted under 431
division (A)(2)(a) of section 3734.021 or under section 3734.022 432
of the Revised Code, the director, within forty-five days of its 433
receipt, shall remit from the fund one-half of the fee received to 434
the board of health of the health district in which the registered 435
premises is located, or, in the instance of an infectious wastes 436
transporter, to the board of health of the health district in 437
which the transporter's principal place of business is located. 438
However, if the board of health having jurisdiction over a 439
registrant's premises or principal place of business is not on the 440
approved list under section 3734.08 of the Revised Code, the 441
director shall not make that payment to the board of health. 442

(C) Except as provided in this division and divisions (N)(2) 443
and (3) of this section, no person shall establish a new solid 444
waste facility or infectious waste treatment facility, or modify 445
an existing solid waste facility or infectious waste treatment 446
facility, without submitting an application for a permit with 447
accompanying detail plans, specifications, and information 448
regarding the facility and method of operation and receiving a 449
permit issued by the director, except that no permit shall be 450
required under this division to install or operate a solid waste 451
facility for sewage sludge treatment or disposal when the 452
treatment or disposal is authorized by a current permit issued 453
under Chapter 3704. or 6111. of the Revised Code. 454

No person shall continue to operate a solid waste facility 455
for which the director has denied a permit for which an 456
application was required under division (A)(3) of section 3734.05 457
of the Revised Code, or for which the director has disapproved 458
plans and specifications required to be filed by an order issued 459

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; 491

(3) Treats or disposes of dead animals or parts thereof, or 492
the blood of animals, and is subject to any of the following: 493

(a) Inspection under the "Federal Meat Inspection Act," 81 494
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 495

(b) Chapter 918. of the Revised Code; 496

(c) Chapter 953. of the Revised Code. 497

(D) Neither this chapter nor any rules adopted under it apply 498
to single-family residential premises; to infectious wastes 499
generated by individuals for purposes of their own care or 500
treatment that are disposed of with solid wastes from the 501
individual's residence; to the temporary storage of solid wastes, 502
other than scrap tires, prior to their collection for disposal; to 503
the storage of one hundred or fewer scrap tires unless they are 504
stored in such a manner that, in the judgment of the director or 505
the board of health of the health district in which the scrap 506
tires are stored, the storage causes a nuisance, a hazard to 507
public health or safety, or a fire hazard; or to the collection of 508
solid wastes, other than scrap tires, by a political subdivision 509
or a person holding a franchise or license from a political 510
subdivision of the state; to composting, as defined in section 511
1511.01 of the Revised Code, conducted in accordance with section 512
1511.022 of the Revised Code; or to any person who is licensed to 513
transport raw rendering material to a compost facility pursuant to 514
section 953.23 of the Revised Code. 515

(E)(1) As used in this division: 516

(a) "On-site facility" means a facility that stores, treats, 517
or disposes of hazardous waste that is generated on the premises 518
of the facility. 519

(b) "Off-site facility" means a facility that stores, treats, 520

or disposes of hazardous waste that is generated off the premises 521
of the facility and includes such a facility that is also an 522
on-site facility. 523

(c) "Satellite facility" means any of the following: 524

(i) An on-site facility that also receives hazardous waste 525
from other premises owned by the same person who generates the 526
waste on the facility premises; 527

(ii) An off-site facility operated so that all of the 528
hazardous waste it receives is generated on one or more premises 529
owned by the person who owns the facility; 530

(iii) An on-site facility that also receives hazardous waste 531
that is transported uninterruptedly and directly to the facility 532
through a pipeline from a generator who is not the owner of the 533
facility. 534

(2) Except as provided in division (E)(3) of this section, no 535
person shall establish or operate a hazardous waste facility, or 536
use a solid waste facility for the storage, treatment, or disposal 537
of any hazardous waste, without a hazardous waste facility 538
installation and operation permit issued in accordance with 539
section 3734.05 of the Revised Code and subject to the payment of 540
an application fee not to exceed one thousand five hundred 541
dollars, payable upon application for a hazardous waste facility 542
installation and operation permit and upon application for a 543
renewal permit issued under division (H) of section 3734.05 of the 544
Revised Code, to be credited to the hazardous waste facility 545
management fund created in section 3734.18 of the Revised Code. 546
The term of a hazardous waste facility installation and operation 547
permit shall not exceed ~~five~~ ten years. 548

In addition to the application fee, there is hereby levied an 549
annual permit fee to be paid by the permit holder upon the 550
anniversaries of the date of issuance of the hazardous waste 551

facility installation and operation permit and of any subsequent			552
renewal permits and to be credited to the hazardous waste facility			553
management fund. Annual permit fees totaling forty thousand			554
dollars or more for any one facility may be paid on a quarterly			555
basis with the first quarterly payment each year being due on the			556
anniversary of the date of issuance of the hazardous waste			557
facility installation and operation permit and of any subsequent			558
renewal permits. The annual permit fee shall be determined for			559
each permit holder by the director in accordance with the			560
following schedule:			561
TYPE OF BASIC			562
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	563
Storage facility using:			564
Containers	On-site, off-site, and		565
	satellite	\$ 500	566
Tanks	On-site, off-site, and		567
	satellite	500	568
Waste pile	On-site, off-site, and		569
	satellite	3,000	570
Surface impoundment	On-site and satellite	8,000	571
	Off-site	10,000	572
Disposal facility using:			573
Deep well injection	On-site and satellite	15,000	574
	Off-site	25,000	575
Landfill	On-site and satellite	25,000	576
	Off-site	40,000	577
Land application	On-site and satellite	2,500	578
	Off-site	5,000	579
Surface impoundment	On-site and satellite	10,000	580
	Off-site	20,000	581
Treatment facility using:			582
Tanks	On-site, off-site, and		583
	satellite	700	584

Surface impoundment	On-site and satellite	8,000	585
	Off-site	10,000	586
Incinerator	On-site and satellite	5,000	587
	Off-site	10,000	588
Other forms			589
of treatment	On-site, off-site, and		590
	satellite	1,000	591

A hazardous waste disposal facility that disposes of 592
hazardous waste by deep well injection and that pays the annual 593
permit fee established in section 6111.046 of the Revised Code is 594
not subject to the permit fee established in this division for 595
disposal facilities using deep well injection unless the director 596
determines that the facility is not in compliance with applicable 597
requirements established under this chapter and rules adopted 598
under it. 599

In determining the annual permit fee required by this 600
section, the director shall not require additional payments for 601
multiple units of the same method of storage, treatment, or 602
disposal or for individual units that are used for both storage 603
and treatment. A facility using more than one method of storage, 604
treatment, or disposal shall pay the permit fee indicated by the 605
schedule for each such method. 606

The director shall not require the payment of that portion of 607
an annual permit fee of any permit holder that would apply to a 608
hazardous waste management unit for which a permit has been 609
issued, but for which construction has not yet commenced. Once 610
construction has commenced, the director shall require the payment 611
of a part of the appropriate fee indicated by the schedule that 612
bears the same relationship to the total fee that the number of 613
days remaining until the next anniversary date at which payment of 614
the annual permit fee is due bears to three hundred sixty-five. 615

The director, by rules adopted in accordance with Chapters 616

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 648
or cause to be transported any hazardous waste identified or 649
listed under this chapter and rules adopted under it to any other 650
premises, except at or to any of the following: 651

(1) A hazardous waste facility operating under a permit 652
issued in accordance with this chapter; 653

(2) A facility in another state operating under a license or 654
permit issued in accordance with the "Resource Conservation and 655
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 656
amended; 657

(3) A facility in another nation operating in accordance with 658
the laws of that nation; 659

(4) A facility holding a permit issued pursuant to Title I of 660
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 661
Stat. 1052, 33 U.S.C.A. 1401, as amended; 662

(5) A hazardous waste facility as described in division 663
(E)(3)(a) or (b) of this section. 664

(G) The director, by order, may exempt any person generating, 665
collecting, storing, treating, disposing of, or transporting solid 666
wastes or hazardous waste, or processing solid wastes that consist 667
of scrap tires, in such quantities or under such circumstances 668
that, in the determination of the director, are unlikely to 669
adversely affect the public health or safety or the environment 670
from any requirement to obtain a registration certificate, permit, 671
or license or comply with the manifest system or other 672
requirements of this chapter. Such an exemption shall be 673
consistent with and equivalent to any regulations adopted by the 674
administrator of the United States environmental protection agency 675
under the "Resource Conservation and Recovery Act of 1976," 90 676
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 677
provided in this chapter. 678

(H) No person shall engage in filling, grading, excavating, 679
building, drilling, or mining on land where a hazardous waste 680
facility, or a solid waste facility, was operated without prior 681
authorization from the director, who shall establish the procedure 682
for granting such authorization by rules adopted in accordance 683
with Chapter 119. of the Revised Code. 684

A public utility that has main or distribution lines above or 685
below the land surface located on an easement or right-of-way 686
across land where a solid waste facility was operated may engage 687
in any such activity within the easement or right-of-way without 688
prior authorization from the director for purposes of performing 689
emergency repair or emergency replacement of its lines; of the 690
poles, towers, foundations, or other structures supporting or 691
sustaining any such lines; or of the appurtenances to those 692
structures, necessary to restore or maintain existing public 693
utility service. A public utility may enter upon any such easement 694
or right-of-way without prior authorization from the director for 695
purposes of performing necessary or routine maintenance of those 696
portions of its existing lines; of the existing poles, towers, 697
foundations, or other structures sustaining or supporting its 698
lines; or of the appurtenances to any such supporting or 699
sustaining structure, located on or above the land surface on any 700
such easement or right-of-way. Within twenty-four hours after 701
commencing any such emergency repair, replacement, or maintenance 702
work, the public utility shall notify the director or the 703
director's authorized representative of those activities and shall 704
provide such information regarding those activities as the 705
director or the director's representative may request. Upon 706
completion of the emergency repair, replacement, or maintenance 707
activities, the public utility shall restore any land of the solid 708
waste facility disturbed by those activities to the condition 709
existing prior to the commencement of those activities. 710

(I) No owner or operator of a hazardous waste facility, in 711
the operation of the facility, shall cause, permit, or allow the 712
emission therefrom of any particulate matter, dust, fumes, gas, 713
mist, smoke, vapor, or odorous substance that, in the opinion of 714
the director, unreasonably interferes with the comfortable 715
enjoyment of life or property by persons living or working in the 716
vicinity of the facility, or that is injurious to public health. 717
Any such action is hereby declared to be a public nuisance. 718

(J) Notwithstanding any other provision of this chapter, in 719
the event the director finds an imminent and substantial danger to 720
public health or safety or the environment that creates an 721
emergency situation requiring the immediate treatment, storage, or 722
disposal of hazardous waste, the director may issue a temporary 723
emergency permit to allow the treatment, storage, or disposal of 724
the hazardous waste at a facility that is not otherwise authorized 725
by a hazardous waste facility installation and operation permit to 726
treat, store, or dispose of the waste. The emergency permit shall 727
not exceed ninety days in duration and shall not be renewed. The 728
director shall adopt, and may amend, suspend, or rescind, rules in 729
accordance with Chapter 119. of the Revised Code governing the 730
issuance, modification, revocation, and denial of emergency 731
permits. 732

(K) No owner or operator of a sanitary landfill shall 733
knowingly accept for disposal, or dispose of, any infectious 734
wastes, other than those subject to division (A)(1)(c) of section 735
3734.021 of the Revised Code, that have not been treated to render 736
them noninfectious. For the purposes of this division, 737
certification by the owner or operator of the treatment facility 738
where the wastes were treated on the shipping paper required by 739
rules adopted under division (D)(2) of that section creates a 740
rebuttable presumption that the wastes have been so treated. 741

(L) The director, in accordance with Chapter 119. of the 742

Revised Code, shall adopt, and may amend, suspend, or rescind, 743
rules having uniform application throughout the state establishing 744
a training and certification program that shall be required for 745
employees of boards of health who are responsible for enforcing 746
the solid waste and infectious waste provisions of this chapter 747
and rules adopted under them and for persons who are responsible 748
for the operation of solid waste facilities or infectious waste 749
treatment facilities. The rules shall provide all of the 750
following, without limitation: 751

(1) The program shall be administered by the director and 752
shall consist of a course on new solid waste and infectious waste 753
technologies, enforcement procedures, and rules; 754

(2) The course shall be offered on an annual basis; 755

(3) Those persons who are required to take the course under 756
division (L) of this section shall do so triennially; 757

(4) Persons who successfully complete the course shall be 758
certified by the director; 759

(5) Certification shall be required for all employees of 760
boards of health who are responsible for enforcing the solid waste 761
or infectious waste provisions of this chapter and rules adopted 762
under them and for all persons who are responsible for the 763
operation of solid waste facilities or infectious waste treatment 764
facilities; 765

(6)(a) All employees of a board of health who, on the 766
effective date of the rules adopted under this division, are 767
responsible for enforcing the solid waste or infectious waste 768
provisions of this chapter and the rules adopted under them shall 769
complete the course and be certified by the director not later 770
than January 1, 1995; 771

(b) All employees of a board of health who, after the 772

effective date of the rules adopted under division (L) of this 773
section, become responsible for enforcing the solid waste or 774
infectious waste provisions of this chapter and rules adopted 775
under them and who do not hold a current and valid certification 776
from the director at that time shall complete the course and be 777
certified by the director within two years after becoming 778
responsible for performing those activities. 779

No person shall fail to obtain the certification required 780
under this division. 781

(M) The director shall not issue a permit under section 782
3734.05 of the Revised Code to establish a solid waste facility, 783
or to modify a solid waste facility operating on December 21, 784
1988, in a manner that expands the disposal capacity or geographic 785
area covered by the facility, that is or is to be located within 786
the boundaries of a state park established or dedicated under 787
Chapter 1541. of the Revised Code, a state park purchase area 788
established under section 1541.02 of the Revised Code, any unit of 789
the national park system, or any property that lies within the 790
boundaries of a national park or recreation area, but that has not 791
been acquired or is not administered by the secretary of the 792
United States department of the interior, located in this state, 793
or any candidate area located in this state and identified for 794
potential inclusion in the national park system in the edition of 795
the "national park system plan" submitted under paragraph (b) of 796
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 797
U.S.C.A. 1a-5, as amended, current at the time of filing of the 798
application for the permit, unless the facility or proposed 799
facility is or is to be used exclusively for the disposal of solid 800
wastes generated within the park or recreation area and the 801
director determines that the facility or proposed facility will 802
not degrade any of the natural or cultural resources of the park 803
or recreation area. The director shall not issue a variance under 804

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 837
facilities. The rules shall specify the applicability of divisions 838
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 839
Code to a solid waste compost facility. 840

Section 2. That existing sections 3714.01, 3714.09, and 841
3734.02 and section 3714.07 of the Revised Code are hereby 842
repealed. 843

Section 3. The Construction and Demolition Debris Facility 844
Oversight Fund that is created in section 3714.07 of the Revised 845
Code, as enacted by this act, is a continuation of the 846
Construction and Demolition Debris Facility Oversight Fund that 847
was created in section 3714.07 of the Revised Code, as repealed by 848
this act. Money credited to the Fund under former section 3714.07 849
of the Revised Code shall be used for the purposes specified in 850
section 3714.07 of the Revised Code, as enacted by this act. 851

Section 4. The term of ten years for a hazardous waste 852
facility installation and operation permit that is established in 853
section 3734.02 of the Revised Code, as amended by this act, 854
applies to initial and renewal permits that are issued on or after 855
the effective date of this act. 856