

good cause shown, orders disclosure of the information or the 37242
state registrar specifically authorizes release of the information 37243
for statistical or research purposes under conditions the state 37244
registrar, subject to the approval of the director of health, 37245
shall establish by rule. 37246

(B)(1) Unless the applicant specifically requests a certified 37247
copy, the director, the state registrar, or a local registrar, on 37248
receipt of a signed application for a birth record and the fee 37249
specified in section 3705.24 of the Revised Code, may issue a 37250
certification of birth, and the certification of birth shall 37251
contain at least the name, sex, date of birth, registration date, 37252
and place of birth of the person to whose birth the record attests 37253
and shall attest that the person's birth has been registered. A 37254
certification of birth shall be prima-facie evidence of the facts 37255
stated in it in all courts and places. 37256

(2) The director or the state registrar, on the receipt of a 37257
signed application for an heirloom certification of birth and the 37258
fee specified in section 3705.24 of the Revised Code, may issue an 37259
heirloom certification of birth. The director shall prescribe by 37260
rule guidelines for the form of an heirloom certification of 37261
birth, and the guidelines shall require the heirloom certification 37262
of birth to contain at least the name, sex, date of birth, 37263
registration date, and place of birth of the person to whose birth 37264
the record attests and to attest that the person's birth has been 37265
registered. An heirloom certification of birth shall be 37266
prima-facie evidence of the facts stated in it in all courts and 37267
places. 37268

(3) The director or the state registrar, on the receipt of an 37269
application signed by either parent, shall issue a certificate 37270
recognizing the delivery of a stillborn infant. The director shall 37271
prescribe guidelines by rule for the form of the certificate. The 37272
guidelines shall require that the certificate contain at least the 37273

name, sex, date of delivery, and place of delivery. The director 37274
or the state registrar shall charge no fee for the certificate. A 37275
certificate recognizing the delivery of a stillborn infant is not 37276
proof of a live birth for purposes of federal, state, and local 37277
taxes. 37278

(C) On evidence that a birth certificate was registered 37279
through misrepresentation or fraud, the state registrar may 37280
withhold the issuance of a certified copy of the birth record or a 37281
certification of birth until a court makes a determination that no 37282
misrepresentation or fraud occurred. 37283

~~(D) Except as provided in division (A)(4)(b) of this section,~~ 37284
~~the state registrar and a local registrar, on request, shall~~ 37285
~~provide uncertified copies of vital records in accordance with~~ 37286
~~section 149.43 of the Revised Code.~~ 37287

Sec. 3705.24. ~~(A) Except as otherwise provided in this~~ 37288
~~division or division (C) of this section, the fee for a certified~~ 37289
~~copy of a vital record or for a certification of birth shall be~~ 37290
~~seven dollars plus any fee required by section 3109.14 of the~~ 37291
~~Revised Code. Except as provided in section 3705.241 of the~~ 37292
~~Revised Code, the fee for a certified copy of a vital record or~~ 37293
~~for a certification of birth issued by the office of vital~~ 37294
~~statistics shall be an amount prescribed by the public health~~ 37295
~~council plus any fee required by section 3109.14 of the Revised~~ 37296
~~Code. The fee for a certified copy of a vital record or for a~~ 37297
~~certification of birth issued by a health district shall be an~~ 37298
~~amount prescribed in accordance with section 3709.09 of the~~ 37299
~~Revised Code plus any fee required by section 3109.14 of the~~ 37300
~~Revised Code. No certified copy of a vital record or certification~~ 37301
~~of birth shall be issued without payment of the fee unless~~ 37302
~~otherwise specified by statute.~~ 37303

~~For a special search of the files and records to determine a~~ 37304

~~date or place contained in a record on file, the office of vital statistics shall charge a fee of three dollars for each hour or fractional part of an hour required for the search.~~

(B)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request;

(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fee required by section 3109.14 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this

section or copies provided under section 3705.241 of the Revised Code. 37334
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(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter. 37336
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(C) Except as otherwise provided in division ~~(G)~~(H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. ~~Money~~ Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

~~(C)~~(D) If a local registrar is a salaried employee of a city 37365
or a general health district, any fees the local registrar 37366
receives pursuant to section 3705.23 of the Revised Code shall be 37367
paid into the general fund of the city or the health fund of the 37368
general health district. 37369

Each local registrar of vital statistics, or each health 37370
district where the local registrar is a salaried employee of the 37371
district, shall be entitled to a fee for each birth, fetal death, 37372
death, or military service certificate properly and completely 37373
made out and registered with the local registrar or district and 37374
correctly copied and forwarded to the office of vital statistics 37375
in accordance with the population of the primary registration 37376
district at the last federal census. The fee for each birth, fetal 37377
death, death, or military service certificate shall be: 37378

(1) In primary registration districts of over two hundred 37379
fifty thousand, twenty cents; 37380

(2) In primary registration districts of over one hundred 37381
twenty-five thousand and less than two hundred fifty thousand, 37382
sixty cents; 37383

(3) In primary registration districts of over fifty thousand 37384
and less than one hundred twenty-five thousand, eighty cents; 37385

(4) In primary registration districts of less than fifty 37386
thousand, one dollar. 37387

~~(D)~~(E) The director of health shall annually certify to the 37388
county treasurers of the several counties the number of birth, 37389
fetal death, death, and military service certificates registered 37390
from their respective counties with the names of the local 37391
registrars and the amounts due each registrar and health district 37392
at the rates fixed in this section. Such amounts shall be paid by 37393
the treasurer of the county in which the registration districts 37394
are located. No fees shall be charged or collected by registrars 37395

except as provided by this chapter and section 3109.14 of the Revised Code. 37396
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~~(E)~~(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license. 37398
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~~(F)~~(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases. 37404
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~~(G)~~(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code. 37411
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Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board. ~~Fees~~

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of the Revised Code that establish fee categories and uniform methodologies for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) At least thirty days prior to establishing a fee for a service provided by the board for a purpose specified in section 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the Revised Code, a board of health shall notify any entity that would be affected by the proposed fee of the amount of the proposed fee.

Sec. 3710.05. (A) Except as otherwise provided in this 37458
chapter, no person shall engage in any asbestos hazard abatement 37459
activities in this state unless licensed or certified pursuant to 37460
this chapter. 37461

(B) To apply for licensure as an asbestos abatement 37462
contractor or certification as an asbestos hazard abatement 37463
specialist, an asbestos hazard evaluation specialist, an asbestos 37464
hazard abatement project designer, or an asbestos hazard abatement 37465
air-monitoring technician, a person shall do all of the following: 37466

(1) Submit a completed application to the department of 37467
health, on a form provided by the department; 37468

(2) Pay the requisite fee as provided in division (D) of this 37469
section; 37470

(3) Submit any other information the public health council by 37471
rule requires. 37472

(C) The application form for a business entity or public 37473
entity applying for an asbestos hazard abatement contractor's 37474
license shall include all of the following: 37475

(1) A description of the protective clothing and respirators 37476
that the public entity will use to comply with rules adopted by 37477
the public health council and that the business entity will use to 37478
comply with requirements of the United States occupational safety 37479
and health administration; 37480

(2) A description of procedures the business entity or public 37481
entity will use for the selection, utilization, handling, removal, 37482
and disposal of clothing to prevent contamination or 37483
recontamination of the environment and to protect the public 37484
health from the hazards associated with exposure to asbestos; 37485

(3) The name and address of each asbestos disposal site that 37486
the business entity or public entity might use during the year; 37487

(4) A description of the site decontamination procedures that the business entity or public entity will use;	37488 37489
(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;	37490 37491
(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;	37492 37493
(7) A description of the air-monitoring procedures that the business entity or public entity will use to prevent contamination or recontamination of the environment and to protect the public health from the hazards of exposure to asbestos;	37494 37495 37496 37497
(8) A description of the final clean-up procedures that the business entity or public entity will use;	37498 37499
(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;	37500 37501
(10) The federal tax identification number of the business entity or the public entity.	37502 37503
(D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are:	37504 37505 37506 37507 37508
(1) Five <u>Seven</u> hundred <u>fifty</u> dollars for asbestos hazard abatement contractors;	37509 37510
(2) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement project designers;	37511 37512
(3) Twenty-five <u>Fifty</u> dollars for asbestos hazard abatement workers;	37513 37514
(4) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement specialists;	37515 37516

(5) ~~One~~ Two hundred ~~twenty-five~~ dollars for asbestos hazard evaluation specialists; and

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal of asbestos hazard training providers.

(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter.

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard abatement project, an asbestos hazard abatement contractor shall do all of the following:

(1) Prepare a written respiratory protection program as defined by the public health council pursuant to rule, and make the program available to the department of health, and workers at the job site if the contractor is a public entity or prepare a written respiratory protection program, consistent with 29 C.F.R. 1910.134 and make the program available to the department, and workers at the job site if the contractor is a business entity;

(2) Ensure that each worker who will be involved in any asbestos hazard abatement project has been examined within the preceding year and has been declared by a physician to be physically capable of working while wearing a respirator;

(3) Ensure that each of ~~his~~ the contractor's employees or agents who will come in contact with asbestos-containing materials or will be responsible for an asbestos hazard abatement project

receives the appropriate certification or licensure required by 37547
this chapter and the following training: 37548

(a) An initial course approved by the department pursuant to 37549
section 3710.10 of the Revised Code, completed before engaging in 37550
any asbestos hazard abatement project; and 37551

(b) An annual review course approved by the department 37552
pursuant to section 3710.10 of the Revised Code. 37553

(B) After obtaining or renewing a license, an asbestos hazard 37554
abatement contractor shall notify the department, on a form 37555
approved by the director of health, at least ten days before 37556
beginning each asbestos hazard abatement project conducted during 37557
the term of ~~his~~ the contractor's license. 37558

(C) In addition to any other fee imposed under this chapter, 37559
an asbestos hazard abatement contractor shall pay, at the time of 37560
providing notice under division (B) of this section, the 37561
department a fee of ~~twenty-five~~ sixty-five dollars for each 37562
asbestos hazard abatement project conducted. 37563

Sec. 3711.021. For the purposes of this chapter, a maternity 37564
hospital or lying-in hospital includes a limited maternity unit, 37565
which is a unit in a hospital that contains no other maternity 37566
unit, in which care is provided during all or part of the 37567
maternity cycle and newborns receive care in a private room 37568
serving all antepartum, labor, delivery, recovery, postpartum, and 37569
nursery needs. 37570

The director of health may charge a maternity hospital or 37571
lying-in hospital seeking an initial or renewal license under this 37572
chapter a fee not exceeding the following: 37573

(A) ~~Three~~ Four thousand ~~eight hundred fifty~~ forty-two dollars 37574
for a hospital in which not less than two thousand births occurred 37575
the previous calendar year; 37576

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 37577
for a hospital in which not more than one thousand nine hundred 37578
ninety-nine and not less than one thousand births occurred the 37579
previous calendar year; 37580

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 37581
for a hospital in which not more than nine hundred ninety-nine and 37582
not less than six hundred fifty births occurred the previous 37583
calendar year; 37584

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 37585
for a hospital in which not more than six hundred forty-nine and 37586
not less than four hundred fifty births occurred the previous 37587
calendar year; 37588

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 37589
for a hospital in which not more than four hundred forty-nine 37590
births and not less than one hundred births occurred the previous 37591
calendar year; 37592

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 37593
for a hospital in which not more than ninety-nine births occurred 37594
the previous calendar year. 37595

The director shall deposit all fees collected under this 37596
section into the general operations fund created under section 37597
3701.83 of the Revised Code. Money generated by the fees shall be 37598
used only for administration and enforcement of this chapter and 37599
rules adopted under it. 37600

Sec. 3717.42. (A) The following are not food service 37601
operations: 37602

(1) A retail food establishment licensed under this chapter, 37603
including a retail food establishment that provides the services 37604
of a food service operation pursuant to an endorsement issued 37605
under section 3717.24 of the Revised Code; 37606

(2) An entity exempt from the requirement to be licensed as a retail food establishment under division (B) of section 3717.22 of the Revised Code;

(3) A business or that portion of a business that is regulated by the federal government or the department of agriculture as a food manufacturing or food processing business, including a business or that portion of a business regulated by the department of agriculture under Chapter 911., 913., 915., 917., 918., or 925. of the Revised Code.

(B) All of the following are exempt from the requirement to be licensed as a food service operation:

(1) A private home in which individuals related by blood, marriage, or law reside and in which the food that is prepared or served is intended only for those individuals and their nonpaying guests;

(2) A private home operated as a bed-and-breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, and the number of guests served does not exceed sixteen;

(3) A stand operated on the premises of a private home by one or more children under the age of twelve, if the food served is not potentially hazardous;

(4) A residential facility that accommodates not more than sixteen residents; is licensed, certified, registered, or otherwise regulated by the federal government or by the state or a political subdivision of the state; and prepares food for or serves food to only the residents of the facility, the staff of the facility, and any nonpaying guests of residents or staff;

(5) A church, school, fraternal or veterans' organization,

volunteer fire organization, or volunteer emergency medical 37637
service organization preparing or serving food intended for 37638
individual portion service on its premises for not more than seven 37639
consecutive days or not more than fifty-two separate days during a 37640
licensing period. This exemption extends to any individual or 37641
group raising all of its funds during the time periods specified 37642
in division (B)(5) of this section for the benefit of the church, 37643
school, or organization by preparing or serving food intended for 37644
individual portion service under the same conditions. 37645

(6) A common carrier that prepares or serves food, if the 37646
carrier is regulated by the federal government; 37647

(7) A food service operation serving ~~five~~ thirteen or fewer 37648
individuals daily; 37649

(8) A type A or type B family day-care home, as defined in 37650
section 5104.01 of the Revised Code, that prepares or serves food 37651
for the children receiving day-care; 37652

(9) A vending machine location where the only foods dispensed 37653
are foods from one or both of the following categories: 37654

(a) Prepackaged foods that are not potentially hazardous; 37655

(b) Nuts, panned or wrapped bulk chewing gum, or panned or 37656
wrapped bulk candies. 37657

(10) A place servicing the vending machines at a vending 37658
machine location described in division (B)(9) of this section; 37659

(11) A commissary servicing vending machines that dispense 37660
only milk, milk products, or frozen desserts that are under a 37661
state or federal inspection and analysis program; 37662

(12) A "controlled location vending machine location," which 37663
means a vending machine location at which all of the following 37664
apply: 37665

(a) The vending machines dispense only foods that are not 37666

potentially hazardous; 37667

(b) The machines are designed to be filled and maintained in 37668
a sanitary manner by untrained persons; 37669

(c) Minimal protection is necessary to ensure against 37670
contamination of food and equipment. 37671

(13) A private home that prepares and offers food to guests, 37672
if the home is owner-occupied, meals are served on the premises of 37673
that home, the number of meals served does not exceed one hundred 37674
fifteen per week, and the home displays a notice in a place 37675
conspicuous to all of its guests informing them that the home is 37676
not required to be licensed as a food service operation; 37677

(14) An individual who prepares full meals or meal 37678
components, such as pies or baked goods, in the individual's home 37679
to be served off the premises of that home, if the number of meals 37680
or meal components prepared for that purpose does not exceed 37681
twenty in a seven-day period. 37682

Sec. 3721.02. (A) The director of health shall license homes 37683
and establish procedures to be followed in inspecting and 37684
licensing homes. The director may inspect a home at any time. Each 37685
home shall be inspected by the director at least once prior to the 37686
issuance of a license and at least once every fifteen months 37687
thereafter. The state fire marshal or a township, municipal, or 37688
other legally constituted fire department approved by the marshal 37689
shall also inspect a home prior to issuance of a license, at least 37690
once every fifteen months thereafter, and at any other time 37691
requested by the director. A home does not have to be inspected 37692
prior to issuance of a license by the director, state fire 37693
marshal, or a fire department if ownership of the home is assigned 37694
or transferred to a different person and the home was licensed 37695
under this chapter immediately prior to the assignment or 37696
transfer. The director may enter at any time, for the purposes of 37697

investigation, any institution, residence, facility, or other 37698
structure that has been reported to the director or that the 37699
director has reasonable cause to believe is operating as a nursing 37700
home, residential care facility, or home for the aging without a 37701
valid license required by section 3721.05 of the Revised Code or, 37702
in the case of a county home or district home, is operating 37703
despite the revocation of its residential care facility license. 37704
The director may delegate the director's authority and duties 37705
under this chapter to any division, bureau, agency, or official of 37706
the department of health. 37707

(B) A single facility may be licensed both as a nursing home 37708
pursuant to this chapter and as an adult care facility pursuant to 37709
Chapter 3722. of the Revised Code if the director determines that 37710
the part or unit to be licensed as a nursing home can be 37711
maintained separate and discrete from the part or unit to be 37712
licensed as an adult care facility. 37713

(C) In determining the number of residents in a home for the 37714
purpose of licensing, the director shall consider all the 37715
individuals for whom the home provides accommodations as one group 37716
unless one of the following is the case: 37717

(1) The home is a home for the aging, in which case all the 37718
individuals in the part or unit licensed as a nursing home shall 37719
be considered as one group, and all the individuals in the part or 37720
unit licensed as a rest home shall be considered as another group. 37721

(2) The home is both a nursing home and an adult care 37722
facility. In that case, all the individuals in the part or unit 37723
licensed as a nursing home shall be considered as one group, and 37724
all the individuals in the part or unit licensed as an adult care 37725
facility shall be considered as another group. 37726

(3) The home maintains, in addition to a nursing home or 37727
residential care facility, a separate and discrete part or unit 37728

that provides accommodations to individuals who do not require or 37729
receive skilled nursing care and do not receive personal care 37730
services from the home, in which case the individuals in the 37731
separate and discrete part or unit shall not be considered in 37732
determining the number of residents in the home if the separate 37733
and discrete part or unit is in compliance with the Ohio basic 37734
building code established by the board of building standards under 37735
Chapters 3781. and 3791. of the Revised Code and the home permits 37736
the director, on request, to inspect the separate and discrete 37737
part or unit and speak with the individuals residing there, if 37738
they consent, to determine whether the separate and discrete part 37739
or unit meets the requirements of this division. 37740

(D) The director of health shall charge an application fee 37741
and an annual renewal licensing and inspection fee of one hundred 37742
five dollars for each fifty persons or part thereof of a home's 37743
licensed capacity. All fees collected by the director for the 37744
issuance or renewal of licenses shall be deposited into the state 37745
treasury to the credit of the general operations fund created in 37746
section 3701.83 of the Revised Code for use only in administering 37747
and enforcing this chapter and rules adopted under it. 37748

(E)(1) Except as otherwise provided in this section, the 37749
results of an inspection or investigation of a home that is 37750
conducted under this section, including any statement of 37751
deficiencies and all findings and deficiencies cited in the 37752
statement on the basis of the inspection or investigation, shall 37753
be used solely to determine the home's compliance with this 37754
chapter or another chapter of the Revised Code in any action or 37755
proceeding other than an action commenced under division (I) of 37756
section 3721.17 of the Revised Code. Those results of an 37757
inspection or investigation, that statement of deficiencies, and 37758
the findings and deficiencies cited in that statement shall not be 37759
used in any court or in any action or proceeding that is pending 37760

in any court and are not admissible in evidence in any action or 37761
proceeding unless that action or proceeding is an appeal of an 37762
action by the department of health under this chapter or is an 37763
action by any department or agency of the state to enforce this 37764
chapter or another chapter of the Revised Code. 37765

(2) Nothing in division (E)(1) of this section prohibits the 37766
results of an inspection or investigation conducted under this 37767
section from being used in a criminal investigation or 37768
prosecution. 37769

Sec. 3721.121. (A) As used in this section: 37770

(1) "Adult day-care program" means a program operated 37771
pursuant to rules adopted by the public health council under 37772
section 3721.04 of the Revised Code and provided by and on the 37773
same site as homes licensed under this chapter. 37774

(2) "Applicant" means a person who is under final 37775
consideration for employment with a home or adult day-care program 37776
in a full-time, part-time, or temporary position that involves 37777
providing direct care to an older adult. "Applicant" does not 37778
include a person who provides direct care as a volunteer without 37779
receiving or expecting to receive any form of remuneration other 37780
than reimbursement for actual expenses. 37781

(3) "Criminal records check" and "older adult" have the same 37782
meanings as in section 109.572 of the Revised Code. 37783

(4) "Home" means a home as defined in section 3721.10 of the 37784
Revised Code. 37785

(B)(1) Except as provided in division (I) of this section, 37786
the chief administrator of a home or adult day-care program shall 37787
request that the superintendent of the bureau of criminal 37788
identification and investigation conduct a criminal records check 37789
with respect to each applicant. If an applicant for whom a 37790

criminal records check request is required under this division 37791
does not present proof of having been a resident of this state for 37792
the five-year period immediately prior to the date the criminal 37793
records check is requested or provide evidence that within that 37794
five-year period the superintendent has requested information 37795
about the applicant from the federal bureau of investigation in a 37796
criminal records check, the chief administrator shall request that 37797
the superintendent obtain information from the federal bureau of 37798
investigation as part of the criminal records check of the 37799
applicant. Even if an applicant for whom a criminal records check 37800
request is required under this division presents proof of having 37801
been a resident of this state for the five-year period, the chief 37802
administrator may request that the superintendent include 37803
information from the federal bureau of investigation in the 37804
criminal records check. 37805

(2) A person required by division (B)(1) of this section to 37806
request a criminal records check shall do both of the following: 37807

(a) Provide to each applicant for whom a criminal records 37808
check request is required under that division a copy of the form 37809
prescribed pursuant to division (C)(1) of section 109.572 of the 37810
Revised Code and a standard fingerprint impression sheet 37811
prescribed pursuant to division (C)(2) of that section, and obtain 37812
the completed form and impression sheet from the applicant; 37813

(b) Forward the completed form and impression sheet to the 37814
superintendent of the bureau of criminal identification and 37815
investigation. 37816

(3) An applicant provided the form and fingerprint impression 37817
sheet under division (B)(2)(a) of this section who fails to 37818
complete the form or provide fingerprint impressions shall not be 37819
employed in any position for which a criminal records check is 37820
required by this section. 37821

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older

adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending ~~sixty~~ thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and

that, unless the fee is paid, the person will not be considered 37886
for employment; 37887

(b) The medical assistance program established under Chapter 37888
5111. of the Revised Code does not reimburse the home or program 37889
the fee it pays under division (D)(1) of this section. 37890

(E) The report of any criminal records check conducted 37891
pursuant to a request made under this section is not a public 37892
record for the purposes of section 149.43 of the Revised Code and 37893
shall not be made available to any person other than the 37894
following: 37895

(1) The individual who is the subject of the criminal records 37896
check or the individual's representative; 37897

(2) The chief administrator of the home or program requesting 37898
the criminal records check or the administrator's representative; 37899

(3) The administrator of any other facility, agency, or 37900
program that provides direct care to older adults that is owned or 37901
operated by the same entity that owns or operates the home or 37902
program; 37903

(4) A court, hearing officer, or other necessary individual 37904
involved in a case dealing with a denial of employment of the 37905
applicant or dealing with employment or unemployment benefits of 37906
the applicant; 37907

(5) Any person to whom the report is provided pursuant to, 37908
and in accordance with, division (I)(1) or (2) of this section. 37909

(F) In accordance with section 3721.11 of the Revised Code, 37910
the director of health shall adopt rules to implement this 37911
section. The rules shall specify circumstances under which a home 37912
or adult day-care program may employ a person who has been 37913
convicted of or pleaded guilty to an offense listed or described 37914
in division (C)(1) of this section but meets personal character 37915

standards set by the director. 37916

(G) The chief administrator of a home or adult day-care 37917
program shall inform each individual, at the time of initial 37918
application for a position that involves providing direct care to 37919
an older adult, that the individual is required to provide a set 37920
of fingerprint impressions and that a criminal records check is 37921
required to be conducted if the individual comes under final 37922
consideration for employment. 37923

(H) In a tort or other civil action for damages that is 37924
brought as the result of an injury, death, or loss to person or 37925
property caused by an individual who a home or adult day-care 37926
program employs in a position that involves providing direct care 37927
to older adults, all of the following shall apply: 37928

(1) If the home or program employed the individual in good 37929
faith and reasonable reliance on the report of a criminal records 37930
check requested under this section, the home or program shall not 37931
be found negligent solely because of its reliance on the report, 37932
even if the information in the report is determined later to have 37933
been incomplete or inaccurate; 37934

(2) If the home or program employed the individual in good 37935
faith on a conditional basis pursuant to division (C)(2) of this 37936
section, the home or program shall not be found negligent solely 37937
because it employed the individual prior to receiving the report 37938
of a criminal records check requested under this section; 37939

(3) If the home or program in good faith employed the 37940
individual according to the personal character standards 37941
established in rules adopted under division (F) of this section, 37942
the home or program shall not be found negligent solely because 37943
the individual prior to being employed had been convicted of or 37944
pleaded guilty to an offense listed or described in division 37945
(C)(1) of this section. 37946

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment

service and that states that the employment service has requested 37979
the superintendent to conduct a criminal records check regarding 37980
the applicant, that the requested criminal records check will 37981
include a determination of whether the applicant has been 37982
convicted of or pleaded guilty to any offense listed or described 37983
in division (C)(1) of this section, that, as of the date set forth 37984
on the letter, the employment service had not received the results 37985
of the criminal records check, and that, when the employment 37986
service receives the results of the criminal records check, it 37987
promptly will send a copy of the results to the home or adult-care 37988
program. If a home or adult day-care program employs an applicant 37989
conditionally in accordance with this division, the employment 37990
service, upon its receipt of the results of the criminal records 37991
check, promptly shall send a copy of the results to the home or 37992
adult day-care program, and division (C)(2)(b) of this section 37993
applies regarding the conditional employment. 37994

Sec. 3722.151. (A) As used in this section: 37995

(1) "Adult care facility" has the same meaning as in section 37996
3722.01 of the Revised Code. 37997

(2) "Applicant" means a person who is under final 37998
consideration for employment with an adult care facility in a 37999
full-time, part-time, or temporary position that involves 38000
providing direct care to an older adult. "Applicant" does not 38001
include a person who provides direct care as a volunteer without 38002
receiving or expecting to receive any form of remuneration other 38003
than reimbursement for actual expenses. 38004

(3) "Criminal records check" and "older adult" have the same 38005
meanings as in section 109.572 of the Revised Code. 38006

(B)(1) Except as provided in division (I) of this section, 38007
the chief administrator of an adult care facility shall request 38008
that the superintendent of the bureau of criminal identification 38009

and investigation conduct a criminal records check with respect to 38010
each applicant. If an applicant for whom a criminal records check 38011
request is required under this division does not present proof of 38012
having been a resident of this state for the five-year period 38013
immediately prior to the date the criminal records check is 38014
requested or provide evidence that within that five-year period 38015
the superintendent has requested information about the applicant 38016
from the federal bureau of investigation in a criminal records 38017
check, the chief administrator shall request that the 38018
superintendent obtain information from the federal bureau of 38019
investigation as part of the criminal records check of the 38020
applicant. Even if an applicant for whom a criminal records check 38021
request is required under this division presents proof of having 38022
been a resident of this state for the five-year period, the chief 38023
administrator may request that the superintendent include 38024
information from the federal bureau of investigation in the 38025
criminal records check. 38026

(2) A person required by division (B)(1) of this section to 38027
request a criminal records check shall do both of the following: 38028

(a) Provide to each applicant for whom a criminal records 38029
check request is required under that division a copy of the form 38030
prescribed pursuant to division (C)(1) of section 109.572 of the 38031
Revised Code and a standard fingerprint impression sheet 38032
prescribed pursuant to division (C)(2) of that section, and obtain 38033
the completed form and impression sheet from the applicant; 38034

(b) Forward the completed form and impression sheet to the 38035
superintendent of the bureau of criminal identification and 38036
investigation. 38037

(3) An applicant provided the form and fingerprint impression 38038
sheet under division (B)(2)(a) of this section who fails to 38039
complete the form or provide fingerprint impressions shall not be 38040
employed in any position for which a criminal records check is 38041

required by this section. 38042

(C)(1) Except as provided in rules adopted by the public 38043
health council in accordance with division (F) of this section and 38044
subject to division (C)(2) of this section, no adult care facility 38045
shall employ a person in a position that involves providing direct 38046
care to an older adult if the person has been convicted of or 38047
pleaded guilty to any of the following: 38048

(a) A violation of section 2903.01, 2903.02, 2903.03, 38049
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 38050
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 38051
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 38052
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 38053
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 38054
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 38055
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 38056
2925.22, 2925.23, or 3716.11 of the Revised Code. 38057

(b) A violation of an existing or former law of this state, 38058
any other state, or the United States that is substantially 38059
equivalent to any of the offenses listed in division (C)(1)(a) of 38060
this section. 38061

(2)(a) An adult care facility may employ conditionally an 38062
applicant for whom a criminal records check request is required 38063
under division (B) of this section prior to obtaining the results 38064
of a criminal records check regarding the individual, provided 38065
that the facility shall request a criminal records check regarding 38066
the individual in accordance with division (B)(1) of this section 38067
not later than five business days after the individual begins 38068
conditional employment. In the circumstances described in division 38069
(I)(2) of this section, an adult care facility may employ 38070
conditionally an applicant who has been referred to the adult care 38071
facility by an employment service that supplies full-time, 38072
part-time, or temporary staff for positions involving the direct 38073

care of older adults and for whom, pursuant to that division, a 38074
criminal records check is not required under division (B) of this 38075
section. 38076

(b) An adult care facility that employs an individual 38077
conditionally under authority of division (C)(2)(a) of this 38078
section shall terminate the individual's employment if the results 38079
of the criminal records check requested under division (B) of this 38080
section or described in division (I)(2) of this section, other 38081
than the results of any request for information from the federal 38082
bureau of investigation, are not obtained within the period ending 38083
~~sixty~~ thirty days after the date the request is made. Regardless 38084
of when the results of the criminal records check are obtained, if 38085
the results indicate that the individual has been convicted of or 38086
pleaded guilty to any of the offenses listed or described in 38087
division (C)(1) of this section, the facility shall terminate the 38088
individual's employment unless the facility chooses to employ the 38089
individual pursuant to division (F) of this section. Termination 38090
of employment under this division shall be considered just cause 38091
for discharge for purposes of division (D)(2) of section 4141.29 38092
of the Revised Code if the individual makes any attempt to deceive 38093
the facility about the individual's criminal record. 38094

(D)(1) Each adult care facility shall pay to the bureau of 38095
criminal identification and investigation the fee prescribed 38096
pursuant to division (C)(3) of section 109.572 of the Revised Code 38097
for each criminal records check conducted pursuant to a request 38098
made under division (B) of this section. 38099

(2) An adult care facility may charge an applicant a fee not 38100
exceeding the amount the facility pays under division (D)(1) of 38101
this section. A facility may collect a fee only if it notifies the 38102
person at the time of initial application for employment of the 38103
amount of the fee and that, unless the fee is paid, the person 38104
will not be considered for employment. 38105

(E) The report of any criminal records check conducted 38106
pursuant to a request made under this section is not a public 38107
record for the purposes of section 149.43 of the Revised Code and 38108
shall not be made available to any person other than the 38109
following: 38110

(1) The individual who is the subject of the criminal records 38111
check or the individual's representative; 38112

(2) The chief administrator of the facility requesting the 38113
criminal records check or the administrator's representative; 38114

(3) The administrator of any other facility, agency, or 38115
program that provides direct care to older adults that is owned or 38116
operated by the same entity that owns or operates the adult care 38117
facility; 38118

(4) A court, hearing officer, or other necessary individual 38119
involved in a case dealing with a denial of employment of the 38120
applicant or dealing with employment or unemployment benefits of 38121
the applicant; 38122

(5) Any person to whom the report is provided pursuant to, 38123
and in accordance with, division (I)(1) or (2) of this section. 38124

(F) The public health council shall adopt rules in accordance 38125
with Chapter 119. of the Revised Code to implement this section. 38126
The rules shall specify circumstances under which an adult care 38127
facility may employ a person who has been convicted of or pleaded 38128
guilty to an offense listed or described in division (C)(1) of 38129
this section but meets personal character standards set by the 38130
council. 38131

(G) The chief administrator of an adult care facility shall 38132
inform each individual, at the time of initial application for a 38133
position that involves providing direct care to an older adult, 38134
that the individual is required to provide a set of fingerprint 38135

impressions and that a criminal records check is required to be 38136
conducted if the individual comes under final consideration for 38137
employment. 38138

(H) In a tort or other civil action for damages that is 38139
brought as the result of an injury, death, or loss to person or 38140
property caused by an individual who an adult care facility 38141
employs in a position that involves providing direct care to older 38142
adults, all of the following shall apply: 38143

(1) If the facility employed the individual in good faith and 38144
reasonable reliance on the report of a criminal records check 38145
requested under this section, the facility shall not be found 38146
negligent solely because of its reliance on the report, even if 38147
the information in the report is determined later to have been 38148
incomplete or inaccurate; 38149

(2) If the facility employed the individual in good faith on 38150
a conditional basis pursuant to division (C)(2) of this section, 38151
the facility shall not be found negligent solely because it 38152
employed the individual prior to receiving the report of a 38153
criminal records check requested under this section; 38154

(3) If the facility in good faith employed the individual 38155
according to the personal character standards established in rules 38156
adopted under division (F) of this section, the facility shall not 38157
be found negligent solely because the individual prior to being 38158
employed had been convicted of or pleaded guilty to an offense 38159
listed or described in division (C)(1) of this section. 38160

(I)(1) The chief administrator of an adult care facility is 38161
not required to request that the superintendent of the bureau of 38162
criminal identification and investigation conduct a criminal 38163
records check of an applicant if the applicant has been referred 38164
to the facility by an employment service that supplies full-time, 38165
part-time, or temporary staff for positions involving the direct 38166

care of older adults and both of the following apply: 38167

(a) The chief administrator receives from the employment 38168
service or the applicant a report of the results of a criminal 38169
records check regarding the applicant that has been conducted by 38170
the superintendent within the one-year period immediately 38171
preceding the applicant's referral; 38172

(b) The report of the criminal records check demonstrates 38173
that the person has not been convicted of or pleaded guilty to an 38174
offense listed or described in division (C)(1) of this section, or 38175
the report demonstrates that the person has been convicted of or 38176
pleaded guilty to one or more of those offenses, but the adult 38177
care facility chooses to employ the individual pursuant to 38178
division (F) of this section. 38179

(2) The chief administrator of an adult care facility is not 38180
required to request that the superintendent of the bureau of 38181
criminal identification and investigation conduct a criminal 38182
records check of an applicant and may employ the applicant 38183
conditionally as described in this division, if the applicant has 38184
been referred to the facility by an employment service that 38185
supplies full-time, part-time, or temporary staff for positions 38186
involving the direct care of older adults and if the chief 38187
administrator receives from the employment service or the 38188
applicant a letter from the employment service that is on the 38189
letterhead of the employment service, dated, and signed by a 38190
supervisor or another designated official of the employment 38191
service and that states that the employment service has requested 38192
the superintendent to conduct a criminal records check regarding 38193
the applicant, that the requested criminal records check will 38194
include a determination of whether the applicant has been 38195
convicted of or pleaded guilty to any offense listed or described 38196
in division (C)(1) of this section, that, as of the date set forth 38197
on the letter, the employment service had not received the results 38198

of the criminal records check, and that, when the employment 38199
service receives the results of the criminal records check, it 38200
promptly will send a copy of the results to the adult care 38201
facility. If an adult care facility employs an applicant 38202
conditionally in accordance with this division, the employment 38203
service, upon its receipt of the results of the criminal records 38204
check, promptly shall send a copy of the results to the adult care 38205
facility, and division (C)(2)(b) of this section applies regarding 38206
the conditional employment. 38207

Sec. 3733.43. (A) Except as otherwise provided in this 38208
division, prior to the fifteenth day of April in each year, every 38209
person who intends to operate an agricultural labor camp shall 38210
make application to the licenser for a license to operate such 38211
camp, effective for the calendar year in which it is issued. The 38212
licenser may accept an application on or after the fifteenth day 38213
of April. The license fees specified in this division shall be 38214
submitted to the licenser with the application for a license. No 38215
agricultural labor camp shall be operated in this state without a 38216
license. Any person operating an agricultural labor camp without a 38217
current and valid agricultural labor camp license is not excepted 38218
from compliance with sections 3733.41 to 3733.49 of the Revised 38219
Code by holding a valid and current hotel license. Each person 38220
proposing to open an agricultural labor camp shall submit with the 38221
application for a license any plans required by any rule adopted 38222
under section 3733.42 of the Revised Code. The annual license fee 38223
is ~~twenty~~ seventy-five dollars, unless the application for a 38224
license is made on or after the fifteenth day of April, in which 38225
case the annual license fee is ~~forty~~ one hundred dollars. An 38226
additional fee of ~~three~~ ten dollars per housing unit per year 38227
shall be assessed to defray the costs of enforcing sections 38228
3733.41 to 3733.49 of the Revised Code, unless the application for 38229
a license is made on or after the fifteenth day of April, in which 38230

case an additional fee of ~~six~~ fifteen dollars per housing unit 38231
shall be assessed. All fees collected under this division shall be 38232
deposited in the state treasury to the credit of the general 38233
operations fund created in section 3701.83 of the Revised Code and 38234
shall be used for the administration and enforcement of sections 38235
3733.41 to 3733.49 of the Revised Code and rules adopted 38236
thereunder. 38237

(B) Any license under this section may be denied, suspended, 38238
or revoked by the licensor for violation of sections 3733.41 to 38239
3733.49 of the Revised Code or the rules adopted thereunder. 38240
Unless there is an immediate serious public health hazard, no 38241
denial, suspension, or revocation of a license shall be made 38242
effective until the person operating the agricultural labor camp 38243
has been given notice in writing of the specific violations and a 38244
reasonable time to make corrections. When the licensor determines 38245
that an immediate serious public health hazard exists, ~~he~~ the 38246
licensor shall issue an order denying or suspending the license 38247
without a prior hearing. 38248

(C) All proceedings under this section are subject to Chapter 38249
119. of the Revised Code except as provided in section 3733.431 of 38250
the Revised Code. 38251

(D) Every occupant of an agricultural labor camp shall keep 38252
that part of the dwelling unit, and premises thereof, that ~~he~~ the 38253
occupant occupies and controls in a clean and sanitary condition. 38254

Sec. 3733.45. (A) The licensor shall inspect all agricultural 38255
labor camps and shall require compliance with sections 3733.41 to 38256
3733.49 of the Revised Code and the rules adopted thereunder prior 38257
to the issuance of a license. Upon receipt of a complaint from the 38258
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 38259
licensor's own information that an agricultural labor camp is 38260
operating without a license, the licensor shall inspect the camp. 38261

If the camp is operating without a license, the licensor shall 38262
require the camp to comply with sections 3733.41 to 3733.49 of the 38263
Revised Code and the rules adopted under those sections. No 38264
license shall be issued unless results of water supply tests 38265
indicate that the water supply meets required standards or if any 38266
violations exist concerning sanitation, drainage, or habitability 38267
of housing units. 38268

(B) The licensor shall, upon issuance of each license, 38269
distribute posters containing the toll-free telephone number of 38270
the migrant agricultural ~~ombudsman~~ ombudsperson established in 38271
section 3733.49 of the Revised Code and information in English and 38272
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 38273
office, as provided in that section. The licensor shall provide at 38274
least two posters to the licensee, one for ~~his~~ the licensee's 38275
personal use and at least one that shall be posted in a 38276
conspicuous place within the camp. 38277

(C) The licensor may, upon proper identification to the 38278
operator or ~~his~~ the operator's agent, enter on any property or 38279
into any structure at any reasonable time for the purpose of 38280
making inspections required by this section. 38281

The licensor shall make at least one inspection prior to 38282
licensing, ~~and at least two inspections during occupancy of the~~ 38283
~~camps, at least one of which shall be an unannounced evening~~ 38284
~~inspection conducted after five p.m. The licensor shall determine~~ 38285
~~and record housing unit occupancy during each evening inspection.~~ 38286
The licensor shall make such other inspections as ~~he~~ the licensor 38287
considers necessary to enforce sections 3733.41 to 3733.49 of the 38288
Revised Code adequately. 38289

(D) Any plans submitted to the licensor shall be in 38290
compliance with rules adopted pursuant to section 3733.42 of the 38291
Revised Code and shall be approved or disapproved within thirty 38292
days after they are filed. 38293

~~(E) All designees of the licensor who conduct inspections in the evening in accordance with this section shall speak both English and Spanish fluently. At least one member of the permanent staff assigned to conduct inspections in accordance with this section shall speak both English and Spanish fluently.~~

~~(F)~~ The licensor shall issue an annual report that shall accurately reflect the results of that year's inspections, including, but not limited to, numbers of ~~pre and post occupancy~~ inspections, number of violations found, and action taken in regard to violations. The report shall also include an assessment of any problems found in that year and proposed solutions for them.

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

disposed of or are being disposed of. The rules shall not concern 38325
or relate to personnel policies, salaries, wages, fringe benefits, 38326
or other conditions of employment of employees of persons owning 38327
or operating solid waste facilities. The director, in accordance 38328
with Chapter 119. of the Revised Code, shall adopt and may amend, 38329
suspend, or rescind rules governing the issuance, modification, 38330
revocation, suspension, or denial of variances from the director's 38331
solid waste rules, including, without limitation, rules adopted 38332
under this chapter governing the management of scrap tires. 38333

Variances shall be issued, modified, revoked, suspended, or 38334
rescinded in accordance with this division, rules adopted under 38335
it, and Chapter 3745. of the Revised Code. The director may order 38336
the person to whom a variance is issued to take such action within 38337
such time as the director may determine to be appropriate and 38338
reasonable to prevent the creation of a nuisance or a hazard to 38339
the public health or safety or the environment. Applications for 38340
variances shall contain such detail plans, specifications, and 38341
information regarding objectives, procedures, controls, and other 38342
pertinent data as the director may require. The director shall 38343
grant a variance only if the applicant demonstrates to the 38344
director's satisfaction that construction and operation of the 38345
solid waste facility in the manner allowed by the variance and any 38346
terms or conditions imposed as part of the variance will not 38347
create a nuisance or a hazard to the public health or safety or 38348
the environment. In granting any variance, the director shall 38349
state the specific provision or provisions whose terms are to be 38350
varied and also shall state specific terms or conditions imposed 38351
upon the applicant in place of the provision or provisions. The 38352
director may hold a public hearing on an application for a 38353
variance or renewal of a variance at a location in the county 38354
where the operations that are the subject of the application for 38355
the variance are conducted. The director shall give not less than 38356
twenty days' notice of the hearing to the applicant by certified 38357

mail and shall publish at least one notice of the hearing in a 38358
newspaper with general circulation in the county where the hearing 38359
is to be held. The director shall make available for public 38360
inspection at the principal office of the environmental protection 38361
agency a current list of pending applications for variances and a 38362
current schedule of pending variance hearings. The director shall 38363
make a complete stenographic record of testimony and other 38364
evidence submitted at the hearing. Within ten days after the 38365
hearing, the director shall make a written determination to issue, 38366
renew, or deny the variance and shall enter the determination and 38367
the basis for it into the record of the hearing. The director 38368
shall issue, renew, or deny an application for a variance or 38369
renewal of a variance within six months of the date upon which the 38370
director receives a complete application with all pertinent 38371
information and data required. No variance shall be issued, 38372
revoked, modified, or denied until the director has considered the 38373
relative interests of the applicant, other persons and property 38374
affected by the variance, and the general public. Any variance 38375
granted under this division shall be for a period specified by the 38376
director and may be renewed from time to time on such terms and 38377
for such periods as the director determines to be appropriate. No 38378
application shall be denied and no variance shall be revoked or 38379
modified without a written order stating the findings upon which 38380
the denial, revocation, or modification is based. A copy of the 38381
order shall be sent to the applicant or variance holder by 38382
certified mail. 38383

(B) The director shall prescribe and furnish the forms 38384
necessary to administer and enforce this chapter. The director may 38385
cooperate with and enter into agreements with other state, local, 38386
or federal agencies to carry out the purposes of this chapter. The 38387
director may exercise all incidental powers necessary to carry out 38388
the purposes of this chapter. 38389

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

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

No person shall continue to operate a solid waste facility for which the director has denied a permit for which an application was required under division (A)(3) of section 3734.05 of the Revised Code, or for which the director has disapproved

plans and specifications required to be filed by an order issued 38422
under division (A)(5) of that section, after the date prescribed 38423
for commencement of closure of the facility in the order issued 38424
under division (A)(6) of section 3734.05 of the Revised Code 38425
denying the permit application or approval. 38426

On and after the effective date of the rules adopted under 38427
division (A) of this section and division (D) of section 3734.12 38428
of the Revised Code governing solid waste transfer facilities, no 38429
person shall establish a new, or modify an existing, solid waste 38430
transfer facility without first submitting an application for a 38431
permit with accompanying engineering detail plans, specifications, 38432
and information regarding the facility and its method of operation 38433
to the director and receiving a permit issued by the director. 38434

No person shall establish a new compost facility or continue 38435
to operate an existing compost facility that accepts exclusively 38436
source separated yard wastes without submitting a completed 38437
registration for the facility to the director in accordance with 38438
rules adopted under divisions (A) and (N)(3) of this section. 38439

This division does not apply to an infectious waste treatment 38440
facility that meets any of the following conditions: 38441

(1) Is owned or operated by the generator of the wastes and 38442
exclusively treats, by methods, techniques, and practices 38443
established by rules adopted under division (C)(1) or (3) of 38444
section 3734.021 of the Revised Code, wastes that are generated at 38445
any premises owned or operated by that generator regardless of 38446
whether the wastes are generated on the premises where the 38447
generator's treatment facility is located or, if the generator is 38448
a hospital as defined in section 3727.01 of the Revised Code, 38449
infectious wastes that are described in division (A)(1)(g), (h), 38450
or (i) of section 3734.021 of the Revised Code; 38451

(2) Holds a license or renewal of a license to operate a 38452

crematory facility issued under Chapter 4717. and a permit issued	38453
under Chapter 3704. of the Revised Code;	38454
(3) Treats or disposes of dead animals or parts thereof, or	38455
the blood of animals, and is subject to any of the following:	38456
(a) Inspection under the "Federal Meat Inspection Act," 81	38457
Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	38458
(b) Chapter 918. of the Revised Code;	38459
(c) Chapter 953. of the Revised Code.	38460
(D) Neither this chapter nor any rules adopted under it apply	38461
to single-family residential premises; to infectious wastes	38462
generated by individuals for purposes of their own care or	38463
treatment that are disposed of with solid wastes from the	38464
individual's residence; to the temporary storage of solid wastes,	38465
other than scrap tires, prior to their collection for disposal; to	38466
the storage of one hundred or fewer scrap tires unless they are	38467
stored in such a manner that, in the judgment of the director or	38468
the board of health of the health district in which the scrap	38469
tires are stored, the storage causes a nuisance, a hazard to	38470
public health or safety, or a fire hazard; or to the collection of	38471
solid wastes, other than scrap tires, by a political subdivision	38472
or a person holding a franchise or license from a political	38473
subdivision of the state; to composting, as defined in section	38474
1511.01 of the Revised Code, conducted in accordance with section	38475
1511.022 of the Revised Code; or to any person who is licensed to	38476
transport raw rendering material to a compost facility pursuant to	38477
section 953.23 of the Revised Code.	38478
(E)(1) As used in this division and section 3734.18 of the	38479
Revised Code:	38480
(a) "On-site facility" means a facility that stores, treats,	38481
or disposes of hazardous waste that is generated on the premises	38482
of the facility.	38483

(b) "Off-site facility" means a facility that stores, treats, 38484
or disposes of hazardous waste that is generated off the premises 38485
of the facility and includes such a facility that is also an 38486
on-site facility. 38487

(c) "Satellite facility" means any of the following: 38488

(i) An on-site facility that also receives hazardous waste 38489
from other premises owned by the same person who generates the 38490
waste on the facility premises; 38491

(ii) An off-site facility operated so that all of the 38492
hazardous waste it receives is generated on one or more premises 38493
owned by the person who owns the facility; 38494

(iii) An on-site facility that also receives hazardous waste 38495
that is transported uninterruptedly and directly to the facility 38496
through a pipeline from a generator who is not the owner of the 38497
facility. 38498

(2) Except as provided in division (E)(3) of this section, no 38499
person shall establish or operate a hazardous waste facility, or 38500
use a solid waste facility for the storage, treatment, or disposal 38501
of any hazardous waste, without a hazardous waste facility 38502
installation and operation permit ~~from the hazardous waste~~ 38503
~~facility board~~ issued in accordance with section 3734.05 of the 38504
Revised Code and subject to the payment of an application fee not 38505
to exceed one thousand five hundred dollars, payable upon 38506
application for a hazardous waste facility installation and 38507
operation permit and upon application for a renewal permit issued 38508
under division (H) of section 3734.05 of the Revised Code, to be 38509
credited to the hazardous waste facility management fund created 38510
in section 3734.18 of the Revised Code. The term of a hazardous 38511
waste facility installation and operation permit shall not exceed 38512
five years. 38513

In addition to the application fee, there is hereby levied an 38514

annual permit fee to be paid by the permit holder upon the			38515
anniversaries of the date of issuance of the hazardous waste			38516
facility installation and operation permit and of any subsequent			38517
renewal permits and to be credited to the hazardous waste facility			38518
management fund. Annual permit fees totaling forty thousand			38519
dollars or more for any one facility may be paid on a quarterly			38520
basis with the first quarterly payment each year being due on the			38521
anniversary of the date of issuance of the hazardous waste			38522
facility installation and operation permit and of any subsequent			38523
renewal permits. The annual permit fee shall be determined for			38524
each permit holder by the director in accordance with the			38525
following schedule:			38526
TYPE OF BASIC			38527
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	38528
Storage facility using:			38529
Containers	On-site, off-site, and		38530
	satellite	\$ 500	38531
Tanks	On-site, off-site, and		38532
	satellite	500	38533
Waste pile	On-site, off-site, and		38534
	satellite	3,000	38535
Surface impoundment	On-site and satellite	8,000	38536
	Off-site	10,000	38537
Disposal facility using:			38538
Deep well injection	On-site and satellite	15,000	38539
	Off-site	25,000	38540
Landfill	On-site and satellite	25,000	38541
	Off-site	40,000	38542
Land application	On-site and satellite	2,500	38543
	Off-site	5,000	38544
Surface impoundment	On-site and satellite	10,000	38545
	Off-site	20,000	38546
Treatment facility using:			38547

Tanks	On-site, off-site, and		38548
	satellite	700	38549
Surface impoundment	On-site and satellite	8,000	38550
	Off-site	10,000	38551
Incinerator	On-site and satellite	5,000	38552
	Off-site	<u>10,000</u>	38553
Other forms			38554
of treatment	On-site, off-site, and		38555
	satellite	1,000	38556

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

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

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

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility

installation and operation permit ~~from the board~~ does not apply to 38580
either of the following: 38581

(a) A facility that is operating in accordance with a permit 38582
renewal issued under division (H) of section 3734.05 of the 38583
Revised Code, a revision issued under division (I) of that section 38584
as it existed prior to August 20, 1996, or a modification issued 38585
by the director under division (I) of that section on and after 38586
August 20, 1996; 38587

(b) Except as provided in division (J) of section 3734.05 of 38588
the Revised Code, a facility that will operate or is operating in 38589
accordance with a permit by rule, or that is not subject to permit 38590
requirements, under rules adopted by the director. In accordance 38591
with Chapter 119. of the Revised Code, the director shall adopt, 38592
and subsequently may amend, suspend, or rescind, rules for the 38593
purposes of division (E)(3)(b) of this section. Any rules so 38594
adopted shall be consistent with and equivalent to regulations 38595
pertaining to interim status adopted under the "Resource 38596
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 38597
6921, as amended, except as otherwise provided in this chapter. 38598

If a modification is requested or proposed for a facility 38599
described in division (E)(3)(a) or (b) of this section, division 38600
(I)~~(8)~~(7) of section 3734.05 of the Revised Code applies. 38601

(F) No person shall store, treat, or dispose of hazardous 38602
waste identified or listed under this chapter and rules adopted 38603
under it, regardless of whether generated on or off the premises 38604
where the waste is stored, treated, or disposed of, or transport 38605
or cause to be transported any hazardous waste identified or 38606
listed under this chapter and rules adopted under it to any other 38607
premises, except at or to any of the following: 38608

(1) A hazardous waste facility operating under a permit 38609
issued in accordance with this chapter; 38610

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

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

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

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

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

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

A public utility that has main or distribution lines above or 38642
below the land surface located on an easement or right-of-way 38643
across land where a solid waste facility was operated may engage 38644
in any such activity within the easement or right-of-way without 38645
prior authorization from the director for purposes of performing 38646
emergency repair or emergency replacement of its lines; of the 38647
poles, towers, foundations, or other structures supporting or 38648
sustaining any such lines; or of the appurtenances to those 38649
structures, necessary to restore or maintain existing public 38650
utility service. A public utility may enter upon any such easement 38651
or right-of-way without prior authorization from the director for 38652
purposes of performing necessary or routine maintenance of those 38653
portions of its existing lines; of the existing poles, towers, 38654
foundations, or other structures sustaining or supporting its 38655
lines; or of the appurtenances to any such supporting or 38656
sustaining structure, located on or above the land surface on any 38657
such easement or right-of-way. Within twenty-four hours after 38658
commencing any such emergency repair, replacement, or maintenance 38659
work, the public utility shall notify the director or the 38660
director's authorized representative of those activities and shall 38661
provide such information regarding those activities as the 38662
director or the director's representative may request. Upon 38663
completion of the emergency repair, replacement, or maintenance 38664
activities, the public utility shall restore any land of the solid 38665
waste facility disturbed by those activities to the condition 38666
existing prior to the commencement of those activities. 38667

(I) No owner or operator of a hazardous waste facility, in 38668
the operation of the facility, shall cause, permit, or allow the 38669
emission therefrom of any particulate matter, dust, fumes, gas, 38670
mist, smoke, vapor, or odorous substance that, in the opinion of 38671
the director, unreasonably interferes with the comfortable 38672
enjoyment of life or property by persons living or working in the 38673

vicinity of the facility, or that is injurious to public health. 38674
Any such action is hereby declared to be a public nuisance. 38675

(J) Notwithstanding any other provision of this chapter, in 38676
the event the director finds an imminent and substantial danger to 38677
public health or safety or the environment that creates an 38678
emergency situation requiring the immediate treatment, storage, or 38679
disposal of hazardous waste, the director may issue a temporary 38680
emergency permit to allow the treatment, storage, or disposal of 38681
the hazardous waste at a facility that is not otherwise authorized 38682
by a hazardous waste facility installation and operation permit to 38683
treat, store, or dispose of the waste. The emergency permit shall 38684
not exceed ninety days in duration and shall not be renewed. The 38685
director shall adopt, and may amend, suspend, or rescind, rules in 38686
accordance with Chapter 119. of the Revised Code governing the 38687
issuance, modification, revocation, and denial of emergency 38688
permits. 38689

(K) No owner or operator of a sanitary landfill shall 38690
knowingly accept for disposal, or dispose of, any infectious 38691
wastes, other than those subject to division (A)(1)(c) of section 38692
3734.021 of the Revised Code, that have not been treated to render 38693
them noninfectious. For the purposes of this division, 38694
certification by the owner or operator of the treatment facility 38695
where the wastes were treated on the shipping paper required by 38696
rules adopted under division (D)(2) of that section creates a 38697
rebuttable presumption that the wastes have been so treated. 38698

(L) The director, in accordance with Chapter 119. of the 38699
Revised Code, shall adopt, and may amend, suspend, or rescind, 38700
rules having uniform application throughout the state establishing 38701
a training and certification program that shall be required for 38702
employees of boards of health who are responsible for enforcing 38703
the solid waste and infectious waste provisions of this chapter 38704
and rules adopted under them and for persons who are responsible 38705

for the operation of solid waste facilities or infectious waste 38706
treatment facilities. The rules shall provide all of the 38707
following, without limitation: 38708

(1) The program shall be administered by the director and 38709
shall consist of a course on new solid waste and infectious waste 38710
technologies, enforcement procedures, and rules; 38711

(2) The course shall be offered on an annual basis; 38712

(3) Those persons who are required to take the course under 38713
division (L) of this section shall do so triennially; 38714

(4) Persons who successfully complete the course shall be 38715
certified by the director; 38716

(5) Certification shall be required for all employees of 38717
boards of health who are responsible for enforcing the solid waste 38718
or infectious waste provisions of this chapter and rules adopted 38719
under them and for all persons who are responsible for the 38720
operation of solid waste facilities or infectious waste treatment 38721
facilities; 38722

(6)(a) All employees of a board of health who, on the 38723
effective date of the rules adopted under this division, are 38724
responsible for enforcing the solid waste or infectious waste 38725
provisions of this chapter and the rules adopted under them shall 38726
complete the course and be certified by the director not later 38727
than January 1, 1995; 38728

(b) All employees of a board of health who, after the 38729
effective date of the rules adopted under division (L) of this 38730
section, become responsible for enforcing the solid waste or 38731
infectious waste provisions of this chapter and rules adopted 38732
under them and who do not hold a current and valid certification 38733
from the director at that time shall complete the course and be 38734
certified by the director within two years after becoming 38735
responsible for performing those activities. 38736

No person shall fail to obtain the certification required 38737
under this division. 38738

(M) The director shall not issue a permit under section 38739
3734.05 of the Revised Code to establish a solid waste facility, 38740
or to modify a solid waste facility operating on December 21, 38741
1988, in a manner that expands the disposal capacity or geographic 38742
area covered by the facility, that is or is to be located within 38743
the boundaries of a state park established or dedicated under 38744
Chapter 1541. of the Revised Code, a state park purchase area 38745
established under section 1541.02 of the Revised Code, any unit of 38746
the national park system, or any property that lies within the 38747
boundaries of a national park or recreation area, but that has not 38748
been acquired or is not administered by the secretary of the 38749
United States department of the interior, located in this state, 38750
or any candidate area located in this state and identified for 38751
potential inclusion in the national park system in the edition of 38752
the "national park system plan" submitted under paragraph (b) of 38753
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 38754
U.S.C.A. 1a-5, as amended, current at the time of filing of the 38755
application for the permit, unless the facility or proposed 38756
facility is or is to be used exclusively for the disposal of solid 38757
wastes generated within the park or recreation area and the 38758
director determines that the facility or proposed facility will 38759
not degrade any of the natural or cultural resources of the park 38760
or recreation area. The director shall not issue a variance under 38761
division (A) of this section and rules adopted under it, or issue 38762
an exemption order under division (G) of this section, that would 38763
authorize any such establishment or expansion of a solid waste 38764
facility within the boundaries of any such park or recreation 38765
area, state park purchase area, or candidate area, other than a 38766
solid waste facility exclusively for the disposal of solid wastes 38767
generated within the park or recreation area when the director 38768

determines that the facility will not degrade any of the natural 38769
or cultural resources of the park or recreation area. 38770

(N)(1) The rules adopted under division (A) of this section, 38771
other than those governing variances, do not apply to scrap tire 38772
collection, storage, monocell, monofill, and recovery facilities. 38773
Those facilities are subject to and governed by rules adopted 38774
under sections 3734.70 to 3734.73 of the Revised Code, as 38775
applicable. 38776

(2) Division (C) of this section does not apply to scrap tire 38777
collection, storage, monocell, monofill, and recovery facilities. 38778
The establishment and modification of those facilities are subject 38779
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 38780
Code, as applicable. 38781

(3) The director may adopt, amend, suspend, or rescind rules 38782
under division (A) of this section creating an alternative system 38783
for authorizing the establishment, operation, or modification of a 38784
solid waste compost facility in lieu of the requirement that a 38785
person seeking to establish, operate, or modify a solid waste 38786
compost facility apply for and receive a permit under division (C) 38787
of this section and section 3734.05 of the Revised Code and a 38788
license under division (A)(1) of that section. The rules may 38789
include requirements governing, without limitation, the 38790
classification of solid waste compost facilities, the submittal of 38791
operating records for solid waste compost facilities, and the 38792
creation of a registration or notification system in lieu of the 38793
issuance of permits and licenses for solid waste compost 38794
facilities. The rules shall specify the applicability of divisions 38795
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 38796
Code to a solid waste compost facility. 38797

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 38798
(8), and (9) of this section, no person shall operate or maintain 38799

a solid waste facility without a license issued under this 38800
division by the board of health of the health district in which 38801
the facility is located or by the director of environmental 38802
protection when the health district in which the facility is 38803
located is not on the approved list under section 3734.08 of the 38804
Revised Code. 38805

During the month of December, but before the first day of 38806
January of the next year, every person proposing to continue to 38807
operate an existing solid waste facility shall procure a license 38808
under this division to operate the facility for that year from the 38809
board of health of the health district in which the facility is 38810
located or, if the health district is not on the approved list 38811
under section 3734.08 of the Revised Code, from the director. The 38812
application for such a license shall be submitted to the board of 38813
health or to the director, as appropriate, on or before the last 38814
day of September of the year preceding that for which the license 38815
is sought. In addition to the application fee prescribed in 38816
division (A)(2) of this section, a person who submits an 38817
application after that date shall pay an additional ten per cent 38818
of the amount of the application fee for each week that the 38819
application is late. Late payment fees accompanying an application 38820
submitted to the board of health shall be credited to the special 38821
fund of the health district created in division (B) of section 38822
3734.06 of the Revised Code, and late payment fees accompanying an 38823
application submitted to the director shall be credited to the 38824
general revenue fund. A person who has received a license, upon 38825
sale or disposition of a solid waste facility, and upon consent of 38826
the board of health and the director, may have the license 38827
transferred to another person. The board of health or the director 38828
may include such terms and conditions in a license or revision to 38829
a license as are appropriate to ensure compliance with this 38830
chapter and rules adopted under it. The terms and conditions may 38831
establish the authorized maximum daily waste receipts for the 38832

facility. Limitations on maximum daily waste receipts shall be 38833
specified in cubic yards of volume for the purpose of regulating 38834
the design, construction, and operation of solid waste facilities. 38835
Terms and conditions included in a license or revision to a 38836
license by a board of health shall be consistent with, and pertain 38837
only to the subjects addressed in, the rules adopted under 38838
division (A) of section 3734.02 and division (D) of section 38839
3734.12 of the Revised Code. 38840

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 38841
(9) of this section, each person proposing to open a new solid 38842
waste facility or to modify an existing solid waste facility shall 38843
submit an application for a permit with accompanying detail plans 38844
and specifications to the environmental protection agency for 38845
required approval under the rules adopted by the director pursuant 38846
to division (A) of section 3734.02 of the Revised Code and 38847
applicable rules adopted under division (D) of section 3734.12 of 38848
the Revised Code at least two hundred seventy days before proposed 38849
operation of the facility and shall concurrently make application 38850
for the issuance of a license under division (A)(1) of this 38851
section with the board of health of the health district in which 38852
the proposed facility is to be located. 38853

(b) On and after the effective date of the rules adopted 38854
under division (A) of section 3734.02 of the Revised Code and 38855
division (D) of section 3734.12 of the Revised Code governing 38856
solid waste transfer facilities, each person proposing to open a 38857
new solid waste transfer facility or to modify an existing solid 38858
waste transfer facility shall submit an application for a permit 38859
with accompanying engineering detail plans, specifications, and 38860
information regarding the facility and its method of operation to 38861
the environmental protection agency for required approval under 38862
those rules at least two hundred seventy days before commencing 38863
proposed operation of the facility and concurrently shall make 38864

application for the issuance of a license under division (A)(1) of 38865
this section with the board of health of the health district in 38866
which the facility is located or proposed. 38867

(c) Each application for a permit under division (A)(2)(a) or 38868
(b) of this section shall be accompanied by a nonrefundable 38869
application fee of four hundred dollars that shall be credited to 38870
the general revenue fund. Each application for an annual license 38871
under division (A)(1) or (2) of this section shall be accompanied 38872
by a nonrefundable application fee of one hundred dollars. If the 38873
application for an annual license is submitted to a board of 38874
health on the approved list under section 3734.08 of the Revised 38875
Code, the application fee shall be credited to the special fund of 38876
the health district created in division (B) of section 3734.06 of 38877
the Revised Code. If the application for an annual license is 38878
submitted to the director, the application fee shall be credited 38879
to the general revenue fund. If a permit or license is issued, the 38880
amount of the application fee paid shall be deducted from the 38881
amount of the permit fee due under division (Q) of section 3745.11 38882
of the Revised Code or the amount of the license fee due under 38883
division (A)(1), (2), (3), or (4) of section 3734.06 of the 38884
Revised Code. 38885

(d) As used in divisions (A)(2)(d), (e), and (f) of this 38886
section, "modify" means any of the following: 38887

(i) Any increase of more than ten per cent in the total 38888
capacity of a solid waste facility; 38889

(ii) Any expansion of the limits of solid waste placement at 38890
a solid waste facility; 38891

(iii) Any increase in the depth of excavation at a solid 38892
waste facility; 38893

(iv) Any change in the technique of waste receipt or type of 38894
waste received at a solid waste facility that may endanger human 38895

health, as determined by the director by rules adopted in 38896
accordance with Chapter 119. of the Revised Code. 38897

Not later than thirty-five days after submitting an 38898
application under division (A)(2)(a) or (b) of this section for a 38899
permit to open a new or modify an existing solid waste facility, 38900
the applicant, in conjunction with an officer or employee of the 38901
environmental protection agency, shall hold a public meeting on 38902
the application within the county in which the new or modified 38903
solid waste facility is or is proposed to be located or within a 38904
contiguous county. Not less than thirty days before holding the 38905
public meeting on the application, the applicant shall publish 38906
notice of the meeting in each newspaper of general circulation 38907
that is published in the county in which the facility is or is 38908
proposed to be located. If no newspaper of general circulation is 38909
published in the county, the applicant shall publish the notice in 38910
a newspaper of general circulation in the county. The notice shall 38911
contain the date, time, and location of the public meeting and a 38912
general description of the proposed new or modified facility. Not 38913
later than five days after publishing the notice, the applicant 38914
shall send by certified mail a copy of the notice and the date the 38915
notice was published to the director and the legislative authority 38916
of each municipal corporation, township, and county, and to the 38917
chief executive officer of each municipal corporation, in which 38918
the facility is or is proposed to be located. At the public 38919
meeting, the applicant shall provide information and describe the 38920
application and respond to comments or questions concerning the 38921
application, and the officer or employee of the agency shall 38922
describe the permit application process. At the public meeting, 38923
any person may submit written or oral comments on or objections to 38924
the application. Not more than thirty days after the public 38925
meeting, the applicant shall provide the director with a copy of a 38926
transcript of the full meeting, copies of any exhibits, displays, 38927
or other materials presented by the applicant at the meeting, and 38928

the original copy of any written comments submitted at the 38929
meeting. 38930

(e) Except as provided in division (A)(2)(f) of this section, 38931
prior to taking an action, other than a proposed or final denial, 38932
upon an application submitted under division (A)(2)(a) of this 38933
section for a permit to open a new or modify an existing solid 38934
waste facility, the director shall hold a public information 38935
session and a public hearing on the application within the county 38936
in which the new or modified solid waste facility is or is 38937
proposed to be located or within a contiguous county. If the 38938
application is for a permit to open a new solid waste facility, 38939
the director shall hold the hearing not less than fourteen days 38940
after the information session. If the application is for a permit 38941
to modify an existing solid waste facility, the director may hold 38942
both the information session and the hearing on the same day 38943
unless any individual affected by the application requests in 38944
writing that the information session and the hearing not be held 38945
on the same day, in which case the director shall hold the hearing 38946
not less than fourteen days after the information session. The 38947
director shall publish notice of the public information session or 38948
public hearing not less than thirty days before holding the 38949
information session or hearing, as applicable. The notice shall be 38950
published in each newspaper of general circulation that is 38951
published in the county in which the facility is or is proposed to 38952
be located. If no newspaper of general circulation is published in 38953
the county, the director shall publish the notice in a newspaper 38954
of general circulation in the county. The notice shall contain the 38955
date, time, and location of the information session or hearing, as 38956
applicable, and a general description of the proposed new or 38957
modified facility. At the public information session, an officer 38958
or employee of the environmental protection agency shall describe 38959
the status of the permit application and be available to respond 38960
to comments or questions concerning the application. At the public 38961

hearing, any person may submit written or oral comments on or 38962
objections to the approval of the application. The applicant, or a 38963
representative of the applicant who has knowledge of the location, 38964
construction, and operation of the facility, shall attend the 38965
information session and public hearing to respond to comments or 38966
questions concerning the facility directed to the applicant or 38967
representative by the officer or employee of the environmental 38968
protection agency presiding at the information session and 38969
hearing. 38970

(f) The solid waste management policy committee of a county 38971
or joint solid waste management district may adopt a resolution 38972
requesting expeditious consideration of a specific application 38973
submitted under division (A)(2)(a) of this section for a permit to 38974
modify an existing solid waste facility within the district. The 38975
resolution shall make the finding that expedited consideration of 38976
the application without the public information session and public 38977
hearing under division (A)(2)(e) of this section is in the public 38978
interest and will not endanger human health, as determined by the 38979
director by rules adopted in accordance with Chapter 119. of the 38980
Revised Code. Upon receiving such a resolution, the director, at 38981
the director's discretion, may issue a final action upon the 38982
application without holding a public information session or public 38983
hearing pursuant to division (A)(2)(e) of this section. 38984

(3) Except as provided in division (A)(10) of this section, 38985
and unless the owner or operator of any solid waste facility, 38986
other than a solid waste transfer facility or a compost facility 38987
that accepts exclusively source separated yard wastes, that 38988
commenced operation on or before July 1, 1968, has obtained an 38989
exemption from the requirements of division (A)(3) of this section 38990
in accordance with division (G) of section 3734.02 of the Revised 38991
Code, the owner or operator shall submit to the director an 38992
application for a permit with accompanying engineering detail 38993

plans, specifications, and information regarding the facility and 38994
its method of operation for approval under rules adopted under 38995
division (A) of section 3734.02 of the Revised Code and applicable 38996
rules adopted under division (D) of section 3734.12 of the Revised 38997
Code in accordance with the following schedule: 38998

(a) Not later than September 24, 1988, if the facility is 38999
located in the city of Garfield Heights or Parma in Cuyahoga 39000
county; 39001

(b) Not later than December 24, 1988, if the facility is 39002
located in Delaware, Greene, Guernsey, Hamilton, Madison, 39003
Mahoning, Ottawa, or Vinton county; 39004

(c) Not later than March 24, 1989, if the facility is located 39005
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 39006
Washington county, or is located in the city of Brooklyn or 39007
Cuyahoga Heights in Cuyahoga county; 39008

(d) Not later than June 24, 1989, if the facility is located 39009
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 39010
Summit county or is located in Cuyahoga county outside the cities 39011
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 39012

(e) Not later than September 24, 1989, if the facility is 39013
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 39014
county; 39015

(f) Not later than December 24, 1989, if the facility is 39016
located in a county not listed in divisions (A)(3)(a) to (e) of 39017
this section; 39018

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 39019
section, not later than December 31, 1990, if the facility is a 39020
solid waste facility owned by a generator of solid wastes when the 39021
solid waste facility exclusively disposes of solid wastes 39022
generated at one or more premises owned by the generator 39023
regardless of whether the facility is located on a premises where 39024

the wastes are generated and if the facility disposes of more than 39025
one hundred thousand tons of solid wastes per year, provided that 39026
any such facility shall be subject to division (A)(5) of this 39027
section. 39028

(4) Except as provided in divisions (A)(8), (9), and (10) of 39029
this section, unless the owner or operator of any solid waste 39030
facility for which a permit was issued after July 1, 1968, but 39031
before January 1, 1980, has obtained an exemption from the 39032
requirements of division (A)(4) of this section under division (G) 39033
of section 3734.02 of the Revised Code, the owner or operator 39034
shall submit to the director an application for a permit with 39035
accompanying engineering detail plans, specifications, and 39036
information regarding the facility and its method of operation for 39037
approval under those rules. 39038

(5) The director may issue an order in accordance with 39039
Chapter 3745. of the Revised Code to the owner or operator of a 39040
solid waste facility requiring the person to submit to the 39041
director updated engineering detail plans, specifications, and 39042
information regarding the facility and its method of operation for 39043
approval under rules adopted under division (A) of section 3734.02 39044
of the Revised Code and applicable rules adopted under division 39045
(D) of section 3734.12 of the Revised Code if, in the director's 39046
judgment, conditions at the facility constitute a substantial 39047
threat to public health or safety or are causing or contributing 39048
to or threatening to cause or contribute to air or water pollution 39049
or soil contamination. Any person who receives such an order shall 39050
submit the updated engineering detail plans, specifications, and 39051
information to the director within one hundred eighty days after 39052
the effective date of the order. 39053

(6) The director shall act upon an application submitted 39054
under division (A)(3) or (4) of this section and any updated 39055
engineering plans, specifications, and information submitted under 39056

division (A)(5) of this section within one hundred eighty days 39057
after receiving them. If the director denies any such permit 39058
application, the order denying the application or disapproving the 39059
plans shall include the requirements that the owner or operator 39060
submit a plan for closure and post-closure care of the facility to 39061
the director for approval within six months after issuance of the 39062
order, cease accepting solid wastes for disposal or transfer at 39063
the facility, and commence closure of the facility not later than 39064
one year after issuance of the order. If the director determines 39065
that closure of the facility within that one-year period would 39066
result in the unavailability of sufficient solid waste management 39067
facility capacity within the county or joint solid waste 39068
management district in which the facility is located to dispose of 39069
or transfer the solid waste generated within the district, the 39070
director in the order of denial or disapproval may postpone 39071
commencement of closure of the facility for such period of time as 39072
the director finds necessary for the board of county commissioners 39073
or directors of the district to secure access to or for there to 39074
be constructed within the district sufficient solid waste 39075
management facility capacity to meet the needs of the district, 39076
provided that the director shall certify in the director's order 39077
that postponing the date for commencement of closure will not 39078
endanger ground water or any property surrounding the facility, 39079
allow methane gas migration to occur, or cause or contribute to 39080
any other type of environmental damage. 39081

If an emergency need for disposal capacity that may affect 39082
public health and safety exists as a result of closure of a 39083
facility under division (A)(6) of this section, the director may 39084
issue an order designating another solid waste facility to accept 39085
the wastes that would have been disposed of at the facility to be 39086
closed. 39087

(7) If the director determines that standards more stringent 39088

than those applicable in rules adopted under division (A) of 39089
section 3734.02 of the Revised Code and division (D) of section 39090
3734.12 of the Revised Code, or standards pertaining to subjects 39091
not specifically addressed by those rules, are necessary to ensure 39092
that a solid waste facility constructed at the proposed location 39093
will not cause a nuisance, cause or contribute to water pollution, 39094
or endanger public health or safety, the director may issue a 39095
permit for the facility with such terms and conditions as the 39096
director finds necessary to protect public health and safety and 39097
the environment. If a permit is issued, the director shall state 39098
in the order issuing it the specific findings supporting each such 39099
term or condition. 39100

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 39101
not apply to a solid waste compost facility that accepts 39102
exclusively source separated yard wastes and that is registered 39103
under division (C) of section 3734.02 of the Revised Code or, 39104
unless otherwise provided in rules adopted under division (N)(3) 39105
of section 3734.02 of the Revised Code, to a solid waste compost 39106
facility if the director has adopted rules establishing an 39107
alternative system for authorizing the establishment, operation, 39108
or modification of a solid waste compost facility under that 39109
division. 39110

(9) Divisions (A)(1) to (7) of this section do not apply to 39111
scrap tire collection, storage, monocell, monofill, and recovery 39112
facilities. The approval of plans and specifications, as 39113
applicable, and the issuance of registration certificates, 39114
permits, and licenses for those facilities are subject to sections 39115
3734.75 to 3734.78 of the Revised Code, as applicable, and section 39116
3734.81 of the Revised Code. 39117

(10) Divisions (A)(3) and (4) of this section do not apply to 39118
a solid waste incinerator that was placed into operation on or 39119
before October 12, 1994, and that is not authorized to accept and 39120

treat infectious wastes pursuant to division (B) of this section. 39121

(B)(1) Each person who is engaged in the business of treating 39122
infectious wastes for profit at a treatment facility located off 39123
the premises where the wastes are generated that is in operation 39124
on August 10, 1988, and who proposes to continue operating the 39125
facility shall submit to the board of health of the health 39126
district in which the facility is located an application for a 39127
license to operate the facility. 39128

Thereafter, no person shall operate or maintain an infectious 39129
waste treatment facility without a license issued by the board of 39130
health of the health district in which the facility is located or 39131
by the director when the health district in which the facility is 39132
located is not on the approved list under section 3734.08 of the 39133
Revised Code. 39134

(2)(a) During the month of December, but before the first day 39135
of January of the next year, every person proposing to continue to 39136
operate an existing infectious waste treatment facility shall 39137
procure a license to operate the facility for that year from the 39138
board of health of the health district in which the facility is 39139
located or, if the health district is not on the approved list 39140
under section 3734.08 of the Revised Code, from the director. The 39141
application for such a license shall be submitted to the board of 39142
health or to the director, as appropriate, on or before the last 39143
day of September of the year preceding that for which the license 39144
is sought. In addition to the application fee prescribed in 39145
division (B)(2)(c) of this section, a person who submits an 39146
application after that date shall pay an additional ten per cent 39147
of the amount of the application fee for each week that the 39148
application is late. Late payment fees accompanying an application 39149
submitted to the board of health shall be credited to the special 39150
infectious waste fund of the health district created in division 39151
(C) of section 3734.06 of the Revised Code, and late payment fees 39152

accompanying an application submitted to the director shall be 39153
credited to the general revenue fund. A person who has received a 39154
license, upon sale or disposition of an infectious waste treatment 39155
facility and upon consent of the board of health and the director, 39156
may have the license transferred to another person. The board of 39157
health or the director may include such terms and conditions in a 39158
license or revision to a license as are appropriate to ensure 39159
compliance with the infectious waste provisions of this chapter 39160
and rules adopted under them. 39161

(b) Each person proposing to open a new infectious waste 39162
treatment facility or to modify an existing infectious waste 39163
treatment facility shall submit an application for a permit with 39164
accompanying detail plans and specifications to the environmental 39165
protection agency for required approval under the rules adopted by 39166
the director pursuant to section 3734.021 of the Revised Code two 39167
hundred seventy days before proposed operation of the facility and 39168
concurrently shall make application for a license with the board 39169
of health of the health district in which the facility is or is 39170
proposed to be located. Not later than ninety days after receiving 39171
a completed application under division (B)(2)(b) of this section 39172
for a permit to open a new infectious waste treatment facility or 39173
modify an existing infectious waste treatment facility to expand 39174
its treatment capacity, or receiving a completed application under 39175
division (A)(2)(a) of this section for a permit to open a new 39176
solid waste incineration facility, or modify an existing solid 39177
waste incineration facility to also treat infectious wastes or to 39178
increase its infectious waste treatment capacity, that pertains to 39179
a facility for which a notation authorizing infectious waste 39180
treatment is included or proposed to be included in the solid 39181
waste incineration facility's license pursuant to division (B)(3) 39182
of this section, the director shall hold a public hearing on the 39183
application within the county in which the new or modified 39184
infectious waste or solid waste facility is or is proposed to be 39185

located or within a contiguous county. Not less than thirty days 39186
before holding the public hearing on the application, the director 39187
shall publish notice of the hearing in each newspaper that has 39188
general circulation and that is published in the county in which 39189
the facility is or is proposed to be located. If there is no 39190
newspaper that has general circulation and that is published in 39191
the county, the director shall publish the notice in a newspaper 39192
of general circulation in the county. The notice shall contain the 39193
date, time, and location of the public hearing and a general 39194
description of the proposed new or modified facility. At the 39195
public hearing, any person may submit written or oral comments on 39196
or objections to the approval or disapproval of the application. 39197
The applicant, or a representative of the applicant who has 39198
knowledge of the location, construction, and operation of the 39199
facility, shall attend the public hearing to respond to comments 39200
or questions concerning the facility directed to the applicant or 39201
representative by the officer or employee of the environmental 39202
protection agency presiding at the hearing. 39203

(c) Each application for a permit under division (B)(2)(b) of 39204
this section shall be accompanied by a nonrefundable application 39205
fee of four hundred dollars that shall be credited to the general 39206
revenue fund. Each application for an annual license under 39207
division (B)(2)(a) of this section shall be accompanied by a 39208
nonrefundable application fee of one hundred dollars. If the 39209
application for an annual license is submitted to a board of 39210
health on the approved list under section 3734.08 of the Revised 39211
Code, the application fee shall be credited to the special 39212
infectious waste fund of the health district created in division 39213
(C) of section 3734.06 of the Revised Code. If the application for 39214
an annual license is submitted to the director, the application 39215
fee shall be credited to the general revenue fund. If a permit or 39216
license is issued, the amount of the application fee paid shall be 39217
deducted from the amount of the permit fee due under division (Q) 39218

of section 3745.11 of the Revised Code or the amount of the 39219
license fee due under division (C) of section 3734.06 of the 39220
Revised Code. 39221

(d) The owner or operator of any infectious waste treatment 39222
facility that commenced operation on or before July 1, 1968, shall 39223
submit to the director an application for a permit with 39224
accompanying engineering detail plans, specifications, and 39225
information regarding the facility and its method of operation for 39226
approval under rules adopted under section 3734.021 of the Revised 39227
Code in accordance with the following schedule: 39228

(i) Not later than December 24, 1988, if the facility is 39229
located in Delaware, Greene, Guernsey, Hamilton, Madison, 39230
Mahoning, Ottawa, or Vinton county; 39231

(ii) Not later than March 24, 1989, if the facility is 39232
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 39233
or Washington county, or is located in the city of Brooklyn, 39234
Cuyahoga Heights, or Parma in Cuyahoga county; 39235

(iii) Not later than June 24, 1989, if the facility is 39236
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 39237
Lucas, or Summit county or is located in Cuyahoga county outside 39238
the cities of Brooklyn, Cuyahoga Heights, and Parma; 39239

(iv) Not later than September 24, 1989, if the facility is 39240
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 39241
county; 39242

(v) Not later than December 24, 1989, if the facility is 39243
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 39244
of this section. 39245

The owner or operator of an infectious waste treatment 39246
facility required to submit a permit application under division 39247
(B)(2)(d) of this section is not required to pay any permit 39248
application fee under division (B)(2)(c) of this section, or 39249

permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications, and information submitted under division (B)(2)(e) of this section within one hundred eighty days after receiving them. If the director denies any such permit application or disapproves any such updated engineering plans, specifications, and information, the director shall include in the order denying the application or disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to an infectious waste treatment facility that meets any of the following conditions:

(a) 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 39282
section 3734.021 of the Revised Code, wastes that are generated at 39283
any premises owned or operated by that generator regardless of 39284
whether the wastes are generated on the same premises where the 39285
generator's treatment facility is located or, if the generator is 39286
a hospital as defined in section 3727.01 of the Revised Code, 39287
infectious wastes that are described in division (A)(1)(g), (h), 39288
or (i) of section 3734.021 of the Revised Code; 39289

(b) Holds a license or renewal of a license to operate a 39290
crematory facility issued under Chapter 4717. and a permit issued 39291
under Chapter 3704. of the Revised Code; 39292

(c) Treats or disposes of dead animals or parts thereof, or 39293
the blood of animals, and is subject to any of the following: 39294

(i) Inspection under the "Federal Meat Inspection Act," 81 39295
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 39296

(ii) Chapter 918. of the Revised Code; 39297

(iii) Chapter 953. of the Revised Code. 39298

Nothing in division (B) of this section requires a facility 39299
that holds a license issued under division (A) of this section as 39300
a solid waste facility and that also treats infectious wastes by 39301
the same method, technique, or process to obtain a license under 39302
division (B) of this section as an infectious waste treatment 39303
facility. However, the solid waste facility license for the 39304
facility shall include the notation that the facility also treats 39305
infectious wastes. 39306

On and after the effective date of the amendments to the 39307
rules adopted under division (C)(2) of section 3734.021 of the 39308
Revised Code that are required by Section 6 of Substitute House 39309
Bill No. 98 of the 120th General Assembly, the director shall not 39310
issue a permit to open a new solid waste incineration facility 39311
unless the proposed facility complies with the requirements for 39312

the location of new infectious waste incineration facilities 39313
established in the required amendments to those rules. 39314

(C) Except for a facility or activity described in division 39315
(E)(3) of section 3734.02 of the Revised Code, a person who 39316
proposes to establish or operate a hazardous waste facility shall 39317
submit ~~an~~ a complete application for a hazardous waste facility 39318
installation and operation permit and accompanying detail plans, 39319
specifications, and such information as the director may require 39320
to the environmental protection agency, ~~except as provided in~~ 39321
~~division (E)(2) of this section,~~ at least one hundred eighty days 39322
before the proposed beginning of operation of the facility. The 39323
applicant shall notify by certified mail the legislative authority 39324
of each municipal corporation, township, and county in which the 39325
facility is proposed to be located of the submission of the 39326
application within ten days after the submission or at such 39327
earlier time as the director may establish by rule. If the 39328
application is for a proposed new hazardous waste disposal or 39329
thermal treatment facility, the applicant also shall give actual 39330
notice of the general design and purpose of the facility to the 39331
legislative authority of each municipal corporation, township, and 39332
county in which the facility is proposed to be located at least 39333
ninety days before the permit application is submitted to the 39334
environmental protection agency. 39335

In accordance with rules adopted under section 3734.12 of the 39336
Revised Code, prior to the submission of a complete application 39337
for a hazardous waste facility installation and operation permit, 39338
the applicant shall hold at least one meeting in the township or 39339
municipal corporation in which the facility is proposed to be 39340
located, whichever is geographically closer to the proposed 39341
location of the facility. The meeting shall be open to the public 39342
and shall be held to inform the community of the proposed 39343
hazardous waste management activities and to solicit questions 39344

from the community concerning the activities. 39345

~~(D)(1) There is hereby created the hazardous waste facility board, composed of the director of environmental protection who shall serve as chairperson, the director of natural resources, and the chairperson of the Ohio water development authority, or their respective designees, and one chemical engineer and one geologist who each shall be employed by a state university as defined in section 3345.011 of the Revised Code. The chemical engineer and geologist each shall be appointed by the governor, with the advice and consent of the senate, for a term of two years. The chemical engineer and geologist each shall receive as compensation five thousand dollars per year, plus expenses necessarily incurred in the performance of their duties.~~ 39346
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~~The board shall not issue any final order without the consent of at least three members.~~ 39358
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~~(2) The hazardous waste facility board shall do both of the following:~~ 39360
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~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules governing procedure to be followed in hearings before the board;~~ 39362
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~~(b) Except as provided in section 3734.123 of the Revised Code, approve or disapprove applications for a hazardous waste facility installation and operation permit for new facilities and applications for modifications to existing permits for which the board has jurisdiction as provided in division (I)(3) of this section.~~ 39364
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~~(3) Except as provided in section 3734.123 of the Revised Code, upon receipt of the completed application for a hazardous waste facility installation and operation permit and a preliminary determination by the staff of the environmental protection agency that the application appears to comply with agency rules and to meet the performance standards set forth in divisions (D), (I),~~ 39370
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~~and (J) of section 3734.12 of the Revised Code, the director shall 39376
transmit the application to the board, which shall do all of the 39377
following: 39378~~

~~(a) Promptly fix a date for a public hearing on the 39379
application, not fewer than sixty nor more than ninety days after 39380
receipt of the completed application. At the public hearing, any 39381
person may submit written or oral comments or objections to the 39382
approval or disapproval of the application. A representative of 39383
the applicant who has knowledge of the location, construction, 39384
operation, closure, and post closure care, if applicable, of the 39385
facility shall attend the public hearing in order to respond to 39386
comments or questions concerning the facility directed to the 39387
representative by the presiding officer. 39388~~

~~(b) Give public notice of the date of the public hearing and 39389
a summary of the application in a newspaper having general 39390
circulation in the county in which the facility is proposed to be 39391
located. The notice shall contain, at a minimum, the date, time, 39392
and location of the public hearing and shall include the location 39393
and street address of, or the nearest intersection to, the 39394
proposed facility, a description of the proposed facility, and the 39395
location where copies of the application, a short statement by the 39396
applicant of the anticipated environmental impact of the facility, 39397
and a map of the facility are available for inspection. 39398~~

~~(c) Promptly fix a date for an adjudication hearing, not 39399
fewer than ninety nor more than one hundred twenty days after 39400
receipt of the completed application, at which hearing the board 39401
shall hear and decide all disputed issues between the parties 39402
respecting the approval or disapproval of the application. 39403~~

~~(4) The parties to any adjudication hearing before the board 39404
upon a completed application shall be the following: 39405~~

~~(a) The applicant; 39406~~

~~(b) The staff of the environmental protection agency; 39407~~

~~(c) The board of county commissioners of the county, the 39408
board of township trustees of the township, and the chief 39409
executive officer of the municipal corporation in which the 39410
facility is proposed to be located; 39411~~

~~(d) Any other person who would be aggrieved or adversely 39412
affected by the proposed facility and who files a petition to 39413
intervene in the adjudication hearing not later than thirty days 39414
after the date of publication of the notice required in division 39415
(D)(3)(b) of this section if the petition is granted by the board 39416
for good cause shown. The board may allow intervention by other 39417
aggrieved or adversely affected persons up to fifteen days prior 39418
to the date of the adjudication hearing for good cause shown when 39419
the intervention would not be unduly burdensome to or cause a 39420
delay in the permitting process. 39421~~

~~(5) The hazardous waste facility board shall conduct any 39422
adjudication hearing upon disputed issues in accordance with 39423
Chapter 119. of the Revised Code and the rules of the board 39424
governing the procedure of such hearings. Each party may call and 39425
examine witnesses and submit other evidence respecting the 39426
disputed issues presented by an application. A written record 39427
shall be made of the hearing and of all testimony and evidence 39428
submitted to the board upon receipt of a complete application for 39429
a hazardous waste facility installation and operation permit under 39430
division (C) of this section, the director shall consider the 39431
application and accompanying information to determine whether the 39432
application complies with agency rules and the requirements of 39433
division (D)(2) of this section. After making a determination, the 39434
director shall issue either a draft permit or a notice of intent 39435
to deny the permit. The director, in accordance with rules adopted 39436
under section 3734.12 of the Revised Code or with rules adopted to 39437
implement Chapter 3745. of the Revised Code, shall provide public 39438~~

notice of the application and the draft permit or the notice of 39439
intent to deny the permit, provide an opportunity for public 39440
comments, and, if significant interest is shown, schedule a public 39441
meeting in the county in which the facility is proposed to be 39442
located and give public notice of the date, time, and location of 39443
the public meeting in a newspaper of general circulation in that 39444
county. 39445

~~(6)~~(2) The ~~board~~ director shall not approve an application 39446
for a hazardous waste facility installation and operation permit 39447
or an application for a modification under division (I)(3) of this 39448
section unless ~~it~~ the director finds and determines as follows: 39449

(a) The nature and volume of the waste to be treated, stored, 39450
or disposed of at the facility; 39451

(b) That the facility complies with the director's hazardous 39452
waste standards adopted pursuant to section 3734.12 of the Revised 39453
Code; 39454

(c) That the facility represents the minimum adverse 39455
environmental impact, considering the state of available 39456
technology and the nature and economics of various alternatives, 39457
and other pertinent considerations; 39458

(d) That the facility represents the minimum risk of all of 39459
the following: 39460

~~(i) Contamination of ground and surface waters;~~ 39461

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 39462
methods; 39463

~~(iii) Accident~~ (ii) Release of hazardous waste during 39464
transportation of hazardous waste to or from the facility; 39465

~~(iv) Impact~~ (iii) Adverse impact on the public health and 39466
safety; 39467

~~(v) Air pollution;~~ 39468

(vi) ~~Soil contamination.~~ 39469

(e) That the facility will comply with this chapter and 39470
Chapters 3704., ~~3734.~~ and 6111. of the Revised Code and all rules 39471
and standards adopted under ~~those chapters~~ them; 39472

(f) That if the owner of the facility, the operator of the 39473
facility, or any other person in a position with the facility from 39474
which the person may influence the installation and operation of 39475
the facility has been involved in any prior activity involving 39476
transportation, treatment, storage, or disposal of hazardous 39477
waste, that person has a history of compliance with this chapter 39478
and Chapters 3704., ~~3734.~~ and 6111. of the Revised Code and all 39479
rules and standards adopted under ~~those chapters~~ them, the 39480
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 39481
42 U.S.C.A. 6921, as amended, and all regulations adopted under 39482
it, and similar laws and rules of other states if any such prior 39483
operation was located in another state that demonstrates 39484
sufficient reliability, expertise, and competency to operate a 39485
hazardous waste facility under the applicable provisions of this 39486
chapter and Chapters 3704., ~~3734.~~ and 6111. of the Revised Code, 39487
the applicable rules and standards adopted under ~~those chapters~~ 39488
them, and terms and conditions of a hazardous waste facility 39489
installation and operation permit, given the potential for harm to 39490
the public health and safety and the environment that could result 39491
from the irresponsible operation of the facility+. For off-site 39492
facilities, as defined in section 3734.41 of the Revised Code, the 39493
director may use the investigative reports of the attorney general 39494
prepared pursuant to section 3734.42 of the Revised Code as a 39495
basis for making a finding and determination under division 39496
(D)(2)(f) of this section. 39497

(g) That the active areas within a new hazardous waste 39498
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 39499
(e), as amended, or organic waste that is toxic and is listed 39500

under 40 C.F.R. 261, as amended, is being stored, treated, or 39501
disposed of and where the aggregate of the storage design capacity 39502
and the disposal design capacity of all hazardous waste in those 39503
areas is greater than two hundred fifty thousand gallons, are not 39504
located or operated within any of the following: 39505

(i) Two thousand feet of any residence, school, hospital, 39506
jail, or prison; 39507

(ii) Any naturally occurring wetland; 39508

(iii) Any flood hazard area if the applicant cannot show that 39509
the facility will be designed, constructed, operated, and 39510
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 39511
~~procedures will be in effect to remove the waste before flood~~ 39512
~~waters can reach it.~~ 39513

Division (D)~~(6)~~(2)(g) of this section does not apply to the 39514
facility of any applicant who demonstrates to the ~~board~~ director 39515
that the limitations specified in that division are not necessary 39516
because of the nature or volume of the waste and the manner of 39517
management applied, the facility will impose no substantial danger 39518
to the health and safety of persons occupying the structures 39519
listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 39520
facility is to be located or operated in an area where the 39521
proposed hazardous waste activities will not be incompatible with 39522
existing land uses in the area. 39523

(h) That the facility will not be located within the 39524
boundaries of a state park established or dedicated under Chapter 39525
1541. of the Revised Code, a state park purchase area established 39526
under section 1541.02 of the Revised Code, any unit of the 39527
national park system, or any property that lies within the 39528
boundaries of a national park or recreation area, but that has not 39529
been acquired or is not administered by the secretary of the 39530
United States department of the interior, located in this state, 39531

or any candidate area located in this state identified for 39532
potential inclusion in the national park system in the edition of 39533
the "national park system plan" submitted under paragraph (b) of 39534
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 39535
U.S.C.A. 1a-5, as amended, current at the time of filing of the 39536
application for the permit, unless the facility will be used 39537
exclusively for the storage of hazardous waste generated within 39538
the park or recreation area in conjunction with the operation of 39539
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 39540
does not apply to the facility of any applicant for modification 39541
of a permit unless the modification application proposes to 39542
increase the land area included in the facility or to increase the 39543
quantity of hazardous waste that will be treated, stored, or 39544
disposed of at the facility. 39545

~~In rendering a decision upon an application for a hazardous 39546
waste facility installation and operation permit, the board shall 39547
issue a written order and opinion, which shall include the 39548
specific findings of fact and conclusions of law that support the 39549
board's approval or disapproval of the application. 39550~~

(3) Not later than one hundred eighty days after the end of 39551
the public comment period, the director, without prior hearing, 39552
shall issue or deny the permit in accordance with Chapter 3745. of 39553
the Revised Code. If the ~~board~~ director approves an application 39554
for a hazardous waste facility installation and operation permit, 39555
~~as a part of its written order, it~~ the director shall issue the 39556
permit, upon such terms and conditions as the ~~board~~ director finds 39557
are necessary to ensure the construction and operation of the 39558
hazardous waste facility in accordance with the standards of this 39559
section. 39560

~~(7) Any party adversely affected by an order of the hazardous 39561
waste facility board may appeal the order and decision of the 39562
board to the court of appeals of Franklin county. An appellant 39563~~

~~shall file with the board a notice of appeal, which shall 39564
designate the order appealed from. A copy of the notice also shall 39565
be filed by the appellant with the court, and a copy shall be sent 39566
by certified mail to each party to the adjudication hearing before 39567
the board. Such notices shall be filed and mailed within thirty 39568
days after the date upon which the appellant received notice from 39569
the board by certified mail of the making of the order appealed 39570
from. No appeal bond shall be required to make an appeal 39571
effective. 39572~~

~~The filing of a notice of appeal shall not operate 39573
automatically as a suspension of the order of the board. If it 39574
appears to the court that an unjust hardship to the appellant will 39575
result from the execution of the board's order pending 39576
determination of the appeal, the court may grant a suspension of 39577
the order and fix its terms. 39578~~

~~Within twenty days after receipt of the notice of appeal, the 39579
board shall prepare and file in the court the complete record of 39580
proceedings out of which the appeal arises, including any 39581
transcript of the testimony and any other evidence that has been 39582
submitted before the board. The expense of preparing and 39583
transcribing the record shall be taxed as a part of the costs of 39584
the appeal. The appellant, other than the state or a political 39585
subdivision, an agency of either, or any officer of the appellant 39586
acting in the officer's representative capacity, shall provide 39587
security for costs satisfactory to the court considering the 39588
respective interests of the parties and the public interest. Upon 39589
demand by a party, the board shall furnish, at the cost of the 39590
party requesting it, a copy of the record. If the complete record 39591
is not filed within the time provided for in this section, any 39592
party may apply to the court to have the case docketed, and the 39593
court shall order the record filed. 39594~~

~~In hearing the appeal, the court is confined to the record as 39595~~

~~certified to it by the board. The court may grant a request for 39596
the admission of additional evidence when satisfied that the 39597
additional evidence is newly discovered and could not with 39598
reasonable diligence have been ascertained prior to the hearing 39599
before the board. 39600~~

~~The court shall affirm the order complained of in the appeal 39601
if it finds, upon consideration of the entire record and such 39602
additional evidence as the court has admitted, that the order is 39603
supported by reliable, probative, and substantial evidence and is 39604
in accordance with law. In the absence of such findings, it shall 39605
reverse, vacate, or modify the order or make such other ruling as 39606
is supported by reliable, probative, and substantial evidence and 39607
is in accordance with law. The judgment of the court shall be 39608
final and conclusive unless reversed, vacated, or modified on 39609
appeal. Such appeals may be taken by any party to the appeal 39610
pursuant to the Rules of Practice of the Supreme Court and, to the 39611
extent not in conflict with those rules, Chapter 2505. of the 39612
Revised Code. 39613~~

~~(E)(1) Upon receipt of a completed application, the board 39614
shall issue a hazardous waste facility installation and operation 39615
permit for a hazardous waste facility subject to the requirements 39616
of divisions (D)(6) and (7) of this section and all applicable 39617
federal regulations if the facility for which the permit is 39618
requested satisfies all of the following: 39619~~

~~(a) Was in operation immediately prior to October 9, 1980; 39620~~

~~(b) Was in substantial compliance with applicable statutes 39621
and rules in effect immediately prior to October 9, 1980, as 39622
determined by the director; 39623~~

~~(c) Demonstrates to the board that its operations after 39624
October 9, 1980, comply with applicable performance standards 39625
adopted by the director pursuant to division (D) of section 39626~~

3734.12 of the Revised Code;	39627
(d) Submits a completed application for a permit under	39628
division (C) of this section within six months after October 9,	39629
1980.	39630
The board shall act on the application within twelve months	39631
after October 9, 1980.	39632
(2) A hazardous waste facility that was in operation	39633
immediately prior to October 9, 1980, may continue to operate	39634
after that date if it does all of the following:	39635
(a) Complies with performance standards adopted by the	39636
director pursuant to division (D) of section 3734.12 of the	39637
Revised Code;	39638
(b) Submits a completed application for a hazardous waste	39639
installation and operation permit under division (C) of this	39640
section within six months after October 9, 1980;	39641
(c) Obtains the permit under division (D) of this section	39642
within twelve months after October 9, 1980.	39643
(3) No political subdivision of this state shall require any	39644
additional zoning or other approval, consent, permit, certificate,	39645
or condition for the construction or operation of a hazardous	39646
waste facility authorized by a hazardous waste facility	39647
installation and operation permit issued pursuant to this chapter,	39648
nor shall any political subdivision adopt or enforce any law,	39649
ordinance, or rule that in any way alters, impairs, or limits the	39650
authority granted in the permit.	39651
(4) After the issuance of a hazardous waste facility	39652
installation and operation permit by the board, each hazardous	39653
waste facility shall be subject to the rules and supervision of	39654
the director during the period of its operation, closure, and	39655
post-closure care, if applicable.	39656

(F) ~~Upon approval of the board in accordance with divisions~~ 39657
~~(D) and (E) of this section, the board~~ The director may issue a 39658
single hazardous waste facility installation and operation permit 39659
to a person who operates two or more adjoining facilities where 39660
hazardous waste is stored, treated, or disposed of if the 39661
application includes detail plans, specifications, and information 39662
on all facilities. For the purposes of this section, "adjoining" 39663
means sharing a common boundary, separated only by a public road, 39664
or in such proximity that the director determines that the 39665
issuance of a single permit will not create a hazard to the public 39666
health or safety or the environment. 39667

(G) No person shall falsify or fail to keep or submit any 39668
plans, specifications, data, reports, records, manifests, or other 39669
information required to be kept or submitted to the director ~~or to~~ 39670
~~the hazardous waste facility board~~ by this chapter or the rules 39671
adopted under it. 39672

(H)(1) Each person who holds an installation and operation 39673
permit issued under this section and who wishes to obtain a permit 39674
renewal shall submit a completed application for an installation 39675
and operation permit renewal and any necessary accompanying 39676
general plans, detail plans, specifications, and such information 39677
as the director may require to the director no later than one 39678
hundred eighty days prior to the expiration date of the existing 39679
permit or upon a later date prior to the expiration of the 39680
existing permit if the permittee can demonstrate good cause for 39681
the late submittal. The director shall consider the application 39682
and accompanying information, inspection reports of the facility, 39683
results of performance tests, a report regarding the facility's 39684
compliance or noncompliance with the terms and conditions of its 39685
permit and rules adopted by the director under this chapter, and 39686
such other information as is relevant to the operation of the 39687
facility and shall issue a draft renewal permit or a notice of 39688

intent to deny the renewal permit. The director, in accordance 39689
with rules adopted under this section or with rules adopted to 39690
implement Chapter 3745. of the Revised Code, shall give public 39691
notice of the application and draft renewal permit or notice of 39692
intent to deny the renewal permit, provide for the opportunity for 39693
public comments within a specified time period, schedule a public 39694
meeting in the county in which the facility is located if 39695
significant interest is shown, and give public notice of the 39696
public meeting. 39697

(2) Within sixty days after the public meeting or close of 39698
the public comment period, the director, without prior hearing, 39699
shall issue or deny the renewal permit in accordance with Chapter 39700
3745. of the Revised Code. The director shall not issue a renewal 39701
permit unless the director determines that the facility under the 39702
existing permit has a history of compliance with this chapter, 39703
rules adopted under it, the existing permit, or orders entered to 39704
enforce such requirements that demonstrates sufficient 39705
reliability, expertise, and competency to operate the facility 39706
henceforth under this chapter, rules adopted under it, and the 39707
renewal permit. If the director approves an application for a 39708
renewal permit, the director shall issue the permit subject to the 39709
payment of the annual permit fee required under division (E) of 39710
section 3734.02 of the Revised Code and upon such terms and 39711
conditions as the director finds are reasonable to ensure that 39712
continued operation, maintenance, closure, and post-closure care 39713
of the hazardous waste facility are in accordance with the rules 39714
adopted under section 3734.12 of the Revised Code. 39715

(3) An installation and operation permit renewal application 39716
submitted to the director that also contains or would constitute 39717
an application for a modification shall be acted upon by the 39718
director in accordance with division (I) of this section in the 39719
same manner as an application for a modification. In approving or 39720

disapproving the renewal portion of a permit renewal application 39721
containing an application for a modification, the director shall 39722
apply the criteria established under division (H)(2) of this 39723
section. 39724

(4) An application for renewal or modification of a permit 39725
that does not contain an application for a modification as 39726
described in divisions (I)(3)(a) to (d) of this section shall not 39727
be subject to division (D)(2) of this section. 39728

(I)(1) As used in this section, "modification" means a change 39729
or alteration to a hazardous waste facility or its operations that 39730
is inconsistent with or not authorized by its existing permit or 39731
authorization to operate. Modifications shall be classified as 39732
Class 1, 2, or 3 modifications in accordance with rules adopted 39733
under division (K) of this section. Modifications classified as 39734
Class 3 modifications, in accordance with rules adopted under that 39735
division, shall be further classified by the director as either 39736
Class 3 modifications that are to be approved or disapproved by 39737
the ~~hazardous waste facility board as described in~~ director under 39738
divisions (I)(3)(a) to (d) of this section or as Class 3 39739
modifications that are to be approved or disapproved by the 39740
director under division (I)(5) of this section. Not later than 39741
thirty days after receiving a request for a modification under 39742
division (I)(4) of this section that is not listed in Appendix I 39743
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 39744
section, the director shall classify the modification and shall 39745
notify the owner or operator of the facility requesting the 39746
modification of the classification. Notwithstanding any other law 39747
to the contrary, any modification that involves the transfer of a 39748
hazardous waste facility installation and operation permit to a 39749
new owner or operator shall be classified as a Class 3 39750
modification. 39751

(2) Except as provided in section 3734.123 of the Revised 39752

Code, a hazardous waste facility installation and operation permit 39753
may be modified at the request of the director or upon the written 39754
request of the permittee only if any of the following applies: 39755

(a) The permittee desires to accomplish alterations, 39756
additions, or deletions to the permitted facility or to undertake 39757
alterations, additions, deletions, or activities that are 39758
inconsistent with or not authorized by the existing permit; 39759

(b) New information or data justify permit conditions in 39760
addition to or different from those in the existing permit; 39761

(c) The standards, criteria, or rules upon which the existing 39762
permit is based have been changed by new, amended, or rescinded 39763
standards, criteria, or rules, or by judicial decision after the 39764
existing permit was issued, and the change justifies permit 39765
conditions in addition to or different from those in the existing 39766
permit; 39767

(d) The permittee proposes to transfer the permit to another 39768
person. 39769

(3) The director ~~has jurisdiction to~~ shall approve or 39770
disapprove ~~applications~~ an application for ~~Class 1 modifications,~~ 39771
~~Class 2 modifications, and Class 3 modifications not otherwise~~ 39772
~~described in divisions (I)(3)(a) to (d) of this section. The~~ 39773
~~hazardous waste facility board has jurisdiction to approve or~~ 39774
~~disapprove applications for any~~ a modification in accordance with 39775
division (D)(2) of this section and rules adopted under division 39776
(K) of this section for all of the following categories of Class 3 39777
modifications: 39778

(a) Authority to conduct treatment, storage, or disposal at a 39779
site, location, or tract of land that has not been authorized for 39780
the proposed category of treatment, storage, or disposal activity 39781
by the facility's permit; 39782

(b) Modification or addition of a hazardous waste management 39783

unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without ~~board~~ the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types

listed or characterized as reactive or explosive, in rules adopted 39816
under section 3734.12 of the Revised Code, or any acute hazardous 39817
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 39818
previously authorized to treat, store, or dispose of those types 39819
of wastes by the facility's permit unless the requested authority 39820
is limited to wastes that no longer exhibit characteristics 39821
meeting the criteria for listing or characterization as reactive 39822
or explosive wastes, or for listing as acute hazardous waste, but 39823
still are required to carry those waste codes as established in 39824
rules adopted under section 3734.12 of the Revised Code because of 39825
the requirements established in 40 C.F.R. 261(a) and (e), as 39826
amended, that is, the "mixture," "derived-from," or "contained-in" 39827
regulations. 39828

(4) A written request for a modification from the permittee 39829
shall be submitted to the director and shall contain such 39830
information as is necessary to support the request. ~~The director~~ 39831
~~shall transmit to the board requests for Class 3 modifications~~ 39832
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 39833
~~hundred forty days after receiving the requests.~~ Requests for 39834
modifications shall be acted upon by the director ~~or the board, as~~ 39835
~~appropriate,~~ in accordance with this section and rules adopted 39836
under it. 39837

(5) Class 1 modification applications that require prior 39838
approval of the director, as determined in accordance with rules 39839
adopted under division (K) of this section, Class 2 modification 39840
applications, and Class 3 modification applications that are not 39841
described in divisions (I)(3)(a) to (d) of this section shall be 39842
approved or disapproved by the director in accordance with rules 39843
adopted under division (K) of this section. The board of county 39844
commissioners of the county, the board of township trustees of the 39845
township, and the city manager or mayor of the municipal 39846
corporation in which a hazardous waste facility is located shall 39847

receive notification of any application for a modification for 39848
that facility and shall be considered as interested persons with 39849
respect to the director's consideration of the application. 39850

For those modification applications for a transfer of a 39851
permit to a new owner or operator of a facility, the director also 39852
shall determine that, if the transferee owner or operator has been 39853
involved in any prior activity involving the transportation, 39854
treatment, storage, or disposal of hazardous waste, the transferee 39855
owner or operator has a history of compliance with this chapter 39856
and Chapters 3704. and 6111. of the Revised Code and all rules and 39857
standards adopted under them, the "Resource Conservation and 39858
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 39859
amended, and all regulations adopted under it, and similar laws 39860
and rules of another state if the transferee owner or operator 39861
owns or operates a facility in that state, that demonstrates 39862
sufficient reliability, expertise, and competency to operate a 39863
hazardous waste facility under this chapter and Chapters 3704. and 39864
6111. of the Revised Code, all rules and standards adopted under 39865
them, and terms and conditions of a hazardous waste facility 39866
installation and operation permit, given the potential for harm to 39867
the public health and safety and the environment that could result 39868
from the irresponsible operation of the facility. A permit may be 39869
transferred to a new owner or operator only pursuant to a Class 3 39870
permit modification. 39871

As used in division (I)(5) of this section: 39872

(a) "Owner" means the person who owns a majority or 39873
controlling interest in a facility. 39874

(b) "Operator" means the person who is responsible for the 39875
overall operation of a facility. 39876

The director shall approve or disapprove an application for a 39877
Class 1 modification that requires the director's approval within 39878

sixty days after receiving the request for modification. The 39879
director shall approve or disapprove an application for a Class 2 39880
modification within three hundred days after receiving the request 39881
for modification. The director shall approve or disapprove an 39882
application for a Class 3 modification ~~that is not described in~~ 39883
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 39884
sixty-five days after receiving the request for modification. 39885

(6) The approval or disapproval by the director of a Class 1 39886
modification application is not a final action that is appealable 39887
under Chapter 3745. of the Revised Code. The approval or 39888
disapproval by the director of a Class 2 modification or a Class 3 39889
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 39890
~~of this section~~ is a final action that is appealable under that 39891
chapter. In approving or disapproving a request for a 39892
modification, the director shall consider all comments pertaining 39893
to the request that are received during the public comment period 39894
and the public meetings. The administrative record for appeal of a 39895
final action by the director in approving or disapproving a 39896
request for a modification shall include all comments received 39897
during the public comment period relating to the request for 39898
modification, written materials submitted at the public meetings 39899
relating to the request, and any other documents related to the 39900
director's action. 39901

~~(7) The hazardous waste facility board shall approve or~~ 39902
~~disapprove an application for a Class 3 modification transmitted~~ 39903
~~to it under division (I)(4) of this section, or that portion of a~~ 39904
~~permit renewal application that constitutes a Class 3 modification~~ 39905
~~application so transmitted, of a hazardous waste facility~~ 39906
~~installation and operation permit in accordance with division (D)~~ 39907
~~of this section. No other request for a modification shall be~~ 39908
~~subject to division (D)(6) of this section. No aspect of a~~ 39909
~~permitted facility or its operations that is not being modified as~~ 39910

~~described in division (I)(3)(a), (b), (c), or (d) of this section 39911
shall be subject to review by the board under division (D) of this 39912
section. 39913~~

~~(8)~~ Notwithstanding any other provision of law to the 39914
contrary, a change or alteration to a hazardous waste facility 39915
described in division (E)(3)(a) or (b) of section 3734.02 of the 39916
Revised Code, or its operations, is a modification for the 39917
purposes of this section. An application for a modification at 39918
such a facility shall be submitted, classified, and approved or 39919
disapproved in accordance with divisions (I)(1) to ~~(7)~~(6) of this 39920
section in the same manner as a modification to a hazardous waste 39921
facility installation and operation permit. 39922

(J)(1) Except as provided in division (J)(2) of this section, 39923
an owner or operator of a hazardous waste facility that is 39924
operating in accordance with a permit by rule under rules adopted 39925
by the director under division (E)(3)(b) of section 3734.02 of the 39926
Revised Code shall submit either a hazardous waste facility 39927
installation and operation permit application for the facility or 39928
a modification application, whichever is required under division 39929
(J)(1)(a) or (b) of this section, within one hundred eighty days 39930
after the director has requested the application or upon a later 39931
date if the owner or operator demonstrates to the director good 39932
cause for the late submittal. 39933

(a) If the owner or operator does not have a hazardous waste 39934
facility installation and operation permit for any hazardous waste 39935
treatment, storage, or disposal activities at the facility, the 39936
owner or operator shall submit an application for such a permit to 39937
the director for the activities authorized by the permit by rule. 39938
Notwithstanding any other provision of law to the contrary, the 39939
director shall approve or disapprove the application for the 39940
permit in accordance with the procedures governing the approval or 39941
disapproval of permit renewals under division (H) of this section. 39942

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with ~~rules adopted under~~ division (K)(I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The ~~hazardous waste facility board~~ director shall approve or disapprove ~~the an~~ an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the ~~board~~ director shall not disapprove an application for the thermal

treatment activities on the basis of the criteria set forth in 39975
division (D)~~(6)~~(2)(g) or (h) of this section. 39976

(3) As used in division (J) of this section: 39977

(a) "Modification application" means a request for a 39978
modification submitted in accordance with division (I) of this 39979
section. 39980

(b) "Thermal treatment," "boiler," and "industrial furnace" 39981
have the same meanings as in rules adopted under section 3734.12 39982
of the Revised Code. 39983

(K) The director shall adopt, and may amend, suspend, or 39984
rescind, rules in accordance with Chapter 119. of the Revised Code 39985
in order to implement divisions (H) and (I) of this section. 39986
Except when in actual conflict with this section, rules governing 39987
the classification of and procedures for the modification of 39988
hazardous waste facility installation and operation permits shall 39989
be substantively and procedurally identical to the regulations 39990
governing hazardous waste facility permitting and permit 39991
modifications adopted under the "Resource Conservation and 39992
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 39993
amended. 39994

Sec. 3734.12. The director of environmental protection shall 39995
adopt and may amend, suspend, and rescind rules in accordance with 39996
Chapter 119. of the Revised Code, which shall be consistent with 39997
and equivalent to the regulations adopted under the "Resource 39998
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 39999
6921, as amended, except for rules adopted under divisions (D) and 40000
(F) of this section governing solid waste facilities and except as 40001
otherwise provided in this chapter, doing all of the following: 40002

(A) Adopting the criteria and procedures established under 40003
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 40004

2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous waste. The director shall prepare, revise when appropriate, and publish a list of substances or categories of substances identified to be hazardous using the criteria specified in 40 C.F.R. 261, as amended, which shall be composed of at least those substances identified as hazardous pursuant to section 3001(B) of that act. The director shall not list any waste that the administrator of the United States environmental protection agency delisted or excluded by an amendment to the federal regulations, any waste that the administrator declined to list by publishing a denial of a rulemaking petition or by withdrawal of a proposed listing in the United States federal register after May 18, 1980, or any waste oil or polychlorinated biphenyl not listed by the administrator.

(B) Establishing standards for generators of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Record-keeping practices that accurately identify the quantities of hazardous waste generated, the constituents that are significant in quantity or in potential harm to human health or safety or the environment, and the disposition of the waste;

(2) Labeling of containers used for storage, transportation, or disposal of hazardous waste to identify the waste accurately;

(3) Use of appropriate containers for hazardous waste;

(4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;

(5) A manifest system requiring a manifest consistent with that prescribed under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a

manifest for any hazardous waste transported off the premises	40036
where generated and assuring that all hazardous waste that is	40037
transported off the premises where generated is designated for	40038
treatment, storage, or disposal in facilities for which a permit	40039
has been issued or in the other facilities specified in division	40040
(F) of section 3734.02 of the Revised Code;	40041
(6) Submission of such reports to the director as the	40042
director determines necessary;	40043
(7) Establishment of quality control and testing procedures	40044
that ensure compliance with the rules adopted under this section;	40045
(8) Obtainment of a United States environmental protection	40046
agency identification number.	40047
(C) Establishing standards for transporters of hazardous	40048
waste necessary to protect human health or safety or the	40049
environment in accordance with this chapter, including, but not	40050
limited to, requirements respecting all of the following:	40051
(1) Record-keeping concerning hazardous waste transported,	40052
including source and delivery points;	40053
(2) Submission of such reports to the director as the	40054
director determines necessary;	40055
(3) Transportation of only properly labeled waste;	40056
(4) Compliance with the manifest system required by division	40057
(B) of this section;	40058
(5) Transportation of hazardous waste only to the treatment,	40059
storage, or disposal facility that the shipper designates on the	40060
manifest to be a facility holding a permit or another facility	40061
specified in division (F) of section 3734.02 of the Revised Code;	40062
(6) Contingency plans to minimize unanticipated damage from	40063
transportation of hazardous waste;	40064
(7) Financial responsibility, including, but not limited to,	40065

provisions requiring a financial mechanism to cover the costs of 40066
spill cleanup and liability for sudden accidental occurrences that 40067
result in damage to persons, property, or the environment; 40068

(8) Obtainment of a United States environmental protection 40069
agency identification number. 40070

In the case of any hazardous waste that is subject to the 40071
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 40072
U.S.C.A. 1801, as amended, the rules shall be consistent with that 40073
act and regulations adopted under it. 40074

(D) Establishing performance standards for owners and 40075
operators of hazardous waste facilities and owners and operators 40076
of solid waste facilities, necessary to protect human health or 40077
safety or the environment in accordance with this chapter, 40078
including, but not limited to, requirements respecting all of the 40079
following: 40080

(1) Maintaining records of all hazardous waste that is 40081
treated, stored, or disposed of and of the manner in which the 40082
waste was treated, stored, or disposed of or records of all solid 40083
wastes transferred or disposed of and of the manner in which the 40084
wastes were disposed of; 40085

(2) Submission of such reports to the director as the 40086
director determines necessary; 40087

(3) Reporting, monitoring, inspection, and, except with 40088
respect to solid waste facilities, compliance with the manifest 40089
system referred to in division (B) of this section; 40090

(4) Treatment, storage, or disposal of all hazardous waste 40091
received by methods, techniques, and practices approved by the 40092
director and disposal or transfer of all solid wastes received by 40093
methods, techniques, and practices approved by the director; 40094

(5) Location, design, and construction of hazardous waste 40095

facilities and location, design, and construction of solid waste facilities;	40096 40097
(6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;	40098 40099 40100
(7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.	40101 40102 40103 40104 40105 40106 40107 40108 40109 40110
(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;	40111 40112 40113 40114
(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	40115 40116
(10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;	40117 40118 40119
(11) Trial burns and land treatment demonstrations.	40120
The rules adopted under divisions (D) and (F) of this section pertaining to solid waste facilities 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.	40121 40122 40123 40124 40125 40126

(E) Governing the issuance, modification, revocation, 40127
suspension, withdrawal, and denial of installation and operation 40128
permits, draft permits, and transportation certificates of 40129
registration; 40130

(F) Specifying information required to be included in 40131
applications for hazardous waste facility installation and 40132
operation permits and solid waste permits, including, but not 40133
limited to, detail plans, specifications, and information 40134
respecting all of the following: 40135

(1) The composition, quantities, and concentrations of 40136
hazardous waste and solid wastes to be stored, treated, 40137
transported, or disposed of and such other information as the 40138
director may require regarding the method of operation; 40139

(2) The facility to which the waste will be transported or 40140
where it will be stored, treated, or disposed of; 40141

(3) The closure and post-closure care of a facility where 40142
hazardous waste will no longer be treated, stored, or disposed of 40143
and of a solid waste facility where solid wastes will no longer be 40144
disposed of or transferred. 40145

(G) Establishing procedures ensuring that all information 40146
entitled to protection as trade secrets disclosed to the director 40147
or the director's authorized representative is not disclosed 40148
without the consent of the owner, except that such information may 40149
be disclosed, upon request, to authorized representatives of the 40150
United States environmental protection agency, or as required by 40151
law. As used in this section, "trade secrets" means any formula, 40152
plan, pattern, process, tool, mechanism, compound, procedure, 40153
production date, or compilation of information that is not 40154
patented, that is known only to certain individuals within a 40155
commercial concern who are using it to fabricate, produce, or 40156
compound an article, trade, or service having commercial value, 40157

and that gives its user an opportunity to obtain a business 40158
advantage over competitors who do not know or use it. 40159

(H) Prohibiting the disposal of specified hazardous wastes in 40160
this state if the director has determined both of the following: 40161

(1) The potential impacts on human health or safety or the 40162
environment are such that disposal of those wastes should not be 40163
allowed. 40164

(2) A technically feasible and environmentally sound 40165
alternative is reasonably available, either within or outside this 40166
state, for processing, recycling, fixation of, neutralization of, 40167
or other treatment of those wastes. Such reasonable availability 40168
shall not be determined without a consideration of the costs to 40169
the generator of implementing the alternatives. 40170

The director shall adopt, and may amend, suspend, or rescind, 40171
rules to specify hazardous wastes that shall not be disposed of in 40172
accordance with this division. Nothing in this division, either 40173
prior to or after adoption of those rules, shall preclude the 40174
director ~~or the hazardous waste facility board created in section~~ 40175
~~3734.05 of the Revised Code~~ from prohibiting the disposal of 40176
specified hazardous wastes at particular facilities under the 40177
terms or conditions of a permit or ~~preclude the director from~~ 40178
~~prohibiting that disposal~~ by order. 40179

(I)(1)(a) Governing the following that may be more stringent 40180
than the regulations adopted under the "Resource Conservation and 40181
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 40182
amended, when the director determines that such more stringent 40183
rules are reasonable in order to protect human health or safety or 40184
the environment: 40185

(i) Specific wastes that the director determines, because of 40186
their physical, chemical, or biological characteristics, are so 40187
extremely hazardous that the storage, treatment, or disposal of 40188

the wastes in compliance with those regulations would present an imminent danger to human health or safety or the environment;

(ii) The use of only properly designed, operated, and approved transfer facilities;

(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including record-keeping, reporting, and manifest requirements.

(b) In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

(i) Geography of the state;

(ii) Geology of the state;

(iii) Hydrogeology of the state;

(iv) Climate of the state;

(v) Engineering and technical feasibility;

(vi) Availability of alternative technologies or methods of storage, treatment, or disposal.

(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, to the extent that such reports contain information that the generator, transporter, or facility owner or operator is required to obtain in order to comply with the regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, or to the extent that such reports are required by the

director to meet the requirements of division (B)(7), (D)(9), or 40219
(H) of this section or section 3734.121 of the Revised Code. 40220

(J) Governing the storage, treatment, or disposal of 40221
hazardous waste in, and the permitting, design, construction, 40222
operation, monitoring, inspection, closure, and post-closure care 40223
of, hazardous waste underground injection wells, surface 40224
impoundments, waste piles other than those composed of materials 40225
removed from the ground as part of coal or mineral extraction or 40226
cleaning processes, land treatment facilities, thermal treatment 40227
facilities, and landfills that may be more stringent than the 40228
regulations adopted under the "Resource Conservation and Recovery 40229
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, 40230
whenever the director reasonably determines that federal 40231
regulations will not adequately protect the public health or 40232
safety or the environment of this state with respect to the 40233
subject matter of the more stringent rules. Such more stringent 40234
rules shall be developed to achieve a degree of protection, as 40235
determined by the director, consistent with the degree of hazard 40236
potentially posed by the various wastes or categories of wastes to 40237
be treated, stored, or disposed of and the types of facilities at 40238
which they are to be treated, stored, or disposed of. In adopting 40239
such more stringent rules, the director shall give consideration 40240
to and base the rules on evidence concerning factors including, 40241
but not limited to, the following insofar as pertinent: 40242

(1) Geography of the state; 40243

(2) Geology of the state; 40244

(3) Hydrogeology of the state; 40245

(4) Climate of the state; 40246

(5) Engineering and technical feasibility; 40247

(6) Availability of alternative technologies or methods of 40248
storage, treatment, or disposal. 40249

(K) Establishing performance standards and other requirements	40250
necessary to protect public health and the environment from	40251
hazards associated with used oil, including, without limitation,	40252
standards and requirements respecting all of the following:	40253
(1) Material that is subject to regulation as used oil;	40254
(2) Generation of used oil;	40255
(3) Used oil collection centers and aggregation points;	40256
(4) Transportation of used oil;	40257
(5) Processing and re-refining of used oil;	40258
(6) Burning of used oil;	40259
(7) Marketing of used oil;	40260
(8) Disposal of used oil;	40261
(9) Use of used oil as a dust suppressant.	40262
Sec. 3734.123. (A) As used in this section and section	40263
3734.124 of the Revised Code, "commercial hazardous waste	40264
incinerator" means an enclosed device that treats hazardous waste	40265
by means of controlled flame combustion and that accepts for	40266
treatment hazardous waste that is generated off the premises on	40267
which the device is located by any person other than the one who	40268
owns or operates the device or one who controls, is controlled by,	40269
or is under common control with the person who owns or operates	40270
the device. "Commercial hazardous waste incinerator" does not	40271
include any "boiler" or "industrial furnace" as those terms are	40272
defined in rules adopted under section 3734.12 of the Revised	40273
Code.	40274
(B) Not sooner than three years after April 15, 1993, and	40275
triennially thereafter, the director of environmental protection	40276
shall prepare, publish, and issue as a final action an assessment	40277
of commercial hazardous waste incinerator capacity in this state.	40278

However, after the issuance as a final action of a determination 40279
under division (A) of section 3734.124 of the Revised Code that 40280
terminates the restrictions established in division (C) of this 40281
section, the director shall cease preparing, publishing, and 40282
issuing the periodic assessments required under this division. The 40283
assessment shall determine the amount of commercial hazardous 40284
waste incinerator capacity needed to manage the hazardous waste 40285
expected to be generated in this state and imported into this 40286
state for incineration at commercial hazardous waste incinerators 40287
during the next succeeding twenty calendar years. The assessment 40288
shall include at least all of the following: 40289

(1) A determination of the aggregate treatment capacity 40290
authorized at commercial hazardous waste incinerators located in 40291
this state; 40292

(2) A determination of the quantity of hazardous waste 40293
generated in this state that is being treated at commercial 40294
hazardous waste incinerators located in this state and projections 40295
of the quantity of hazardous waste generated in this state that 40296
will be treated at those facilities; 40297

(3) A determination of the quantity of hazardous waste 40298
generated outside this state that is being treated at commercial 40299
hazardous waste incinerators located in this state and projections 40300
of the quantity of hazardous waste generated outside this state 40301
that will be treated at those facilities; 40302

(4) A determination of the quantity of hazardous waste 40303
generated in this state that is being treated at commercial 40304
hazardous waste incinerators located outside this state, and 40305
projections of the quantity of hazardous waste generated in this 40306
state that will be treated at those facilities; 40307

(5) The amount of commercial hazardous waste incinerator 40308
capacity that the director reasonably anticipates will be needed 40309

during the first three years of the planning period to treat 40310
hazardous waste generated from the remediation of sites in this 40311
state that are on the national priority list required under the 40312
"Comprehensive Environmental Response, Compensation, and Liability 40313
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 40314
result of corrective actions implemented under the "Resource 40315
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 40316
6921, as amended; and as a result of clean-up activities conducted 40317
at sites listed on the master sites list prepared by the 40318
environmental protection agency; 40319

(6) Based upon available data, provided that the data are 40320
reliable and are compatible with the data base of the 40321
environmental protection agency, an identification of any 40322
hazardous waste first listed as a hazardous waste in regulations 40323
adopted under the "Resource Conservation and Recovery Act of 40324
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 40325
April 15, 1993, and of any hazardous waste that has been proposed 40326
for such listing by publication of a notice in the federal 40327
register on or before December 1 of the year immediately preceding 40328
the triennial assessment; 40329

(7) An analysis of other factors that may result in capacity 40330
changes over the period addressed by the assessment. 40331

(C) Except as otherwise provided in section 3734.124 of the 40332
Revised Code, none of the following shall occur on or after April 40333
15, 1993: 40334

(1) The director shall not do any of the following: 40335

(a) ~~Pursuant to division (D)(3) or (I)(4) of section 3734.05~~ 40336
~~of the Revised Code, as applicable, transmit to the hazardous~~ 40337
~~waste facility board created in that section any application for a~~ 40338
Issue any hazardous waste facility installation and operation 40339
permit under division (D) of section 3734.05 of the Revised Code 40340

for the establishment of a new commercial hazardous waste 40341
incinerator, or ~~any request for a modification, as described in~~ 40342
~~divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code,~~ 40343
~~of an existing commercial hazardous waste incinerator to increase~~ 40344
~~either the treatment capacity of the incinerator or the quantity~~ 40345
~~of hazardous waste authorized to be treated by it, for which the~~ 40346
~~staff of the environmental protection agency has made a~~ 40347
~~preliminary determination as to whether the application or request~~ 40348
~~appears to comply with the rules and standards set forth under~~ 40349
~~divisions (D), (I), and (J) of section 3734.12 of the Revised~~ 40350
Code; 40351

~~(b)~~ Issue issue any modified hazardous waste facility 40352
installation and operation permit under division (I)~~(5)~~ of that 40353
~~section 3734.05 of the Revised Code~~ that would authorize an 40354
increase in either the treatment capacity of a commercial 40355
hazardous waste incinerator or the quantity of hazardous waste 40356
authorized to be treated by it; 40357

~~(e)~~(b) Issue any permit pursuant to rules adopted under 40358
division (F) of section 3704.03 of the Revised Code, division (J) 40359
of section 6111.03 of the Revised Code, or the solid waste 40360
provisions of this chapter and rules adopted under those 40361
provisions, that is necessary for the establishment, modification, 40362
or operation of any appurtenant facility or equipment that is 40363
necessary for the operation of a new commercial hazardous waste 40364
incinerator, or the modification of such an existing incinerator 40365
to increase either the treatment capacity of the incinerator or 40366
the quantity of hazardous waste that is authorized to be treated 40367
by it. Upon determining that an application for any permit 40368
pertains to the establishment, modification, or operation of any 40369
appurtenant facility or equipment, the director shall cease 40370
reviewing the application and return the application and 40371
accompanying materials to the applicant along with a written 40372

notice that division (C)(1)~~(e)~~(b) of this section precludes the 40373
director from reviewing and acting upon the application. 40374

~~(d)~~(c) Issue any exemption order under division (G) of 40375
section 3734.02 of the Revised Code exempting the establishment of 40376
a new commercial hazardous waste incinerator; the modification of 40377
an existing facility to increase either the treatment capacity of 40378
the incinerator or the quantity of hazardous waste that is 40379
authorized to be treated by it; or the establishment, 40380
modification, or operation of any facility or equipment 40381
appurtenant to a new or modified commercial hazardous waste 40382
incinerator, from divisions (C)(1)(a)~~7~~ or (b)~~7~~ ~~or~~ (e) or (C)(2) ~~or~~ 40383
~~(3)~~ of this section. 40384

~~(2) The staff of the environmental protection agency shall 40385
not take any action under division (D)(3) of section 3734.05 of 40386
the Revised Code to review, or to make a preliminary determination 40387
of compliance with the rules and standards set forth in divisions 40388
(D), (I), and (J) of section 3734.12 of the Revised Code 40389
regarding, any If the director determines that an application for 40390
a hazardous waste facility installation and operation permit 40391
submitted under division (D)~~(3)~~ of section 3734.05 of the Revised 40392
Code ~~that~~ pertains to the establishment of a new commercial 40393
hazardous waste incinerator, or ~~any~~ a request for a modification 40394
of an existing incinerator submitted under division (I)~~(4)~~ of that 40395
section ~~to modify an existing incinerator~~ pertains to an increase 40396
of either the treatment capacity of the incinerator or the 40397
quantity of hazardous waste that is authorized to be treated by 40398
it. ~~Upon determining that an application or request submitted~~ 40399
~~under those divisions pertains to the establishment of a new~~ 40400
~~commercial hazardous waste incinerator or the modification of an~~ 40401
~~existing incinerator, the staff of the agency~~ director shall cease 40402
reviewing the application or request and shall return it and the 40403
accompanying materials to the applicant along with a written 40404~~

notice that division (C)(2) of this section precludes the staff 40405
from reviewing or making any preliminary determination of 40406
~~compliance regarding~~ review of the application or request. 40407

~~(3) The hazardous waste facility board created in section 40408
3734.05 of the Revised Code shall not do either of the following:~~ 40409

~~(a) Approve any application for a hazardous waste facility 40410
installation and operation permit, or issue any permit, under 40411
divisions (D) and (F) of section 3734.05 of the Revised Code that 40412
authorizes the establishment and operation of a new commercial 40413
hazardous waste incinerator;~~ 40414

~~(b) Approve any request to modify an existing commercial 40415
hazardous waste incinerator under divisions (D) and (I)(7) of 40416
section 3734.05 of the Revised Code that authorizes an increase in 40417
either the treatment capacity of the incinerator or the quantity 40418
of hazardous waste authorized to be treated by it.~~ 40419

Sec. 3734.124. (A) Promptly after issuing a periodic 40420
assessment under division (B) of section 3734.123 of the Revised 40421
Code, the director of environmental protection shall make a 40422
determination as to whether it is necessary or appropriate to 40423
continue the restrictions established in division (C) of section 40424
3734.123 of the Revised Code during the period of time between the 40425
issuance of the assessment and the issuance of the next succeeding 40426
periodic assessment or as to whether it is necessary or 40427
appropriate to terminate the restrictions. The director shall 40428
consider all of the following when making a determination under 40429
this division: 40430

(1) The findings of the assessment; 40431

(2) The findings of an evaluation conducted by the director, 40432
in consultation with the chairperson of the state emergency 40433
response commission created in section 3750.02 of the Revised 40434

Code, regarding the capability of this state to respond to the 40435
types and frequencies of releases of hazardous waste that are 40436
likely to occur at commercial hazardous waste incinerators; 40437

(3) The effect that a new commercial hazardous waste 40438
incinerator may have on ambient air quality in this state; 40439

(4) The findings of a review of relevant information 40440
regarding the impacts of commercial hazardous waste incinerators 40441
on human health and the environment, such as health studies and 40442
risk assessments; 40443

(5) The findings of a review of the operational records of 40444
commercial hazardous waste incinerators operating in this state; 40445

(6) The findings of any review of relevant information 40446
concerning the following: 40447

(a) The cost of and access to commercial hazardous waste 40448
incinerator capacity; 40449

(b) The length of time and the regulatory review process 40450
necessary to fully permit a commercial hazardous waste 40451
incinerator; 40452

(c) Access to long-term capital investment to fund the 40453
building of a commercial hazardous waste incinerator in this 40454
state; 40455

(d) Efforts by generators of hazardous waste accepted by 40456
commercial hazardous waste incinerators to reduce the amount of 40457
hazardous waste that they generate. 40458

(7) Regulatory and legislative concerns that may include, 40459
without limitation, the provisions of paragraphs (a) and (b) of 40
C.F.R. 271.4, as they existed on April 15, 1993. 40461

If, after considering all of the information and concerns 40462
that the director is required to consider under divisions (A)(1) 40463
to (7) of this section, the director determines that it is 40464

necessary or appropriate to terminate the restrictions established 40465
in division (C) of section 3734.123 of the Revised Code in order 40466
to protect human health or safety or the environment, the director 40467
shall issue as a final action a written determination to that 40468
effect. If the director determines that it is necessary or 40469
appropriate for those purposes to continue the restrictions until 40470
the issuance of the next succeeding periodic assessment under 40471
division (B) of section 3734.123 of the Revised Code, the director 40472
shall issue as a final action a written determination to that 40473
effect. After the issuance as a final action of a determination 40474
under this division that it is necessary or appropriate to 40475
terminate the restrictions established in division (C) of section 40476
3734.123 of the Revised Code, the director shall cease making the 40477
periodic determinations required under this division. 40478

(B) Beginning three years after April 15, 1993, but only on 40479
and after the date of issuance as final actions of an assessment 40480
under division (B) of section 3734.123 of the Revised Code and a 40481
determination under division (A) of this section that it is 40482
necessary or appropriate to terminate the restrictions established 40483
in division (C) of section 3734.123 of the Revised Code, ~~any of~~ 40484
~~the following may occur:~~ 40485

~~(1) The the director may do any of the following:~~ 40486

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 40487
of the Revised Code, as applicable, transmit to the hazardous 40488
waste facility board created in that section an application for a 40489
hazardous waste facility installation and operation permit that 40490
pertains to the establishment of a new commercial hazardous waste 40491
incinerator, or a request for a modification, as described in 40492
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 40493
of a commercial hazardous waste incinerator to increase either the 40494
treatment capacity of the incinerator or the quantity of hazardous 40495
waste authorized to be treated by it, for which the staff of the 40496~~

~~environmental protection agency has made a preliminary 40497
determination as to whether the application or request appears to 40498
comply with the rules and standards set forth under divisions (D), 40499
(I), and (K) of section 3734.05 of the Revised Code; 40500~~

~~(b) To the extent otherwise authorized in division (I)(5) of 40501
section 3734.05 of the Revised Code, issue a modified hazardous 40502
waste facility installation and operation permit under that 40503
division that authorizes an increase in either the treatment 40504
capacity of a commercial hazardous waste incinerator or the 40505
quantity of hazardous waste authorized to be treated by it; 40506~~

~~(e)(1) To the extent otherwise authorized thereunder, issue 40507
any permit pursuant to rules adopted under division (F) of section 40508
3704.03 of the Revised Code, division (J) of section 6111.03 of 40509
the Revised Code, or the solid waste provisions of this chapter 40510
and rules adopted under those provisions, that is necessary for 40511
the establishment, modification, or operation of any appurtenant 40512
facility or equipment that is necessary for the operation of a new 40513
commercial hazardous waste incinerator, or for the modification of 40514
an existing incinerator to increase either the treatment capacity 40515
of the incinerator or the quantity of hazardous waste authorized 40516
to be treated by it; 40517~~

~~(d)(2) To the extent otherwise authorized in division (G) of 40518
section 3734.02 of the Revised Code, issue an order exempting the 40519
establishment of a new commercial hazardous waste incinerator; the 40520
modification of an existing incinerator to increase either the 40521
treatment capacity of the incinerator or the quantity of hazardous 40522
waste that is authorized to be treated by it; or the 40523
establishment, modification, or operation of any facility or 40524
equipment appurtenant to a new or modified commercial hazardous 40525
waste incinerator, from division (C)(1)(a), or (b), ~~or (e)~~ or 40526
(C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code; 40527~~

~~(2) The staff of the environmental protection agency may do 40528~~

~~both of the following:~~ 40529

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05~~ 40530
~~of the Revised Code, review an application for a hazardous waste~~ 40531
~~facility installation and operation permit to establish a new~~ 40532
~~commercial hazardous waste incinerator or a request to modify an~~ 40533
~~existing incinerator to increase either the treatment capacity of~~ 40534
~~the incinerator or the quantity of hazardous waste authorized to~~ 40535
~~be treated by it;~~ 40536

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05~~ 40537
~~of the Revised Code, make a preliminary determination as to~~ 40538
~~whether an application for a hazardous waste facility permit to~~ 40539
~~install and operate a new commercial hazardous waste incinerator~~ 40540
~~or a request to modify an existing incinerator to increase either~~ 40541
~~the treatment capacity of the incinerator or the quantity of~~ 40542
~~hazardous waste authorized to be treated by it appears to comply~~ 40543
~~with the rules and performance standards set forth under divisions~~ 40544
~~(D), (I), and (J) of section 3734.12 of the Revised Code.~~ 40545

~~(3) The hazardous waste facility board may do both of the~~ 40546
~~following:~~ 40547

~~(a) Approve or disapprove an application for a hazardous~~ 40548
~~waste facility installation and operation permit, and issue a~~ 40549
~~permit, under ~~divisions~~ division (D) and ~~(F)~~ of section 3734.05 of~~ 40550
~~the Revised Code for a new commercial hazardous waste incinerator;~~ 40551

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 40552
~~(4) Approve or disapprove under division (I) of section 3734.05 of~~ 40553
~~the Revised Code a request to modify the permit of an existing~~ 40554
~~commercial hazardous waste incinerator to increase either the~~ 40555
~~treatment capacity of the incinerator or the quantity of hazardous~~ 40556
~~waste authorized to be treated by it.~~ 40557

Sec. 3734.18. (A) There are hereby levied fees on the 40558

disposal of hazardous waste to be collected according to the 40559
following schedule at each disposal facility to which ~~the~~ 40560
~~hazardous waste facility board has issued~~ a hazardous waste 40561
facility installation and operation permit or ~~the director of~~ 40562
~~environmental protection has issued a renewal of a permit pursuant~~ 40563
~~to section 3734.05 of the Revised Code has been issued under this~~ 40564
chapter: 40565

(1) For disposal facilities that are off-site facilities as 40566
defined in division (E) of section 3734.02 of the Revised Code, 40567
fees shall be levied at the rate of four dollars and fifty cents 40568
per ton for hazardous waste disposed of by deep well injection and 40569
nine dollars per ton for hazardous waste disposed of by land 40570
application or landfilling. The owner or operator of the facility, 40571
as a trustee for the state, shall collect the fees and forward 40572
them to the director in accordance with rules adopted under this 40573
section. 40574

(2) For disposal facilities that are on-site or satellite 40575
facilities, as defined in division (E) of section 3734.02 of the 40576
Revised Code, fees shall be levied at the rate of two dollars per 40577
ton for hazardous waste disposed of by deep well injection and 40578
four dollars per ton for hazardous waste disposed of by land 40579
application or landfilling. The maximum annual disposal fee for an 40580
on-site disposal facility that disposes of one hundred thousand 40581
tons or less of hazardous waste in a year is twenty-five thousand 40582
dollars. The maximum annual disposal fee for an on-site facility 40583
that disposes of more than one hundred thousand tons of hazardous 40584
waste in a year by land application or landfilling is fifty 40585
thousand dollars, and the maximum annual fee for an on-site 40586
facility that disposes of more than one hundred thousand tons of 40587
hazardous waste in a year by deep well injection is one hundred 40588
thousand dollars. The maximum annual disposal fee for a satellite 40589
facility that disposes of one hundred thousand tons or less of 40590

hazardous waste in a year is thirty-seven thousand five hundred 40591
dollars, and the maximum annual disposal fee for a satellite 40592
facility that disposes of more than one hundred thousand tons of 40593
hazardous waste in a year is seventy-five thousand dollars, except 40594
that a satellite facility defined under division (E)(3)(b) of 40595
section 3734.02 of the Revised Code that receives hazardous waste 40596
from a single generation site is subject to the same maximum 40597
annual disposal fees as an on-site disposal facility. The owner or 40598
operator shall pay the fee to the director each year upon the 40599
anniversary of the date of issuance of the owner's or operator's 40600
installation and operation permit during the term of that permit 40601
and any renewal permit issued under division (H) of section 40602
3734.05 of the Revised Code. If payment is late, the owner or 40603
operator shall pay an additional ten per cent of the amount of the 40604
fee for each month that it is late. 40605

(B) There are hereby levied fees at the rate of two dollars 40606
per ton on hazardous waste that is treated at treatment facilities 40607
that are not on-site or satellite facilities, as defined in 40608
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 40609
~~hazardous waste facility board has issued~~ a hazardous waste 40610
facility installation and operation permit or ~~the director~~ renewal 40611
of a permit has been issued ~~a renewal permit under this chapter,~~ 40612
or that are not subject to the hazardous waste facility 40613
installation and operation permit requirements under rules adopted 40614
by the director. 40615

(C) There are hereby levied additional fees on the treatment 40616
and disposal of hazardous waste at the rate of ten per cent of the 40617
applicable fees prescribed in division (A) or (B) of this section 40618
for the purposes of paying the costs of municipal corporations and 40619
counties for conducting reviews of applications for hazardous 40620
waste facility installation and operation permits for proposed new 40621
or modified hazardous waste landfills within their boundaries, 40622

emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs

within the municipal corporation through employees of the 40656
municipal corporation or pursuant to contracts entered into with 40657
persons or political subdivisions. Moneys received by a board of 40658
county commissioners under this division shall be paid into a 40659
special fund of the county and used exclusively for those purposes 40660
within the unincorporated area of the county through employees of 40661
the county or pursuant to contracts entered into with persons or 40662
political subdivisions. 40663

(D) As used in this section, "treatment" or "treated" does 40664
not include any method, technique, or process designed to recover 40665
energy or material resources from the waste or to render the waste 40666
amenable for recovery. The fees levied by division (B) of this 40667
section do not apply to hazardous waste that is treated and 40668
disposed of on the same premises or by the same person. 40669

(E) The director, by rules adopted in accordance with 40670
Chapters 119. and 3745. of the Revised Code, shall prescribe any 40671
dates not specified in this section and procedures for collecting 40672
and forwarding the fees prescribed by this section and may 40673
prescribe other requirements that are necessary to carry out this 40674
section. 40675

The director shall deposit the moneys collected under 40676
divisions (A) and (B) of this section into one or more minority 40677
banks, as "minority bank" is defined in division (F)(1) of section 40678
135.04 of the Revised Code, to the credit of the hazardous waste 40679
facility management fund, which is hereby created in the state 40680
treasury, except that the director shall deposit to the credit of 40681
the underground injection control fund created in section 6111.046 40682
of the Revised Code moneys in excess of fifty thousand dollars 40683
that are collected during a fiscal year under division (A)(2) of 40684
this section from the fee levied on the disposal of hazardous 40685
waste by deep well injection at an on-site disposal facility that 40686
disposes of more than one hundred thousand tons of hazardous waste 40687

in a year. 40688

The environmental protection agency ~~and the hazardous waste~~ 40689
~~facility board~~ may use moneys in the hazardous waste facility 40690
management fund for administration of the hazardous waste program 40691
established under this chapter and, in accordance with this 40692
section, may request approval by the controlling board for that 40693
use on an annual basis. In addition, the agency may use and pledge 40694
moneys in that fund for repayment of and for interest on any loans 40695
made by the Ohio water development authority to the agency for the 40696
hazardous waste program established under this chapter without the 40697
necessity of requesting approval by the controlling board, which 40698
use and pledge shall have priority over any other use of the 40699
moneys in the fund. 40700

Until September 28, 1996, the director also may use moneys in 40701
the fund to pay the start-up costs of administering Chapter 3746. 40702
of the Revised Code. 40703

If moneys in the fund that the agency uses in accordance with 40704
this chapter are reimbursed by grants or other moneys from the 40705
United States government, the grants or other moneys shall be 40706
placed in the fund. 40707

Before the agency makes any expenditure from the fund other 40708
than for repayment of and interest on any loan made by the Ohio 40709
water development authority to the agency in accordance with this 40710
section, the controlling board shall approve the expenditure. 40711

Sec. 3734.28. All moneys collected under sections 3734.122, 40712
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 40713
Code and natural resource damages collected by the state under the 40714
"Comprehensive Environmental Response, Compensation, and Liability 40715
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 40716
be paid into the state treasury to the credit of the hazardous 40717
waste clean-up fund, which is hereby created. The environmental 40718

protection agency shall use the moneys in the fund for the 40719
purposes set forth in division (D) of section 3734.122, sections 40720
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 40721
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 40722
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 40723
including any related enforcement expenses. In addition, the 40724
agency shall use the moneys in the fund to pay the state's 40725
long-term operation and maintenance costs or matching share for 40726
actions taken under the "Comprehensive Environmental Response, 40727
Compensation, and Liability Act of 1980," as amended. If those 40728
moneys are reimbursed by grants or other moneys from the United 40729
States or any other person, the moneys shall be placed in the fund 40730
and not in the general revenue fund. 40731

Sec. 3734.42. (A)(1) Except as otherwise provided in division 40732
(E)(2) of this section, every applicant for a permit other than a 40733
permit modification or renewal shall file a disclosure statement, 40734
on a form developed by the attorney general, with the director of 40735
environmental protection and the attorney general at the same time 40736
the applicant files an application for a permit other than a 40737
permit modification or renewal with the director. 40738

(2) Any individual required to be listed in the disclosure 40740
statement shall be fingerprinted for identification and 40741
investigation purposes in accordance with procedures established 40742
by the attorney general. An individual required to be 40743
fingerprinted under this section shall not be required to be 40744
fingerprinted more than once under this section. 40745

(3) The attorney general, within one hundred eighty days 40746
after receipt of the disclosure statement from an applicant for a 40747
permit, shall prepare and transmit to the director an 40748
investigative report on the applicant, based in part upon the 40749

disclosure statement, except that this deadline may be extended 40750
for a reasonable period of time, for good cause, by the director 40751
or the attorney general. In preparing this report, the attorney 40752
general may request and receive criminal history information from 40753
the federal bureau of investigation and any other law enforcement 40754
agency or organization. The attorney general may provide such 40755
confidentiality regarding the information received from a law 40756
enforcement agency as may be imposed by that agency as a condition 40757
for providing that information to the attorney general. 40758

(4) The review of the application by the director ~~or the~~ 40759
~~hazardous waste facility board~~ shall include a review of the 40760
disclosure statement and investigative report. 40761

(B) All applicants and permittees shall provide any 40762
assistance or information requested by the director or the 40763
attorney general and shall cooperate in any inquiry or 40764
investigation conducted by the attorney general and any inquiry, 40765
investigation, or hearing conducted by the director ~~or the~~ 40766
~~hazardous waste facility board~~. If, upon issuance of a formal 40767
request to answer any inquiry or produce information, evidence, or 40768
testimony, any applicant or permittee, any officer, director, or 40769
partner of any business concern, or any key employee of the 40770
applicant or permittee refuses to comply, the permit of the 40771
applicant or permittee may be denied or revoked by the director ~~or~~ 40772
~~the board~~. 40773

(C) The attorney general may charge and collect such fees 40774
from applicants and permittees as are necessary to cover the costs 40775
of administering and enforcing the investigative procedures 40776
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 40777
attorney general shall transmit moneys collected under this 40778
division to the treasurer of state to be credited to the solid and 40779
hazardous waste background investigations fund, which is hereby 40780
created in the state treasury. Moneys in the fund shall be used 40781

solely for paying the attorney general's costs of administering 40782
and enforcing the investigative procedures authorized in sections 40783
3734.41 to 3734.47 of the Revised Code. 40784

(D) Annually on the anniversary date of the submission to the 40785
director by the attorney general of the investigative report for a 40786
specific facility, or annually on another date assigned by the 40787
attorney general, the appropriate applicant, permittee, or 40788
prospective owner shall submit to the attorney general, on a form 40789
provided by the attorney general, any and all information required 40790
to be included in a disclosure statement that has changed or been 40791
added in the immediately preceding year. If, in the immediately 40792
preceding year, there have been no changes in or additions to the 40793
information required to be included in a disclosure statement, the 40794
appropriate applicant, permittee, or prospective owner shall 40795
submit to the attorney general an affidavit stating that there 40796
have been no changes in or additions to that information during 40797
that time period. 40798

Notwithstanding the requirement for an annual submission of 40799
information, the following information shall be submitted within 40800
the periods specified: 40801

(1) Information required to be included in the disclosure 40802
statement for any new officer, director, partner, or key employee, 40803
to be submitted within ninety days from the addition of the 40804
officer, director, partner, or key employee; 40805

(2) Information required to be included in a disclosure 40806
statement for any new business concern, to be submitted within 40807
ninety days from the addition of the new business concern; 40808

(3) Information regarding any new criminal conviction, to be 40809
submitted within ninety days from the judgment entry of 40810
conviction. 40811

The failure to provide such information may constitute the 40812

basis for the revocation or denial of renewal of any permit or 40813
license issued in accordance with this chapter, provided that 40814
prior to any such denial or revocation, the director shall notify 40815
the applicant or permittee of the director's intention to do so 40816
and give the applicant or permittee fourteen days from the date of 40817
the notice to explain why the information was not provided. The 40818
director shall consider this information when determining whether 40819
to revoke or deny the permit or license. 40820

Nothing in this division affects the rights of the director 40821
or the attorney general granted under sections 3734.40 to 3734.47 40822
of the Revised Code to request information from a person at any 40823
other time. 40824

(E)(1) Except as otherwise provided in division (E)(2) of 40825
this section, every permittee who is not otherwise required to 40826
file a disclosure statement shall file a disclosure statement 40827
within five years after June 24, 1988, pursuant to a schedule for 40828
submissions of disclosure statements developed by the attorney 40829
general. The schedule shall provide all permittees and holders of 40830
a license with at least one hundred eighty days' notice prior to 40831
the date upon which the statement is to be submitted. All other 40832
terms of the schedule shall be established at the discretion of 40833
the attorney general and shall not be subject to judicial review. 40834

(2) An applicant for a permit for an off-site solid waste 40835
facility that is a scrap tire storage, monocell, monofill, or 40836
recovery facility issued under section 3734.76, 3734.77, or 40837
3734.78 of the Revised Code, as applicable, shall file a 40838
disclosure statement within five years after October 29, 1993, 40839
pursuant to a schedule for submissions of disclosure statements 40840
developed by the attorney general. The schedule shall provide all 40841
such applicants with at least one hundred eighty days' notice 40842
prior to the date upon which the statement shall be submitted. All 40843
other terms of the schedule shall be established at the discretion 40844

of the attorney general and shall not be subject to judicial 40845
review. 40846

Beginning five years after October 29, 1993, an applicant for 40847
such a permit shall file a disclosure statement in accordance with 40848
division (A)(1) of this section. 40849

(3) When a permittee submits a disclosure statement at the 40850
time it submits an application for a renewal or modification of 40851
its permit, the attorney general shall remove the permittee from 40852
the submission schedule established pursuant to division (E)(1) or 40853
(2) of this section. 40854

(4) After receiving a disclosure statement under division 40855
(E)(1) or (2) of this section, the attorney general shall prepare 40856
an investigative report and transmit it to the director. The 40857
director shall review the disclosure statement and investigative 40858
report to determine whether the statement or report contains 40859
information that if submitted with a permit application would 40860
require a denial of the permit pursuant to section 3734.44 of the 40861
Revised Code. If the director determines that the statement or 40862
report contains such information, the director may revoke any 40863
previously issued permit pursuant to section 3734.45 of the 40864
Revised Code, or the director shall deny any application for a 40865
renewal of a permit or license. When the renewal of the license is 40866
being performed by a board of health, the director shall instruct 40867
the board of health about those circumstances under which the 40868
renewal is required to be denied by this section. 40869

(F)(1) Whenever there is a change in ownership of any 40870
off-site solid waste facility, including incinerators, any 40871
transfer facility, any off-site infectious waste treatment 40872
facility, or any off-site hazardous waste treatment, storage, or 40873
disposal facility, the prospective owner shall file a disclosure 40874
statement with the attorney general and the director at least one 40875
hundred eighty days prior to the proposed change in ownership. 40876

Upon receipt of the disclosure statement, the attorney general 40877
shall prepare an investigative report and transmit it to the 40878
director. The director shall review the disclosure statement and 40879
investigative report to determine whether the statement or report 40880
contains information that if submitted with a permit application 40881
would require a denial of the permit pursuant to section 3734.44 40882
of the Revised Code. If the director determines that the statement 40883
or report contains such information, the director shall disapprove 40884
the change in ownership. 40885

(2) If the parties to a change in ownership decide to proceed 40886
with the change prior to the action of the director on the 40887
disclosure statement and investigative report, the parties shall 40888
include in all contracts or other documents reflecting the change 40889
in ownership language expressly making the change in ownership 40890
subject to the approval of the director and expressly negating the 40891
change if it is disapproved by the director pursuant to division 40892
(F)(1) of this section. 40893

(3) As used in this section, "change in ownership" includes 40894
any change in the names, other than those of officers, directors, 40895
partners, or key employees, contained in the disclosure statement. 40896

Sec. 3734.44. Notwithstanding the provisions of any law to 40897
the contrary, no permit or license shall be issued or renewed by 40898
the director of environmental protection, ~~the hazardous waste~~ 40899
~~facility board,~~ or a board of health: 40900

(A) Unless the director, ~~the hazardous waste facility board,~~ 40901
or the board of health finds that the applicant, in any prior 40902
performance record in the transportation, transfer, treatment, 40903
storage, or disposal of solid wastes, infectious wastes, or 40904
hazardous waste, has exhibited sufficient reliability, expertise, 40905
and competency to operate the solid waste, infectious waste, or 40906
hazardous waste facility, given the potential for harm to human 40907

health and the environment that could result from the 40908
irresponsible operation of the facility, or, if no prior record 40909
exists, that the applicant is likely to exhibit that reliability, 40910
expertise, and competence; 40911

(B) If any individual or business concern required to be 40912
listed in the disclosure statement or shown to have a beneficial 40913
interest in the business of the applicant or the permittee, other 40914
than an equity interest or debt liability, by the investigation 40915
thereof, has been convicted of any of the following crimes under 40916
the laws of this state or equivalent laws of any other 40917
jurisdiction: 40918

(1) Murder; 40919

(2) Kidnapping; 40920

(3) Gambling; 40921

(4) Robbery; 40922

(5) Bribery; 40923

(6) Extortion; 40924

(7) Criminal usury; 40925

(8) Arson; 40926

(9) Burglary; 40927

(10) Theft and related crimes; 40928

(11) Forgery and fraudulent practices; 40929

(12) Fraud in the offering, sale, or purchase of securities; 40930

(13) Alteration of motor vehicle identification numbers; 40931

(14) Unlawful manufacture, purchase, use, or transfer of 40932
firearms; 40933

(15) Unlawful possession or use of destructive devices or 40934
explosives; 40935

(16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06, 40936
2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, 40937
unless the violation is for possession of less than one hundred 40938
grams of marihuana, less than five grams of marihuana resin or 40939
extraction or preparation of marihuana resin, or less than one 40940
gram of marihuana resin in a liquid concentrate, liquid extract, 40941
or liquid distillate form; 40942

(17) Engaging in a pattern of corrupt activity under section 40943
2923.32 of the Revised Code; 40944

(18) Violation of criminal provisions of Chapter 1331. of the 40945
Revised Code; 40946

(19) Any violation of the criminal provisions of any federal 40947
or state environmental protection laws, rules, or regulations that 40948
is committed knowingly or recklessly, as defined in section 40949
2901.22 of the Revised Code; 40950

(20) Violation of Chapter 2909. of the Revised Code; 40951

(21) Any offense specified in Chapter 2921. of the Revised 40952
Code. 40953

(C) Notwithstanding division (B) of this section, no 40954
applicant shall be denied the issuance or renewal of a permit or 40955
license on the basis of a conviction of any individual or business 40956
concern required to be listed in the disclosure statement or shown 40957
to have a beneficial interest in the business of the applicant or 40958
the permittee, other than an equity interest or debt liability, by 40959
the investigation thereof for any of the offenses enumerated in 40960
that division as disqualification criteria if that applicant has 40961
affirmatively demonstrated rehabilitation of the individual or 40962
business concern by a preponderance of the evidence. If any such 40963
individual was convicted of any of the offenses so enumerated that 40964
are felonies, a permit shall be denied unless five years have 40965
elapsed since the individual was fully discharged from 40966

imprisonment and parole for the offense, from a post-release 40967
control sanction imposed under section 2967.28 of the Revised Code 40968
for the offense, or imprisonment, probation, and parole for an 40969
offense that was committed prior to the effective date of this 40970
amendment. In determining whether an applicant has affirmatively 40971
demonstrated rehabilitation, the director, ~~the hazardous waste~~ 40972
~~facility board,~~ or the board of health shall request a 40973
recommendation on the matter from the attorney general and shall 40974
consider and base the determination on the following factors: 40975

(1) The nature and responsibilities of the position a 40976
convicted individual would hold; 40977

(2) The nature and seriousness of the offense; 40978

(3) The circumstances under which the offense occurred; 40979

(4) The date of the offense; 40980

(5) The age of the individual when the offense was committed; 40981

(6) Whether the offense was an isolated or repeated incident; 40982

(7) Any social conditions that may have contributed to the 40983
offense; 40984

(8) Any evidence of rehabilitation, including good conduct in 40985
prison or in the community, counseling or psychiatric treatment 40986
received, acquisition of additional academic or vocational 40987
schooling, successful participation in correctional work release 40988
programs, or the recommendation of persons who have or have had 40989
the applicant under their supervision; 40990

(9) In the instance of an applicant that is a business 40991
concern, rehabilitation shall be established if the applicant has 40992
implemented formal management controls to minimize and prevent the 40993
occurrence of violations and activities that will or may result in 40994
permit or license denial or revocation or if the applicant has 40995
formalized those controls as a result of a revocation or denial of 40996

a permit or license. Those controls may include, but are not 40997
limited to, instituting environmental auditing programs to help 40998
ensure the adequacy of internal systems to achieve, maintain, and 40999
monitor compliance with applicable environmental laws and 41000
standards or instituting an antitrust compliance auditing program 41001
to help ensure full compliance with applicable antitrust laws. The 41002
business concern shall prove by a preponderance of the evidence 41003
that the management controls are effective in preventing the 41004
violations that are the subject of concern. 41005

(D) Unless the director, ~~the hazardous waste facility board,~~ 41006
or the board of health finds that the applicant has a history of 41007
compliance with environmental laws in this state and other 41008
jurisdictions and is presently in substantial compliance with, or 41009
on a legally enforceable schedule that will result in compliance 41010
with, environmental laws in this state and other jurisdictions. ~~i~~ 41011

(E) With respect to the approval of a permit, if the director 41012
~~or the hazardous waste facility board~~ determines that current 41013
prosecutions or pending charges in any jurisdiction for any of the 41014
offenses enumerated in division (B) of this section against any 41015
individual or business concern required to be listed in the 41016
disclosure statement or shown by the investigation to have a 41017
beneficial interest in the business of the applicant other than an 41018
equity interest or debt liability are of such magnitude that they 41019
prevent making the finding required under division (A) of this 41020
section, provided that at the request of the applicant or the 41021
individual or business concern charged, the director ~~or the~~ 41022
~~hazardous waste facility board~~ shall defer decision upon the 41023
application during the pendency of the charge. 41024

Sec. 3734.46. Notwithstanding the disqualification of the 41025
applicant or permittee pursuant to this chapter, the director of 41026
environmental protection, ~~hazardous waste facility board,~~ or the 41027

board of health may issue or renew a permit or license if the 41028
applicant or permittee severs the interest of or affiliation with 41029
the individual or business concern that would otherwise cause that 41030
disqualification or may issue or renew a license on a temporary 41031
basis for a period not to exceed six months if the director or the 41032
board of health determines that the issuance or renewal of the 41033
permit or license is necessitated by the public interest. 41034

Sec. 3734.57. (A) For the purposes of paying the state's 41035
long-term operation costs or matching share for actions taken 41036
under the "Comprehensive Environmental Response, Compensation, and 41037
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 41038
amended; paying the costs of measures for proper clean-up of sites 41039
where polychlorinated biphenyls and substances, equipment, and 41040
devices containing or contaminated with polychlorinated biphenyls 41041
have been stored or disposed of; paying the costs of conducting 41042
surveys or investigations of solid waste facilities or other 41043
locations where it is believed that significant quantities of 41044
hazardous waste were disposed of and for conducting enforcement 41045
actions arising from the findings of such surveys or 41046
investigations; paying the costs of acquiring and cleaning up, or 41047
providing financial assistance for cleaning up, any hazardous 41048
waste facility or solid waste facility containing significant 41049
quantities of hazardous waste, that constitutes an imminent and 41050
substantial threat to public health or safety or the environment; 41051
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 41052
purposes of paying the costs of administering and enforcing the 41053
laws pertaining to solid wastes, infectious wastes, and 41054
construction and demolition debris, including, without limitation, 41055
ground water evaluations related to solid wastes, infectious 41056
wastes, and construction and demolition debris, under this chapter 41057
and Chapter 3714. of the Revised Code and any rules adopted under 41058
them, and paying a share of the administrative costs of the 41059

environmental protection agency pursuant to section 3745.014 of 41060
the Revised Code, the following fees are hereby levied on the 41061
disposal of solid wastes in this state: 41062

(1) One dollar per ton on and after July 1, 1993; 41063

(2) An additional ~~seventy five cents~~ one dollar per ton on 41064
and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 41065

The owner or operator of a solid waste disposal facility 41066
shall collect the fees levied under this division as a trustee for 41067
the state and shall prepare and file with the director of 41068
environmental protection monthly returns indicating the total 41069
tonnage of solid wastes received for disposal at the gate of the 41070
facility and the total amount of the fees collected under this 41071
division. Not later than thirty days after the last day of the 41072
month to which such a return applies, the owner or operator shall 41073
mail to the director the return for that month together with the 41074
fees collected during that month as indicated on the return. The 41075
owner or operator may request an extension of not more than thirty 41076
days for filing the return and remitting the fees, provided that 41077
the owner or operator has submitted such a request in writing to 41078
the director together with a detailed description of why the 41079
extension is requested, the director has received the request not 41080
later than the day on which the return is required to be filed, 41081
and the director has approved the request. If the fees are not 41082
remitted within sixty days after the last day of the month during 41083
which they were collected, the owner or operator shall pay an 41084
additional fifty per cent of the amount of the fees for each month 41085
that they are late. 41086

One-half of the moneys remitted to the director under 41087
division (A)(1) of this section shall be credited to the hazardous 41088
waste facility management fund created in section 3734.18 of the 41089
Revised Code, and one-half shall be credited to the hazardous 41090
waste clean-up fund created in section 3734.28 of the Revised 41091

Code. The moneys remitted to the director under division (A)(2) of 41092
this section shall be credited to the solid waste fund, which is 41093
hereby created in the state treasury. The environmental protection 41094
agency shall use moneys in the solid waste fund only to pay the 41095
costs of administering and enforcing the laws pertaining to solid 41096
wastes, infectious wastes, and construction and demolition debris, 41097
including, without limitation, ground water evaluations related to 41098
solid wastes, infectious wastes, and construction and demolition 41099
debris, under this chapter and Chapter 3714. of the Revised Code 41100
and rules adopted under them and to pay a share of the 41101
administrative costs of the environmental protection agency 41102
pursuant to section 3745.014 of the Revised Code. 41103

The fees levied under this division and divisions (B) and (C) 41104
of this section are in addition to all other applicable fees and 41105
taxes and shall be added to any other fee or amount specified in a 41106
contract that is charged by the owner or operator of a solid waste 41107
disposal facility or to any other fee or amount that is specified 41108
in a contract entered into on or after March 4, 1992, and that is 41109
charged by a transporter of solid wastes. 41110

(B) For the purpose of preparing, revising, and implementing 41111
the solid waste management plan of the county or joint solid waste 41112
management district, including, without limitation, the 41113
development and implementation of solid waste recycling or 41114
reduction programs; providing financial assistance to boards of 41115
health within the district, if solid waste facilities are located 41116
within the district, for the enforcement of this chapter and rules 41117
adopted and orders and terms and conditions of permits, licenses, 41118
and variances issued under it, other than the hazardous waste 41119
provisions of this chapter and rules adopted and orders and terms 41120
and conditions of permits issued under those provisions; providing 41121
financial assistance to the county to defray the added costs of 41122
maintaining roads and other public facilities and of providing 41123

emergency and other public services resulting from the location 41124
and operation of a solid waste facility within the county under 41125
the district's approved solid waste management plan; paying the 41126
costs incurred by boards of health for collecting and analyzing 41127
water samples from public or private wells on lands adjacent to 41128
solid waste facilities that are contained in the approved or 41129
amended plan of the district; paying the costs of developing and 41130
implementing a program for the inspection of solid wastes 41131
generated outside the boundaries of this state that are disposed 41132
of at solid waste facilities included in the district's approved 41133
solid waste management plan or amended plan; providing financial 41134
assistance to boards of health within the district for enforcing 41135
laws prohibiting open dumping; providing financial assistance to 41136
local law enforcement agencies within the district for enforcing 41137
laws and ordinances prohibiting littering; providing financial 41138
assistance to boards of health of health districts within the 41139
district that are on the approved list under section 3734.08 of 41140
the Revised Code for the training and certification required for 41141
their employees responsible for solid waste enforcement by rules 41142
adopted under division (L) of section 3734.02 of the Revised Code; 41143
providing financial assistance to individual municipal 41144
corporations and townships within the district to defray their 41145
added costs of maintaining roads and other public facilities and 41146
of providing emergency and other public services resulting from 41147
the location and operation within their boundaries of a 41148
composting, energy or resource recovery, incineration, or 41149
recycling facility that either is owned by the district or is 41150
furnishing solid waste management facility or recycling services 41151
to the district pursuant to a contract or agreement with the board 41152
of county commissioners or directors of the district; and payment 41153
of any expenses that are agreed to, awarded, or ordered to be paid 41154
under section 3734.35 of the Revised Code and of any 41155
administrative costs incurred pursuant to that section, the solid 41156

waste management policy committee of a county or joint solid waste 41157
management district may levy fees upon the following activities: 41158

(1) The disposal at a solid waste disposal facility located 41159
in the district of solid wastes generated within the district; 41160

(2) The disposal at a solid waste disposal facility within 41161
the district of solid wastes generated outside the boundaries of 41162
the district, but inside this state; 41163

(3) The disposal at a solid waste disposal facility within 41164
the district of solid wastes generated outside the boundaries of 41165
this state. 41166

If any such fees are levied prior to January 1, 1994, fees 41167
levied under division (B)(1) of this section always shall be equal 41168
to one-half of the fees levied under division (B)(2) of this 41169
section, and fees levied under division (B)(3) of this section, 41170
which shall be in addition to fees levied under division (B)(2) of 41171
this section, always shall be equal to fees levied under division 41172
(B)(1) of this section, except as otherwise provided in this 41173
division. The solid waste management plan of the county or joint 41174
district approved under section 3734.521 or 3734.55 of the Revised 41175
Code and any amendments to it, or the resolution adopted under 41176
this division, as appropriate, shall establish the rates of the 41177
fees levied under divisions (B)(1), (2), and (3) of this section, 41178
if any, and shall specify whether the fees are levied on the basis 41179
of tons or cubic yards as the unit of measurement. Although the 41180
fees under divisions (A)(1) and (2) of this section are levied on 41181
the basis of tons as the unit of measurement, the solid waste 41182
management plan of the district and any amendments to it or the 41183
solid waste management policy committee in its resolution levying 41184
fees under this division may direct that the fees levied under 41185
those divisions be levied on the basis of cubic yards as the unit 41186
of measurement based upon a conversion factor of three cubic yards 41187
per ton generally or one cubic yard per ton for baled wastes if 41188

the fees under divisions (B)(1) to (3) of this section are being 41189
levied on the basis of cubic yards as the unit of measurement 41190
under the plan, amended plan, or resolution. 41191

On and after January 1, 1994, the fee levied under division 41192
(B)(1) of this section shall be not less than one dollar per ton 41193
nor more than two dollars per ton, the fee levied under division 41194
(B)(2) of this section shall be not less than two dollars per ton 41195
nor more than four dollars per ton, and the fee levied under 41196
division (B)(3) of this section shall be not more than the fee 41197
levied under division (B)(1) of this section, except as otherwise 41198
provided in this division and notwithstanding any schedule of 41199
those fees established in the solid waste management plan of a 41200
county or joint district approved under section 3734.55 of the 41201
Revised Code or a resolution adopted and ratified under this 41202
division that is in effect on that date. If the fee that a 41203
district is levying under division (B)(1) of this section on that 41204
date under its approved plan or such a resolution is less than one 41205
dollar per ton, the fee shall be one dollar per ton on and after 41206
January 1, 1994, and if the fee that a district is so levying 41207
under that division exceeds two dollars per ton, the fee shall be 41208
two dollars per ton on and after that date. If the fee that a 41209
district is so levying under division (B)(2) of this section is 41210
less than two dollars per ton, the fee shall be two dollars per 41211
ton on and after that date, and if the fee that the district is so 41212
levying under that division exceeds four dollars per ton, the fee 41213
shall be four dollars per ton on and after that date. On that 41214
date, the fee levied by a district under division (B)(3) of this 41215
section shall be equal to the fee levied under division (B)(1) of 41216
this section. Except as otherwise provided in this division, the 41217
fees established by the operation of this amendment shall remain 41218
in effect until the district's resolution levying fees under this 41219
division is amended or repealed in accordance with this division 41220
to amend or abolish the schedule of fees, the schedule of fees is 41221

amended or abolished in an amended plan of the district approved 41222
under section 3734.521 or division (A) or (D) of section 3734.56 41223
of the Revised Code, or the schedule of fees is amended or 41224
abolished through an amendment to the district's plan under 41225
division (E) of section 3734.56 of the Revised Code; the 41226
notification of the amendment or abolishment of the fees has been 41227
given in accordance with this division; and collection of the 41228
amended fees so established commences, or collection of the fees 41229
ceases, in accordance with this division. 41230

The solid waste management policy committee of a district 41231
levying fees under divisions (B)(1) to (3) of this section on 41232
October 29, 1993, under its solid waste management plan approved 41233
under section 3734.55 of the Revised Code or a resolution adopted 41234
and ratified under this division that are within the ranges of 41235
rates prescribed by this amendment, by adoption of a resolution 41236
not later than December 1, 1993, and without the necessity for 41237
ratification of the resolution under this division, may amend 41238
those fees within the prescribed ranges, provided that the 41239
estimated revenues from the amended fees will not substantially 41240
exceed the estimated revenues set forth in the district's budget 41241
for calendar year 1994. Not later than seven days after the 41242
adoption of such a resolution, the committee shall notify by 41243
certified mail the owner or operator of each solid waste disposal 41244
facility that is required to collect the fees of the adoption of 41245
the resolution and of the amount of the amended fees. Collection 41246
of the amended fees shall take effect on the first day of the 41247
first month following the month in which the notification is sent 41248
to the owner or operator. The fees established in such a 41249
resolution shall remain in effect until the district's resolution 41250
levying fees that was adopted and ratified under this division is 41251
amended or repealed, and the amendment or repeal of the resolution 41252
is ratified, in accordance with this division, to amend or abolish 41253
the fees, the schedule of fees is amended or abolished in an 41254

amended plan of the district approved under section 3734.521 or 41255
division (A) or (D) of section 3734.56 of the Revised Code, or the 41256
schedule of fees is amended or abolished through an amendment to 41257
the district's plan under division (E) of section 3734.56 of the 41258
Revised Code; the notification of the amendment or abolishment of 41259
the fees has been given in accordance with this division; and 41260
collection of the amended fees so established commences, or 41261
collection of the fees ceases, in accordance with this division. 41262

Prior to the approval of the solid waste management plan of 41263
the district under section 3734.55 of the Revised Code, the solid 41264
waste management policy committee of a district may levy fees 41265
under this division by adopting a resolution establishing the 41266
proposed amount of the fees. Upon adopting the resolution, the 41267
committee shall deliver a copy of the resolution to the board of 41268
county commissioners of each county forming the district and to 41269
the legislative authority of each municipal corporation and 41270
township under the jurisdiction of the district and shall prepare 41271
and publish the resolution and a notice of the time and location 41272
where a public hearing on the fees will be held. Upon adopting the 41273
resolution, the committee shall deliver written notice of the 41274
adoption of the resolution; of the amount of the proposed fees; 41275
and of the date, time, and location of the public hearing to the 41276
director and to the fifty industrial, commercial, or institutional 41277
generators of solid wastes within the district that generate the 41278
largest quantities of solid wastes, as determined by the 41279
committee, and to their local trade associations. The committee 41280
shall make good faith efforts to identify those generators within 41281
the district and their local trade associations, but the 41282
nonprovision of notice under this division to a particular 41283
generator or local trade association does not invalidate the 41284
proceedings under this division. The publication shall occur at 41285
least thirty days before the hearing. After the hearing, the 41286
committee may make such revisions to the proposed fees as it 41287

considers appropriate and thereafter, by resolution, shall adopt 41288
the revised fee schedule. Upon adopting the revised fee schedule, 41289
the committee shall deliver a copy of the resolution doing so to 41290
the board of county commissioners of each county forming the 41291
district and to the legislative authority of each municipal 41292
corporation and township under the jurisdiction of the district. 41293
Within sixty days after the delivery of a copy of the resolution 41294
adopting the proposed revised fees by the policy committee, each 41295
such board and legislative authority, by ordinance or resolution, 41296
shall approve or disapprove the revised fees and deliver a copy of 41297
the ordinance or resolution to the committee. If any such board or 41298
legislative authority fails to adopt and deliver to the policy 41299
committee an ordinance or resolution approving or disapproving the 41300
revised fees within sixty days after the policy committee 41301
delivered its resolution adopting the proposed revised fees, it 41302
shall be conclusively presumed that the board or legislative 41303
authority has approved the proposed revised fees. 41304

In the case of a county district or a joint district formed 41305
by two or three counties, the committee shall declare the proposed 41306
revised fees to be ratified as the fee schedule of the district 41307
upon determining that the board of county commissioners of each 41308
county forming the district has approved the proposed revised fees 41309
and that the legislative authorities of a combination of municipal 41310
corporations and townships with a combined population within the 41311
district comprising at least sixty per cent of the total 41312
population of the district have approved the proposed revised 41313
fees, provided that in the case of a county district, that 41314
combination shall include the municipal corporation having the 41315
largest population within the boundaries of the district, and 41316
provided further that in the case of a joint district formed by 41317
two or three counties, that combination shall include for each 41318
county forming the joint district the municipal corporation having 41319
the largest population within the boundaries of both the county in 41320

which the municipal corporation is located and the joint district. 41321
In the case of a joint district formed by four or more counties, 41322
the committee shall declare the proposed revised fees to be 41323
ratified as the fee schedule of the joint district upon 41324
determining that the boards of county commissioners of a majority 41325
of the counties forming the district have approved the proposed 41326
revised fees; that, in each of a majority of the counties forming 41327
the joint district, the proposed revised fees have been approved 41328
by the municipal corporation having the largest population within 41329
the county and the joint district; and that the legislative 41330
authorities of a combination of municipal corporations and 41331
townships with a combined population within the joint district 41332
comprising at least sixty per cent of the total population of the 41333
joint district have approved the proposed revised fees. 41334

For the purposes of this division, only the population of the 41335
unincorporated area of a township shall be considered. For the 41336
purpose of determining the largest municipal corporation within 41337
each county under this division, a municipal corporation that is 41338
located in more than one solid waste management district, but that 41339
is under the jurisdiction of one county or joint solid waste 41340
management district in accordance with division (A) of section 41341
3734.52 of the Revised Code shall be considered to be within the 41342
boundaries of the county in which a majority of the population of 41343
the municipal corporation resides. 41344

The committee may amend the schedule of fees levied pursuant 41345
to a resolution or amended resolution adopted and ratified under 41346
this division by adopting a resolution establishing the proposed 41347
amount of the amended fees. The committee may abolish the fees 41348
levied pursuant to such a resolution or amended resolution by 41349
adopting a resolution proposing to repeal them. Upon adopting such 41350
a resolution, the committee shall proceed to obtain ratification 41351
of the resolution in accordance with this division. 41352

Not later than fourteen days after declaring the fees or 41353
amended fees to be ratified under this division, the committee 41354
shall notify by certified mail the owner or operator of each solid 41355
waste disposal facility that is required to collect the fees of 41356
the ratification and the amount of the fees. Collection of any 41357
fees or amended fees ratified on or after March 24, 1992, shall 41358
commence on the first day of the second month following the month 41359
in which notification is sent to the owner or operator. 41360

Not later than fourteen days after declaring the repeal of 41361
the district's schedule of fees to be ratified under this 41362
division, the committee shall notify by certified mail the owner 41363
or operator of each facility that is collecting the fees of the 41364
repeal. Collection of the fees shall cease on the first day of the 41365
second month following the month in which notification is sent to 41366
the owner or operator. 41367

Not later than fourteen days after the director issues an 41368
order approving a district's solid waste management plan under 41369
section 3734.55 of the Revised Code or amended plan under division 41370
(A) or (D) of section 3734.56 of the Revised Code that establishes 41371
or amends a schedule of fees levied by the district, or the 41372
ratification of an amendment to the district's approved plan or 41373
amended plan under division (E) of section 3734.56 of the Revised 41374
Code that establishes or amends a schedule of fees, as 41375
appropriate, the committee shall notify by certified mail the 41376
owner or operator of each solid waste disposal facility that is 41377
required to collect the fees of the approval of the plan or 41378
amended plan, or the amendment to the plan, as appropriate, and 41379
the amount of the fees or amended fees. In the case of an initial 41380
or amended plan approved under section 3734.521 of the Revised 41381
Code in connection with a change in district composition, other 41382
than one involving the withdrawal of a county from a joint 41383
district, that establishes or amends a schedule of fees levied 41384

under divisions (B)(1) to (3) of this section by a district 41385
resulting from the change, the committee, within fourteen days 41386
after the change takes effect pursuant to division (G) of that 41387
section, shall notify by certified mail the owner or operator of 41388
each solid waste disposal facility that is required to collect the 41389
fees that the change has taken effect and of the amount of the 41390
fees or amended fees. Collection of any fees set forth in a plan 41391
or amended plan approved by the director on or after April 16, 41392
1993, or an amendment of a plan or amended plan under division (E) 41393
of section 3734.56 of the Revised Code that is ratified on or 41394
after April 16, 1993, shall commence on the first day of the 41395
second month following the month in which notification is sent to 41396
the owner or operator. 41397

Not later than fourteen days after the director issues an 41398
order approving a district's plan under section 3734.55 of the 41399
Revised Code or amended plan under division (A) or (D) of section 41400
3734.56 of the Revised Code that abolishes the schedule of fees 41401
levied under divisions (B)(1) to (3) of this section, or an 41402
amendment to the district's approved plan or amended plan 41403
abolishing the schedule of fees is ratified pursuant to division 41404
(E) of section 3734.56 of the Revised Code, as appropriate, the 41405
committee shall notify by certified mail the owner or operator of 41406
each facility that is collecting the fees of the approval of the 41407
plan or amended plan, or the amendment of the plan or amended 41408
plan, as appropriate, and the abolishment of the fees. In the case 41409
of an initial or amended plan approved under section 3734.521 of 41410
the Revised Code in connection with a change in district 41411
composition, other than one involving the withdrawal of a county 41412
from a joint district, that abolishes the schedule of fees levied 41413
under divisions (B)(1) to (3) of this section by a district 41414
resulting from the change, the committee, within fourteen days 41415
after the change takes effect pursuant to division (G) of that 41416
section, shall notify by certified mail the owner or operator of 41417

each solid waste disposal facility that is required to collect the 41418
fees that the change has taken effect and of the abolishment of 41419
the fees. Collection of the fees shall cease on the first day of 41420
the second month following the month in which notification is sent 41421
to the owner or operator. 41422

Except as otherwise provided in this division, if the 41423
schedule of fees that a district is levying under divisions (B)(1) 41424
to (3) of this section pursuant to a resolution or amended 41425
resolution adopted and ratified under this division, the solid 41426
waste management plan of the district approved under section 41427
3734.55 of the Revised Code, an amended plan approved under 41428
division (A) or (D) of section 3734.56 of the Revised Code, or an 41429
amendment to the district's approved plan or amended plan under 41430
division (E) of section 3734.56 of the Revised Code, is amended by 41431
the adoption and ratification of an amendment to the resolution or 41432
amended resolution or an amendment of the district's approved plan 41433
or amended plan, the fees in effect immediately prior to the 41434
approval of the plan or the amendment of the resolution, amended 41435
resolution, plan, or amended plan, as appropriate, shall continue 41436
to be collected until collection of the amended fees commences 41437
pursuant to this division. 41438

If, in the case of a change in district composition involving 41439
the withdrawal of a county from a joint district, the director 41440
completes the actions required under division (G)(1) or (3) of 41441
section 3734.521 of the Revised Code, as appropriate, forty-five 41442
days or more before the beginning of a calendar year, the policy 41443
committee of each of the districts resulting from the change that 41444
obtained the director's approval of an initial or amended plan in 41445
connection with the change, within fourteen days after the 41446
director's completion of the required actions, shall notify by 41447
certified mail the owner or operator of each solid waste disposal 41448
facility that is required to collect the district's fees that the 41449

change is to take effect on the first day of January immediately 41450
following the issuance of the notice and of the amount of the fees 41451
or amended fees levied under divisions (B)(1) to (3) of this 41452
section pursuant to the district's initial or amended plan as so 41453
approved or, if appropriate, the abolishment of the district's 41454
fees by that initial or amended plan. Collection of any fees set 41455
forth in such a plan or amended plan shall commence on the first 41456
day of January immediately following the issuance of the notice. 41457
If such an initial or amended plan abolishes a schedule of fees, 41458
collection of the fees shall cease on that first day of January. 41459

If, in the case of a change in district composition involving 41460
the withdrawal of a county from a joint district, the director 41461
completes the actions required under division (G)(1) or (3) of 41462
section 3734.521 of the Revised Code, as appropriate, less than 41463
forty-five days before the beginning of a calendar year, the 41464
director, on behalf of each of the districts resulting from the 41465
change that obtained the director's approval of an initial or 41466
amended plan in connection with the change proceedings, shall 41467
notify by certified mail the owner or operator of each solid waste 41468
disposal facility that is required to collect the district's fees 41469
that the change is to take effect on the first day of January 41470
immediately following the mailing of the notice and of the amount 41471
of the fees or amended fees levied under divisions (B)(1) to (3) 41472
of this section pursuant to the district's initial or amended plan 41473
as so approved or, if appropriate, the abolishment of the 41474
district's fees by that initial or amended plan. Collection of any 41475
fees set forth in such a plan or amended plan shall commence on 41476
the first day of the second month following the month in which 41477
notification is sent to the owner or operator. If such an initial 41478
or amended plan abolishes a schedule of fees, collection of the 41479
fees shall cease on the first day of the second month following 41480
the month in which notification is sent to the owner or operator. 41481

In the case of a change in district composition, the schedule 41482
of fees that the former districts that existed prior to the change 41483
were levying under divisions (B)(1) to (3) of this section 41484
pursuant to a resolution or amended resolution adopted and 41485
ratified under this division, the solid waste management plan of a 41486
former district approved under section 3734.521 or 3734.55 of the 41487
Revised Code, an amended plan approved under section 3734.521 or 41488
division (A) or (D) of section 3734.56 of the Revised Code, or an 41489
amendment to a former district's approved plan or amended plan 41490
under division (E) of section 3734.56 of the Revised Code, and 41491
that were in effect on the date that the director completed the 41492
actions required under division (G)(1) or (3) of section 3734.521 41493
of the Revised Code shall continue to be collected until the 41494
collection of the fees or amended fees of the districts resulting 41495
from the change is required to commence, or if an initial or 41496
amended plan of a resulting district abolishes a schedule of fees, 41497
collection of the fees is required to cease, under this division. 41498
Moneys so received from the collection of the fees of the former 41499
districts shall be divided among the resulting districts in 41500
accordance with division (B) of section 343.012 of the Revised 41501
Code and the agreements entered into under division (B) of section 41502
343.01 of the Revised Code to establish the former and resulting 41503
districts and any amendments to those agreements. 41504

For the purposes of the provisions of division (B) of this 41505
section establishing the times when newly established or amended 41506
fees levied by a district are required to commence and the 41507
collection of fees that have been amended or abolished is required 41508
to cease, "fees" or "schedule of fees" includes, in addition to 41509
fees levied under divisions (B)(1) to (3) of this section, those 41510
levied under section 3734.573 or 3734.574 of the Revised Code. 41511

(C) For the purposes of defraying the added costs to a 41512
municipal corporation or township of maintaining roads and other 41513

public facilities and of providing emergency and other public 41514
services, and compensating a municipal corporation or township for 41515
reductions in real property tax revenues due to reductions in real 41516
property valuations resulting from the location and operation of a 41517
solid waste disposal facility within the municipal corporation or 41518
township, a municipal corporation or township in which such a 41519
solid waste disposal facility is located may levy a fee of not 41520
more than twenty-five cents per ton on the disposal of solid 41521
wastes at a solid waste disposal facility located within the 41522
boundaries of the municipal corporation or township regardless of 41523
where the wastes were generated. 41524

The legislative authority of a municipal corporation or 41525
township may levy fees under this division by enacting an 41526
ordinance or adopting a resolution establishing the amount of the 41527
fees. Upon so doing the legislative authority shall mail a 41528
certified copy of the ordinance or resolution to the board of 41529
county commissioners or directors of the county or joint solid 41530
waste management district in which the municipal corporation or 41531
township is located or, if a regional solid waste management 41532
authority has been formed under section 343.011 of the Revised 41533
Code, to the board of trustees of that regional authority, the 41534
owner or operator of each solid waste disposal facility in the 41535
municipal corporation or township that is required to collect the 41536
fee by the ordinance or resolution, and the director of 41537
environmental protection. Although the fees levied under this 41538
division are levied on the basis of tons as the unit of 41539
measurement, the legislative authority, in its ordinance or 41540
resolution levying the fees under this division, may direct that 41541
the fees be levied on the basis of cubic yards as the unit of 41542
measurement based upon a conversion factor of three cubic yards 41543
per ton generally or one cubic yard per ton for baled wastes. 41544

Not later than five days after enacting an ordinance or 41545

adopting a resolution under this division, the legislative 41546
authority shall so notify by certified mail the owner or operator 41547
of each solid waste disposal facility that is required to collect 41548
the fee. Collection of any fee levied on or after March 24, 1992, 41549
shall commence on the first day of the second month following the 41550
month in which notification is sent to the owner or operator. 41551

(D)(1) The fees levied under divisions (A), (B), and (C) of 41552
this section do not apply to the disposal of solid wastes that: 41553

(a) Are disposed of at a facility owned by the generator of 41554
the wastes when the solid waste facility exclusively disposes of 41555
solid wastes generated at one or more premises owned by the 41556
generator regardless of whether the facility is located on a 41557
premises where the wastes are generated; 41558

(b) Are disposed of at facilities that exclusively dispose of 41559
wastes that are generated from the combustion of coal, or from the 41560
combustion of primarily coal in combination with scrap tires, that 41561
is not combined in any way with garbage at one or more premises 41562
owned by the generator. 41563

(2) Except as provided in section 3734.571 of the Revised 41564
Code, any fees levied under division (B)(1) of this section apply 41565
to solid wastes originating outside the boundaries of a county or 41566
joint district that are covered by an agreement for the joint use 41567
of solid waste facilities entered into under section 343.02 of the 41568
Revised Code by the board of county commissioners or board of 41569
directors of the county or joint district where the wastes are 41570
generated and disposed of. 41571

(3) When solid wastes, other than solid wastes that consist 41572
of scrap tires, are burned in a disposal facility that is an 41573
incinerator or energy recovery facility, the fees levied under 41574
divisions (A), (B), and (C) of this section shall be levied upon 41575
the disposal of the fly ash and bottom ash remaining after burning 41576

of the solid wastes and shall be collected by the owner or 41577
operator of the sanitary landfill where the ash is disposed of. 41578

(4) When solid wastes are delivered to a solid waste transfer 41579
facility, the fees levied under divisions (A), (B), and (C) of 41580
this section shall be levied upon the disposal of solid wastes 41581
transported off the premises of the transfer facility for disposal 41582
and shall be collected by the owner or operator of the solid waste 41583
disposal facility where the wastes are disposed of. 41584

(5) The fees levied under divisions (A), (B), and (C) of this 41585
section do not apply to sewage sludge that is generated by a waste 41586
water treatment facility holding a national pollutant discharge 41587
elimination system permit and that is disposed of through 41588
incineration, land application, or composting or at another 41589
resource recovery or disposal facility that is not a landfill. 41590

(6) The fees levied under divisions (A), (B), and (C) of this 41591
section do not apply to solid wastes delivered to a solid waste 41592
composting facility for processing. When any unprocessed solid 41593
waste or compost product is transported off the premises of a 41594
composting facility and disposed of at a landfill, the fees levied 41595
under divisions (A), (B), and (C) of this section shall be 41596
collected by the owner or operator of the landfill where the 41597
unprocessed waste or compost product is disposed of. 41598

(7) When solid wastes that consist of scrap tires are 41599
processed at a scrap tire recovery facility, the fees levied under 41600
divisions (A), (B), and (C) of this section shall be levied upon 41601
the disposal of the fly ash and bottom ash or other solid wastes 41602
remaining after the processing of the scrap tires and shall be 41603
collected by the owner or operator of the solid waste disposal 41604
facility where the ash or other solid wastes are disposed of. 41605

(E) The fees levied under divisions (B) and (C) of this 41606
section shall be collected by the owner or operator of the solid 41607

waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint

district arising from the fees levied under division (B) of this 41640
section and the fee levied under division (A) of section 3734.573 41641
of the Revised Code shall be expended by the board of county 41642
commissioners or directors of the district in accordance with the 41643
district's solid waste management plan or amended plan approved 41644
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 41645
exclusively for the following purposes: 41646

(1) Preparation of the solid waste management plan of the 41647
district under section 3734.54 of the Revised Code, monitoring 41648
implementation of the plan, and conducting the periodic review and 41649
amendment of the plan required by section 3734.56 of the Revised 41650
Code by the solid waste management policy committee; 41651

(2) Implementation of the approved solid waste management 41652
plan or amended plan of the district, including, without 41653
limitation, the development and implementation of solid waste 41654
recycling or reduction programs; 41655

(3) Providing financial assistance to boards of health within 41656
the district, if solid waste facilities are located within the 41657
district, for enforcement of this chapter and rules, orders, and 41658
terms and conditions of permits, licenses, and variances adopted 41659
or issued under it, other than the hazardous waste provisions of 41660
this chapter and rules adopted and orders and terms and conditions 41661
of permits issued under those provisions; 41662

(4) Providing financial assistance to each county within the 41663
district to defray the added costs of maintaining roads and other 41664
public facilities and of providing emergency and other public 41665
services resulting from the location and operation of a solid 41666
waste facility within the county under the district's approved 41667
solid waste management plan or amended plan; 41668

(5) Pursuant to contracts entered into with boards of health 41669
within the district, if solid waste facilities contained in the 41670

district's approved plan or amended plan are located within the 41671
district, for paying the costs incurred by those boards of health 41672
for collecting and analyzing samples from public or private water 41673
wells on lands adjacent to those facilities; 41674

(6) Developing and implementing a program for the inspection 41675
of solid wastes generated outside the boundaries of this state 41676
that are disposed of at solid waste facilities included in the 41677
district's approved solid waste management plan or amended plan; 41678

(7) Providing financial assistance to boards of health within 41679
the district for the enforcement of section 3734.03 of the Revised 41680
Code or to local law enforcement agencies having jurisdiction 41681
within the district for enforcing anti-littering laws and 41682
ordinances; 41683

(8) Providing financial assistance to boards of health of 41684
health districts within the district that are on the approved list 41685
under section 3734.08 of the Revised Code to defray the costs to 41686
the health districts for the participation of their employees 41687
responsible for enforcement of the solid waste provisions of this 41688
chapter and rules adopted and orders and terms and conditions of 41689
permits, licenses, and variances issued under those provisions in 41690
the training and certification program as required by rules 41691
adopted under division (L) of section 3734.02 of the Revised Code; 41692

(9) Providing financial assistance to individual municipal 41693
corporations and townships within the district to defray their 41694
added costs of maintaining roads and other public facilities and 41695
of providing emergency and other public services resulting from 41696
the location and operation within their boundaries of a 41697
composting, energy or resource recovery, incineration, or 41698
recycling facility that either is owned by the district or is 41699
furnishing solid waste management facility or recycling services 41700
to the district pursuant to a contract or agreement with the board 41701
of county commissioners or directors of the district; 41702

(10) Payment of any expenses that are agreed to, awarded, or 41703
ordered to be paid under section 3734.35 of the Revised Code and 41704
of any administrative costs incurred pursuant to that section. In 41705
the case of a joint solid waste management district, if the board 41706
of county commissioners of one of the counties in the district is 41707
negotiating on behalf of affected communities, as defined in that 41708
section, in that county, the board shall obtain the approval of 41709
the board of directors of the district in order to expend moneys 41710
for administrative costs incurred. 41711

Prior to the approval of the district's solid waste 41712
management plan under section 3734.55 of the Revised Code, moneys 41713
in the special fund of the district arising from the fees shall be 41714
expended for those purposes in the manner prescribed by the solid 41715
waste management policy committee by resolution. 41716

Notwithstanding division (G)(6) of this section as it existed 41717
prior to October 29, 1993, or any provision in a district's solid 41718
waste management plan prepared in accordance with division 41719
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 41720
prior to that date, any moneys arising from the fees levied under 41721
division (B)(3) of this section prior to January 1, 1994, may be 41722
expended for any of the purposes authorized in divisions (G)(1) to 41723
(10) of this section. 41724

(H) The director shall adopt rules in accordance with Chapter 41725
119. of the Revised Code prescribing procedures for collecting and 41726
forwarding the fees levied under divisions (B) and (C) of this 41727
section to the boards of county commissioners or directors of 41728
county or joint solid waste management districts and to the 41729
treasurers or other officers of municipal corporations or to the 41730
clerks of townships. The rules also shall prescribe the dates for 41731
forwarding the fees to the boards and officials and may prescribe 41732
any other requirements the director considers necessary or 41733
appropriate to implement and administer divisions (A), (B), and 41734

(C) of this section. Collection of the fees levied under division 41735
(A)(1) of this section shall commence on July 1, 1993. Collection 41736
of the fees levied under division (A)(2) of this section shall 41737
commence on January 1, 1994. 41738

Sec. 3735.27. (A) Whenever the director of development has 41739
determined that there is need for a housing authority in any 41740
portion of any county that comprises two or more political 41741
subdivisions or portions ~~thereof~~ of two or more political 41742
subdivisions but is less than all the territory within the county, 41743
a metropolitan housing authority shall be declared to exist, and 41744
the territorial limits ~~thereof~~ of the authority shall be defined, 41745
by a letter from the director. The director shall issue a 41746
determination from the department of development declaring that 41747
there is need for a housing authority within ~~such~~ those 41748
territorial limits after finding either of the following: 41749

(1) Unsanitary or unsafe inhabited housing accommodations 41750
exist in ~~such~~ that area; 41751

(2) There is a shortage of safe and sanitary housing 41752
accommodations in ~~such~~ that area available to persons who lack the 41753
amount of income ~~which~~ that is necessary, as determined by the 41754
director, to enable them, without financial assistance, to live in 41755
decent, safe, and sanitary dwellings without congestion. 41756

In determining whether dwelling accommodations are unsafe or 41757
unsanitary, the director may take into consideration the degree of 41758
congestion, the percentage of land coverage, the light, air, 41759
space, and access available to the inhabitants of ~~such~~ the 41760
dwelling accommodations, the size and arrangement of ~~the~~ rooms, 41761
the sanitary facilities, and the extent to which conditions exist 41762
in ~~such buildings which~~ the dwelling accommodations that endanger 41763
life or property by fire or other causes. 41764

The territorial limits of a metropolitan housing authority, 41765

as defined by the director, under this division shall be fixed for 41766
~~such~~ the authority upon proof of a letter from the director 41767
declaring the need for ~~such~~ the authority to function in those 41768
territorial limits. Any such letter from the director, any 41769
certificate of determination issued by the director, and any 41770
certificate of appointment of members of the authority shall be 41771
admissible in evidence in any suit, action, or proceeding. 41772

A certified copy of the letter from the director, declaring 41773
the existence of a metropolitan housing authority and ~~boundaries~~ 41774
the territorial limits of ~~a housing authority~~ its district, shall 41775
be immediately forwarded to each appointing authority. A 41776
metropolitan housing authority shall consist of ~~five~~ members, who 41777
~~shall be~~ are residents of the territory ~~embraced in such~~ 41778
~~metropolitan housing authority district~~ which they serve. 41779

(B) Except as otherwise provided in division (C), (D), or (E) 41780
of this section, one member shall be appointed by the probate 41781
court, one member by the court of common pleas, one member by the 41782
board of county commissioners, and two members by the chief 41783
executive officer of the most populous city in the ~~territory~~ 41784
~~included in the~~ district, in accordance with the last preceding 41785
federal census. At the time of the initial appointment of the 41786
authority, the member appointed by the probate court shall be 41787
appointed for a period of four years, the ~~appointee of member~~ 41788
appointed by the court of common pleas shall be appointed for 41789
three years, the ~~appointee of member appointed by~~ the board of 41790
county commissioners shall be appointed for two years, one 41791
~~appointee of the member appointed by the~~ chief executive officer 41792
of the most populous city in the district shall be appointed for 41793
one year, and ~~one appointee of the~~ other member appointed by the 41794
chief executive officer of the most populous city in the district 41795
shall be appointed for five years. Thereafter, all members of the 41796
authority shall be appointed for five-year terms, and vacancies 41797

due to expired terms shall be filled ~~by the same appointing powers~~ 41798
in the manner provided in the original appointments. 41799

(C) For any metropolitan housing authority district that 41800
contained, as of the 1990 federal census, a population of at least 41801
one million, two members of the authority shall be appointed by 41802
the ~~municipal~~ legislative authority of the most populous city in 41803
the ~~territory included in the~~ district, two members shall be 41804
appointed by the chief executive officer of the most populous city 41805
in the ~~territory included in the~~ district, and one member shall be 41806
appointed by the chief executive officer, with the approval of the 41807
~~municipal~~ legislative authority, of the city in the district ~~which~~ 41808
that has the second highest number of housing units owned or 41809
managed by the authority. 41810

At the time of the initial appointment of the authority, one 41811
member appointed by the ~~municipal~~ legislative authority of the 41812
most populous city in the ~~territory included in the~~ district shall 41813
be appointed for three years, and one such member shall be 41814
appointed for one year; the ~~appointee of member appointed by~~ the 41815
chief executive officer of the city with the second highest number 41816
of housing units owned or managed by the authority shall be 41817
appointed, with the approval of the ~~municipal~~ legislative 41818
authority, for three years; and one appointee of member appointed 41819
by the chief executive officer of the most populous city in the 41820
district shall be appointed for three years, and one such member 41821
shall be appointed for one year. Thereafter, all members of the 41822
authority shall be appointed for three-year terms, and any vacancy 41823
shall be filled by the same appointing power that made the initial 41824
appointment. At the expiration of the term of any member appointed 41825
by the chief executive officer of the most populous city in the 41826
~~territory included in the~~ district prior to March 15, 1983, the 41827
chief executive officer of the most populous city in the district 41828
shall fill the vacancy by appointment for a three-year term. At 41829

the expiration of the term of any member appointed by the board of 41830
county commissioners prior to March 15, 1983, the chief executive 41831
officer of the city in the district with the second highest number 41832
of housing units owned or managed by the authority shall, with the 41833
approval of the municipal legislative authority, fill the vacancy 41834
by appointment for a three-year term. At the expiration of the 41835
term of any member appointed prior to March 15, 1983, by the court 41836
of common pleas or the probate court, the legislative authority of 41837
the most populous city in the ~~territory included in the~~ district 41838
shall fill the vacancy by appointment for a three-year term. 41839

After March 15, 1983, at least one of the members appointed 41840
by the chief executive officer of the most populous city shall be 41841
a resident of a dwelling unit owned or managed by the ~~housing~~ 41842
authority. At least one of the initial appointments by the chief 41843
executive officer of the most populous city, after March 15, 1983, 41844
shall be a resident of a dwelling unit owned or managed by the 41845
~~housing~~ authority. Thereafter, any member appointed by the chief 41846
executive officer of the most populous city for the term 41847
established by this initial appointment, or for any succeeding 41848
term ~~thereof~~, shall be a person who resides in a dwelling unit 41849
owned or managed by the ~~housing~~ authority. If there is an elected, 41850
representative body of all residents of the ~~housing~~ authority, 41851
~~then~~ the chief executive officer of the most populous city shall, 41852
whenever there is a vacancy in this resident term, provide written 41853
notice of the vacancy to the representative body. If the 41854
representative body submits to the chief executive officer of the 41855
most populous city, in writing and within sixty days after the 41856
date on which it was notified of the vacancy, the names of at 41857
least five residents of the ~~housing~~ authority who are willing and 41858
qualified to serve as a member, ~~then~~ the chief executive officer 41859
of the most populous city shall appoint to the resident term one 41860
of the residents recommended by the representative body. At no 41861
time shall residents constitute a majority of the members of the 41862

authority. 41863

(D)(1) For any metropolitan housing authority district 41864
located in a county that had, as of the 2000 federal census, a 41865
population of at least four hundred thousand and no city with a 41866
population greater than thirty per cent of the total population of 41867
the county, one member of the authority shall be appointed by the 41868
probate court, one member shall be appointed by the court of 41869
common pleas, one member shall be appointed by the chief executive 41870
officer of the most populous city in the district, and two members 41871
shall be appointed by the board of county commissioners. 41872

(2) At the time of the initial appointment of a metropolitan 41873
housing authority pursuant to this division, the member appointed 41874
by the probate court shall be appointed for a period of four 41875
years, the member appointed by the court of common pleas shall be 41876
appointed for three years, the member appointed by the chief 41877
executive officer of the most populous city shall be appointed for 41878
two years, one member appointed by the board of county 41879
commissioners shall be appointed for one year, and the other 41880
member appointed by the board of county commissioners shall be 41881
appointed for five years. Thereafter, all members of the authority 41882
shall be appointed for five-year terms, with each term ending on 41883
the same day of the same month as the term that it succeeds. 41884
Vacancies shall be filled in the manner provided in the original 41885
appointments. Any member appointed to fill a vacancy occurring 41886
prior to the expiration of the term shall hold office as a member 41887
for the remainder of that term. 41888

(E)(1) An additional two members shall be appointed to the 41889
metropolitan housing authority in any district that has three 41890
hundred or more assisted housing units and that does not have at 41891
least one resident as a member of its authority. For the purposes 41892
of this section an "assisted unit" is a housing unit owned or 41893
operated by the housing authority or a unit in which the occupants 41894

receive tenant-based housing assistance through the federal 41895
section 8 housing program, 24 C.F.R. Ch VIII, and, a "resident" is 41896
a person who lives in an assisted housing unit. 41897

(2) The chief executive officer of the most populous city in 41898
the district shall appoint an additional member who is a resident 41899
for an initial term of five years. The board of county 41900
commissioners shall appoint the other additional member, who need 41901
not be a resident, for an initial term of three years. After the 41902
initial term, the terms of both members shall be five years and 41903
vacancies shall be filled in the manner provided in the original 41904
appointments. Any member appointed to fill a vacancy occurring 41905
prior to the expiration of the term for which the member's 41906
predecessor was appointed shall hold office as a member for the 41907
remainder of that term. 41908

(3) A member appointed as a resident member who no longer 41909
qualifies as a resident shall be deemed unable to serve and 41910
another resident member shall be appointed to serve the unexpired 41911
portion of that term. 41912

(F) Public officials, other than the officers having the 41913
appointing power under this section, shall be eligible to serve as 41914
members, officers, or employees of the a metropolitan housing 41915
authority notwithstanding any statute, charter, or law to the 41916
contrary. Not more than two such public officials shall be members 41917
of the authority at any one time. 41918

All members of ~~such housing~~ an authority shall serve without 41919
compensation but shall be entitled to be reimbursed for all 41920
necessary expenses incurred. ~~After such~~ 41921

After a metropolitan housing authority district has been is 41922
formed, the director may enlarge the territory within ~~such the~~ 41923
district to include other political subdivisions, or portions 41924
thereof of other political subdivisions, but the territorial 41925

limits of ~~which~~ the district shall be less than that of the 41926
county. 41927

Sec. 3735.66. The legislative authorities of municipal 41928
corporations and counties may survey the housing within their 41929
jurisdictions and, after the survey, may adopt resolutions 41930
describing the boundaries of community reinvestment areas which 41931
contain the conditions required for the finding under division (B) 41932
of section 3735.65 of the Revised Code. The findings resulting 41933
from the survey shall be incorporated in the resolution describing 41934
the boundaries of an area. The legislative authority may stipulate 41935
in the resolution that only new structures or remodeling 41936
classified as to use as commercial, industrial, or residential, or 41937
some combination thereof, and otherwise satisfying the 41938
requirements of section 3735.67 of the Revised Code are eligible 41939
for exemption from taxation under that section. If the resolution 41940
does not include such a stipulation, all new structures and 41941
remodeling satisfying the requirements of section 3735.67 of the 41942
Revised Code are eligible for exemption from taxation regardless 41943
of classification. Whether or not the resolution includes such a 41944
stipulation, the classification of the structures or remodeling 41945
eligible for exemption in the area shall at all times be 41946
consistent with zoning restrictions applicable to the area. For 41947
the purposes of sections 3735.65 to 3735.70 of the Revised Code, 41948
whether a structure or remodeling composed of multiple units is 41949
classified as commercial or residential shall be determined by 41950
resolution or ordinance of the legislative authority or, in the 41951
absence of such a determination, by the classification of the use 41952
of the structure or remodeling under the applicable zoning 41953
regulations. 41954

If construction or remodeling classified as residential is 41955
eligible for exemption from taxation, the resolution shall specify 41956
a percentage, not to exceed one hundred per cent, of the assessed 41957

valuation of such property to be exempted. The percentage 41958
specified shall apply to all residential construction or 41959
remodeling for which exemption is granted. 41960

The resolution adopted pursuant to this section shall be 41961
published in a newspaper of general circulation in the municipal 41962
corporation, if the resolution is adopted by the legislative 41963
authority of a municipal corporation, or in a newspaper of general 41964
circulation in the county, if the resolution is adopted by the 41965
legislative authority of the county, once a week for two 41966
consecutive weeks immediately following its adoption. 41967

Each legislative authority adopting a resolution pursuant to 41968
this section shall designate a housing officer. In addition, each 41969
such legislative authority, not later than fifteen days after the 41970
adoption of the resolution, shall petition the director of 41971
development for the director to confirm the findings described in 41972
the resolution. The petition shall be accompanied by a copy of the 41973
resolution and by a map of the community reinvestment area in 41974
sufficient detail to denote the specific boundaries of the area 41975
and to indicate zoning restrictions applicable to the area. The 41976
director shall determine whether the findings contained in the 41977
resolution are valid, and whether the classification of structures 41978
or remodeling eligible for exemption under the resolution is 41979
consistent with zoning restrictions applicable to the area as 41980
indicated on the map. Within thirty days of receiving the 41981
petition, the director shall forward ~~his~~ the director's 41982
determination to the legislative authority. The legislative 41983
authority or housing officer shall not grant any exemption from 41984
taxation under section 3735.67 of the Revised Code until the 41985
director forwards ~~his~~ the director's determination to the 41986
legislative authority. The director shall assign to each community 41987
reinvestment area a unique designation by which the area shall be 41988
identified for purposes of sections 3735.65 to 3735.70 of the 41989

Revised Code. 41990

If zoning restrictions in any part of a community 41991
reinvestment area are changed at any time after the legislative 41992
authority petitions the director under this section, the 41993
legislative authority shall notify the director and shall submit a 41994
map of the area indicating the new zoning restrictions in the 41995
area. 41996

Sec. 3735.67. (A) The owner of real property located in a 41997
community reinvestment area and eligible for exemption from 41998
taxation under a resolution adopted pursuant to section 3735.66 of 41999
the Revised Code may file an application for an exemption from 42000
real property taxation of a percentage of the assessed valuation 42001
of a new structure or remodeling, completed after the effective 42002
date of the resolution adopted pursuant to section 3735.66 of the 42003
Revised Code, with the housing officer designated pursuant to 42004
section 3735.66 of the Revised Code for the community reinvestment 42005
area in which the property is located. If any part of the new 42006
structure or remodeling that would be exempted is of real property 42007
to be used for commercial or industrial purposes, the legislative 42008
authority and the owner of the property shall enter into a written 42009
agreement pursuant to section 3735.671 of the Revised Code prior 42010
to commencement of construction or remodeling; if such an 42011
agreement is subject to approval by the board of education of the 42012
school district within the territory of which the property is or 42013
will be located, the agreement shall not be formally approved by 42014
the legislative authority until the board of education approves 42015
the agreement in the manner prescribed by that section. 42016

(B) The housing officer shall verify the construction of the 42017
new structure or the cost of the remodeling and the facts asserted 42018
in the application. The housing officer shall determine whether 42019
the construction or the cost of the remodeling meets the 42020

requirements for an exemption under this section. In cases 42021
involving a structure of historical or architectural significance, 42022
the housing officer shall not determine whether the remodeling 42023
meets the requirements for a tax exemption unless the 42024
appropriateness of the remodeling has been certified, in writing, 42025
by the society, association, agency, or legislative authority that 42026
has designated the structure or by any organization or person 42027
authorized, in writing, by such society, association, agency, or 42028
legislative authority to certify the appropriateness of the 42029
remodeling. 42030

(C) If the construction or remodeling meets the requirements 42031
for exemption, the housing officer shall forward the application 42032
to the county auditor with a certification as to the division of 42033
this section under which the exemption is granted, and the period 42034
and percentage of the exemption as determined by the legislative 42035
authority pursuant to that division. If the construction or 42036
remodeling is of commercial or industrial property and the 42037
legislative authority is not required to certify a copy of a 42038
resolution under section 3735.671 of the Revised Code, the housing 42039
officer shall comply with the notice requirements prescribed under 42040
section 5709.83 of the Revised Code, unless the board has adopted 42041
a resolution under that section waiving its right to receive such 42042
a notice. 42043

(D) The tax exemption shall first apply in the year the 42044
construction or remodeling would first be taxable but for this 42045
section. In the case of remodeling that qualifies for exemption, a 42046
percentage, not to exceed one hundred per cent, of the amount by 42047
which the remodeling increased the assessed value of the structure 42048
shall be exempted from real property taxation. In the case of 42049
construction of a structure that qualifies for exemption, a 42050
percentage, not to exceed one hundred per cent, of the assessed 42051
value of the structure shall be exempted from real property 42052

taxation. In either case, the percentage shall be the percentage 42053
set forth in the agreement if the structure or remodeling is to be 42054
used for commercial or industrial purposes, or the percentage set 42055
forth in the resolution describing the community reinvestment area 42056
if the structure or remodeling is to be used for residential 42057
purposes. 42058

The construction of new structures and the remodeling of 42059
existing structures are hereby declared to be a public purpose for 42060
which exemptions from real property taxation may be granted for 42061
the following periods: 42062

(1) For every dwelling containing not more than two family 42063
units located within the same community reinvestment area and upon 42064
which the cost of remodeling is at least two thousand five hundred 42065
dollars, a period to be determined by the legislative authority 42066
adopting the resolution describing the community reinvestment area 42067
where the dwelling is located, but not exceeding ten years; 42068

(2) For every dwelling containing more than two units and 42069
commercial or industrial properties, located within the same 42070
community reinvestment area, upon which the cost of remodeling is 42071
at least five thousand dollars, a period to be determined by the 42072
legislative authority adopting the resolution, but not exceeding 42073
twelve years; 42074

(3) For construction of every dwelling, and commercial or 42075
industrial structure located within the same community 42076
reinvestment area, a period to be determined by the legislative 42077
authority adopting the resolution, but not exceeding fifteen 42078
years. 42079

(E) Any person, board, or officer authorized by section 42080
5715.19 of the Revised Code to file complaints with the county 42081
board of revision may file a complaint with the housing officer 42082
challenging the continued exemption of any property granted an 42083

exemption under this section. A complaint against exemption shall 42084
be filed prior to the thirty-first day of December of the tax year 42085
for which taxation of the property is requested. The housing 42086
officer shall determine whether the property continues to meet the 42087
requirements for exemption and shall certify the housing officer's 42088
findings to the complainant. If the housing officer determines 42089
that the property does not meet the requirements for exemption, 42090
the housing officer shall notify the county auditor, who shall 42091
correct the tax list and duplicate accordingly. 42092

Sec. 3735.671. (A) If construction or remodeling of 42093
commercial or industrial property is to be exempted from taxation 42094
pursuant to section 3735.67 of the Revised Code, the legislative 42095
authority and the owner of the property, prior to the commencement 42096
of construction or remodeling, shall enter into a written 42097
agreement, binding on both parties for a period of time that does 42098
not end prior to the end of the period of the exemption, that 42099
includes all of the information and statements prescribed by this 42100
section. Agreements may include terms not prescribed by this 42101
section, but such terms shall in no way derogate from the 42102
information and statements prescribed by this section. 42103

(1) Except as otherwise provided in division (A)(2) or (3) of 42104
this section, an agreement entered into under this section shall 42105
not be approved by the legislative authority unless the board of 42106
education of the city, local, or exempted village school district 42107
within the territory of which the property is or will be located 42108
approves the agreement. For the purpose of obtaining such 42109
approval, the legislative authority shall certify a copy of the 42110
agreement to the board of education not later than forty-five days 42111
prior to approving the agreement, excluding Saturday, Sunday, and 42112
a legal holiday as defined in section 1.14 of the Revised Code. 42113
The board of education, by resolution adopted by a majority of the 42114
board, shall approve or disapprove the agreement and certify a 42115

copy of the resolution to the legislative authority not later than 42116
fourteen days prior to the date stipulated by the legislative 42117
authority as the date upon which approval of the agreement is to 42118
be formally considered by the legislative authority. The board of 42119
education may include in the resolution conditions under which the 42120
board would approve the agreement. The legislative authority may 42121
approve an agreement at any time after the board of education 42122
certifies its resolution approving the agreement to the 42123
legislative authority, or, if the board approves the agreement 42124
conditionally, at any time after the conditions are agreed to by 42125
the board and the legislative authority. 42126

(2) Approval of an agreement by the board of education is not 42127
required under division (A)(1) of this section if, for each tax 42128
year the real property is exempted from taxation, the sum of the 42129
following quantities, as estimated at or prior to the time the 42130
agreement is formally approved by the legislative authority, 42131
equals or exceeds fifty per cent of the amount of taxes, as 42132
estimated at or prior to that time, that would have been charged 42133
and payable that year upon the real property had that property not 42134
been exempted from taxation: 42135

(a) The amount of taxes charged and payable on any portion of 42136
the assessed valuation of the new structure or remodeling that 42137
will not be exempted from taxation under the agreement; 42138

(b) The amount of taxes charged and payable on tangible 42139
personal property located on the premises of the new structure or 42140
of the structure to be remodeled under the agreement, whether 42141
payable by the owner of the structure or by a related member, as 42142
defined in section 5733.042 of the Revised Code without regard to 42143
division (B) of that section. 42144

(c) The amount of any cash payment by the owner of the new 42145
structure or structure to be remodeled to the school district, the 42146
dollar value, as mutually agreed to be the owner and the board of 42147

education, of any property or services provided by the owner of 42148
the property to the school district, whether by gift, loan, or 42149
otherwise, and any payment by the legislative authority to the 42150
school district pursuant to section 5709.82 of the Revised Code. 42151

The estimates of quantities used for purposes of division 42152
(A)(2) of this section shall be estimated by the legislative 42153
authority. The legislative authority shall certify to the board of 42154
education that the estimates have been made in good faith. 42155
Departures of the actual quantities from the estimates subsequent 42156
to approval of the agreement by the board of education do not 42157
invalidate the agreement. 42158

(3) If a board of education has adopted a resolution waiving 42159
its right to approve agreements and the resolution remains in 42160
effect, approval of an agreement by the board is not required 42161
under this division. If a board of education has adopted a 42162
resolution allowing a legislative authority to deliver the notice 42163
required under this division fewer than forty-five business days 42164
prior to the legislative authority's execution of the agreement, 42165
the legislative authority shall deliver the notice to the board 42166
not later than the number of days prior to such execution as 42167
prescribed by the board in its resolution. If a board of education 42168
adopts a resolution waiving its right to approve agreements or 42169
shortening the notification period, the board shall certify a copy 42170
of the resolution to the legislative authority. If the board of 42171
education rescinds such a resolution, it shall certify notice of 42172
the rescission to the legislative authority. 42173

(B) Each agreement shall include the following information: 42174

(1) The names of all parties to the agreement; 42175

(2) A description of the remodeling or construction, whether 42176
or not to be exempted from taxation, including existing or new 42177
structure size and cost thereof; the value of machinery, 42178

equipment, furniture, and fixtures, including an itemization of 42179
the value of machinery, equipment, furniture, and fixtures used at 42180
another location in this state prior to the agreement and 42181
relocated or to be relocated from that location to the property, 42182
and the value of machinery, equipment, furniture, and fixtures at 42183
the facility prior to the execution of the agreement; the value of 42184
inventory at the property, including an itemization of the value 42185
of inventory held at another location in this state prior to the 42186
agreement and relocated or to be relocated from that location to 42187
the property, and the value of inventory held at the property 42188
prior to the execution of the agreement; 42189

(3) The scheduled starting and completion dates of remodeling 42190
or construction of real property or of investments made in 42191
machinery, equipment, furniture, fixtures, and inventory; 42192

(4) Estimates of the number of employee positions to be 42193
created each year of the agreement and of the number of employee 42194
positions retained by the owner due to the remodeling or 42195
construction, itemized as to the number of full-time, part-time, 42196
permanent, and temporary positions; 42197

(5) Estimates of the dollar amount of payroll attributable to 42198
the positions set forth in division (B)(4) of this section, 42199
similarly itemized; 42200

(6) The number of employee positions, if any, at the property 42201
and at any other location in this state at the time the agreement 42202
is executed, itemized as to the number of full-time, part-time, 42203
permanent, and temporary positions. 42204

(C) Each agreement shall set forth the following information 42205
and incorporate the following statements: 42206

(1) A description of real property to be exempted from 42207
taxation under the agreement, the percentage of the assessed 42208
valuation of the real property exempted from taxation, and the 42209

period for which the exemption is granted, accompanied by the 42210
statement: "The exemption commences the first year for which the 42211
real property would first be taxable were that property not 42212
exempted from taxation. No exemption shall commence after 42213
..... (insert date) nor extend beyond (insert 42214
date)." ~~The tax commissioner shall adopt rules prescribing the 42215
form the description of such property shall assume in order to 42216
ensure that the property to be exempted from taxation under the 42217
agreement is distinguishable from property that is not to be 42218
exempted under that agreement.~~ 42219

(2) "..... (insert name of owner) shall pay such real 42220
property taxes as are not exempted under this agreement and are 42221
charged against such property and shall file all tax reports and 42222
returns as required by law. If (insert name of owner) 42223
fails to pay such taxes or file such returns and reports, 42224
exemptions from taxation granted under this agreement are 42225
rescinded beginning with the year for which such taxes are charged 42226
or such reports or returns are required to be filed and 42227
thereafter." 42228

(3) "..... (insert name of owner) hereby certifies that 42229
at the time this agreement is executed, (insert name of 42230
owner) does not owe any delinquent real or tangible personal 42231
property taxes to any taxing authority of the State of Ohio, and 42232
does not owe delinquent taxes for which (insert name of 42233
owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 42234
5747., or 5753. of the Ohio Revised Code, or, if such delinquent 42235
taxes are owed, (insert name of owner) currently is 42236
paying the delinquent taxes pursuant to an undertaking enforceable 42237
by the State of Ohio or an agent or instrumentality thereof, has 42238
filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or 42239
such a petition has been filed against (insert name of 42240
owner). For the purposes of this certification, delinquent taxes 42241

are taxes that remain unpaid on the latest day prescribed for 42242
payment without penalty under the chapter of the Revised Code 42243
governing payment of those taxes." 42244

(4) "..... (insert name of municipal corporation or 42245
county) shall perform such acts as are reasonably necessary or 42246
appropriate to effect, claim, reserve, and maintain exemptions 42247
from taxation granted under this agreement including, without 42248
limitation, joining in the execution of all documentation and 42249
providing any necessary certificates required in connection with 42250
such exemptions." 42251

(5) "If for any reason (insert name of municipal 42252
corporation or county) revokes the designation of the area, 42253
entitlements granted under this agreement shall continue for the 42254
number of years specified under this agreement, unless 42255
(insert name of owner) materially fails to fulfill its obligations 42256
under this agreement and (insert name of 42257
municipal corporation or county) terminates or modifies the 42258
exemptions from taxation pursuant to this agreement." 42259

(6) "If (insert name of owner) materially fails to 42260
fulfill its obligations under this agreement, or if 42261
(insert name of municipal corporation or county) determines that 42262
the certification as to delinquent taxes required by this 42263
agreement is fraudulent, (insert name of municipal 42264
corporation or county) may terminate or modify the exemptions from 42265
taxation granted under this agreement." 42266

(7) "..... (insert name of owner) shall provide to the 42267
proper tax incentive review council any information reasonably 42268
required by the council to evaluate the applicant's compliance 42269
with the agreement, including returns filed pursuant to section 42270
5711.02 of the Ohio Revised Code if requested by the council." 42271

(8) "This agreement is not transferable or assignable without 42272

the express, written approval of (insert name of 42273
municipal corporation or county)." 42274

(9) "Exemptions from taxation granted under this agreement 42275
shall be revoked if it is determined that (insert name 42276
of owner), any successor to that person, or any related member (as 42277
those terms are defined in division (E) of section 3735.671 of the 42278
Ohio Revised Code) has violated the prohibition against entering 42279
into this agreement under division (E) of section 3735.671 or 42280
section 5709.62 or 5709.63 of the Ohio Revised Code prior to the 42281
time prescribed by that division or either of those sections." 42282

(10) "..... (insert name of owner) and 42283
(insert name of municipal corporation or county) acknowledge that 42284
this agreement must be approved by formal action of the 42285
legislative authority of (insert name of municipal 42286
corporation or county) as a condition for the agreement to take 42287
effect. This agreement takes effect upon such approval." 42288

The statement described in division (C)(6) of this section 42289
may include the following statement, appended at the end of the 42290
statement: ", and may require the repayment of the amount of taxes 42291
that would have been payable had the property not been exempted 42292
from taxation under this agreement." 42293

(D) Except as otherwise provided in this division, an 42294
agreement entered into under this section shall require that the 42295
owner pay an annual fee equal to the greater of one per cent of 42296
the amount of taxes exempted under the agreement or five hundred 42297
dollars; provided, however, that if the value of the incentives 42298
exceeds two hundred fifty thousand dollars, the fee shall not 42299
exceed two thousand five hundred dollars. The fee shall be payable 42300
to the legislative authority once per year for each year the 42301
agreement is effective on the days and in the form specified in 42302
the agreement. Fees paid shall be deposited in a special fund 42303
created for such purpose by the legislative authority and shall be 42304

used by the legislative authority exclusively for the purpose of 42305
complying with section 3735.672 of the Revised Code and by the tax 42306
incentive review council created under section 5709.85 of the 42307
Revised Code exclusively for the purposes of performing the duties 42308
prescribed under that section. The legislative authority may waive 42309
or reduce the amount of the fee, but such waiver or reduction does 42310
not affect the obligations of the legislative authority or the tax 42311
incentive review council to comply with section 3735.672 or 42312
5709.85 of the Revised Code. 42313

(E) If any person that is party to an agreement granting an 42314
exemption from taxation discontinues operations at the structure 42315
to which that exemption applies prior to the expiration of the 42316
term of the agreement, that person, any successor to that person, 42317
and any related member shall not enter into an agreement under 42318
this section or section 5709.62, 5709.63, or 5709.632 of the 42319
Revised Code, and no legislative authority shall enter into such 42320
an agreement with such a person, successor, or related member, 42321
prior to the expiration of five years after the discontinuation of 42322
operations. As used in this division, "successor" means a person 42323
to which the assets or equity of another person has been 42324
transferred, which transfer resulted in the full or partial 42325
nonrecognition of gain or loss, or resulted in a carryover basis, 42326
both as determined by rule adopted by the tax commissioner. 42327
"Related member" has the same meaning as defined in section 42328
5733.042 of the Revised Code without regard to division (B) of 42329
that section. 42330

The director of development shall review all agreements 42331
submitted to the director under division (F) of this section for 42332
the purpose of enforcing this division. If the director determines 42333
there has been a violation of this division, the director shall 42334
notify the legislative authority of such violation, and the 42335
legislative authority immediately shall revoke the exemption 42336

granted under the agreement. 42337

(F) When an agreement is entered into under this section, the 42338
legislative authority authorizing the agreement shall forward a 42339
copy of the agreement to the director of development ~~and to the~~ 42340
~~tax commissioner~~ within fifteen days after the agreement is 42341
entered into. 42342

Sec. 3737.81. (A) There is hereby created the state fire 42343
commission consisting of ten members to be appointed by the 42344
governor with the advice and consent of the senate. The fire 42345
marshal or chief deputy fire marshal, a representative designated 42346
by the department of public safety who has tenure in fire 42347
suppression, and a representative designated by the board of 42348
building standards shall be ex officio members. Of the initial 42349
appointments made to the commission, two shall be for a term 42350
ending one year after November 1, 1978, two shall be for a term 42351
ending two years after that date, two shall be for a term ending 42352
three years after that date, two shall be for a term ending four 42353
years after that date, and two shall be for a term ending five 42354
years after that date. Thereafter, terms of office shall be for 42355
five years, each term ending on the same day of the same month of 42356
the year as did the term which it succeeds. Each member shall hold 42357
office from the date of appointment until the end of the term for 42358
which the member was appointed. Any member appointed to fill a 42359
vacancy occurring prior to the expiration of the term for which 42360
the member's predecessor was appointed shall hold office for the 42361
remainder of that term. Any member shall continue in office 42362
subsequent to the expiration date of the member's term until a 42363
successor takes office, or until a period of sixty days has 42364
elapsed, whichever occurs first. Members shall be qualified by 42365
experience and training to deal with the matters that are the 42366
responsibility of the commission. Two members shall be members of 42367
paid fire services, one shall be a member of volunteer fire 42368

services, two shall be mayors, managers, or members of legislative 42369
authorities of municipal corporations, one shall represent 42370
commerce and industry, one shall be a representative of a fire 42371
insurance company domiciled in this state, one shall represent the 42372
flammable liquids industry, one shall represent the construction 42373
industry, and one shall represent the public. At no time shall 42374
more than six members be members of or associated with the same 42375
political party. Membership on the commission shall not constitute 42376
holding a public office, and no person shall forfeit or otherwise 42377
vacate the person's office or position of employment because of 42378
membership on the commission. 42379

(B) The ex officio members may not vote, except that the fire 42380
marshal or chief deputy fire marshal may vote in case of a tie. 42381

(C) Each member of the commission, other than ex officio 42382
members, shall be paid an amount ~~equal to that payable under pay~~ 42383
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 42384
of the Revised Code, and the member's actual and necessary 42385
expenses. 42386

(D) The commission shall select a chairperson and a 42387
vice-chairperson from among its members. No business may be 42388
transacted in the absence of a quorum. A quorum shall be at least 42389
six members, excluding ex officio members, and shall include 42390
either the chairperson or vice-chairperson. The commission shall 42391
hold regular meetings at least once every two months and may meet 42392
at any other time at the call of the chairperson. 42393

(E) The fire marshal shall provide the commission with office 42394
space, meeting rooms, staff, and clerical assistance necessary for 42395
the commission to perform its duties. If the commission maintains 42396
the Ohio fire service hall of fame under division (C) of section 42397
3737.03 of the Revised Code, the fire marshal shall preserve, in 42398
an appropriate manner, in the office space or meeting rooms 42399
provided to the commission under this division or in another 42400

location, copies of all official commendations awarded to 42401
individuals recognized and commemorated for their exemplary 42402
accomplishments and acts of heroism at fire-related incidents or 42403
similar events that occurred in this state. 42404

(F) If the commission maintains the Ohio fire service hall of 42405
fame under division (C) of section 3737.03 of the Revised Code, 42406
the expenses incurred for the recognition and commemoration of 42407
individuals for their exemplary accomplishments and acts of 42408
heroism at fire-related incidents or similar events that occurred 42409
in this state, including, but not limited to, expenses for 42410
official commendations and an annual awards ceremony as described 42411
in division ~~(C)~~(B) of section 3737.03 of the Revised Code, may be 42412
paid from moneys appropriated by the general assembly for purposes 42413
of that recognition and commemoration, from moneys that are 42414
available to the fire marshal under this chapter, or from other 42415
funding sources available to the commission. 42416

Sec. 3745.04. As used in this section, "any person" means any 42417
individual, any partnership, corporation, association, or other 42418
legal entity, or any political subdivision, instrumentality, or 42419
agency of a state, whether or not the individual or legal entity 42420
is an applicant for or holder of a license, permit, or variance 42421
from the environmental protection agency, and includes any 42422
department, agency, or instrumentality of the federal government 42423
that is an applicant for or holder of a license, permit, or 42424
variance from the environmental protection agency. 42425

As used in this section, "action" or "act" includes the 42426
adoption, modification, or repeal of a rule or standard, the 42427
issuance, modification, or revocation of any lawful order other 42428
than an emergency order, and the issuance, denial, modification, 42429
or revocation of a license, permit, lease, variance, or 42430
certificate, or the approval or disapproval of plans and 42431

specifications pursuant to law or rules adopted thereunder. 42432

Any person who was a party to a proceeding before the 42433
director of environmental protection may participate in an appeal 42434
to the environmental review appeals commission for an order 42435
vacating or modifying the action of the director or a local board 42436
of health, or ordering the director or board of health to perform 42437
an act. The environmental review appeals commission has exclusive 42438
original jurisdiction over any matter that may, under this 42439
section, be brought before it. 42440

The person so appealing to the commission shall be known as 42441
appellant, and the director and any party to a proceeding 42442
substantially supporting the finding from which the appeal is 42443
taken shall be known as appellee, except that when an appeal 42444
involves a license to operate a disposal site or facility, the 42445
local board of health or the director of environmental protection, 42446
and any party to a proceeding substantially supporting the finding 42447
from which the appeal is taken, shall, as appropriate, be known as 42448
the appellee. Appellant and appellee shall be deemed to be parties 42449
to the appeal. 42450

The appeal shall be in writing and shall set forth the action 42451
complained of and the grounds upon which the appeal is based. 42452

The appeal shall be filed with the commission within thirty 42453
days after notice of the action. Notice of the filing of the 42454
appeal shall be filed with the appellee within three days after 42455
the appeal is filed with the commission. 42456

The appeal shall be accompanied by a filing fee of ~~sixty~~ 42457
seventy dollars, which the commission, in its discretion, may 42458
~~waive in cases of~~ reduce if by affidavit the appellant 42459
demonstrates that payment of the full amount of the fee would 42460
cause extreme hardship. 42461

Within seven days after receipt of the notice of appeal, the 42462

director or local board of health shall prepare and certify to the 42463
commission a record of the proceedings out of which the appeal 42464
arises, including all documents and correspondence, and a 42465
transcript of all testimony. 42466

Upon the filing of the appeal, the commission shall fix the 42467
time and place at which the hearing on the appeal will be held. 42468
The commission shall give the appellant and the appellee at least 42469
ten days' written notice thereof by certified mail. The commission 42470
shall hold the hearing within thirty days after the notice of 42471
appeal is filed. The commission may postpone or continue any 42472
hearing upon its own motion or upon application of the appellant 42473
or of the appellee. 42474

The filing of an appeal does not automatically suspend or 42475
stay execution of the action appealed from. Upon application by 42476
the appellant, the commission may suspend or stay the execution 42477
pending immediate determination of the appeal without interruption 42478
by continuances, other than for unavoidable circumstances. 42479

As used in this section and sections 3745.05 and 3745.06 of 42480
the Revised Code, "director of environmental protection" and 42481
"director" are deemed to include the director of agriculture and 42482
"environmental protection agency" is deemed to include the 42483
department of agriculture with respect to actions that are 42484
appealable to the commission under Chapter 903. of the Revised 42485
Code. 42486

Sec. 3745.11. (A) Applicants for and holders of permits, 42487
licenses, variances, plan approvals, and certifications issued by 42488
the director of environmental protection pursuant to Chapters 42489
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 42490
to the environmental protection agency for each such issuance and 42491
each application for an issuance as provided by this section. No 42492
fee shall be charged for any issuance for which no application has 42493

been submitted to the director. 42494

(B) ~~Prior to January 1, 1994, each~~ Each person who is issued 42495
a ~~permit to operate, variance, or~~ permit to install prior to July 42496
1, 2003, pursuant to rules adopted under division (F) of section 42497
3704.03 of the Revised Code shall pay the fees specified in the 42498
following ~~schedule~~ schedules: 42499

(1) Fuel-Burning Equipment <u>(boilers)</u>				42500
Input capacity <u>(maximum)</u>	Permit		Permit	42501
(million British	to		to	42502
thermal units per hour)	operate	<u>Variance</u>	install	42503
<u>Greater than 0 or more, but</u>	\$ 75	<u>\$225</u>	\$ 100 <u>200</u>	42504
less than 10				42505
10 or more, but less than 100	210	<u>450</u>	390 <u>400</u>	42506
100 or more, but less than 300	270	<u>675</u>	585 <u>800</u>	42507
300 or more, but less than 500	330	<u>900</u>	780	42508
			<u>1500</u>	
<u>500 or more, but less than 1000</u>	500	<u>975</u>	1000	42509
			<u>2500</u>	
<u>1000 or more, but less than 5000</u>			<u>4000</u>	42510
<u>5000 or more</u>			<u>6000</u>	42511

Units burning exclusively natural gas, number two fuel oil, 42512
or both shall be assessed a fee that is one-half of the applicable 42513
amount established in division (F)(1) of this section. 42514

~~Any fuel burning equipment using only natural gas, propane,~~ 42515
~~liquefied petroleum gas, or number two or lighter fuel oil shall~~ 42516
~~be assessed a fee one half of that shown.~~ 42517

(2) Incinerators				42518
	Permit		Permit	42519
Input capacity	to		to	42520
(pounds per hour)	operate	<u>Variance</u>	install	42521
0 to 50 <u>100</u>	\$ 50	<u>\$225</u>	\$ 65 <u>100</u>	42522

51 <u>101</u> to 500	210	450	390 <u>400</u>	42523
501 to 2000	270	675	585 <u>750</u>	42524
2001 to 30,000 <u>20,000</u>	330	900	780	42525
			<u>1000</u>	
more than 30,000 <u>20,000</u>	500	975	1000	42526
			<u>2500</u>	

~~(3)~~(a) Process 42527

	Permit		Permit	42528
Process weight rate	to		to	42529
(pounds per hour)	operate	Variance	install	42530
0 to 1000	\$100	\$225	\$ 200	42531
1001 to 5000	210	450	390 <u>400</u>	42532
5001 to 10,000	270	675	585 <u>600</u>	42533
10,001 to 50,000	330	900	780 <u>800</u>	42534
more than 50,000	500	975	1000	42535

In any process where process weight rate cannot be 42536
ascertained, the minimum fee shall be assessed. 42537

(b) Notwithstanding division (B)(3)(a) of this section, any 42538
person issued a permit to install pursuant to rules adopted under 42539
division (F) of section 3704.03 of the Revised Code shall pay the 42540
fees established in division (B)(3)(c) of this section for a 42541
process used in any of the following industries, as identified by 42542
the applicable four-digit standard industrial classification code 42543
according to the Standard Industrial Classification Manual 42544
published by the United States office of management and budget in 42545
the executive office of the president, 1972, as revised: 42546

1211 Bituminous coal and lignite mining; 42547

1213 Bituminous coal and lignite mining services; 42548

1411 Dimension stone; 42549

1422 Crushed and broken limestone; 42550

<u>1427 Crushed and broken stone, not elsewhere classified;</u>				42551
<u>1442 Construction sand and gravel;</u>				42552
<u>1446 Industrial sand;</u>				42553
<u>3281 Cut stone and stone products;</u>				42554
<u>3295 Minerals and earth, ground or otherwise treated.</u>				42555
<u>(c) The fees established in the following schedule apply to</u>				42556
<u>the issuance of a permit to install pursuant to rules adopted</u>				42557
<u>under division (F) of section 3704.03 of the Revised Code for a</u>				42558
<u>process listed in division (B)(3)(b) of this section:</u>				42559
<u>Process weight rate</u>		<u>Permit to</u>		42560
<u>(pounds per hour)</u>		<u>install</u>		42561
<u>0 to 1000</u>		<u>\$ 200</u>		42562
<u>10,001 to 50,000</u>		<u>300</u>		42563
<u>50,001 to 100,000</u>		<u>400</u>		42564
<u>100,001 to 200,000</u>		<u>500</u>		42565
<u>200,001 to 400,000</u>		<u>600</u>		42566
<u>400,001 or more</u>		<u>700</u>		42567
<u>(4) Storage tanks</u>				42568
<u>Gallons (maximum useful capacity)</u>	<u>Permit</u>		<u>Permit</u>	42569
	<u>to</u>		<u>to</u>	42570
	<u>operate</u>	<u>Variance</u>	<u>install</u>	42571
				42572
Less than 40,000 <u>0 to 20,000</u>	\$150	\$225	\$ 195 <u>100</u>	42573
20,001 to 40,000 or more, but less				42574
than 100,000	210	450	390 <u>150</u>	42575
100,000 or more, but less				42576
than 400,000	270	675	585	42577
400,000 or more, but less				42578
than <u>40,001 to 100,000</u>			<u>200</u>	42579
<u>100,001 to 250,000</u>			<u>250</u>	42580
<u>250,001 to 500,000</u>			<u>350</u>	42581

<u>500,001 to 1,000,000</u>	330	900	780 <u>500</u>	42582
1,000,000 <u>1,000,001 or more greater</u>	500	975	1000 <u>750</u>	42583
(5) Gasoline				42584
Gasoline/ <u>fuel</u> dispensing	Permit		Permit	42585
facilities	to		to	42586
	operate	Variance	install	42587
For each gasoline/ <u>fuel</u>				42588
dispensing facility	\$20	\$100	\$50 <u>100</u>	42589
(6) Dry cleaning				42590
Dry cleaning	Permit		Permit	42591
facilities	to		to	42592
	operate	Variance	install	42593
For each dry cleaning				42594
facility (<u>includes all units</u>	\$50	\$200	\$100	42595
<u>at the facility</u>)				42596
(7) Coal mining operations regulated under Chapter 1513. of				42597
the Revised Code shall be assessed a fee of two hundred fifty				42598
dollars per mine or location. <u>Registration status</u>				42599
			<u>Permit</u>	42600
			<u>to</u>	42601
			<u>install</u>	42602
<u>For each source covered by registration status</u>			<u>\$75</u>	42603
(C)(1) Except as otherwise provided in division (C)(2) of				42604
this section, beginning July 1, 1994, each person who owns or				42605
operates an air contaminant source and who is required to apply				42606
for and obtain a Title V permit under section 3704.036 of the				42607
Revised Code shall pay the fees set forth in division (C)(1) of				42608
this section. For the purposes of that division, total emissions				42609
of air contaminants may be calculated using engineering				42610
calculations, emissions factors, material balance calculations, or				42611
performance testing procedures, as authorized by the director.				42612

The following fees shall be assessed on the total actual 42613
emissions from a source in tons per year of the regulated 42614
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 42615
organic compounds, and lead: 42616

(a) Fifteen dollars per ton on the total actual emissions of 42617
each such regulated pollutant during the period July through 42618
December 1993, to be collected no sooner than July 1, 1994; 42619

(b) Twenty dollars per ton on the total actual emissions of 42620
each such regulated pollutant during calendar year 1994, to be 42621
collected no sooner than April 15, 1995; 42622

(c) Twenty-five dollars per ton on the total actual emissions 42623
of each such regulated pollutant in calendar year 1995, and each 42624
subsequent calendar year, to be collected no sooner than the 42625
fifteenth day of April of the year next succeeding the calendar 42626
year in which the emissions occurred. 42627

The fees levied under division (C)(1) of this section do not 42628
apply to that portion of the emissions of a regulated pollutant at 42629
a facility that exceed four thousand tons during a calendar year. 42630

(2) The fees assessed under division (C)(1) of this section 42631
are for the purpose of providing funding for the Title V permit 42632
program. 42633

(3) The fees assessed under division (C)(1) of this section 42634
do not apply to emissions from any electric generating unit 42635
designated as a Phase I unit under Title IV of the federal Clean 42636
Air Act prior to calendar year 2000. Those fees shall be assessed 42637
on the emissions from such a generating unit commencing in 42638
calendar year 2001 based upon the total actual emissions from the 42639
generating unit during calendar year 2000 and shall continue to be 42640
assessed each subsequent calendar year based on the total actual 42641
emissions from the generating unit during the preceding calendar 42642
year. 42643

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)~~(2)~~(3) of this section, beginning from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a

Title V permit under section 3704.03 of the Revised Code shall pay 42676
a single fee based upon the sum of the actual annual emissions 42677
from the facility of the regulated pollutants particulate matter, 42678
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 42679
accordance with the following schedule: 42680

<u>Total tons per year</u>			42681
<u>of regulated pollutants</u>		<u>Annual fee</u>	42682
<u>emitted</u>		<u>per facility</u>	42683
<u>More than 0, but less than 10</u>		<u>\$ 100</u>	42684
<u>10 or more, but less than 50</u>		<u>200</u>	42685
<u>50 or more, but less than 100</u>		<u>300</u>	42686
<u>100 or more</u>		<u>700</u>	42687

(3)(a) As used in division (D) of this section, "synthetic 42688
minor facility" means a facility for which one or more permits to 42689
install or permits to operate have been issued for the air 42690
contaminant sources at the facility that include terms and 42691
conditions that lower the facility's potential to emit air 42692
contaminants below the major source thresholds established in 42693
rules adopted under section 3704.036 of the Revised Code. 42694

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 42695
each person who owns or operates a synthetic minor facility shall 42696
pay an annual fee based on the sum of the actual annual emissions 42697
from the facility of particulate matter, sulfur dioxide, nitrogen 42698
dioxide, organic compounds, and lead in accordance with the 42699
following schedule: 42700

<u>Combined total tons</u>			42701
<u>per year of all regulated</u>		<u>Annual fee</u>	42702
<u>pollutants emitted</u>		<u>per facility</u>	42703
<u>Less than 10</u>		<u>\$ 170</u>	42704
<u>10 or more, but less than 20</u>		<u>340</u>	42705
<u>20 or more, but less than 30</u>		<u>670</u>	42706
<u>30 or more, but less than 40</u>		<u>1,010</u>	42707

40 or more, but less than 50	1,340	42708
50 or more, but less than 60	1,680	42709
60 or more, but less than 70	2,010	42710
70 or more, but less than 80	2,350	42711
80 or more, but less than 90	2,680	42712
90 or more, but less than 100	3,020	42713
100 or more	3,350	42714

~~(3)~~(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)~~(2)~~(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for

the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install	
Greater than 0, but less than 10	\$ 200	
10 or more, but less than 100	400	
100 or more, but less than 300	800 <u>1000</u>	
300 or more, but less than 500	1500 <u>2250</u>	
500 or more, but less than 1000	2500 <u>3750</u>	
1000 or more, but less than 5000	4000 <u>6000</u>	
5000 or more	6000 <u>9000</u>	

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) <u>Combustion turbines and stationary internal combustion engines designed to generate electricity</u>		42771
		42772
<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	42773
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	42774
<u>10 or more, but less than 25</u>	<u>150</u>	42775
<u>25 or more, but less than 50</u>	<u>300</u>	42776
<u>50 or more, but less than 100</u>	<u>500</u>	42777
<u>100 or more, but less than 250</u>	<u>1000</u>	42778
<u>250 or more</u>	<u>2000</u>	42779
(3) Incinerators		42780
Input capacity (pounds per hour)	Permit to install	42781
0 to 100	\$ 100	42782
101 to 500	400 <u>500</u>	42783
501 to 2000	750 <u>1000</u>	42784
2001 to 20,000	1000 <u>1500</u>	42785
more than 20,000	2500 <u>3750</u>	42786
(3) (4)(a) Process		42787
Process weight rate (pounds per hour)	Permit to install	42788
0 to 1000	\$ 200	42789
1001 to 5000	400 <u>500</u>	42790
5001 to 10,000	600 <u>750</u>	42791
10,001 to 50,000	800 <u>1000</u>	42792
more than 50,000	1000 <u>1250</u>	42793
In any process where process weight rate cannot be		42794
ascertained, the minimum fee shall be assessed. <u>A boiler, furnace,</u>		42795
<u>combustion turbine, stationary internal combustion engine, or</u>		42796
<u>process heater designed to provide direct heat or power to a</u>		42797
<u>process not designed to generate electricity shall be assessed a</u>		42798
<u>fee established in division (F)(4)(a) of this section. A</u>		42799
<u>combustion turbine or stationary internal combustion engine</u>		42800
<u>designed to generate electricity shall be assessed a fee</u>		42801
<u>established in division (F)(2) of this section.</u>		42802

(b) Notwithstanding division (F)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

- 1211 Bituminous coal and lignite mining; 42812
- 1213 Bituminous coal and lignite mining services; 42813
- 1411 Dimension stone; 42814
- 1422 Crushed and broken limestone; 42815
- 1427 Crushed and broken stone, not elsewhere classified; 42816
- 1442 Construction sand and gravel; 42817
- 1446 Industrial sand; 42818
- 3281 Cut stone and stone products; 42819
- 3295 Minerals and earth, ground or otherwise treated. 42820

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(3)(b) of this section:

Gallons (maximum			42825
useful capacity <u>Process weight rate</u>	Permit to install		42826
(pounds per hour)			
0 to 20,000 <u>10,000</u>	\$ 100 <u>200</u>		42827
20,001 <u>10,001</u> to 40,000 <u>50,000</u>	150 <u>400</u>		42828
40,001 <u>50,001</u> to 100,000	200 <u>500</u>		42829
100,001 to 250,000 <u>200,000</u>	250 <u>600</u>		42830
250,001 <u>200,001</u> to 500,000 <u>400,000</u>	350 <u>750</u>		42831

500,001 to 1,000,000	500	42832
1,000,001 <u>400,001</u> or greater <u>more</u>	750 <u>900</u>	42833
(4) <u>(5)</u> Storage tanks		42834
Gallons (maximum useful capacity)	Permit to install	42835
0 to 20,000	\$ 100	42836
20,001 to 40,000	150	42837
40,001 to 100,000	200 <u>250</u>	42838
100,001 to 250,000	250	42839
250,001 to 500,000	350 <u>400</u>	42840
500,001 to 1,000,000	500	42841
1,000,001 or greater	750	42842
(5) <u>(6)</u> Gasoline/fuel dispensing facilities		42843
For each gasoline/fuel	Permit to install	42844
dispensing facility (<u>includes all</u>	\$ 100	42845
<u>units at the facility</u>)		
(6) <u>(7)</u> Dry cleaning facilities		42846
For each dry cleaning		42847
facility (includes all units	Permit to install	42848
at the facility)	\$ 100	42849
(7) <u>(8)</u> Registration status		42850
For each source covered	Permit to install	42851
by registration status	\$ 75	42852
(G) An owner or operator who is responsible for an asbestos		42853
demolition or renovation project pursuant to rules adopted under		42854
section 3704.03 of the Revised Code shall pay the fees set forth		42855
in the following schedule:		42856
Action	Fee	42857
Each notification	\$75	42858
Asbestos removal	\$3/unit	42859
Asbestos cleanup	\$4/cubic yard	42860
For purposes of this division, "unit" means any combination of		42861

linear feet or square feet equal to fifty. 42862

(H) A person who is issued an extension of time for a permit 42863
to install an air contaminant source pursuant to rules adopted 42864
under division (F) of section 3704.03 of the Revised Code shall 42865
pay a fee equal to one-half the fee originally assessed for the 42866
permit to install under this section, except that the fee for such 42867
an extension shall not exceed two hundred dollars. 42868

(I) A person who is issued a modification to a permit to 42869
install an air contaminant source pursuant to rules adopted under 42870
section 3704.03 of the Revised Code shall pay a fee equal to 42871
one-half of the fee that would be assessed under this section to 42872
obtain a permit to install the source. The fee assessed by this 42873
division only applies to modifications that are initiated by the 42874
owner or operator of the source and shall not exceed two thousand 42875
dollars. 42876

(J) Notwithstanding division (B) or (F) of this section, a 42877
person who applies for or obtains a permit to install pursuant to 42878
rules adopted under division (F) of section 3704.03 of the Revised 42879
Code after the date actual construction of the source began shall 42880
pay a fee for the permit to install that is equal to twice the fee 42881
that otherwise would be assessed under the applicable division 42882
unless the applicant received authorization to begin construction 42883
under division (W) of section 3704.03 of the Revised Code. This 42884
division only applies to sources for which actual construction of 42885
the source begins on or after July 1, 1993. The imposition or 42886
payment of the fee established in this division does not preclude 42887
the director from taking any administrative or judicial 42888
enforcement action under this chapter, Chapter 3704., 3714., 42889
3734., or 6111. of the Revised Code, or a rule adopted under any 42890
of them, in connection with a violation of rules adopted under 42891
division (F) of section 3704.03 of the Revised Code. 42892

As used in this division, "actual construction of the source" 42893

means the initiation of physical on-site construction activities 42894
in connection with improvements to the source that are permanent 42895
in nature, including, without limitation, the installation of 42896
building supports and foundations and the laying of underground 42897
pipework. 42898

(K) Fifty cents per ton of each fee assessed under division 42899
(C) of this section on actual emissions from a source and received 42900
by the environmental protection agency pursuant to that division 42901
shall be deposited into the state treasury to the credit of the 42902
small business assistance fund created in section 3706.19 of the 42903
Revised Code. The remainder of the moneys received by the division 42904
pursuant to that division and moneys received by the agency 42905
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 42906
section shall be deposited in the state treasury to the credit of 42907
the clean air fund created in section 3704.035 of the Revised 42908
Code. 42909

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 42910
or (c) of this section, a person issued a water discharge permit 42911
or renewal of a water discharge permit pursuant to Chapter 6111. 42912
of the Revised Code shall pay a fee based on each point source to 42913
which the issuance is applicable in accordance with the following 42914
schedule: 42915

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	42917
1,001 to 5000	100	42918
5,001 to 50,000	200	42919
50,001 to 100,000	300	42920
100,001 to 300,000	525	42921
over 300,000	750	42922

(b) Notwithstanding the fee schedule specified in division 42923
(L)(1)(a) of this section, the fee for a water discharge permit 42924
that is applicable to coal mining operations regulated under 42925

Chapter 1513. of the Revised Code shall be two hundred fifty 42926
dollars per mine. 42927

(c) Notwithstanding the fee schedule specified in division 42928
(L)(1)(a) of this section, the fee for a water discharge permit 42929
for a public discharger identified by I in the third character of 42930
the permittee's NPDES permit number shall not exceed seven hundred 42931
fifty dollars. 42932

(2) A person applying for a plan approval for a wastewater 42933
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 42934
of the Revised Code shall pay a fee of one hundred dollars plus 42935
sixty-five one-hundredths of one per cent of the estimated project 42936
cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 42937
two-tenths of one per cent of the estimated project cost on and 42938
after July 1, ~~2004~~ 2006, except that the total fee shall not 42939
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 42940
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 42941
shall be paid at the time the application is submitted. 42942

(3) A person issued a modification of a water discharge 42943
permit shall pay a fee equal to one-half the fee that otherwise 42944
would be charged for a water discharge permit, except that the fee 42945
for the modification shall not exceed four hundred dollars. 42946

(4) A person who has entered into an agreement with the 42947
director under section 6111.14 of the Revised Code shall pay an 42948
administrative service fee for each plan submitted under that 42949
section for approval that shall not exceed the minimum amount 42950
necessary to pay administrative costs directly attributable to 42951
processing plan approvals. The director annually shall calculate 42952
the fee and shall notify all persons who have entered into 42953
agreements under that section, or who have applied for agreements, 42954
of the amount of the fee. 42955

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 42956

30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued 42957
pursuant to Chapter 6111. of the Revised Code with an average 42958
daily discharge flow of five thousand gallons or more shall pay a 42959
nonrefundable annual discharge fee. Any person who fails to pay 42960
the fee at that time shall pay an additional amount that equals 42961
ten per cent of the required annual discharge fee. 42962

(ii) The billing year for the annual discharge fee 42963
established in division (L)(5)(a)(i) of this section shall consist 42964
of a twelve-month period beginning on the first day of January of 42965
the year preceding the date when the annual discharge fee is due. 42966
In the case of an existing source that permanently ceases to 42967
discharge during a billing year, the director shall reduce the 42968
annual discharge fee, including the surcharge applicable to 42969
certain industrial facilities pursuant to division (L)(5)(c) of 42970
this section, by one-twelfth for each full month during the 42971
billing year that the source was not discharging, but only if the 42972
person holding the NPDES discharge permit for the source notifies 42973
the director in writing, not later than the first day of October 42974
of the billing year, of the circumstances causing the cessation of 42975
discharge. 42976

(iii) The annual discharge fee established in division 42977
(L)(5)(a)(i) of this section, except for the surcharge applicable 42978
to certain industrial facilities pursuant to division (L)(5)(c) of 42979
this section, shall be based upon the average daily discharge flow 42980
in gallons per day calculated using first day of May through 42981
thirty-first day of October flow data for the period two years 42982
prior to the date on which the fee is due. In the case of NPDES 42983
discharge permits for new sources, the fee shall be calculated 42984
using the average daily design flow of the facility until actual 42985
average daily discharge flow values are available for the time 42986
period specified in division (L)(5)(a)(iii) of this section. The 42987
annual discharge fee may be prorated for a new source as described 42988

in division (L)(5)(a)(ii) of this section. 42989

(b) An NPDES permit holder that is a public discharger shall 42990
pay the fee specified in the following schedule: 42991

Average daily Fee due by 42992

discharge flow January 30, 42993

~~2002~~ 2004, and 42994

January 30, ~~2003~~ 42995

2005

5,000 to 49,999 \$ 200 42996

50,000 to 100,000 500 42997

100,001 to 250,000 1,050 42998

250,001 to 1,000,000 2,600 42999

1,000,001 to 5,000,000 5,200 43000

5,000,001 to 10,000,000 10,350 43001

10,000,001 to 20,000,000 15,550 43002

20,000,001 to 50,000,000 25,900 43003

50,000,001 to 100,000,000 41,400 43004

100,000,001 or more 62,100 43005

Public dischargers owning or operating two or more publicly 43006

owned treatment works serving the same political subdivision, as 43007

"treatment works" is defined in section 6111.01 of the Revised 43008

Code, and that serve exclusively political subdivisions having a 43009

population of fewer than one hundred thousand shall pay an annual 43010

discharge fee under division (L)(5)(b) of this section that is 43011

based on the combined average daily discharge flow of the 43012

treatment works. 43013

(c) An NPDES permit holder that is an industrial discharger, 43014

other than a coal mining operator identified by P in the third 43015

character of the permittee's NPDES permit number, shall pay the 43016

fee specified in the following schedule: 43017

Average daily Fee due by 43018

discharge flow January 30, 43019

	2002 <u>2004</u> , and	43020
	January 30, 2003	43021
	<u>2005</u>	
5,000 to 49,999	\$ 250	43022
50,000 to 250,000	1,200	43023
250,001 to 1,000,000	2,950	43024
1,000,001 to 5,000,000	5,850	43025
5,000,001 to 10,000,000	8,800	43026
10,000,001 to 20,000,000	11,700	43027
20,000,001 to 100,000,000	14,050	43028
100,000,001 to 250,000,000	16,400	43029
250,000,001 or more	18,700	43030

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2002~~ 2004, and not later than January 30, ~~2003~~ 2005. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2002~~ 2004, and not later than January 30, ~~2003~~ 2005. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge 43050

elimination system general or individual permit for municipal 43051
storm water discharge shall pay a nonrefundable storm water 43052
discharge fee of one hundred dollars per square mile of area 43053
permitted. The fee shall not exceed ten thousand dollars and shall 43054
be payable on or before January 30, 2004, and the thirtieth day of 43055
January of each year thereafter. Any person who fails to pay the 43056
fee on the date specified in division (L)(6) of this section shall 43057
pay an additional amount per year equal to ten per cent of the 43058
annual fee that is unpaid. 43059

(7) The director shall transmit all moneys collected under 43060
division (L) of this section to the treasurer of state for deposit 43061
into the state treasury to the credit of the surface water 43062
protection fund created in section 6111.038 of the Revised Code. 43063

(8) As used in division (L) of this section: 43064

(a) "NPDES" means the federally approved national pollutant 43065
discharge elimination system program for issuing, modifying, 43066
revoking, reissuing, terminating, monitoring, and enforcing 43067
permits and imposing and enforcing pretreatment requirements under 43068
Chapter 6111. of the Revised Code and rules adopted under it. 43069

(b) "Public discharger" means any holder of an NPDES permit 43070
identified by P in the second character of the NPDES permit number 43071
assigned by the director. 43072

(c) "Industrial discharger" means any holder of an NPDES 43073
permit identified by I in the second character of the NPDES permit 43074
number assigned by the director. 43075

(d) "Major discharger" means any holder of an NPDES permit 43076
classified as major by the regional administrator of the United 43077
States environmental protection agency in conjunction with the 43078
director. 43079

(M) Through June 30, ~~2004~~ 2006, a person applying for a 43080
license or license renewal to operate a public water system under 43081

section 6109.21 of the Revised Code shall pay the appropriate fee 43082
established under this division at the time of application to the 43083
director. Any person who fails to pay the fee at that time shall 43084
pay an additional amount that equals ten per cent of the required 43085
fee. The director shall transmit all moneys collected under this 43086
division to the treasurer of state for deposit into the drinking 43087
water protection fund created in section 6109.30 of the Revised 43088
Code. 43089

~~Fees~~ Except as provided in division (M)(4) of this section, 43090
fees required under this division shall be calculated and paid in 43091
accordance with the following schedule: 43092

(1) For the initial license required under division (A)(1) of 43093
section 6109.21 of the Revised Code for any public water system 43094
that is a community water system as defined in section 6109.01 of 43095
the Revised Code, and for each license renewal required for such a 43096
system prior to January 31, ~~2004~~ 2006, the fee is: 43097

Number of service connections	Fee amount	
Not more than 49	\$56 <u>112</u>	43099
50 to 99	88 <u>176</u>	43100
Number of service connections	Average cost per connection	
100 to 2,499	\$.96 <u>1.92</u>	43102
2,500 to 4,999	-.92 <u>1.48</u>	43103
5,000 to 7,499	-.88 <u>1.42</u>	43104
7,500 to 9,999	-.84 <u>1.34</u>	43105
10,000 to 14,999	-.80 <u>1.16</u>	43106
15,000 to 24,999	-.76 <u>1.10</u>	43107
25,000 to 49,999	-.72 <u>1.04</u>	43108
50,000 to 99,999	-.68 <u>.92</u>	43109
100,000 to 149,999	-.64 <u>.86</u>	43110
150,000 to 199,999	-.60 <u>.80</u>	43111
200,000 or more	-.56 <u>.76</u>	43112

A public water system may determine how it will pay the total 43113

amount of the fee calculated under division (M)(1) of this 43114
section, including the assessment of additional user fees that may 43115
be assessed on a volumetric basis. 43116

As used in division (M)(1) of this section, "service 43117
connection" means the number of active or inactive pipes, 43118
goosenecks, pigtails, and any other fittings connecting a water 43119
main to any building outlet. 43120

(2) For the initial license required under division (A)(2) of 43121
section 6109.21 of the Revised Code for any public water system 43122
that is not a community water system and serves a nontransient 43123
population, and for each license renewal required for such a 43124
system prior to January 31, ~~2004~~ 2006, the fee is: 43125

Population served	Fee amount	
Fewer than 150	\$ 56 <u>112</u>	43127
150 to 299	88 <u>176</u>	43128
300 to 749	192 <u>384</u>	43129
750 to 1,499	392 <u>628</u>	43130
1,500 to 2,999	792 <u>1,268</u>	43131
3,000 to 7,499	1,760 <u>2,816</u>	43132
7,500 to 14,999	3,800 <u>5,510</u>	43133
15,000 to 22,499	6,240 <u>9,048</u>	43134
22,500 to 29,999	8,576 <u>12,430</u>	43135
30,000 or more	11,600 <u>16,820</u>	43136

As used in division (M)(2) of this section, "population 43137
served" means the total number of individuals receiving water from 43138
the water supply during a twenty-four-hour period for at least 43139
sixty days during any calendar year. In the absence of a specific 43140
population count, that number shall be calculated at the rate of 43141
three individuals per service connection. 43142

(3) For the initial license required under division (A)(3) of 43143
section 6109.21 of the Revised Code for any public water system 43144
that is not a community water system and serves a transient 43145

population, and for each license renewal required for such a 43146
system prior to January 31, ~~2004~~ 2006, the fee is: 43147

Number of wells supplying system	Fee amount	
1	\$ 56 <u>112</u>	43148
2	56 <u>112</u>	43149
3	88 <u>176</u>	43150
4	192 <u>278</u>	43151
5	392 <u>568</u>	43152

System ~~supplied by~~ designated as 43153
using a surface
water, ~~springs, or dug wells~~ 792 43154
source 43155

As used in division (M)(3) of this section, "number of wells 43156
supplying system" means those wells that are physically connected 43157
to the plumbing system serving the public water system. 43158

(4) A public water system designated as using a surface water 43159
source shall pay a fee of seven hundred ninety-two dollars or the 43160
amount calculated under division (M)(1) or (2) of this section, 43161
whichever is greater. 43162

(N)(1) A person applying for a plan approval for a public 43163
water supply system under section 6109.07 of the Revised Code 43164
shall pay a fee of one hundred fifty dollars plus ~~two-tenths~~ 43165
thirty-five hundredths of one per cent of the estimated project 43166
cost, except that the total fee shall not exceed ~~fifteen~~ twenty 43167
thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen 43168
thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be 43169
paid at the time the application is submitted. 43170

(2) A person who has entered into an agreement with the 43171
director under division (A)(2) of section 6109.07 of the Revised 43172
Code shall pay an administrative service fee for each plan 43173
submitted under that section for approval that shall not exceed 43174
the minimum amount necessary to pay administrative costs directly 43175

attributable to processing plan approvals. The director annually 43176
shall calculate the fee and shall notify all persons that have 43177
entered into agreements under that division, or who have applied 43178
for agreements, of the amount of the fee. 43179

(3) Through June 30, ~~2004~~ 2006, the following fee, on a per 43180
survey basis, shall be charged any person for services rendered by 43181
the state in the evaluation of laboratories and laboratory 43182
personnel for compliance with accepted analytical techniques and 43183
procedures established pursuant to Chapter 6109. of the Revised 43184
Code for determining the qualitative characteristics of water: 43185

microbiological	\$1,650	43186
<u>MMO-MUG</u>	<u>\$2,000</u>	43187
<u>MF</u>	<u>2,100</u>	43188
<u>MMO-MUG and MF</u>	<u>2,550</u>	43189
organic chemical	3,500 <u>5,400</u>	43190
inorganic chemical <u>trace</u>	3,500 <u>5,400</u>	43191
<u>metals</u>		
standard chemistry	1,800 <u>2,800</u>	43192
limited chemistry	1,000 <u>1,550</u>	43193

On and after July 1, ~~2004~~ 2006, the following fee, on a per 43194
survey basis, shall be charged any such person: 43195

microbiological	\$250 <u>1,650</u>	43196
<u>organic chemicals</u>	<u>3,500</u>	43197
ehemical/radiological <u>trace</u>	250 <u>3,500</u>	43198
<u>metals</u>		
<u>standard chemistry</u>	<u>1,800</u>	43199
nitrate/turbidity (only)	150 <u>1,000</u>	43200
<u>limited chemistry</u>		

The fee for those services shall be paid at the time the request 43201
for the survey is made. Through June 30, ~~2004~~ 2006, an individual 43202
laboratory shall not be assessed a fee under this division more 43203
than once in any three-year period unless the person requests the 43204

addition of analytical methods or analysts, in which case the 43205
person shall pay eighteen hundred dollars for each additional 43206
survey requested. 43207

As used in division (N)(3) of this section: 43208

(a) "MF" means microfiltration. 43209

(b) "MMO" means minimal medium ONPG. 43210

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 43211

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 43212

The director shall transmit all moneys collected under this 43213
division to the treasurer of state for deposit into the drinking 43214
water protection fund created in section 6109.30 of the Revised 43215
Code. 43216

(O) Any person applying to the director for examination for 43217
certification as an operator of a water supply system or 43218
wastewater system under Chapter 6109. or 6111. of the Revised 43219
Code, at the time the application is submitted, shall pay an 43220
application fee of twenty-five dollars through ~~June~~ November 30, 43221
~~2004, and ten dollars on and after July 1, 2004~~ 2003. Upon 43222
approval from the director that the applicant is eligible to take 43223
the examination therefor, the applicant shall pay a fee in 43224
accordance with the following schedule through ~~June~~ November 30, 43225
~~2004~~ 2003: 43226

Class I operator	\$45	43227
Class II operator	55	43228
Class III operator	65	43229
Class IV operator	75	43230

On and after December 1, 2003, any person applying to the 43231
director for examination for certification as an operator of a 43232
water supply system or wastewater system under Chapter 6109. or 43233
6111. of the Revised Code, at the time the application is 43234

submitted, shall pay an application fee of forty-five dollars 43235
through November 30, 2006, and twenty-five dollars on and after 43236
December 1, 2006. Upon approval from the director that the 43237
applicant is eligible to take the examination therefor, the 43238
applicant shall pay a fee in accordance with the following 43239
schedule through November 30, 2006: 43240

<u>Class A operator</u>	<u>\$35</u>	43241
<u>Class I operator</u>	<u>60</u>	43242
<u>Class II operator</u>	<u>75</u>	43243
<u>Class III operator</u>	<u>85</u>	43244
<u>Class IV operator</u>	<u>100</u>	43245

On and after ~~July~~ December 1, 2004 2006, the applicant shall 43246
pay a fee in accordance with the following schedule: 43247

<u>Class A operator</u>	<u>\$25</u>	43248
Class I operator	\$25 <u>45</u>	43249
Class II operator	35 <u>55</u>	43250
Class III operator	45 <u>65</u>	43251
Class IV operator	55 <u>75</u>	43252

A person shall pay a biennial certification renewal fee for 43253
each applicable class of certification in accordance with the 43254
following schedule: 43255

<u>Class A operator</u>	<u>\$25</u>	43256
<u>Class I operator</u>	<u>35</u>	43257
<u>Class II operator</u>	<u>45</u>	43258
<u>Class III operator</u>	<u>55</u>	43259
<u>Class IV operator</u>	<u>65</u>	43260

If a certification renewal fee is received by the director 43261
more than thirty days, but not more than one year after the 43262
expiration date of the certification, the person shall pay a 43263
certification renewal fee in accordance with the following 43264
schedule: 43265

<u>Class A operator</u>	<u>\$45</u>	43266
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<u>Class I operator</u>	<u>55</u>	43267
<u>Class II operator</u>	<u>65</u>	43268
<u>Class III operator</u>	<u>75</u>	43269
<u>Class IV operator</u>	<u>85</u>	43270

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made. 43271
43272

The director shall transmit all moneys collected under this 43273
division to the treasurer of state for deposit into the drinking 43274
water protection fund created in section 6109.30 of the Revised 43275
Code. 43276

(P) ~~Through June 30, 2004, any~~ Any person submitting an 43277
application for an industrial water pollution control certificate 43278
under section 6111.31 of the Revised Code, as that section existed 43279
before its repeal by H.B. 95 of the 125th general assembly, shall 43280
pay a nonrefundable fee of five hundred dollars at the time the 43281
application is submitted. The director shall transmit all moneys 43282
collected under this division to the treasurer of state for 43283
deposit into the surface water protection fund created in section 43284
6111.038 of the Revised Code. A person paying a certificate fee 43285
under this division shall not pay an application fee under 43286
division (S)(1) of this section. On and after the effective date 43287
of this amendment, persons shall file such applications and pay 43288
the fee as required under sections 5709.20 to 5709.27 of the 43289
Revised Code, and proceeds from the fee shall be credited as 43290
provided in section 5709.212 of the Revised Code. 43291

(Q) Except as otherwise provided in division (R) of this 43292
section, a person issued a permit by the director for a new solid 43293
waste disposal facility other than an incineration or composting 43294
facility, a new infectious waste treatment facility other than an 43295
incineration facility, or a modification of such an existing 43296
facility that includes an increase in the total disposal or 43297
treatment capacity of the facility pursuant to Chapter 3734. of 43298

the Revised Code shall pay a fee of ten dollars per thousand cubic 43299
yards of disposal or treatment capacity, or one thousand dollars, 43300
whichever is greater, except that the total fee for any such 43301
permit shall not exceed eighty thousand dollars. A person issued a 43302
modification of a permit for a solid waste disposal facility or an 43303
infectious waste treatment facility that does not involve an 43304
increase in the total disposal or treatment capacity of the 43305
facility shall pay a fee of one thousand dollars. A person issued 43306
a permit to install a new, or modify an existing, solid waste 43307
transfer facility under that chapter shall pay a fee of two 43308
thousand five hundred dollars. A person issued a permit to install 43309
a new or to modify an existing solid waste incineration or 43310
composting facility, or an existing infectious waste treatment 43311
facility using incineration as its principal method of treatment, 43312
under that chapter shall pay a fee of one thousand dollars. The 43313
increases in the permit fees under this division resulting from 43314
the amendments made by Amended Substitute House Bill 592 of the 43315
117th general assembly do not apply to any person who submitted an 43316
application for a permit to install a new, or modify an existing, 43317
solid waste disposal facility under that chapter prior to 43318
September 1, 1987; any such person shall pay the permit fee 43319
established in this division as it existed prior to June 24, 1988. 43320
In addition to the applicable permit fee under this division, a 43321
person issued a permit to install or modify a solid waste facility 43322
or an infectious waste treatment facility under that chapter who 43323
fails to pay the permit fee to the director in compliance with 43324
division (V) of this section shall pay an additional ten per cent 43325
of the amount of the fee for each week that the permit fee is 43326
late. 43327

Permit and late payment fees paid to the director under this 43328
division shall be credited to the general revenue fund. 43329

(R)(1) A person issued a registration certificate for a scrap 43330

tire collection facility under section 3734.75 of the Revised Code 43331
shall pay a fee of two hundred dollars, except that if the 43332
facility is owned or operated by a motor vehicle salvage dealer 43333
licensed under Chapter 4738. of the Revised Code, the person shall 43334
pay a fee of twenty-five dollars. 43335

(2) A person issued a registration certificate for a new 43336
scrap tire storage facility under section 3734.76 of the Revised 43337
Code shall pay a fee of three hundred dollars, except that if the 43338
facility is owned or operated by a motor vehicle salvage dealer 43339
licensed under Chapter 4738. of the Revised Code, the person shall 43340
pay a fee of twenty-five dollars. 43341

(3) A person issued a permit for a scrap tire storage 43342
facility under section 3734.76 of the Revised Code shall pay a fee 43343
of one thousand dollars, except that if the facility is owned or 43344
operated by a motor vehicle salvage dealer licensed under Chapter 43345
4738. of the Revised Code, the person shall pay a fee of fifty 43346
dollars. 43347

(4) A person issued a permit for a scrap tire monocell or 43348
monofill facility under section 3734.77 of the Revised Code shall 43349
pay a fee of ten dollars per thousand cubic yards of disposal 43350
capacity or one thousand dollars, whichever is greater, except 43351
that the total fee for any such permit shall not exceed eighty 43352
thousand dollars. 43353

(5) A person issued a registration certificate for a scrap 43354
tire recovery facility under section 3734.78 of the Revised Code 43355
shall pay a fee of one hundred dollars. 43356

(6) A person issued a permit for a scrap tire recovery 43357
facility under section 3734.78 of the Revised Code shall pay a fee 43358
of one thousand dollars. 43359

(7) In addition to the applicable registration certificate or 43360
permit fee under divisions (R)(1) to (6) of this section, a person 43361

issued a registration certificate or permit for any such scrap 43362
tire facility who fails to pay the registration certificate or 43363
permit fee to the director in compliance with division (V) of this 43364
section shall pay an additional ten per cent of the amount of the 43365
fee for each week that the fee is late. 43366

(8) The registration certificate, permit, and late payment 43367
fees paid to the director under divisions (R)(1) to (7) of this 43368
section shall be credited to the scrap tire management fund 43369
created in section 3734.82 of the Revised Code. 43370

(S)(1) Except as provided by divisions (L), (M), (N), (O), 43371
(P), and (S)(2) of this section, division (A)(2) of section 43372
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 43373
and rules adopted under division (T)(1) of this section, any 43374
person applying for a registration certificate under section 43375
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 43376
variance, or plan approval under Chapter 3734. of the Revised Code 43377
shall pay a nonrefundable fee of fifteen dollars at the time the 43378
application is submitted. 43379

Except as otherwise provided, any person applying for a 43380
permit, variance, or plan approval under Chapter 6109. or 6111. of 43381
the Revised Code shall pay a nonrefundable fee of one hundred 43382
dollars at the time the application is submitted through June 30, 43383
~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time 43384
the application is submitted on and after July 1, ~~2004~~ 2006. 43385
Through June 30, ~~2004~~ 2006, any person applying for a national 43386
pollutant discharge elimination system permit under Chapter 6111. 43387
of the Revised Code shall pay a nonrefundable fee of two hundred 43388
dollars at the time of application for the permit. On and after 43389
July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of 43390
fifteen dollars at the time of application. 43391

In addition to the application fee established under division 43392
(S)(1) of this section, any person applying for a national 43393

pollutant discharge elimination system general storm water 43394
construction permit shall pay a nonrefundable fee of twenty 43395
dollars per acre for each acre that is permitted above five acres 43396
at the time the application is submitted. However, the per acreage 43397
fee shall not exceed three hundred dollars. In addition, any 43398
person applying for a national pollutant discharge elimination 43399
system general storm water industrial permit shall pay a 43400
nonrefundable fee of one hundred fifty dollars at the time the 43401
application is submitted. 43402

The director shall transmit all moneys collected under 43403
division (S)(1) of this section pursuant to Chapter 6109. of the 43404
Revised Code to the treasurer of state for deposit into the 43405
drinking water protection fund created in section 6109.30 of the 43406
Revised Code. 43407

The director shall transmit all moneys collected under 43408
division (S)(1) of this section pursuant to Chapter 6111. of the 43409
Revised Code to the treasurer of state for deposit into the 43410
surface water protection fund created in section 6111.038 of the 43411
Revised Code. 43412

If a registration certificate is issued under section 43413
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 43414
the application fee paid shall be deducted from the amount of the 43415
registration certificate fee due under division (R)(1), (2), or 43416
(5) of this section, as applicable. 43417

If a person submits an electronic application for a 43418
registration certificate, permit, variance, or plan approval for 43419
which an application fee is established under division (S)(1) of 43420
this section, the person shall pay the applicable application fee 43421
as expeditiously as possible after the submission of the 43422
electronic application. An application for a registration 43423
certificate, permit, variance, or plan approval for which an 43424
application fee is established under division (S)(1) of this 43425

section shall not be reviewed or processed until the applicable 43426
application fee, and any other fees established under this 43427
division, are paid. 43428

(2) Division (S)(1) of this section does not apply to an 43429
application for a registration certificate for a scrap tire 43430
collection or storage facility submitted under section 3734.75 or 43431
3734.76 of the Revised Code, as applicable, if the owner or 43432
operator of the facility or proposed facility is a motor vehicle 43433
salvage dealer licensed under Chapter 4738. of the Revised Code. 43434

(T) The director may adopt, amend, and rescind rules in 43435
accordance with Chapter 119. of the Revised Code that do all of 43436
the following: 43437

(1) Prescribe fees to be paid by applicants for and holders 43438
of any license, permit, variance, plan approval, or certification 43439
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 43440
the Revised Code that are not specifically established in this 43441
section. The fees shall be designed to defray the cost of 43442
processing, issuing, revoking, modifying, denying, and enforcing 43443
the licenses, permits, variances, plan approvals, and 43444
certifications. 43445

The director shall transmit all moneys collected under rules 43446
adopted under division (T)(1) of this section pursuant to Chapter 43447
6109. of the Revised Code to the treasurer of state for deposit 43448
into the drinking water protection fund created in section 6109.30 43449
of the Revised Code. 43450

The director shall transmit all moneys collected under rules 43451
adopted under division (T)(1) of this section pursuant to Chapter 43452
6111. of the Revised Code to the treasurer of state for deposit 43453
into the surface water protection fund created in section 6111.038 43454
of the Revised Code. 43455

(2) Exempt the state and political subdivisions thereof, 43456

including education facilities or medical facilities owned by the 43457
state or a political subdivision, or any person exempted from 43458
taxation by section 5709.07 or 5709.12 of the Revised Code, from 43459
any fee required by this section; 43460

(3) Provide for the waiver of any fee, or any part thereof, 43461
otherwise required by this section whenever the director 43462
determines that the imposition of the fee would constitute an 43463
unreasonable cost of doing business for any applicant, class of 43464
applicants, or other person subject to the fee; 43465

(4) Prescribe measures that the director considers necessary 43466
to carry out this section. 43467

(U) When the director reasonably demonstrates that the direct 43468
cost to the state associated with the issuance of a permit to 43469
install, license, variance, plan approval, or certification 43470
exceeds the fee for the issuance or review specified by this 43471
section, the director may condition the issuance or review on the 43472
payment by the person receiving the issuance or review of, in 43473
addition to the fee specified by this section, the amount, or any 43474
portion thereof, in excess of the fee specified under this 43475
section. The director shall not so condition issuances for which 43476
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 43477
section. 43478

(V) Except as provided in divisions (L), (M), and (P) of this 43479
section or unless otherwise prescribed by a rule of the director 43480
adopted pursuant to Chapter 119. of the Revised Code, all fees 43481
required by this section are payable within thirty days after the 43482
issuance of an invoice for the fee by the director or the 43483
effective date of the issuance of the license, permit, variance, 43484
plan approval, or certification. If payment is late, the person 43485
responsible for payment of the fee shall pay an additional ten per 43486
cent of the amount due for each month that it is late. 43487

(W) As used in this section, "fuel-burning equipment," 43488
"fuel-burning equipment input capacity," "incinerator," 43489
"incinerator input capacity," "process," "process weight rate," 43490
"storage tank," "gasoline dispensing facility," "dry cleaning 43491
facility," "design flow discharge," and "new source treatment 43492
works" have the meanings ascribed to those terms by applicable 43493
rules or standards adopted by the director under Chapter 3704. or 43494
6111. of the Revised Code. 43495

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 43496
and (J) of this section, and in any other provision of this 43497
section pertaining to fees paid pursuant to Chapter 3704. of the 43498
Revised Code: 43499

(1) "Facility," "federal Clean Air Act," "person," and "Title 43500
V permit" have the same meanings as in section 3704.01 of the 43501
Revised Code. 43502

(2) "Title V permit program" means the following activities 43503
as necessary to meet the requirements of Title V of the federal 43504
Clean Air Act and 40 C.F.R. part 70, including at least: 43505

(a) Preparing and adopting, if applicable, generally 43506
applicable rules or guidance regarding the permit program or its 43507
implementation or enforcement; 43508

(b) Reviewing and acting on any application for a Title V 43509
permit, permit revision, or permit renewal, including the 43510
development of an applicable requirement as part of the processing 43511
of a permit, permit revision, or permit renewal; 43512

(c) Administering the permit program, including the 43513
supporting and tracking of permit applications, compliance 43514
certification, and related data entry; 43515

(d) Determining which sources are subject to the program and 43516
implementing and enforcing the terms of any Title V permit, not 43517