

# AN ACT

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, and 3745.06 and to enact sections 3714.051, 3714.052, 3714.053, 3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 3714.101, and 3714.20 of the Revised Code to revise the statutes governing construction and demolition debris facilities and to declare an emergency.

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

SECTION 1. That sections 3714.01, 3714.02, 3714.03, 3714.04, 3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, and 3745.06 be amended and sections 3714.051, 3714.052, 3714.053, 3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 3714.101, and 3714.20 of the Revised Code be enacted to read as follows:

Sec. 3714.01. As used in this chapter:

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

(B) "Closure" means either the time at which a construction and demolition debris facility will no longer accept construction and demolition debris for disposal or the effective date of an order revoking the license of the facility. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, without limitation, the establishment and maintenance of suitable cover of soil and vegetation over areas where construction and demolition debris is buried and the minimization of erosion, the infiltration of surface water into such areas, the production of leachate, and the accumulation and runoff of contaminated surface water.

(C) "Construction and demolition debris" means those materials

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

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

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

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

(G) "New construction and demolition debris facility" or "new facility" includes an existing facility that is proposing to expand the facility beyond the limits of construction and demolition debris placement approved by a board of health or the director of environmental protection, as applicable, under this chapter.

(H) "Person" includes the state, any political subdivision of the state or other state or local body, the United States and any agency or instrumentality thereof, and any legal entity or organization defined as a person under section 1.59 of the Revised Code.

~~(H)~~(I) "Pulverized debris" means a load of debris that, after demolition has occurred, but prior to acceptance of the load of debris for disposal, has

been shredded, crushed, ground, or otherwise rendered to such an extent that the load of debris is unidentifiable as construction and demolition debris.

(J) "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has at least five years of relevant experience in ground water hydrogeology and related fields that enable that individual to make sound professional judgments regarding ground water monitoring, contaminant fate and transport, and corrective measures.

(K) "Storage" means the holding of construction and demolition debris for a temporary period in such a manner that it remains retrievable and substantially unchanged and, at the end of the period, is disposed of or reused or recycled in a beneficial manner.

(L) "Transfer facility" means a site, location, tract of land, installation, or building that is primarily used or intended to be used for the purpose of transferring construction and demolition debris that was generated off the premises of the facility from vehicles or containers into other vehicles or containers for transportation to a construction and demolition debris facility.

Sec. 3714.02. ~~Within twelve months after July 24, 1990, the~~ The director of environmental protection shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing construction and demolition debris facilities and the inspection of and issuance of permits to install and licenses for those facilities. The rules shall ensure that the facilities will not create a nuisance, fire hazard, or health hazard or cause or contribute to air or water pollution. The rules shall establish all of the following:

~~(A) Standards and procedures for the design and construction of facilities. These standards may include, without limitation, requirements for diking around the areas where debris is buried to prevent runoff of surface water onto adjacent property.~~ issuance of permits to install under section 3714.051 of the Revised Code that shall include all of the following:

(1) Information that must be included in the designs and plans required to be submitted with the application for a permit to install under section 3714.051 of the Revised Code and criteria for approving, disapproving, or requiring modification of the designs and plans;

(2) Information that must be included with an application for a permit to install in addition to the information required under section 3714.051 of the Revised Code;

(3) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install;

(4) Grounds for the denial, modification, suspension, or revocation of

permits to install:

(5) A requirement that a person that is required to obtain both a permit to install under section 3714.051 of the Revised Code and a license under section 3714.06 of the Revised Code obtain both the permit and license prior to operation;

(6) Criteria for establishing time periods after which a permit to install expires;

(7) Any other requirements that the director determines necessary in order to establish the program for the issuance of permits to install under section 3714.051 of the Revised Code.

(B) Standards for ~~control over access to facilities;~~ the design and construction of facilities. The standards may include, without limitation, requirements for diking around the areas where debris is buried to prevent runoff of surface water onto adjacent property.

(C) Standards for control over access to facilities and for the operation of facilities, including, without limitation, standards for the compaction and covering of debris disposed of and standards regarding equipment used for the operation of facilities;

(D) Criteria and procedures for granting authorization to the owner or operator of a facility to dispose of asbestos or asbestos-containing materials or products at ~~his~~ the owner's or operator's facility;

(E) Requirements for the installation of ground water monitoring wells and the monitoring of ground water quality at any facility where the operation of the facility threatens to contaminate ground water;. The rules shall require that ground water monitoring be capable of determining impacts resulting from the operation of construction and demolition debris facilities. The rules also shall include provisions for ground water assessment and corrective actions for impacts to ground water. Further, the rules shall require that the owner or operator of a construction and demolition debris facility submit a monitoring report to the director or a board of health, as applicable, that has been prepared by a qualified ground water scientist and that includes all of the following:

(1) A determination of any impacts to ground water from the migration of contaminants from the construction and demolition debris facility;

(2) A list of the contaminants from the facility that may be causing contamination of ground water;

(3) Recommendations for actions, if any are necessary, that should be taken to investigate or remediate the source of any ground water contamination.

(F) Requirements for the monitoring and sampling of leachate. The rules

adopted under division (F) of this section shall include all of the following:

(1) A requirement that the owner or operator of a construction and demolition debris facility provide for sampling of leachate at least annually. However, the rules shall require that if leachate is recirculated through a facility, the leachate be sampled at least every calendar quarter.

(2) A requirement that the owner or operator of a facility sample for at least seventy-seven parameters that the director shall establish in the rules, which shall include arsenic, copper, and chromium;

(3) Requirements governing facilities that do not have a system for sampling leachate. The rules shall require that the owner or operator of such a facility monitor ground water in accordance with the rules adopted under division (E) of this section for the parameters established in the rules adopted under division (F)(2) of this section.

(4) A requirement that a facility that monitors ground water and leachate add to the parameters monitored by the ground water monitoring system any parameter that is detected through the monitoring of leachate;

(5) Requirements governing the reporting of leachate sampling data. The rules shall require that reports be submitted to the director and the applicable board of health.

(G) Requirements respecting written, narrative plans for the operation of facilities; The rules shall require the owner or operator of a facility to use best management practices. In addition, the rules shall require as a part of the plan of operation of a facility the inclusion of the contingency plans required in rules adopted under division (H) of this section.

~~(G)~~(H) Requirements respecting contingency plans for effective action in response to fire or explosion at a facility or to hydrogen sulfide or other gases created by the operation of a facility that pose a nuisance, cause an offensive odor, or pose a threat to public health or safety or the environment;

~~(H)~~(I) Financial assurance requirements for the closure and post-closure care of facilities. The as follows:

(1) The rules establishing the financial assurance requirements for the closure of facilities shall require that the owner or operator of a facility, before being issued a an initial license for the facility under section 3714.06 of the Revised Code, submit a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount equal to the estimated costs for closure of those portions of the facility that have been, are being, or are to be used for the disposal of construction and demolition debris as contained in the closure plan for the facility approved by the board of health of the health district in which the

~~facility is or is to be located or, if the facility is or is to be located in a health district that is not on the approved list under division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code, determined by the director or the appropriate board of health, as applicable. The rules shall include a list of the activities for which financial assurance may be required. The rules shall allow the director or board of health, as applicable, to adjust the amount of a surety bond, a letter of credit, or other acceptable financial assurance in conjunction with the issuance of an annual license. However, the rules shall require that the amount of a surety bond, letter of credit, or other acceptable financial assurance for the closure of a facility be not less than thirteen thousand dollars per acre of land that has been or is being used for the disposal of construction and demolition debris. The rules shall require an explanation of the rationale for financial assurance amounts exceeding thirteen thousand dollars per acre.~~

(2) The rules establishing the financial assurance requirements for the post-closure care of facilities shall address the maintenance of the facility, continuation of any required monitoring systems, and performance and maintenance of any specific requirements established in rules adopted under division (K) of this section or through a permit, license, or order of the director. The rules also shall allow the director or board of health, as applicable, to determine the amount of a surety bond, a letter of credit, or other acceptable financial assurance for the post-closure care of a facility based on a required cost estimate for the post-closure care of the facility. The rules shall require that the owner or operator of a facility provide post-closure financial assurance for a period of five years after the closure of a facility. However, the rules shall stipulate that post-closure care financial assurance may be extended beyond the five-year period if the extension of the post-closure care period is required under rules adopted under division (K) of this section.

~~(J)~~ Requirements for the closure of facilities. The requirements shall include minimum requirements for the closure of all facilities and such additional requirements as are reasonably related to the location of the facility and the type and quantity of materials disposed of in the facility. The rules shall require that an owner or operator of a facility, upon the closure of the facility, file in the office of the county recorder of the county in which the facility is located a notice that the property was previously used as a construction and demolition debris facility. The rules shall require that the notice be filed in the same manner as a deed to the property. The rules shall require that the notice include an engineering drawing attachment showing the physical locations of debris placement, an indication of the volumes of

debris, and an indication of the depth of the final cover material.

(K) Requirements for the post-closure care of facilities for a period of five years after the closure of a facility. However, the rules shall require that the post-closure care period may be extended by order of the applicable board of health, the director, or a court of competent jurisdiction if conditions at a facility are impacting public health or safety or the environment or if ground water assessment and corrective measures are required to be conducted at the facility under rules adopted under division (E) of this section. This division does not limit the authority of the director, a board of health, or a court of competent jurisdiction to issue an order under any other applicable chapter of the Revised Code.

The rules adopted under this division shall specify both of the following:

(1) With respect to a facility that permanently ceases acceptance of construction and demolition debris in calendar year 2006, the post-closure care and post-closure care financial assurance requirements do not apply, provided that the owner or operator of the facility gives written notice of the date of the cessation to the applicable board of health or the director, the owner or operator of the facility does not submit a subsequent application for a license renewal for the facility after that cessation, and no order was issued by the applicable board of health, the director, or a court of competent jurisdiction governing the post-closure care of and post-closure financial assurance for that facility prior to the date specified in the written notice.

(2) With respect to a facility that permanently ceases acceptance of construction and demolition debris in calendar year 2007, the required period of time for post-closure care and post-closure care financial assurance shall be one year after the closure of the facility, provided that the owner or operator of the facility gives written notice of the date of the cessation to the applicable board of health or the director, the owner or operator does not submit a subsequent application for a license renewal for the facility after that cessation, and no order was issued by the applicable board of health, the director, or a court of competent jurisdiction governing the post-closure care of and post-closure financial assurance for that facility prior to the date specified in the written notice.

(L) Standards and procedures governing the modification of operation licenses issued under section 3714.06 of the Revised Code;

(M) Procedures and requirements governing the certification of construction and demolition debris by transfer facilities as required under section 3714.082 of the Revised Code;

(N) Requirements governing the provision of notification under section 3714.083 of the Revised Code by owners and operators of construction and demolition debris facilities of rejected loads and by transporters and shippers of the final disposition of rejected loads;

(O) Requirements governing the certification and training of operators of construction and demolition debris facilities as required under section 3714.062 of the Revised Code;

(P) Definitions of "owner" and "operator" for purposes of this chapter.

The rules adopted under this section shall not prohibit the open burning of construction debris on a construction site in compliance with division (C)(1) of section 3704.11 of the Revised Code.

Rules adopted under divisions (E) and (F) of this section apply to all new construction and demolition debris facilities for which a permit to install is required under section 3714.051 of the Revised Code on and after the effective date of this amendment. With respect to a facility that is licensed under section 3714.06 of the Revised Code and operating on the effective date of this amendment: if the facility does not have a ground water monitoring or leachate monitoring system, the facility is not required to comply with rules adopted under division (E) or (F) of this section; if the facility has a ground water monitoring system, but not a leachate monitoring system, the facility shall comply only with rules adopted under divisions (E) and (F)(3) of this section; and if the facility has a leachate monitoring system, but not a ground water monitoring system, the facility shall comply only with rules adopted under division (F) of this section.

Sec. 3714.03. (A) As used in this section:

(1) "Aquifer system" means one or more geologic units or formations that are wholly or partially saturated with water and are capable of storing, transmitting, and yielding significant amounts of water to wells or springs.

(2) "Category 3 wetland" means a wetland that supports superior habitat or hydrological or recreational functions as determined by an appropriate wetland evaluation methodology acceptable to the director of environmental protection. "Category 3 wetland" includes a wetland with high levels of diversity, a high proportion of native species, and high functional values and includes, but is not limited to, a wetland that contains or provides habitat for threatened or endangered species. "Category 3 wetland" may include high quality forested wetlands, including old growth forested wetlands, mature forested riparian wetlands, vernal pools, bogs, fens, and wetlands that are scarce regionally.

(3) "Natural area" means either of the following:

(a) An area designated by the director of natural resources as a wild,

scenic, or recreational river under section 1517.14 of the Revised Code;

(b) An area designated by the United States department of the interior as a national wild, scenic, or recreational river.

(4) "Occupied dwelling" means a residential dwelling and also includes a place of worship as defined in section 5104.01 of the Revised Code, a child day-care center as defined in that section, a hospital as defined in section 3727.01 of the Revised Code, a nursing home as defined in that section, a school, and a restaurant or other eating establishment. "Occupied dwelling" does not include a dwelling owned or controlled by the owner or operator of a construction and demolition debris facility to which the siting criteria established under this section are being applied.

(5) "Residential dwelling" means a building used or intended to be used in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence.

(B) Neither the director of environmental protection nor any board of health shall issue a ~~license permit to install~~ under section ~~3714.06~~ 3714.051 of the Revised Code to establish and operate a new construction and demolition debris facility when any portion of the facility is proposed to be located in either of the following locations:

~~(A)(1)~~ (1) Within the boundaries of ~~the a~~ a one-hundred-year flood plain ~~of a watercourse~~, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or operator has obtained an exemption from ~~this division~~ (B)(1) of this section in accordance with section 3714.04 of the Revised Code. ~~With respect to watercourses or portions thereof for which~~ If no such maps have been prepared, the boundaries of ~~the a~~ a one-hundred-year flood plain shall be determined by the applicant for a license permit based upon ~~a design storm of seven inches of precipitation in twenty-four hours and upon~~ standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

~~(B)(2)~~ (2) Within the boundaries of a sole source aquifer designated by the administrator of the United States environmental protection agency under the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

(C) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction

and demolition debris facility when the horizontal limits of construction and demolition debris placement at the new facility are proposed to be located in any of the following locations:

(1) Within one hundred feet of a perennial stream as defined by the United States geological survey seven and one-half minute quadrangle map or a category 3 wetland;

(2) Within one hundred feet of the facility's property line;

(3)(a) Except as provided in division (C)(3)(b) of this section, within five hundred feet of a residential or public water supply well.

(b) Division (C)(3)(a) of this section does not apply to a residential well under any of the circumstances specified in divisions (C)(3)(b)(i) to (iii) of this section as follows:

(i) The well is controlled by the owner or operator of the construction and demolition debris facility.

(ii) The well is hydrologically separated from the horizontal limits of construction and demolition debris placement.

(iii) The well is at least three hundred feet upgradient from the horizontal limits of construction and demolition debris placement and division (D) of this section does not prohibit the issuance of the permit to install.

(4) Within five hundred feet of a park created or operated pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041 of the Revised Code, a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, a national recreation area, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any area located in this state that is recommended by the secretary for study for potential inclusion in the national park system in accordance with "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;

(5) Within five hundred feet of a natural area, any area established by the department of natural resources as a state wildlife area under Chapter 1531. of the Revised Code and rules adopted under it, any area that is formally dedicated as a nature preserve under section 1517.05 of the Revised Code, or any area designated by the United States department of the interior as a national wildlife refuge;

(6) Within five hundred feet of a lake or reservoir of one acre or more that is hydrogeologically connected to ground water. For purposes of division (C)(6) of this section, a lake or reservoir does not include a body of

water constructed and used for purposes of surface water drainage or sediment control.

(7) Within five hundred feet of a state forest purchased or otherwise acquired under Chapter 1503. of the Revised Code;

(8) Within five hundred feet of land that is placed on the state registry of historic landmarks under section 149.55 of the Revised Code;

(9) Within five hundred feet of an occupied dwelling unless written permission is given by the owner of the dwelling.

(D) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the limits of construction and demolition debris placement at the new facility are proposed to have an isolation distance of less than five feet from the uppermost aquifer system that consists of material that has a maximum hydraulic conductivity of  $1 \times 10^{-5}$  cm/sec and all of the geologic material comprising the isolation distance has a hydraulic conductivity equivalent to or less than  $1 \times 10^{-6}$  cm/sec.

(E) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the road that is designated by the owner or operator as the main hauling road at the facility to and from the limits of construction and demolition debris placement is proposed to be located within five hundred feet of an occupied dwelling unless written permission is given by the owner of the occupied dwelling.

(F) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility unless the new facility will have all of the following:

(1) Access roads that shall be constructed in a manner that allows use in all weather conditions and will withstand the anticipated degree of use and minimize erosion and generation of dust;

(2) Surface water drainage and sediment controls that are required by the director;

(3) If the facility is proposed to be located in an area in which an applicable zoning resolution allows residential construction, vegetated earthen berms or an equivalent barrier with a minimum height of six feet separating the facility from adjoining property.

(G)(1) The siting criteria established in this section shall be applied to an application for a permit to install at the time that the application is submitted to the director or a board of health, as applicable. Circumstances related to the siting criteria that change after the application is submitted

shall not be considered in approving or disapproving the application.

(2) The siting criteria established in this section by this amendment do not apply to an expansion of a construction and demolition debris facility that was in operation prior to the effective date of this amendment onto property within the property boundaries identified in the application for the initial license for that facility or any subsequent license issued for that facility up to and including the license issued for that facility for calendar year 2005. The siting criteria established in this section prior to the effective date of this amendment apply to such an expansion.

Sec. 3714.04. ~~The (A)~~ Subject to division (B) of this section, the director of environmental protection or the board of health having territorial jurisdiction may by order exempt any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the director or board of health, are unlikely to adversely affect the public health or safety or the environment, or to create a fire hazard, from any provision of this chapter or a rule adopted or order issued under it, other than division (B)(2) of section 3714.03 or division (E) of section 3714.13 of the Revised Code. Neither the director nor any board of health shall grant an exemption under this section from division ~~(A)(B)(1)~~ of section 3714.03 of the Revised Code if the director or board finds from the ~~license permit to install~~ application that the establishment of a new construction or demolition debris facility in the one-hundred-year flood plain of a watercourse would result in an increase of more than one foot in the elevation of the flood stage of the watercourse upstream or downstream from the proposed facility. The applicant for a ~~license permit to install~~ shall determine the increase in the flood stage resulting from the location of the proposed facility within the one-hundred-year flood plain of a watercourse based upon a ~~design storm of seven inches of precipitation in twenty-four hours and upon~~ standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

(B) Except in the event of a natural disaster or public health emergency declared by the governor or the director of health, before a board of health issues an order that exempts a person disposing of or proposing to dispose of construction and demolition debris as provided in division (A) of this section, the board shall provide written notice to the director of environmental protection of the board's intention to grant an exemption under that division. The notice shall contain a description of the facts

surrounding the proposed exemption and any other information that the director may request. Not later than thirty days after receipt of the notice, the director shall provide written comment to the board of health regarding the proposed exemption. The written comment shall be considered by the board of health prior to the board's issuance of an order granting the exemption.

Sec. 3714.05. The board of health of each health district maintaining a program on the approved list under ~~division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code shall provide for the issuance of permits to install for and the inspection of~~, licensing of, and enforcement of standards governing construction and demolition debris facilities under this chapter and rules adopted under it. The director of environmental protection shall provide for the issuance of permits to install for construction and demolition debris facilities, the inspection and licensing of ~~construction and demolition debris facilities, and the enforcement of standards in health districts that are not on the approved list under these divisions that section and may provide for the inspection of the facilities and enforcement of standards in health districts that are on the approved list under these divisions that section.~~ Further, the director may provide for the issuance of permits to install in a health district on the approved list if so requested by the applicable board of health under section 3714.051 of the Revised Code.

Sec. 3714.051. (A)(1) Not later than one hundred eighty days after the effective date of this section and in accordance with rules adopted under section 3714.02 of the Revised Code, the director of environmental protection shall establish a program for the issuance of permits to install for new construction and demolition debris facilities.

(2) On and after the effective date of this section, no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located or from the director if the facility is or is to be located in a health district that is not on the approved list under section 3714.09 of the Revised Code or if a board of health requests the director to issue the permit to install under division (G) of this section.

(B) The director, the director's authorized representative, a board of health, or an authorized representative of the board may assist an applicant for a permit to install during the permitting process by providing guidance and technical assistance.

(C) An applicant for a permit to install shall submit an application to a board of health or the director, as applicable, on a form that the director prescribes. The applicant shall include with the application all of the

following:

(1) The name and address of the applicant, of all partners if the applicant is a partnership or of all officers and directors if the applicant is a corporation, and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors, or managers of the applicant;

(2) The designs and plans for the construction and demolition debris facility that include the location or proposed location of the facility, design and construction plans and specifications, anticipated beginning and ending dates for work performed, and any other related information that the director requires by rule;

(3) The information required under section 3714.052 of the Revised Code;

(4) An application fee of two thousand dollars. A board of health shall deposit money collected under division (C)(4) of this section into the special fund of the health district created under section 3714.07 of the Revised Code. The director shall transmit money collected under division (C)(4) of this section to the treasurer of state to be credited to the construction and demolition debris facility oversight fund created in that section. Not later than six months after a facility that is issued a permit to install begins accepting construction and demolition debris for disposal, a board of health or the director, as applicable, shall refund the application fee received under division (C)(4) of this section to the person that submitted the application for the permit to install.

(5) Any other information required by the director in accordance with rules adopted under section 3714.02 of the Revised Code.

(D) A permit to install may be issued with terms and conditions that a board of health or the director, as applicable, finds necessary to ensure that the facility will comply with this chapter and rules adopted under it and to protect public health and safety and the environment.

(E) A permit to install shall expire after a time period specified by the director or board of health, as applicable, in accordance with rules adopted under section 3714.02 of the Revised Code unless the applicant has undertaken a continuing program of construction or has entered into a binding contractual obligation to undertake and complete a continuing program of construction within a reasonable time, in which case the director or board, as applicable, may extend the expiration date of a permit to install upon request of the applicant.

(F) The director or a board of health, as applicable, may issue, deny, modify, suspend, or revoke a permit to install in accordance with rules.

(G) A board of health shall notify the director of its receipt of an application for a permit to install. A board of health, or its authorized representative, may request the director to review an application, or part of an application, for a permit to install and also may request that the director issue or deny it when the board determines that additional expertise is required. The director shall comply with such a request.

Upon a board of health's issuance of a permit to install for a new construction and demolition debris facility under this section, the board shall mail a copy of the permit to the director together with approved plans, specifications, and information regarding the facility.

Sec. 3714.052. (A) An application for a permit to install a new construction and demolition debris facility that is submitted under section 3714.051 of the Revised Code shall include all of the following:

(1) A listing of all construction and demolition debris facilities or other waste disposal facilities that the owner or operator of the proposed new construction and demolition debris facility or a key employee of the owner or operator has operated or is operating in this state;

(2) A listing of the construction and demolition debris facilities or other waste disposal facilities that the owner or operator or a key employee of the owner or operator has operated or is operating elsewhere in the United States together with a listing of the construction and demolition debris facilities or other waste disposal facilities that the owner or operator or a key employee of the owner or operator has operated or is operating outside the United States;

(3) A listing of all administrative enforcement orders issued to the owner or operator or a key employee of the owner or operator, all civil actions in which the owner or operator or a key employee of the owner or operator was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which the owner or operator or a key employee of the owner or operator pleaded guilty or was convicted, during the ten years immediately preceding the submission of the application, in connection with any violation by the owner or operator or a key employee of the owner or operator of an applicable state or federal law pertaining to environmental protection or the environmental laws of another country;

(4) A listing of all administrative enforcement orders, civil actions, or criminal actions pending at the time of the submission of the application for a permit to install in connection with a violation of any applicable state or federal law or law of another country pertaining to environmental protection that was alleged to have been committed by the owner or operator or a key

employee of the owner or operator.

The lists of construction and demolition debris facilities or other waste disposal facilities operated by the owner or operator or a key employee of the owner or operator within or outside this state or outside the United States shall include all such facilities operated by the owner or operator or a key employee of the owner or operator during the ten-year period immediately preceding the submission of the application.

(B) If the applicant for a permit to install has been involved in any prior activity involving the operation of a construction and demolition debris facility or other waste disposal facility, the director of environmental protection or a board of health, as applicable, may deny the application if the director or board finds from the application, the information submitted under divisions (A)(1) to (4) of this section, pertinent information submitted to the director or board, and other pertinent information obtained by the director or board at the director's or board's discretion that the applicant or any other person listed on the application, in the operation of construction and demolition debris facilities or other waste disposal facilities, has a history of substantial noncompliance with state and federal laws pertaining to environmental protection or the environmental laws of another country that indicates that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed new construction and demolition debris facility in substantial compliance with this chapter and rules adopted under it.

(C) At the same time that an application for an annual operation license required under section 3714.06 of the Revised Code is submitted, an owner or operator of a construction and demolition debris facility that has submitted the information required under division (A) of this section shall submit to the director or board of health, as applicable, all information required to be submitted under division (A) of this section that has changed or been added since the issuance of the most recent annual operation license for the facility. If, during that period, there have been no changes in or additions to that information, the owner or operator shall submit to the director or board an affidavit stating that there have been no changes in or additions to that information during that time period. The director or board may revoke the license for the facility if the updated information indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit to install.

(D) A person to whom the permit to install or the license for a construction and demolition debris facility is proposed to be transferred under division (B) of section 3714.06 of the Revised Code shall submit to

the director or a board of health, as applicable, the information that is required to be submitted under division (A) of this section by an applicant for a permit to install not later than one hundred twenty days prior to the proposed acquisition of the facility by the transferee. The director or board of health may deny the transfer of the permit or license, as applicable, if the information regarding the transferee indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit to install.

(E) When the owner or operator of a facility employs a new key employee, the owner or operator shall submit or shall require the new key employee to submit to the director or a board of health, as applicable, information regarding the new key employee that is required to be submitted under division (A) of this section by an applicant for a permit to install. The director or board may revoke the permit to install or the license for the facility, as applicable, if the information regarding the new key employee indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit to install.

(F) In lieu of complying with this section, an applicant for a permit to install for, or a proposed transferee of a permit to install or a license for, a construction and demolition debris facility may choose to comply with sections 3734.41 to 3734.47 of the Revised Code. An applicant or transferee that so chooses shall comply with those sections. For purposes of this division, sections 3734.41 to 3734.47 of the Revised Code are deemed to apply to applicants for permits to install for, and proposed transferees of permits to install or licenses for, construction and demolition debris facilities. The director shall provide notice in writing to the applicable board of health that the applicant or proposed transferee has complied with sections 3734.41 to 3734.47 of the Revised Code and has sufficient reliability, expertise, and competence to operate the construction and demolition debris facility in substantial compliance with this chapter and the rules adopted under it.

(G) As used in this section, "key employee" means an individual employed by an applicant for a permit to install for, or by the proposed transferee of a permit to install or license for, a construction and demolition debris facility in a supervisory capacity or who is empowered to make discretionary decisions with respect to the construction and demolition debris operations of the applicant or transferee, but does not include an employee who is exclusively engaged in the physical or mechanical collection, transfer, transportation, storage, or disposal of construction and demolition debris. If the applicant or transferee has entered into a contract

with another person to operate the facility that is the subject of the application or transfer, "key employee" includes an employee of the contractor who acts in a supervisory capacity or is empowered to make discretionary decisions with respect to the operation of the facility.

Sec. 3714.053. Not later than sixty days after the director of environmental protection or a board of health, as applicable, receives an application for a permit to install a new construction and demolition debris facility, the applicant shall hold a public hearing in the township or municipal corporation in which the facility or proposed facility is or is to be located. At least thirty days prior to the public hearing, the applicant shall provide notice of the time, day, and location of the public hearing in a newspaper of general circulation in the locality of the facility or proposed facility and shall mail a copy of the notice to the director or the board of health, whichever is applicable. Further, at least thirty days prior to the public hearing, the applicant shall provide notification of the public hearing by certified mail to the owner of each parcel of real property that is adjacent to the facility or proposed facility.

~~Sec. 3714.06. (A) No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a an annual construction and demolition debris facility installation and operation license issued by the board of health of the health district in which the facility is or is to be located or, if the facility is or is to be located in a health district that is not on the approved list under division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code, from the director of environmental protection. Each person proposing to open a new construction and demolition debris facility or to modify an existing facility shall, at least ninety days before proposed operation of the facility, submit an application for a license with accompanying plans, specifications, and information regarding the facility and its method of operation to the board of health of the health district in which the facility is located or proposed for approval as complying with the rules adopted under section 3714.02 of the Revised Code and the standards set forth in divisions (A) and (B) of section 3714.03 of the Revised Code or, if the health district in which the facility is located or proposed to be located is not on the approved list under division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code, to the director for approval as complying with those rules and standards. If the board of health or the director, as appropriate, finds that the proposed facility or modification complies with those rules and standards, the board or director shall issue a license for the facility. Any such license may be issued with such terms and conditions as the board or the director, as appropriate, finds necessary to ensure that the~~

facility will comply with this chapter and the rules adopted under it and to protect the public health and safety and the environment. Licenses issued under this section expire annually on the thirty-first day of December.

(B) During the month of December, but before the first day of January of the next year, each person proposing to continue with ~~construction or~~ operation of a construction and demolition debris facility shall procure a license for the facility for that year from the board of health of the health district in which the facility is located or, if the facility is located in a health district that is not on the approved list under ~~division (A) or (B)(1) or (2)~~ of section 3714.09 of the Revised Code, from the director. The application for a license shall be submitted to the board of health or the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. A An application for a license for a new facility shall be submitted prior to operation of the new facility. The license shall be valid until the time that the next annual license is required to be obtained for the facility under this section.

A person who has received a license, upon sale or disposition of the facility, may, with the ~~consent~~ approval of the board or the director, as appropriate, have the license as well as a permit to install for the facility transferred to another person. The board or director may disapprove the transfer of the permit or license, as applicable, for any of the reasons specified in division (B) of section 3714.052 of the Revised Code for the denial of an application for a permit to install.

~~(C) The owner or operator of a construction and demolition debris facility that is in operation or under construction on the effective date of this section shall, within six months after the effective date of the rules adopted under section 3714.02 of the Revised Code, submit to the board of the health district in which the facility is located or under construction an application for a construction and demolition debris facility installation and operation license and accompanying plans, specifications, and information regarding the facility and its method of operation. If the health district in which such an existing facility is not on the approved list under division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code, the owner or operator of the facility shall submit the application for a license and accompanying plans, specifications, and information regarding the facility and its method of operation to the director within that time. The board or the director, as appropriate, shall issue a license for such an existing facility within ninety days after receiving a complete application therefor and accompanying plans, specifications, and information if the board or the director finds that the facility complies with the rules adopted under section 3714.02 of the~~

~~Revised Code. When issuing a license under this division for an existing facility or a license to expand any existing facility that was initially licensed under this division onto contiguous land owned by the owner or operator of the existing facility on the date on which the application for a license for the facility was submitted under this division, neither the board nor the director shall consider whether the existing facility complies with the standards set forth in divisions (A) and (B) of section 3714.03 of the Revised Code.~~

~~If the board of health or the director denies an application submitted under this division, the board or the director shall include in the order denying the application the requirements that the owner or operator of the facility submit a plan for closure of the facility to the board or the director, as appropriate, for approval within six months after issuance of the order; cease accepting construction and demolition debris for disposal; and commence closure of the facility within one year after issuance of the order.~~

~~(D) Upon issuance of a license by a board of health under this section, the board of health shall mail a copy of the license to the director together with a copy of the plans for the operation of the facility or any necessary plan updates, as applicable, that are required under section 3714.061 of the Revised Code. If a license authorizes construction of a new facility or modification of an existing facility, the board shall also mail with the license a copy of the approved plans, specifications, and information regarding the facility and its method of operation.~~

~~(D) A license issued under this section may be modified in accordance with rules adopted under section 3714.02 of the Revised Code.~~

~~Sec. 3714.061. (A) A person who submits an application under section 3714.06 of the Revised Code for a license to operate a construction and demolition debris facility shall submit with the application the plans for the operation of the facility that are required in rules adopted under division (G) of section 3714.02 of the Revised Code. In addition, the owner or operator of the facility shall submit any necessary updates to the plans for the operation of the facility as required in rules adopted under that division when submitting an application under section 3714.06 of the Revised Code for an annual license for the continued operation of the facility. The plans for the operation of the facility shall include the contingency plans that are required in rules adopted under division (H) of section 3714.02 of the Revised Code.~~

~~(B) A person who submits an application under section 3714.06 of the Revised Code for a license to operate a construction and demolition debris facility shall provide, at the time that the application is submitted, to the fire department that would respond to the facility a copy of the contingency~~

plans that are required in rules adopted under division (H) of section 3714.02 of the Revised Code. In addition, the owner or operator of the facility shall submit any necessary updates to the plans as required in rules adopted under that division at the time that the owner or operator submits an application under section 3714.06 of the Revised Code for an annual license for continued operation of the facility.

Sec. 3714.062. (A) The director of environmental protection, in consultation with boards of health and a statewide association representing construction and demolition debris facilities, shall establish a program for the certification of operators of construction and demolition debris facilities and shall establish continuing education training requirements for those operators as part of the certification program.

(B) The program for the certification of operators, including the continuing education training requirements, shall include instruction in and shall emphasize, at a minimum, both of the following:

(1) The laws governing construction and demolition debris facilities and disposal of construction and demolition debris;

(2) Best management practices governing construction and demolition debris facilities and disposal of construction and demolition debris.

(C) The director shall accredit educational programs and approve statewide associations representing construction and demolition debris facilities to provide continuing education training for operators of construction and demolition debris facilities. The educational programs and associations shall meet the standards established in rules adopted under section 3714.02 of the Revised Code. For purposes of this division, educational programs that are specific to construction and demolition debris facilities and are conducted by the director or the director's authorized representatives are accredited continuing education training programs.

(D) An operator shall successfully complete a minimum of ten hours of continuing education training each calendar year. No operator shall fail to comply with this division.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code a fee of thirty cents per cubic yard or sixty cents per ton, as applicable.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be

used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is transported to the facility for disposal.

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

(4) Of the money that is collected from a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the boards of health of health districts under this section and all money from the disposal fee collected by the director under this section to the treasurer of state to be credited to the construction and demolition debris facility oversight fund,

which is hereby created in the state treasury. The fund shall be administered by the director, and money credited to the fund shall be used exclusively for the administration and enforcement of this chapter and rules adopted under it.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the quarterly payment of the money collected from the disposal fee. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the district as required under that division. Upon receipt of the money from a board of health, the director shall transmit the money to the treasurer of state to be credited to the construction and demolition debris facility oversight fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

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

Money received by the treasurer or other appropriate officer of a

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

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

The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements for prorating the amount of the fee that may be appropriated under this division by a municipal corporation or township in which only a portion of a construction and demolition debris facility is located within the territorial boundaries of the municipal corporation or township.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

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

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

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

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

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

(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

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

construction and demolition debris facility, the rules shall be subject to review every five years by the joint committee on agency rule review.

The owner or operator of a construction and demolition debris facility shall collect the fee levied under rules adopted under this section as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall collect and remit the fee in the same manner that the fee levied under section 3714.07 of the Revised Code is collected and remitted.

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

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

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

(1) If the facility is operating before ~~the effective date of this section~~ April 15, 2005, and the facility has not had ground water monitoring wells installed and operating before that date, the board of health or director, as applicable, shall pay the cost of the installation of one or more ground water monitoring wells and the annual sampling and laboratory analysis of the ground water at the facility.

(2) If the facility is operating before ~~the effective date of this section~~ April 15, 2005, and the facility has had one or more ground water monitoring wells installed and operating before that date, the board of health or director, as applicable, shall pay the cost of the installation of one or more additional ground water monitoring wells and the annual sampling and

laboratory analysis of the ground water at the facility that exceeds the facility's annual cost of ground water monitoring certified under division (C) of this section by the owner or operator of the facility.

A board of health or the director, as applicable, shall not pay any costs under this section for the installation of ground water monitoring wells, ground water sampling, or the laboratory analysis of ground water samples incurred by a construction and demolition debris facility to comply with rules adopted under section 3714.02 of the Revised Code or a permit to install issued under section 3714.051 of the Revised Code.

(C) For purposes of division (B)(2) of this section, the owner or operator of a construction and demolition debris facility that is operating before ~~the effective date of this section~~ April 15, 2005, and that has had ground water monitoring wells installed and has incurred monitoring costs before that date shall retain for three years all documents evidencing the cost of the ground water monitoring. If the board or director, as applicable, requests documents evidencing the cost of the ground water monitoring, the owner or operator of the facility shall certify to the board or director, as applicable, the annual cost of ground water monitoring at the facility.

(D) A board of health or the director, as applicable, shall determine the priority of purchases for ground water monitoring and the payment of the costs of conducting monitoring of ground water as provided in division (B) of this section. However, a board of health or the director, as applicable, shall not purchase ground water monitoring wells or pay the costs of conducting monitoring of ground water if the applicable fund does not have sufficient money to pay those costs. The director shall consult with boards of health to determine the priority of ground water monitoring at construction and demolition debris facilities that are licensed under this chapter.

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

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

Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five

cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code;

(2) A fee of thirty seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section 1502.02 of the Revised Code.

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section and may enter into an agreement for the quarterly payment of the fees in the manner established in division (B) of that section for the quarterly payment of the fee that is levied under division (A)(1) of that section.

(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state not later than forty-five days after the receipt of the money to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

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

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility

or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3714.081. (A) A construction and demolition debris facility shall not accept pulverized debris.

(B) The board of health of a health district in which a construction and demolition debris facility is located, the director of environmental protection, or an authorized representative of either may request the removal of pulverized debris that has been brought to the construction and demolition debris facility. A board, the director, or an authorized representative of either shall make such a request when the pulverized debris is at the unloading zone of the facility designated under rules adopted under section 3714.02 of the Revised Code and not after the debris has been disposed of on the working face of the facility. Upon the receipt of such a request, the owner or operator of the facility shall comply with section 3714.083 of the Revised Code and shall do one of the following:

(1) Immediately cause the pulverized debris to be removed from the facility;

(2) Store the pulverized debris at a location at the facility where construction and demolition debris is not disposed of for not more than ten days after the receipt of a request to remove the debris from the facility. Not later than the end of the ten-day period, the owner or operator shall cause the pulverized debris to be removed from the facility.

(C) As used in this section, "working face" has the same meaning as in section 3714.021 of the Revised Code.

Sec. 3714.082. (A) Except as provided in division (B) of this section, a construction and demolition debris facility may request a transfer facility to certify that material that is transferred from the transfer facility to the construction and demolition debris facility is not off-specification material; hazardous waste, solid wastes, or infectious wastes; or low-level radioactive waste whose treatment, recycling, storage, or disposal is governed under division (B) of section 3748.10 of the Revised Code. As used in this section, "hazardous waste," "solid wastes," and "infectious wastes" have the same meanings as in section 3734.01 of the Revised Code.

(B) With respect to material that is transferred to a construction and demolition debris facility by a railroad that is regulated under Title 49 of the United States Code, the facility may request the railroad to provide a bill of

lading, or a copy of a bill of lading, from the shipper of the material or may request the railroad to provide written information indicating that the railroad did not process or add to the material.

Sec. 3714.083. (A) If the owner or operator of a construction and demolition debris facility rejects a load of debris that has been accepted at the unloading zone of the facility because the load is not eligible for disposal at the facility under this chapter and rules adopted under it, including section 3714.081 of the Revised Code, the owner or operator shall notify the director of environmental protection or a board of health, as applicable, of the rejection of the load. The notification shall be made in accordance with rules adopted under section 3714.02 of the Revised Code and shall include the date and time that the load was rejected, the license plate number of the vehicle transporting the rejected load as well as an indication of the state of origin of the vehicle, the name of the transporter or shipper of the load, if ascertainable, and the reason for rejecting the load. After rejecting a load, the owner or operator shall give the transporter or shipper of the load, as applicable, instructions regarding the requirements of division (B) of this section. The instructions shall be on a form prescribed by the director.

(B) A transporter or shipper of a load that has been rejected under division (A) of this section shall notify the director or board, as applicable, of the ultimate disposition of the load after the load's rejection. The notification shall be made in accordance with rules adopted under section 3714.02 of the Revised Code and shall include the date and time that the load was ultimately disposed of after its rejection, the location of the disposal, and the name of the owner or operator of the facility that accepted the load for disposal.

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

(B)(1) Upon the request of the board of health of a health district that is

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

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

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

(4) Whenever the director is required to administer and enforce this chapter in any health district under division (A) or (B)(3) of this section, the director is hereby vested with all of the authority and all the duties granted to or imposed upon a board of health under this chapter and rules adopted under it within the health district. All disposal fees required to be paid to a board of health by section 3714.07 of the Revised Code and all such previous fees paid to the board, together with any money from construction and demolition debris facility license fees that were required to be paid to the board under section 3714.07 of the Revised Code as that section existed prior to ~~the effective date of this amendment~~ April 15, 2005, that have not been expended or encumbered shall be paid to the director and deposited by the director to the credit of the construction and demolition debris facility oversight fund created in section 3714.07 of the Revised Code.

(C) Nothing in this chapter limits the authority of the director to initiate and pursue any administrative remedy or to request the attorney general, the prosecuting attorney of the appropriate county, or the city director of law of the appropriate city to initiate and pursue any appropriate judicial remedy available under this chapter to enforce any provision of this chapter and any rules or terms or conditions of any permit or license or order adopted or

issued under this chapter with respect to any construction and demolition debris facility regardless of whether the facility is located in a health district that is on the approved list under ~~division (A) or (B)(1) or (2)~~ of this section.

Sec. 3714.101. Falsification of any material information that is required to be submitted to a board of health or the director of environmental protection with respect to a permit to install or a license issued under this chapter or an application for such a permit or license, or falsification of any other material information that is required to be submitted to a board or the director under this chapter and rules adopted under it, is grounds for the denial, suspension, or revocation of a permit to install or a license issued under this chapter.

Sec. 3714.11. (A) The attorney general, the prosecuting attorney of the county, or the city director of law where a violation has occurred, is occurring, or may occur, upon the request of the respective board of health of the health district, the legislative authority of the political subdivision in which a violation has occurred, is occurring, or may occur, or the director of environmental protection, shall prosecute to termination or bring an action for injunction against any person who has violated, is violating, or is threatening to violate any section of this chapter, applicable rules adopted under it, or terms or conditions of a permit, license, or order issued under it. The court of common pleas in which an action for injunction is filed has the jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated, is violating, or is threatening to violate any section of this chapter, applicable rules adopted under it, or terms or conditions of a permit, license, or order issued under it. The court shall give precedence to such an action over all other cases.

(B) If the board of health of the health district in which a violation has occurred or is occurring or the director determines that any person has violated or is violating this chapter, a rule adopted under it, or a term or condition of a permit, license, or order issued under it, the board or the director may request in writing that the attorney general, the prosecuting attorney of the county, or the city director of law where the violation has occurred or is occurring ~~to~~ bring an action for civil penalties in any court of competent jurisdiction. Such an action shall have precedence over all other cases. The court may impose upon the person a civil penalty of not more than ten thousand dollars for each day of each violation of this chapter, a rule adopted under it, or a term or condition of a permit, license, or order issued under it.

Moneys resulting from civil penalties imposed by an action brought at

the request of the board of health shall be credited to the special fund of the health district created in section 3714.07 of the Revised Code. Moneys resulting from civil penalties imposed by an action brought at the request of the director shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code.

Any action under this division is a civil action, governed by the Rules of Civil Procedure.

(C) The director and board of health, within their respective territorial jurisdictions, may, upon their own initiative, investigate or make inquiries regarding the disposal of construction and demolition debris.

(D) This chapter does not abridge rights of action or remedies in equity, under common law, or as provided by statute or prevent the state or any municipal corporation or person in the exercise of their rights in equity, under common law, or as provided by statute to suppress nuisances or to abate or prevent pollution.

Sec. 3714.12. (A) The board of health of a health district may make orders in accordance with section 3709.20 or 3709.21 of the Revised Code to a permit or license holder or other person to abate, within a specified, reasonable time, a violation of any section of this chapter, a rule adopted under it, or a term or condition of a permit or license issued under it. The director of environmental protection may issue enforcement orders in accordance with Chapter 3745. of the Revised Code to a permit or license holder or other person to abate, within a specified, reasonable time, a violation of any section of this chapter, a rule adopted under it, or a term or condition of a permit or license issued under it.

(B) If the board of health or the director determines that conditions at a construction and demolition debris facility or other location where construction and demolition debris is being disposed of are causing or threatening to cause an imminent and substantial threat to public health or safety or the environment or an imminent and substantial risk of fire and that, due to any of those conditions, an emergency exists requiring immediate action to protect the public health or safety or the environment, the board or the director may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet the emergency. The order shall be effective immediately. Any person to whom such an order is directed shall comply immediately, but on application to the director or the board of health, as appropriate, shall be afforded a hearing as soon as possible, but not later than thirty days after application. On the basis of the hearing, the director or the board of health shall continue the order in effect or revoke or modify it.

No emergency order shall remain in effect for more than ninety days after its issuance.

Sec. 3714.13. (A) No person shall violate any section of this chapter.

(B) No person shall violate a rule adopted under this chapter.

(C) No person shall violate an order issued under this chapter. Violation of an order issued by a board of health under this chapter is not also a violation of section 3709.20 or 3709.21 of the Revised Code, whichever is applicable.

(D) No person who holds a permit or license issued under this chapter shall violate any of the terms or conditions of the permit or license.

(E) No owner or operator of a construction or demolition debris facility shall dispose of asbestos or regulated asbestos-containing materials or products at the facility unless ~~he~~ the owner or operator is specifically authorized to do so by the board of health of the health district in which the facility is located, or by the director, pursuant to rules adopted under division (D) of section 3714.02 of the Revised Code.

(F) No person shall knowingly place or cause to be placed any reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone resulting from the alteration, construction, destruction, rehabilitation, or repair of any ~~manmade~~ physical structure that is built by humans as fill material on or in any land owned, leased, or controlled by the person, other than on the site where the materials were so generated or removed, without providing written notice to the board of health of the health district in which the land is located or, if the health district is not on the approved list under ~~division (A) or (B)(1) or (2) of~~ section 3714.09 of the Revised Code, to the director of environmental protection at least seven days prior to the first placement of any such materials as fill material at the off-site location.

Sec. 3714.20. The director of environmental protection shall establish and maintain a database or databases composed of public information, including, but not limited to, the record made under section 3714.08 of the Revised Code of inspection of each construction and demolition debris facility, information from the annual survey of each health district made under section 3714.09 or 3734.08 of the Revised Code, as applicable, and ground water and leachate data collected in accordance with rules adopted under section 3714.02 of the Revised Code. The database or databases shall be stored in such a manner that they are easily available for sharing with health districts and all other interested persons.

Sec. 3734.281. Notwithstanding any provision of law to the contrary, any moneys set aside by the state for the cleanup and remediation of the

Ashtabula river; any moneys collected from settlements made by the director of environmental protection, including those associated with bankruptcies, related to actions brought under Chapter 3714. and section 3734.13, 3734.20, 3734.22, 6111.03, or 6111.04 of the Revised Code; and any moneys received under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9602, as amended, may be paid into the state treasury to the credit of the environmental protection remediation fund, which is hereby created. The environmental protection agency shall use the moneys in the fund only for the purpose of remediating conditions at a hazardous waste facility, a solid waste facility, a construction and demolition debris facility licensed under Chapter 3714. of the Revised Code. or ~~other~~ another location at which the director has reason to believe there is a substantial threat to public health or safety or the environment. Remediation may include the direct and indirect costs associated with the overseeing, supervising, performing, verifying, or reviewing of remediation activities by agency employees. All investment earnings of the fund shall be credited to the fund.

Sec. 3734.57. (A) The following fees are hereby levied on the disposal of solid wastes in this state:

(1) One dollar per ton on and after July 1, 2003, through June 30, 2008, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional one dollar per ton on and after July 1, 2003, through June 30, 2008, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, through June 30, 2008, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in

section 3745.015 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility for disposal, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has

received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director ~~may~~ shall grant a refund to the owner or operator or ~~may~~ shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division

(B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer to the owner or operator of a solid waste transfer or disposal facility notwithstanding the existence of any provision in a contract that the customer may have with the owner or operator that would not require or allow such payment.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

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

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

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

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board

of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this

division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail

the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

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

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

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

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

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

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the

month in which notification is sent to the owner or operator.

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

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

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

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

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

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

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

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

waste or compost product is disposed of.

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

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid 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 fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or 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 fiscal officer of

the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, 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 section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

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

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

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

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's

approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

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

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

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

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

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

Prior to the approval of the district's solid waste management plan under

section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

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

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

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

As used in this section, "action" or "act" includes the adoption, modification, or repeal of a rule or standard, the issuance, modification, or revocation of any lawful order other than an emergency order, and the issuance, denial, modification, or revocation of a license, permit, lease, variance, or certificate, or the approval or disapproval of plans and specifications pursuant to law or rules adopted thereunder.

(B) Any person who was a party to a proceeding before the director of environmental protection may participate in an appeal to the environmental review appeals commission for an order vacating or modifying the action of the director or a local board of health, or ordering the director or board of health to perform an act. The environmental review appeals commission has

exclusive original jurisdiction over any matter that may, under this section, be brought before it.

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

The (C) The director may appeal an action of a local board of health conducted under Chapter 3714. or 3734. of the Revised Code to the environmental review appeals commission for an order vacating or modifying the action of the board or may appeal to the commission for an order requiring the local board of health to perform an act.

(D) An appeal shall be in writing and shall set forth the action complained of and the grounds upon which the appeal is based.

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

The appeal shall be accompanied by a filing fee of seventy dollars, which the commission, in its discretion, may reduce if by affidavit the appellant demonstrates that payment of the full amount of the fee would cause extreme hardship.

Within seven days after receipt of the notice of an appeal filed under division (B) of this section, the director or local board of health, as applicable, shall prepare and certify to the commission a record of the proceedings out of which the appeal arises, including all documents and correspondence, and a transcript of all testimony.

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

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

for unavoidable circumstances.

(E) As used in this section and sections 3745.05 and 3745.06 of the Revised Code, "director of environmental protection" and "director" are deemed to include the director of agriculture and "environmental protection agency" is deemed to include the department of agriculture with respect to actions that are appealable to the commission under Chapter 903. of the Revised Code.

Sec. 3745.05. In hearing the appeal, if an adjudication hearing was conducted by the director of environmental protection in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the environmental review appeals commission is confined to the record as certified to it by the director or the board of health, as applicable. The commission may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the director or the board, as applicable. If no adjudication hearing was conducted in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the commission shall conduct a hearing de novo on the appeal.

For the purpose of conducting a de novo hearing, or where the commission has granted a request for the admission of additional evidence, the commission may require the attendance of witnesses and the production of written or printed materials.

When conducting a de novo hearing, or when a request for the admission of additional evidence has been granted, the commission may, and at the request of any party it shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the inquiry directed to the sheriff of the counties where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases.

The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. The fee and mileage expenses incurred at the request of the appellant shall be paid in advance by the appellant, and the remainder of the expenses shall be paid out of funds appropriated for the expenses of the commission.

In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge

thereof, on application of the ~~board~~ commission or any member thereof, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

A witness at any hearing shall testify under oath or affirmation, which any member of the commission may administer. A witness, if the witness requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation in the hearing shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses. A witness shall be advised of the right to counsel before the witness is interrogated.

A stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

Any party may request the stenographic record of the hearing. Promptly after receiving such a request, the commission shall prepare and provide the stenographic record of the hearing to the party who requested it. The commission may charge a fee to the party who requested the stenographic record that does not exceed the cost to the commission for preparing and transcribing it.

If, upon completion of the hearing, the commission finds that the action appealed from was lawful and reasonable, it shall make a written order affirming the action, or if the commission finds that the action was unreasonable or unlawful, it shall make a written order vacating or modifying the action appealed from. Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based. Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each party by certified mail, with a statement of the time and method by which an appeal may be perfected.

The order of the commission is final unless vacated or modified upon judicial review.

Sec. 3745.06. Any party adversely affected by an order of the environmental review appeals commission may appeal to the court of

appeals of Franklin county, or, if the appeal arises from an alleged violation of a law or regulation, to the court of appeals of the district in which the violation was alleged to have occurred. Any party desiring to so appeal shall file with the commission a notice of appeal designating the order appealed. A copy of ~~such~~ the notice also shall be filed by the appellant with the court, and a copy shall be sent by certified mail to the director of environmental protection unless the director is the party appealing the order. Such notices shall be filed and mailed within thirty days after the date upon which the appellant received notice from the commission by certified mail of the making of the order appealed. No appeal bond shall be required to make an appeal effective.

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

Within twenty days after receipt of the notice of appeal, the commission shall prepare and file in the court the complete record of proceedings out of which the appeal arises, including any transcript of the testimony and any other evidence ~~which~~ that has been submitted before the commission. The expense of preparing and transcribing the record shall be taxed as a part of the costs of the appeal. The appellant, other than the state or a political subdivision, or an agency of either, or any officer of them acting in a representative capacity, shall provide security for costs satisfactory to the court. Upon demand by a party, the commission shall furnish at the cost of the party requesting the record a copy of ~~such~~ the record. If the complete record is not filed within the time provided for in this section, any party may apply to the court to have the case docketed, and the court shall order ~~such~~ the record filed.

In hearing the appeal, the court is confined to the record as certified to it by the commission. The court may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the commission.

The court shall conduct a hearing on the appeal and shall give preference to all proceedings under this section over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. The hearing in the court of appeals shall proceed as in the case of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to such action. At the hearing, counsel may be

heard on oral argument, briefs may be submitted, and evidence introduced if the court has granted a request for the presentation of additional evidence.

The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. When the court finds an ambient air quality standard, an emission standard, or a water quality or discharge standard to be deficient, it shall order the director of environmental protection to modify the standard to comply with the laws governing air or water pollution. The court shall retain jurisdiction until it approves the modified standard. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken by any party to the appeal pursuant to the Rules of Practice of the Supreme Court and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.

SECTION 2. That existing sections 3714.01, 3714.02, 3714.03, 3714.04, 3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, and 3745.06 of the Revised Code are hereby repealed.

SECTION 3. (A) Notwithstanding the amendments to Chapter 3714. of the Revised Code by this act, an application for a license to establish or modify a construction and demolition debris facility submitted to a board of health or the Director of Environmental Protection, as applicable, prior to July 1, 2005, shall be reviewed and the license shall be issued or denied in accordance with the provisions of that chapter as they existed on July 1, 2005, if all of the following apply to the applicant for the license:

(1) The applicant has acquired an interest in the property on which the facility will be located on or before May 1, 2005.

(2) The applicant has begun a hydrogeologic investigation pursuant to section 3745-400-09 of the Ohio Administrative Code prior to submitting the application.

(3) The applicant has begun the engineering plans for the facility prior to submitting the application.

(4) The application submitted by the applicant would have been determined to be complete if a moratorium had not been in effect.

The director shall determine whether this division applies to an applicant within forty-five days after receiving an applicant's request for a determination under this division.

(B) Notwithstanding the amendments to Chapter 3714. of the Revised Code by this act and except as otherwise provided in this division, an application for a license to establish or modify a construction and demolition debris facility submitted to a board of health or the Director, as applicable, on or after July 1, 2005, but prior to or on December 31, 2005, shall be reviewed and the license shall be issued or denied in accordance with the provisions of that chapter as they existed on July 1, 2005. However, unless division (G)(2) of section 3714.03 of the Revised Code, as amended by this act, applies to the facility, a board of health or the Director, as applicable, may apply any of the siting criteria established in section 3714.03 of the Revised Code by this act to such an application and may deny the application if the facility that is the subject of the application will not comply with that siting criterion.

(C) Notwithstanding the amendments to Chapter 3714. of the Revised Code by this act and except as otherwise provided in this division, beginning January 1, 2006, and until the effective date of the rules adopted under division (A) of section 3714.02 of the Revised Code, as amended by this act, a person may submit an application to a board of health or the Director, as applicable, for a license to establish or modify a construction and demolition debris facility, and such an application shall be reviewed and the license shall be issued or denied in accordance with the provisions of that chapter as they existed on July 1, 2005. However, unless division (G)(2) of section 3714.03 of the Revised Code, amended by this act, applies to the facility, a board of health or the Director, as applicable, shall apply all of the siting criteria established in section 3714.03 of the Revised Code by this act to such an application and shall deny the application if the facility that is the subject of the application will not comply with any of those siting criteria. In addition, the applicant for the license shall submit the information that is required from applicants for permits to install under section 3714.052 of the Revised Code, as enacted by this act. An application for a license may be denied if the information regarding the applicant indicates any of the reasons specified in division (B) of that section for the denial of an application for a permit to install.

SECTION 4. Section 3734.57 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 66 and Sub. S.B. 107 of the 126th General Assembly. The General Assembly,

applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 5. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that a moratorium on the siting of new construction and demolition debris facilities and the expansion of existing facilities is due to expire on December 31, 2005, and additional statutory requirements related to such facilities are necessary to protect public health and the environment. Therefore, this act shall go into immediate effect.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_