

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 397

Representatives Hagan, Collier, Law, Harwood

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A B I L L

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 1
3714.05, 3714.06, 3714.071, 3714.09, 3714.11, 2
3714.12, 3714.13, and 3734.28 and to enact 3
sections 3714.051, 3714.052, 3714.053, 3714.061, 4
3714.062, 3714.081, 3714.082, 3714.083, and 5
3714.20 of the Revised Code to revise the statutes 6
governing construction and demolition debris 7
facilities and to declare an emergency. 8

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

Section 1. That sections 3714.01, 3714.02, 3714.03, 3714.04, 9
3714.05, 3714.06, 3714.071, 3714.09, 3714.11, 3714.12, 3714.13, 10
and 3734.28 be amended and sections 3714.051, 3714.052, 3714.053, 11
3714.061, 3714.062, 3714.081, 3714.082, 3714.083, and 3714.20 of 12
the Revised Code be enacted to read as follows: 13

Sec. 3714.01. As used in this chapter: 14

(A) "Board of health" means the board of health of a city or 15
general health district or the authority having the duties of a 16
board of health in any city as authorized by section 3709.05 of 17
the Revised Code. 18

(B) "Closure" means either the time at which a construction 19
and demolition debris facility will no longer accept construction 20

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

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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.

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

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

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(H) "Pulverized debris" means debris that has been shredded,
crushed, ground, or otherwise rendered to such an extent that the
debris is unidentifiable as construction and demolition debris.

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(I) "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.

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(J) "Storage" means the holding of construction and
demolition debris for a temporary period in such a manner that it

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remains retrievable and substantially unchanged and, at the end of 84
the period, is disposed of or reused or recycled in a beneficial 85
manner. 86

(K) "Transfer facility" means a site, location, tract of 87
land, installation, or building that is used or intended to be 88
used for the purpose of transferring construction and demolition 89
debris that was generated off the premises of the facility from 90
vehicles or containers into other vehicles for transportation to a 91
construction and demolition debris facility. 92

Sec. 3714.02. ~~Within twelve months after July 24, 1990, the~~ 93
The director of environmental protection shall adopt, and may 94
amend and rescind, rules in accordance with Chapter 119. of the 95
Revised Code governing construction and demolition debris 96
facilities and the inspection of and issuance of licenses for 97
those facilities. The rules shall ensure that the facilities will 98
not create a nuisance, fire hazard, or health hazard or cause or 99
contribute to air or water pollution. The rules shall establish 100
all of the following: 101

(A) Standards and procedures for the issuance of permits to 102
install under section 3714.051 of the Revised Code that shall 103
include all of the following: 104

(1) Standards for the design and construction of facilities. 105
These standards may include, without limitation, requirements for 106
diking around the areas where debris is buried to prevent runoff 107
of surface water onto adjacent property. 108

(2) Information that must be included in the designs and 109
plans required to be submitted with the application for a permit 110
to install under section 3714.051 of the Revised Code and criteria 111
for approving, disapproving, or requiring modification of the 112
designs and plans; 113

<u>(3) Information that must be included with an application for</u>	114
<u>a permit to install in addition to the information required under</u>	115
<u>section 3714.051 of the Revised Code;</u>	116
<u>(4) Procedures for the issuance, denial, modification,</u>	117
<u>transfer, suspension, and revocation of permits to install;</u>	118
<u>(5) Grounds for the denial, modification, suspension, or</u>	119
<u>revocation of permits to install;</u>	120
<u>(6) A requirement that a person that is required to obtain</u>	121
<u>both a permit to install under section 3714.051 of the Revised</u>	122
<u>Code and a license under section 3714.06 of the Revised Code</u>	123
<u>submit applications for the permit and license simultaneously;</u>	124
<u>(7) Criteria for establishing time periods after which a</u>	125
<u>permit to install expires;</u>	126
<u>(8) Any other requirements that the director determines</u>	127
<u>necessary in order to establish the program for the issuance of</u>	128
<u>permits to install under section 3714.051 of the Revised Code.</u>	129
(B) Standards for control over access to facilities;	130
(C) Standards for the operation of facilities, including,	131
without limitation, standards for the compaction and covering of	132
debris disposed of and standards regarding equipment used for the	133
operation of facilities;	134
(D) Criteria and procedures for granting authorization to the	135
owner or operator of a facility to dispose of asbestos or	136
asbestos-containing materials or products at his <u>the owner's or</u>	137
<u>operator's</u> facility;	138
(E) Requirements for the installation of ground water	139
monitoring wells and the monitoring of ground water quality at any	140
facility where the operation of the facility threatens to	141
contaminate ground water + . <u>The rules shall require that ground</u>	142
<u>water monitoring be capable of determining impacts resulting from</u>	143

the operation of construction and demolition debris facilities. 144

The rules also shall include provisions for ground water 145

assessment and corrective actions for impacts to ground water. 146

Further, the rules shall require that the owner or operator of a 147

construction and demolition debris facility submit a monitoring 148

report to the director that has been prepared by a qualified 149

ground water scientist and that includes all of the following: 150

(1) A determination of any impacts to ground water from the 151

migration of contaminants from the construction and demolition 152

debris facility; 153

(2) A list of the contaminants from the facility that may be 154

causing contamination of ground water; 155

(3) Recommendations for actions that should be taken to 156

investigate and remediate the source of any ground water 157

contamination. 158

 (F) Requirements for the monitoring and sampling of leachate. 159

The rules adopted under division (F) of this section shall include 160

all of the following: 161

(1) A requirement that the owner or operator of a 162

construction and demolition debris facility provide for sampling 163

of leachate at least annually. However, the rules shall require 164

that if leachate is recirculated through a facility instead of 165

being disposed of off-site, the leachate be sampled at least every 166

calendar quarter. 167

(2) A requirement that the owner or operator of a facility 168

sample for at least sixty-four parameters that the director shall 169

establish in the rules, which shall include arsenic, copper, and 170

chromium; 171

(3) Procedures for establishing parameters in addition to the 172

sixty-four parameters established in the rules adopted under 173

division (F)(2) of this section; 174

(4) 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 divisions (F)(2) and (3) of this section. 175
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(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. 181
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(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 for effective action in response to fire or explosion at the facility as required in rules adopted under division (H) of this section. 184
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~~(G)(H)~~ Requirements respecting contingency plans for effective action in response to fire or explosion at a facility; 191
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~~(H)(I)~~ Financial assurance requirements for the closure and post-closure care of facilities. ~~The as follows:~~ 193
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(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 195
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~~facility is or is to be located or, if the facility is or is to be~~ 206
~~located in a health district that is not on the approved list~~ 207
~~under division (A) or (B)(1) or (2) of section 3714.09 of the~~ 208
~~Revised Code, determined by the director or the appropriate board~~ 209
~~of health, as applicable. The rules shall allow the director or~~ 210
~~board of health, as applicable, to adjust the amount of a surety~~ 211
~~bond, a letter of credit, or other acceptable financial assurance~~ 212
~~in conjunction with the issuance of an annual license. However,~~ 213
~~the rules shall require that the amount of a surety bond, letter~~ 214
~~of credit, or other acceptable financial assurance for the closure~~ 215
~~of a facility be not less than thirteen thousand dollars per acre~~ 216
~~of land that has been, is being, or is to be used for the disposal~~ 217
~~of construction and demolition debris.~~ 218

(2) The rules establishing the financial assurance 219
requirements for the post-closure care of facilities shall allow 220
the director or board of health, as applicable, to determine the 221
amount of a surety bond, a letter of credit, or other acceptable 222
financial assurance for the post-closure care of a facility on a 223
case by case basis. The rules shall require that the owner or 224
operator of a facility provide post-closure financial assurance 225
for a minimum period of five years after the closure of a 226
facility. 227

~~(I)(J) Requirements for the closure of facilities. The~~ 228
~~requirements shall include minimum requirements for the closure of~~ 229
~~all facilities and such additional requirements as are reasonably~~ 230
~~related to the location of the facility and the type and quantity~~ 231
~~of materials disposed of in the facility.~~ 232

(K) Requirements for the post-closure care of facilities for 233
a minimum period of five years after the closure of a facility; 234

(L) Procedures and requirements for the certification of 235
pulverized debris as construction and demolition debris for the 236
purposes of section 3714.081 of the Revised Code. The procedures 237

and requirements shall include, without limitation, both of the 238
following: 239

(1) A requirement that the structure at which the debris was 240
generated was inspected by the appropriate board of health, the 241
director, or another appropriate authority designated by rule; 242

(2) A system for tracking the debris from the point of 243
generation to the point of disposal for purposes of ensuring that 244
it is not mixed with debris that is not construction and 245
demolition debris. 246

(M) Procedures and requirements governing the certification 247
of construction and demolition debris by transfer facilities as 248
required under section 3714.082 of the Revised Code; 249

(N) Requirements governing the provision of notification 250
under section 3714.083 of the Revised Code by owners and operators 251
of construction and demolition debris facilities of rejected 252
shipments and by transporters of the final disposition of rejected 253
shipments; 254

(O) Requirements governing the certification and training of 255
operators of construction and demolition debris facilities as 256
required under section 3714.062 of the Revised Code. 257

The rules adopted under this section shall not prohibit the 258
open burning of construction debris on a construction site in 259
compliance with division (C)(1) of section 3704.11 of the Revised 260
Code. 261

The amendments to divisions (E) and (F) of this section by 262
..... and rules adopted pursuant to those amendments shall apply 263
only to construction and demolition debris facilities or 264
modifications of construction and demolition debris facilities for 265
which a permit to install is issued under section 3714.051 of the 266
Revised Code after the effective date of this amendment unless the 267

director determines that the application of those amendments and 268
rules adopted pursuant to them to a facility in operation on the 269
effective date of this amendment that is conducting leachate and 270
ground water monitoring is necessary to protect public health and 271
the environment. 272

Sec. 3714.03. (A) As used in this section: 273

(1) "Aquifer system" means one or more geologic units or 274
formations that are wholly or partly saturated with water and are 275
capable of storing, transmitting, or yielding ground water at a 276
time weighted average rate greater than one-tenth of a gallon per 277
minute over a twenty-four-hour period unless the geologic units or 278
formations yield less than three gallons per minute, but more than 279
one-tenth of a gallon per minute and the ground water yield is 280
less than fifty per cent of the yield of another saturated zone 281
under a construction and demolition debris facility that is the 282
likely source of water used for any purpose within one mile of the 283
facility. 284

(2) "Category 3 wetland" means a wetland that supports 285
superior habitat or hydrological or recreational functions as 286
determined by an appropriate wetland evaluation methodology 287
acceptable to the director of environmental protection. "Category 288
3 wetland" includes a wetland with high levels of diversity, a 289
high proportion of native species, and high functional values and 290
includes a wetland that contains or provides habitat for 291
threatened or endangered species. "Category 3 wetland" may include 292
high quality forested wetlands, including old growth forested 293
wetlands, mature forested riparian wetlands, vernal pools, bogs, 294
fens, and wetlands that are scarce regionally. 295

(3) "Limits of construction and demolition debris placement" 296
means the areal and vertical limits of debris placement within a 297
construction and demolition debris facility and includes the 298

volume of debris placement. 299

(4) "Natural area" means either of the following: 300

(a) An area designated by the director of natural resources 301
as a scenic river under section 1517.14 of the Revised Code; 302

(b) An area designated by the United States department of the 303
interior as a national scenic river. 304

(5) "New portion of an existing facility" means any area of 305
an existing facility that has not been designated as an active or 306
inactive licensed disposal area for the facility. 307

(B) Neither the director of environmental protection nor any 308
board of health shall issue a ~~license permit to install~~ under 309
section ~~3714.06~~ 3714.051 of the Revised Code to establish ~~and~~ 310
operate a new construction and demolition debris facility ~~or to~~ 311
~~modify an existing facility~~ when ~~any portion of the limits of~~ 312
~~construction and demolition debris placement at the new facility~~ 313
~~is~~ or at any new portion of the existing facility are proposed to 314
be located in either of the following locations: 315

~~(A)(1)~~ (1) Within the boundaries of ~~the~~ a one-hundred-year flood 316
plain ~~of a watercourse~~, as those boundaries are shown on the 317
applicable maps prepared under the "National Flood Insurance Act 318
of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the 319
owner or operator has obtained an exemption from ~~this~~ division 320
~~(B)(1) of this section~~ in accordance with section 3714.04 of the 321
Revised Code. ~~With respect to watercourses or portions thereof for~~ 322
~~which~~ If no such maps have been prepared, the boundaries of ~~the~~ a 323
one-hundred-year flood plain shall be determined by the applicant 324
for a ~~license permit~~ based upon ~~a design storm of seven inches of~~ 325
~~precipitation in twenty four hours and upon~~ standard methodologies 326
set forth in "urban hydrology for small watersheds" (soil 327
conservation service technical release number 55) and section 4 of 328
the "national engineering hydrology handbook" of the soil 329

conservation service of the United States department of 330
agriculture. 331

~~(B)(2)~~ Within the boundaries of a sole source aquifer 332
designated by the administrator of the United States environmental 333
protection agency under the "Safe Drinking Water Act," 88 Stat. 334
1660 (1974), 42 U.S.C.A. 300f, as amended. 335

(C) Neither the director nor any board shall issue a permit 336
to install under section 3714.051 of the Revised Code to establish 337
a new construction and demolition debris facility or to modify an 338
existing facility when the limits of construction and demolition 339
debris placement at the new facility or at any new portion of the 340
existing facility are proposed to be located in any of the 341
following locations: 342

(1) Within one hundred feet of a perennial stream as defined 343
by the United States geological survey seven and one-half minute 344
quadrangle map or a category 3 wetland; 345

(2) Within one hundred feet of the facility's property line; 346

(3)(a) Except as provided in division (C)(3)(b) of this 347
section, within five hundred feet of a residential or public water 348
supply well. 349

(b) Division (C)(3)(a) of this section does not apply to a 350
residential or public water supply well under any of the 351
circumstances specified in divisions (C)(3)(b)(i) to (iii) of this 352
section. Instead, the distance specified under each of the 353
following circumstance applies: 354

(i) If the well is controlled by the owner or operator of the 355
construction and demolition debris facility, any distance, 356
provided that the location of the limits of construction and 357
demolition debris placement does not violate any other provision 358
of this section; 359

(ii) If the well is hydrologically separated from the limits of construction and demolition debris placement, the distance comprising the hydrological separation; 360
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(iii) If the well is upgradient from the limits of construction and demolition debris placement and the geological material that separates the uppermost aquifer and the limits of construction and demolition debris placement consists of at least five feet of material that has a maximum hydraulic conductivity of 1×10^{-5} cm/sec and all of the geologic material comprising the five feet has a hydraulic conductivity equal to or less than 1×10^{-5} cm/sec, two hundred fifty feet. 363
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(4) Within five hundred feet of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any 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; 371
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(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; 382
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(6) Within five hundred feet of a lake; 389

(7) Within five hundred feet of an occupied dwelling. 390

(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 or to modify an existing facility when the limits of construction and demolition debris placement at the new facility or at any new portion of an existing facility are proposed to be located less than five feet above the uppermost aquifer system. 391
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(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 or to modify an existing facility when any road at the new facility or at any new portion of an existing facility is proposed to be located within five hundred feet of an occupied dwelling or within one hundred feet from the facility's property line. 398
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(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: 405
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(1) Roads that follow the facility's perimeter. The roads shall be constructed in a manner that allows use in all weather conditions and will withstand the anticipated degree of use with minimum erosion and generation of dust. 409
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(2) Surface water drainage and sediment controls that are required by the director; 413
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(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. 415
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Sec. 3714.04. The (A) Subject to division (B) of this 420

section, the director of environmental protection or the board of 421
health having territorial jurisdiction may by order exempt any 422
person disposing of or proposing to dispose of construction and 423
demolition debris in such quantities or under such circumstances 424
that, in the determination of the director or board of health, are 425
unlikely to adversely affect the public health or safety or the 426
environment, or to create a fire hazard, from any provision of 427
this chapter or a rule adopted or order issued under it, other 428
than division (B)(2) of section 3714.03 or division (E) of section 429
3714.13 of the Revised Code. Neither the director nor any board of 430
health shall grant an exemption under this section from division 431
~~(A)~~(B)(1) of section 3714.03 of the Revised Code if the director 432
or board finds from the license permit to install application that 433
the establishment of a new construction or demolition debris 434
facility in the one-hundred-year flood plain of a watercourse 435
would result in an increase of more than one foot in the elevation 436
of the flood stage of the watercourse upstream or downstream from 437
the proposed facility. The applicant for a license permit to 438
install shall determine the increase in the flood stage resulting 439
from the location of the proposed facility within the 440
one-hundred-year flood plain of a watercourse based upon a ~~design~~ 441
~~storm of seven inches of precipitation in twenty four hours and~~ 442
~~upon~~ standard methodologies set forth in "urban hydrology for 443
small watersheds" (soil conservation service technical release 444
number 55) and section 4 of the "national engineering hydrology 445
handbook" of the soil conservation service of the United States 446
department of agriculture. 447

(B) Before a board of health issues an order that exempts a 448
person disposing of or proposing to dispose of construction and 449
demolition debris as provided in division (A) of this section, the 450
board shall provide written notice to the director of the board's 451
intention to grant an exemption under that division. The notice 452
shall contain a description of the facts surrounding the proposed 453

exemption and any other information that the director may require. 454
Not later than thirty days after receipt of the notice, the 455
director shall approve or deny the proposed exemption. The 456
director shall provide a copy of the director's determination to 457
the board of health that submitted the notice to grant an 458
exemption. If the director approves the proposed exemption, the 459
board of health may issue the order granting the exemption as 460
provided under division (A) of this section. If the director 461
denies the proposed exemption, the board of health shall not issue 462
the order. 463

(C) The director's determination under this section is not 464
appealable. 465

Sec. 3714.05. The board of health of each health district 466
maintaining a program on the approved list under ~~division (A) or~~ 467
~~(B)(1) or (2)~~ of section 3714.09 of the Revised Code shall provide 468
for the issuance of permits to install for and the inspection or 469
of, licensing of, and enforcement of standards governing 470
construction and demolition debris facilities under this chapter 471
and rules adopted under it. The director of environmental 472
protection shall provide for the issuance of permits to install 473
for construction and demolition debris facilities, the inspection 474
and licensing of ~~construction and demolition debris~~ facilities, 475
and the enforcement of standards in health districts that are not 476
on the approved list under those divisions and may provide for the 477
inspection of the facilities and enforcement of standards in 478
health districts that are on the approved list under those 479
divisions. Further, the director may provide for the issuance of 480
permits to install in a health district on the approved list if so 481
requested by the applicable board of health under section 3714.051 482
of the Revised Code. 483

Sec. 3714.051. (A)(1) Not later than ninety days after the 484
effective date of this section and in accordance with rules 485
adopted under section 3714.02 of the Revised Code, the director of 486
environmental protection shall establish a program for the 487
issuance of permits to install for new construction and demolition 488
debris facilities and the modification of existing construction 489
and demolition debris facilities. 490

(2) On and after the effective date of this section, no 491
person shall modify an existing or establish a new construction 492
and demolition debris facility without first obtaining a permit to 493
install issued by the board of health of the health district in 494
which the facility is or is to be located or from the director if 495
the facility is or is to be located in a health district that is 496
not on the approved list under section 3714.09 of the Revised 497
Code. 498

(B) The director, the director's authorized representative, a 499
board of health, or an authorized representative of the board may 500
assist an applicant for a permit to install during the permitting 501
process by providing guidance and technical assistance. 502

(C) An applicant for a permit to install shall submit an 503
application to a board of health or the director, as applicable, 504
on a form that the director prescribes. The applicant shall 505
include with the application all of the following: 506

(1) The name and address of the applicant, of all partners if 507
the applicant is a partnership or of all officers and directors if 508
the applicant is a corporation, and of any other person who has a 509
right to control or in fact controls management of the applicant 510
or the selection of officers, directors, or managers of the 511
applicant; 512

(2) The designs and plans for the proposed construction and 513
demolition debris facility or modification of a facility that 514

include the proposed location of the facility or modification, 515
design and construction plans and specifications, anticipated 516
beginning and ending dates for work performed, and any other 517
related information that the director requires by rule; 518

(3) The information required under section 3714.052 of the 519
Revised Code; 520

(4) An application fee of two thousand dollars. A board of 521
health shall deposit money collected under division (C)(4) of this 522
section into the special fund of the health district created under 523
section 3714.07 of the Revised Code. The director shall transmit 524
money collected under division (C)(4) of this section to the 525
treasurer of state to be credited to the construction and 526
demolition debris facility oversight fund created in that section. 527
Not later than six months after the issuance of a permit to 528
install, a board of health or the director, as applicable, shall 529
refund the application fee received under division (C)(4) of this 530
section to the person that submitted the application for the 531
permit to install. 532

(5) Any other information required by the director in 533
accordance with rules adopted under section 3714.02 of the Revised 534
Code. 535

(D) A permit to install may be issued with terms and 536
conditions that a board of health or the director, as applicable, 537
finds necessary to ensure that the facility will comply with this 538
chapter and rules adopted under it and to protect public health 539
and safety and the environment. 540

(E) A permit to install shall expire after a time period 541
specified by the director or board of health, as applicable, in 542
accordance with rules adopted under section 3714.02 of the Revised 543
Code unless the applicant has undertaken a continuing program of 544
construction or has entered into a binding contractual obligation 545

to undertake and complete a continuing program of construction 546
within a reasonable time, in which case the director or board, as 547
applicable, may extend the expiration date of a permit to install 548
upon request of the applicant. 549

(F) The director or a board of health, as applicable, may 550
issue, deny, modify, suspend, or revoke a permit to install in 551
accordance with rules. 552

(G) A board of health shall notify the director of its 553
receipt of an application for a permit to install. A board of 554
health may request the director to review an application for a 555
permit to install and issue or deny it when the board determines 556
that additional expertise is required for such a review. Upon a 557
board of health's issuance of a permit to install for a 558
construction and demolition debris facility under this section, 559
the board shall mail a copy of the permit to the director together 560
with approved plans, specifications, and information regarding the 561
facility. 562

Sec. 3714.052. (A) An application for a permit to install a 563
new construction and demolition debris facility or modify an 564
existing facility that is submitted by the owner or operator of 565
the proposed new or modified facility under section 3714.051 of 566
the Revised Code shall be accompanied by all of the following: 567

(1) A listing of all construction and demolition debris 568
facilities that the owner or operator of the proposed new or 569
modified construction and demolition debris facility has operated 570
or is operating in this state; 571

(2) A listing of the construction and demolition debris 572
facilities that the owner or operator has operated or is operating 573
elsewhere in the United States together with a listing of the 574
construction and demolition debris facilities that the owner or 575

operator has operated or is operating outside the United States; 576

(3) A listing of all administrative enforcement orders issued 577
to the owner or operator, all civil actions in which the owner or 578
operator was determined by the trier of fact to be liable in 579
damages or was the subject of injunctive relief or another type of 580
civil relief, and all criminal actions in which the owner or 581
operator pleaded guilty or was convicted, during the fifteen years 582
immediately preceding the submission of the application, in 583
connection with any violation of an applicable state or federal 584
law pertaining to environmental protection that was alleged to 585
have occurred or to be occurring at any construction and 586
demolition debris facility that the owner or operator has operated 587
or is operating in the United States or with any violation of the 588
environmental laws of another country that was alleged to have 589
occurred or to be occurring at any construction and demolition 590
debris facility that the owner or operator has operated or is 591
operating outside the United States; 592

(4) A listing of all administrative enforcement orders, civil 593
actions, or criminal actions pending at the time of the submission 594
of the application for a permit to install in connection with a 595
violation of any applicable state or federal law or law of another 596
country pertaining to environmental protection that was alleged to 597
have occurred or to be occurring at any construction and 598
demolition debris facility that the owner or operator has operated 599
or is operating in the United States or outside the United States. 600

The lists of construction and demolition debris facilities 601
operated by the owner or operator within or outside this state or 602
outside the United States shall include all such facilities 603
operated by the owner or operator during the fifteen-year period 604
immediately preceding the submission of the application. 605

(B) If the applicant for a permit to install has been 606

involved in any prior activity involving the operation of a
construction and demolition debris 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 persons associated with the applicant, in the
operation of construction and demolition debris facilities, have 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 or modified construction and demolition debris
facility in substantial compliance with this chapter and rules
adopted under it.

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Sec. 3714.053. Not later than sixty days after the receipt of
an application for a permit to install a new construction and
demolition debris facility or to modify an existing facility, the
director of environmental protection or a board of health, as
applicable, 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 person that submitted the application 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 person that
submitted the application shall provide notification of the public
hearing by certified mail to the owner of each parcel of real

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property that is adjacent to the facility or proposed facility.

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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.

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(B) During the month of December, but before the first day of 671
January of the next year, each person proposing to continue with 672
~~construction or~~ operation of a construction and demolition debris 673
facility shall procure a license for the facility for that year 674
from the board of health of the health district in which the 675
facility is located or, if the facility is located in a health 676
district that is not on the approved list under ~~division (A) or~~ 677
~~(B)(1) or (2)~~ of section 3714.09 of the Revised Code, from the 678
director. The application for a license shall be submitted to the 679
board of health or the director, as appropriate, on or before the 680
last day of September of the year preceding that for which the 681
license is sought. However, an application for a license for a new 682
facility or modification of an existing facility shall be 683
submitted at the time that an application for a permit to install 684
is submitted for the facility under section 3714.051 of the 685
Revised Code; the license shall be valid until the time that the 686
next annual license is required to be obtained for the facility 687
under this section. A person who has received a license, upon sale 688
or disposition of the facility, may, with the consent of the board 689
or the director, as appropriate, have the license transferred to 690
another person. 691

(C) ~~The owner or operator of a construction and demolition~~ 692
~~debris facility that is in operation or under construction on the~~ 693
~~effective date of this section shall, within six months after the~~ 694
~~effective date of the rules adopted under section 3714.02 of the~~ 695
~~Revised Code, submit to the board of the health district in which~~ 696
~~the facility is located or under construction an application for a~~ 697
~~construction and demolition debris facility installation and~~ 698
~~operation license and accompanying plans, specifications, and~~ 699
~~information regarding the facility and its method of operation. If~~ 700
~~the health district in which such an existing facility is not on~~ 701
~~the approved list under division (A) or (B)(1) or (2) of section~~ 702

~~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 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 735
also mail with the license a copy of the approved plans, 736
specifications, and information regarding the facility and its 737
method of operation. 738~~

Sec. 3714.061. (A) A person who submits an application under 739
section 3714.06 of the Revised Code for an initial license to 740
operate a construction and demolition debris facility shall submit 741
with the application the plans for the operation of the facility 742
that are required by rules adopted under section 3714.02 of the 743
Revised Code. In addition, the owner or operator of the facility 744
shall submit any necessary updates to the plans for the operation 745
of the facility as required by rules adopted under that section 746
when submitting an application under section 3714.06 of the 747
Revised Code for an annual license for the continued operation of 748
the facility. The plans for the operation of the facility shall 749
include the plan for effective action in response to fire or 750
explosion at the facility as required by rules adopted under 751
section 3714.02 of the Revised Code. 752

(B) A person who submits an application under section 3714.06 753
of the Revised Code for an initial license to operate a 754
construction and demolition debris facility shall provide, at the 755
time that the application is submitted, to the fire department 756
that would respond to the facility a copy of the plan for 757
effective action in response to fire or explosion at the facility 758
that is required by rules adopted under section 3714.02 of the 759
Revised Code. In addition, the owner or operator of the facility 760
shall submit any necessary updates to the plan as required by 761
rules adopted under that section at the time that the owner or 762
operator submits an application under section 3714.06 of the 763
Revised Code for an annual license for continued operation of the 764
facility. 765

Sec. 3714.062. (A) The director of environmental protection, 766
in consultation with boards of health and a statewide association 767
representing construction and demolition debris facilities, shall 768
establish a program for the certification of operators of 769
construction and demolition debris facilities and shall establish 770
continuing education training requirements for those operators as 771
part of the certification program. 772

(B) The program for the certification of operators, including 773
the continuing education training requirements, shall include 774
instruction in and shall emphasize, at a minimum, both of the 775
following: 776

(1) The laws governing construction and demolition debris 777
facilities and disposal of construction and demolition debris; 778

(2) Best management practices governing construction and 779
demolition debris facilities and disposal of construction and 780
demolition debris. 781

(C) The director shall approve persons who provide continuing 782
education training for operators of construction and demolition 783
debris facilities. 784

(D) An operator shall successfully complete a minimum of ten 785
hours of continuing education training each calendar year. No 786
operator shall fail to comply with this division. 787

Sec. 3714.071. (A) For the purpose of funding and conducting 788
ground water monitoring at construction and demolition debris 789
facilities by boards of health of health districts that are on the 790
approved list under section 3714.09 of the Revised Code and the 791
director of environmental protection, the director may adopt rules 792
under Chapter 119. of the Revised Code for the purpose of levying 793
a fee of not more than five cents per cubic yard or ten cents per 794
ton on the disposal of construction and demolition debris at a 795

construction and demolition debris facility that is licensed under 796
this chapter. Such a fee shall be in addition to the fee that is 797
levied under section 3714.07 of the Revised Code. If the director 798
adopts rules under this section establishing a fee on the disposal 799
of construction and demolition debris at a construction and 800
demolition debris facility, the rules shall be subject to review 801
every five years by the joint committee on agency rule review. 802

The owner or operator of a construction and demolition debris 803
facility shall collect the fee levied under rules adopted under 804
this section as a trustee for the health district having 805
jurisdiction over the facility, if that district is on the 806
approved list under section 3714.09 of the Revised Code, or for 807
the state. The owner or operator shall collect and remit the fee 808
in the same manner that the fee levied under section 3714.07 of 809
the Revised Code is collected and remitted. 810

The money collected by a board of health under this section 811
shall be paid into a special fund, which is hereby created in each 812
health district, and used solely to fund and conduct ground water 813
monitoring at construction and demolition debris facilities within 814
the health district as specified in division (B) of this section. 815
Of the money that is collected, a board of health shall transmit 816
eighty per cent of the money received from the owner or operator 817
of a facility under this section to the director not later than 818
forty-five days after the receipt of the money. 819

The director shall transmit all money received under this 820
section to the treasurer of state to be credited to the 821
construction and demolition debris facility ground water 822
monitoring fund, which is hereby created in the state treasury. 823
The director shall administer the fund and shall use money 824
credited to it solely for the purposes specified in division (B) 825
of this section. 826

(B) A board of health or the director, as applicable, shall 827
conduct ground water monitoring at construction and demolition 828
debris facilities in accordance with this section. In order to 829
conduct the monitoring, the board or director, as applicable, 830
shall pay for the installation of ground water monitoring wells, 831
ground water sampling, and the laboratory analysis of the ground 832
water samples at a construction and demolition debris facility in 833
accordance with either of the following, as applicable: 834

(1) If the facility is operating before ~~the effective date of~~ 835
~~this section~~ April 15, 2005, and the facility has not had ground 836
water monitoring wells installed and operating before that date, 837
the board of health or director, as applicable, shall pay the cost 838
of the installation of one or more ground water monitoring wells 839
and the annual sampling and laboratory analysis of the ground 840
water at the facility. 841

(2) If the facility is operating before ~~the effective date of~~ 842
~~this section~~ April 15, 2005, and the facility has had one or more 843
ground water monitoring wells installed and operating before that 844
date, the board of health or director, as applicable, shall pay 845
the cost of the installation of one or more additional ground 846
water monitoring wells and the annual sampling and laboratory 847
analysis of the ground water at the facility that exceeds the 848
facility's annual cost of ground water monitoring certified under 849
division (C) of this section by the owner or operator of the 850
facility. 851

A board of health or the director, as applicable, shall not 852
pay any costs under this section for the installation of ground 853
water monitoring wells, ground water sampling, or the laboratory 854
analysis of ground water samples at or from a construction and 855
demolition debris facility for which a permit to install has been 856
issued under section 3714.051 of the Revised Code or at or from a 857
modification of a facility for which a permit to install has been 858

issued under that section.

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(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.

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(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.

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

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(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.

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Sec. 3714.081. (A) A construction and demolition debris

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facility shall not accept pulverized debris except as provided in 889
division (B) of this section. 890

(B) Pulverized debris may be accepted at a construction and 891
demolition debris facility if it has been certified as 892
construction and demolition debris in accordance with rules 893
adopted under section 3714.02 of the Revised Code. 894

(C) The board of health of a health district in which a 895
construction and demolition debris facility is located, the 896
director of environmental protection, or an authorized 897
representative of either may request the removal of pulverized 898
debris that has been brought to the construction and demolition 899
debris facility. Upon the receipt of such a request, the owner or 900
operator of the facility shall do one of the following: 901

(1) Immediately cause the pulverized debris to be removed 902
from the facility; 903

(2) Store the pulverized debris at a location at the facility 904
where construction and demolition debris is not disposed of for 905
not more than ten days after the receipt of a request to remove 906
the debris from the facility. Not later than the end of the 907
ten-day period, the owner or operator shall cause the pulverized 908
debris to be removed from the facility. 909

Sec. 3714.082. (A) A construction and demolition debris 910
facility shall not accept material from a transfer facility unless 911
the transfer facility has certified that the material is 912
construction and demolition debris. A transfer facility shall not 913
transfer material to a construction and demolition debris facility 914
unless the transfer facility has provided such certification to 915
the owner or operator of the construction and demolition debris 916
facility. Certification shall be in a written form prescribed by 917
the director of environmental protection and shall be included 918

with each shipment of material certifying that the material is 919
construction and demolition debris. The certification shall be 920
provided to the owner or operator of a construction and demolition 921
debris facility at the time that the construction and demolition 922
debris that is the subject of the certification is presented at 923
the facility for disposal. The owner or operator of the 924
construction and demolition debris facility shall keep a copy of 925
the certification. 926

(B) If a transfer facility fails to provide certification to 927
the owner or operator of a construction and demolition debris 928
facility as required under this section, or if a transfer facility 929
falsely certifies debris as construction and demolition debris to 930
the owner or operator of a construction and demolition debris 931
facility, the owner or operator immediately shall notify the 932
director of the lack of certification or of the falsely certified 933
debris. The director subsequently shall investigate the 934
information provided by the owner or operator. 935

If, through the investigation, the director verifies the 936
information provided by the owner or operator, the director may 937
issue an order in the same manner as provided in section 3714.12 938
of the Revised Code prohibiting any construction and demolition 939
debris facility in this state from accepting construction and 940
demolition debris from the transfer facility for a time period 941
specified in the order. The director shall provide written 942
notification of the order to each owner or operator of a 943
construction and demolition debris facility in this state. 944

Sec. 3714.083. (A) If the owner or operator of a construction 945
and demolition debris facility rejects a shipment of debris 946
because the shipment is not eligible for disposal at the facility 947
under this chapter and rules adopted under it, the owner or 948
operator shall notify the director of environmental protection of 949

the rejection of the shipment. 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 shipment was rejected, the name of the transporter of the shipment, and the reason for rejecting the shipment.

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(B) A transporter of a shipment that has been rejected under division (A) of this section shall notify the director of the ultimate disposition of the shipment after the shipment'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 shipment was ultimately disposed of after its rejection, the location of the disposal, and the name of the owner or operator of the construction and demolition debris facility or solid waste facility that accepted the shipment for disposal.

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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 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.

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(B)(1) Upon the request of the board of health of a health

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district that is not on the approved list under division (A) or 981
(B) of section 3734.08 of the Revised Code, the director may place 982
the board on the approved list for the purpose of permitting and 983
licensing construction and demolition debris facilities under 984
~~section 3714.06 of the Revised Code~~ this chapter if the director 985
determines that the board is both capable of and willing to 986
enforce all of the applicable requirements of this chapter and 987
rules adopted under it. 988

(2) The director shall annually survey each health district 989
on the approved list under division (B)(1) of this section to 990
determine whether there is substantial compliance with this 991
chapter and rules adopted under it. Upon determining that there is 992
substantial compliance, the director shall place the health 993
district on the approved list under that division. The director 994
shall make a resurvey when in the director's opinion a resurvey is 995
necessary and shall remove from the approved list under division 996
(B)(1) of this section any health district not substantially 997
complying with this chapter and rules adopted under it. 998

(3) If, after a survey or resurvey is made under division 999
(B)(2) of this section, the director determines that a health 1000
district is not eligible to be placed on the approved list or to 1001
continue on that list, the director shall certify that fact to the 1002
board of health of the health district and shall administer and 1003
enforce this chapter and rules adopted under it in the health 1004
district until such time as the health district is placed on the 1005
approved list. 1006

(4) Whenever the director is required to administer and 1007
enforce this chapter in any health district under division (A) or 1008
(B)(3) of this section, the director is hereby vested with all of 1009
the authority and all the duties granted to or imposed upon a 1010
board of health under this chapter and rules adopted under it 1011
within the health district. All disposal fees required to be paid 1012

to a board of health by section 3714.07 of the Revised Code and 1013
all such previous fees paid to the board, together with any money 1014
from construction and demolition debris facility license fees that 1015
were required to be paid to the board under section 3714.07 of the 1016
Revised Code as that section existed prior to ~~the effective date~~ 1017
~~of this amendment~~ April 15, 2005, that have not been expended or 1018
encumbered shall be paid to the director and deposited by the 1019
director to the credit of the construction and demolition debris 1020
facility oversight fund created in section 3714.07 of the Revised 1021
Code. 1022

(C) Nothing in this chapter limits the authority of the 1023
director to initiate and pursue any administrative remedy or to 1024
request the attorney general, the prosecuting attorney of the 1025
appropriate county, or the city director of law of the appropriate 1026
city to initiate and pursue any appropriate judicial remedy 1027
available under this chapter to enforce any provision of this 1028
chapter and any rules or terms or conditions of any permit or 1029
license or order adopted or issued under this chapter with respect 1030
to any construction and demolition debris facility regardless of 1031
whether the facility is located in a health district that is on 1032
the approved list under ~~division (A) or (B)(1) or (2) of this~~ 1033
section. 1034

Sec. 3714.11. (A) The attorney general, the prosecuting 1035
attorney of the county, or the city director of law where a 1036
violation has occurred, is occurring, or may occur, upon the 1037
request of the respective board of health of the health district, 1038
the legislative authority of the political subdivision in which a 1039
violation has occurred, is occurring, or may occur, or the 1040
director of environmental protection, shall prosecute to 1041
termination or bring an action for injunction against any person 1042
who has violated, is violating, or is threatening to violate any 1043

section of this chapter, applicable rules adopted under it, or 1044
terms or conditions of a permit, license, or order issued under 1045
it. The court of common pleas in which an action for injunction is 1046
filed has the jurisdiction to and shall grant preliminary and 1047
permanent injunctive relief upon a showing that the person against 1048
whom the action is brought has violated, is violating, or is 1049
threatening to violate any section of this chapter, applicable 1050
rules adopted under it, or terms or conditions of a permit, 1051
license, or order issued under it. The court shall give precedence 1052
to such an action over all other cases. 1053

(B) If the board of health of the health district in which a 1054
violation has occurred or is occurring or the director determines 1055
that any person has violated or is violating this chapter, a rule 1056
adopted under it, or a term or condition of a permit, license, or 1057
order issued under it, the board or the director may request in 1058
writing that the attorney general, the prosecuting attorney of the 1059
county, or the city director of law where the violation has 1060
occurred or is occurring ~~to~~ bring an action for civil penalties in 1061
any court of competent jurisdiction. Such an action shall have 1062
precedence over all other cases. The court may impose upon the 1063
person a civil penalty of not more than ten thousand dollars for 1064
each day of each violation of this chapter, a rule adopted under 1065
it, or a term or condition of a permit, license, or order issued 1066
under it. 1067

Moneys resulting from civil penalties imposed by an action 1068
brought at the request of the board of health shall be credited to 1069
the special fund of the health district created in section 3714.07 1070
of the Revised Code. Moneys resulting from civil penalties imposed 1071
by an action brought at the request of the director shall be 1072
credited to the hazardous waste clean-up fund created in section 1073
3734.28 of the Revised Code. 1074

Any action under this division is a civil action, governed by 1075

the Rules of Civil Procedure. 1076

(C) The director and board of health, within their respective 1077
territorial jurisdictions, may, upon their own initiative, 1078
investigate or make inquiries regarding the disposal of 1079
construction and demolition debris. 1080

(D) This chapter does not abridge rights of action or 1081
remedies in equity, under common law, or as provided by statute or 1082
prevent the state or any municipal corporation or person in the 1083
exercise of their rights in equity, under common law, or as 1084
provided by statute to suppress nuisances or to abate or prevent 1085
pollution. 1086

Sec. 3714.12. (A) The board of health of a health district 1087
may make orders in accordance with section 3709.20 or 3709.21 of 1088
the Revised Code to a permit or license holder or other person to 1089
abate, within a specified, reasonable time, a violation of any 1090
section of this chapter, a rule adopted under it, or a term or 1091
condition of a permit or license issued under it. The director of 1092
environmental protection may issue enforcement orders in 1093
accordance with Chapter 3745. of the Revised Code to a permit or 1094
license holder or other person to abate, within a specified, 1095
reasonable time, a violation of any section of this chapter, a 1096
rule adopted under it, or a term or condition of a permit or 1097
license issued under it. 1098

(B) If the board of health or the director determines that 1099
conditions at a construction and demolition debris facility or 1100
other location where construction and demolition debris is being 1101
disposed of are causing or threatening to cause an imminent and 1102
substantial threat to public health or safety or the environment 1103
or an imminent and substantial risk of fire and that, due to any 1104
of those conditions, an emergency exists requiring immediate 1105
action to protect the public health or safety or the environment, 1106

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 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 1137
or paving brick, or building or paving stone resulting from the 1138
alteration, construction, destruction, rehabilitation, or repair 1139
of any ~~manmade~~ physical structure that is built by humans as fill 1140
material on or in any land owned, leased, or controlled by the 1141
person, other than on the site where the materials were so 1142
generated or removed, without providing written notice to the 1143
board of health of the health district in which the land is 1144
located or, if the health district is not on the approved list 1145
under ~~division (A) or (B)(1) or (2) of~~ section 3714.09 of the 1146
Revised Code, to the director of environmental protection at least 1147
seven days prior to the first placement of any such materials as 1148
fill material at the off-site location. 1149

Sec. 3714.20. The director of environmental protection shall 1150
establish and maintain a computerized database or databases 1151
composed of the record made under section 3714.08 of the Revised 1152
Code of the annual inspection of each construction and demolition 1153
debris facility, information from the annual survey of each health 1154
district made under section 3714.09 or 3734.08 of the Revised 1155
Code, as applicable, and ground water and leachate data collected 1156
in accordance with rules adopted under section 3714.02 of the 1157
Revised Code. The information and data shall be stored in such a 1158
manner that they are easily retrieved and available for sharing 1159
with health districts and all other interested persons. 1160

Sec. 3734.28. All moneys collected under sections 3734.122, 1161
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 1162
Code and natural resource damages collected by the state under the 1163
"Comprehensive Environmental Response, Compensation, and Liability 1164
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 1165
be paid into the state treasury to the credit of the hazardous 1166
waste clean-up fund, which is hereby created. In addition, any 1167

moneys recovered for costs paid from the fund for activities 1168
described in ~~division~~ divisions (A)(1) and (2) of section 3745.12 1169
of the Revised Code shall be credited to the fund. The 1170
environmental protection agency shall use the moneys in the fund 1171
to conduct remediation activities at construction and demolition 1172
debris facilities licensed under Chapter 3714. of the Revised Code 1173
and for the purposes set forth in division (D) of section 1174
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 1175
3734.26, and 3734.27, and, through October 15, 2005, divisions 1176
(A)(1) and (2) of section 3745.12 and Chapter 3746. of the Revised 1177
Code, including any related enforcement expenses. In addition, the 1178
agency shall use the moneys in the fund to pay the state's 1179
long-term operation and maintenance costs or matching share for 1180
actions taken under the "Comprehensive Environmental Response, 1181
Compensation, and Liability Act of 1980," as amended. If those 1182
moneys are reimbursed by grants or other moneys from the United 1183
States or any other person, the moneys shall be placed in the fund 1184
and not in the general revenue fund. 1185

Section 2. That existing sections 3714.01, 3714.02, 3714.03, 1186
3714.04, 3714.05, 3714.06, 3714.071, 3714.09, 3714.11, 3714.12, 1187
3714.13, and 3734.28 of the Revised Code are hereby repealed. 1188

Section 3. This act is hereby declared to be an emergency 1189
measure necessary for the immediate preservation of the public 1190
peace, health, and safety. The reason for such necessity is that a 1191
moratorium on the siting of new construction and demolition debris 1192
facilities and the expansion of existing facilities is due to 1193
expire on December 31, 2005, and additional statutory requirements 1194
related to such facilities are necessary to protect public health 1195
and the environment. Therefore, this act shall go into immediate 1196
effect. 1197