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Am. Sub. H. B. No. 397

Representatives Hagan, Collier, Law, Harwood, Schaffer, Cassell, DeBose,
Domenick, Book, Brown, Carano, Chandler, Evans, C., Evans, D., Flowers,
McGregor, J., Miller, Oelslager, Patton, S., Peterson, Seitz, Setzer, Smith, G.,
Stewart, J., Uecker, Webster, Williams, Yates

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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, 3714.07, 3714.071, 3714.073, 2
3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3
3734.57, 3745.04, 3745.05, and 3745.06 and to 4
enact sections 3714.051, 3714.052, 3714.053, 5
3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 6
3714.101, and 3714.20 of the Revised Code to 7
revise the statutes governing construction and 8
demolition debris facilities and to declare an 9
emergency. 10

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

Section 1. That sections 3714.01, 3714.02, 3714.03, 3714.04, 11
3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 3714.11, 12
3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, and 3745.06 13
be amended and sections 3714.051, 3714.052, 3714.053, 3714.061, 14
3714.062, 3714.081, 3714.082, 3714.083, 3714.101, and 3714.20 of 15
the Revised Code be enacted to read as follows: 16

Sec. 3714.01. As used in this chapter: 17

(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 81
demolition has occurred, but prior to acceptance of the load of 82
debris for disposal, has been shredded, crushed, ground, or 83
otherwise rendered to such an extent that the load of debris is 84
unidentifiable as construction and demolition debris. 85

(J) "Qualified ground water scientist" means a scientist or 86
engineer who has received a baccalaureate or post-graduate degree 87
in the natural sciences or engineering and has at least five years 88
of relevant experience in ground water hydrogeology and related 89
fields that enable that individual to make sound professional 90
judgments regarding ground water monitoring, contaminant fate and 91
transport, and corrective measures. 92

(K) "Storage" means the holding of construction and 93
demolition debris for a temporary period in such a manner that it 94
remains retrievable and substantially unchanged and, at the end of 95
the period, is disposed of or reused or recycled in a beneficial 96
manner. 97

(L) "Transfer facility" means a site, location, tract of 98
land, installation, or building that is primarily used or intended 99
to be used for the purpose of transferring construction and 100
demolition debris that was generated off the premises of the 101
facility from vehicles or containers into other vehicles or 102
containers for transportation to a construction and demolition 103
debris facility. 104

Sec. 3714.02. ~~Within twelve months after July 24, 1990, the~~ 105
The director of environmental protection shall adopt, and may 106
amend and rescind, rules in accordance with Chapter 119. of the 107
Revised Code governing construction and demolition debris 108
facilities and the inspection of and issuance of permits to 109
install and licenses for those facilities. The rules shall ensure 110
that the facilities will not create a nuisance, fire hazard, or 111

health hazard or cause or contribute to air or water pollution. 112

The rules shall establish all of the following: 113

(A) Standards and procedures for the ~~design and construction~~ 114
~~of facilities. These standards may include, without limitation,~~ 115
~~requirements for diking around the areas where debris is buried to~~ 116
~~prevent runoff of surface water onto adjacent property.~~ issuance 117
of permits to install under section 3714.051 of the Revised Code 118
that shall include all of the following: 119

(1) Information that must be included in the designs and 120
plans required to be submitted with the application for a permit 121
to install under section 3714.051 of the Revised Code and criteria 122
for approving, disapproving, or requiring modification of the 123
designs and plans; 124

(2) Information that must be included with an application for 125
a permit to install in addition to the information required under 126
section 3714.051 of the Revised Code; 127

(3) Procedures for the issuance, denial, modification, 128
transfer, suspension, and revocation of permits to install; 129

(4) Grounds for the denial, modification, suspension, or 130
revocation of permits to install; 131

(5) A requirement that a person that is required to obtain 132
both a permit to install under section 3714.051 of the Revised 133
Code and a license under section 3714.06 of the Revised Code 134
obtain both the permit and license prior to operation; 135

(6) Criteria for establishing time periods after which a 136
permit to install expires; 137

(7) Any other requirements that the director determines 138
necessary in order to establish the program for the issuance of 139
permits to install under section 3714.051 of the Revised Code. 140

(B) Standards for ~~control over access to facilities;~~ the 141

design and construction of facilities. The standards may include, 142
without limitation, requirements for diking around the areas where 143
debris is buried to prevent runoff of surface water onto adjacent 144
property. 145

(C) Standards for control over access to facilities and for 146
the operation of facilities, including, without limitation, 147
standards for the compaction and covering of debris disposed of 148
and standards regarding equipment used for the operation of 149
facilities; 150

(D) Criteria and procedures for granting authorization to the 151
owner or operator of a facility to dispose of asbestos or 152
asbestos-containing materials or products at his the owner's or 153
operator's facility; 154

(E) Requirements for the installation of ground water 155
monitoring wells and the monitoring of ground water quality at any 156
facility where the operation of the facility threatens to 157
contaminate ground water~~+~~. The rules shall require that ground 158
water monitoring be capable of determining impacts resulting from 159
the operation of construction and demolition debris facilities. 160
The rules also shall include provisions for ground water 161
assessment and corrective actions for impacts to ground water. 162
Further, the rules shall require that the owner or operator of a 163
construction and demolition debris facility submit a monitoring 164
report to the director or a board of health, as applicable, that 165
has been prepared by a qualified ground water scientist and that 166
includes all of the following: 167

(1) A determination of any impacts to ground water from the 168
migration of contaminants from the construction and demolition 169
debris facility; 170

(2) A list of the contaminants from the facility that may be 171
causing contamination of ground water; 172

(3) Recommendations for actions, if any are necessary, that 173
should be taken to investigate or remediate the source of any 174
ground water contamination. 175

(F) Requirements for the monitoring and sampling of leachate. 176
The rules adopted under division (F) of this section shall include 177
all of the following: 178

(1) A requirement that the owner or operator of a 179
construction and demolition debris facility provide for sampling 180
of leachate at least annually. However, the rules shall require 181
that if leachate is recirculated through a facility, the leachate 182
be sampled at least every calendar quarter. 183

(2) A requirement that the owner or operator of a facility 184
sample for at least seventy-seven parameters that the director 185
shall establish in the rules, which shall include arsenic, copper, 186
and chromium; 187

(3) Requirements governing facilities that do not have a 188
system for sampling leachate. The rules shall require that the 189
owner or operator of such a facility monitor ground water in 190
accordance with the rules adopted under division (E) of this 191
section for the parameters established in the rules adopted under 192
division (F)(2) of this section. 193

(4) A requirement that a facility that monitors ground water 194
and leachate add to the parameters monitored by the ground water 195
monitoring system any parameter that is detected through the 196
monitoring of leachate; 197

(5) Requirements governing the reporting of leachate sampling 198
data. The rules shall require that reports be submitted to the 199
director and the applicable board of health. 200

(G) Requirements respecting written, narrative plans for the 201
operation of facilities. The rules shall require the owner or 202

operator of a facility to use best management practices. In 203
addition, the rules shall require as a part of the plan of 204
operation of a facility the inclusion of the contingency plans 205
required in rules adopted under division (H) of this section. 206

~~(G)~~(H) Requirements respecting contingency plans for 207
effective action in response to fire or explosion at a facility or 208
to hydrogen sulfide or other gases created by the operation of a 209
facility that pose a nuisance, cause an offensive odor, or pose a 210
threat to public health or safety or the environment; 211

~~(H)~~(I) Financial assurance requirements for the closure and 212
post-closure care of facilities. ~~The~~ as follows: 213

(1) The rules establishing the financial assurance 214
requirements for the closure of facilities shall require that the 215
owner or operator of a facility, before being issued a an initial 216
license for the facility under section 3714.06 of the Revised 217
Code, submit a surety bond, a letter of credit, or other 218
acceptable financial assurance, as specified by the director in 219
the rules, in an amount ~~equal to the estimated costs for closure~~ 220
~~of those portions of the facility that have been, are being, or~~ 221
~~are to be used for the disposal of construction and demolition~~ 222
~~debris as contained in the closure plan for the facility approved~~ 223
~~by the board of health of the health district in which the~~ 224
~~facility is or is to be located or, if the facility is or is to be~~ 225
~~located in a health district that is not on the approved list~~ 226
~~under division (A) or (B)(1) or (2) of section 3714.09 of the~~ 227
~~Revised Code,~~ determined by the director or the appropriate board 228
of health, as applicable. The rules shall include a list of the 229
activities for which financial assurance may be required. The 230
rules shall allow the director or board of health, as applicable, 231
to adjust the amount of a surety bond, a letter of credit, or 232
other acceptable financial assurance in conjunction with the 233
issuance of an annual license. However, the rules shall require 234

that the amount of a surety bond, letter of credit, or other 235
acceptable financial assurance for the closure of a facility be 236
not less than thirteen thousand dollars per acre of land that has 237
been or is being used for the disposal of construction and 238
demolition debris. The rules shall require an explanation of the 239
rationale for financial assurance amounts exceeding thirteen 240
thousand dollars per acre. 241

(2) The rules establishing the financial assurance 242
requirements for the post-closure care of facilities shall address 243
the maintenance of the facility, continuation of any required 244
monitoring systems, and performance and maintenance of any 245
specific requirements established in rules adopted under division 246
(K) of this section or through a permit, license, or order of the 247
director. The rules also shall allow the director or board of 248
health, as applicable, to determine the amount of a surety bond, a 249
letter of credit, or other acceptable financial assurance for the 250
post-closure care of a facility based on a required cost estimate 251
for the post-closure care of the facility. The rules shall require 252
that the owner or operator of a facility provide post-closure 253
financial assurance for a period of five years after the closure 254
of a facility. However, the rules shall stipulate that 255
post-closure care financial assurance may be extended beyond the 256
five-year period if the extension of the post-closure care period 257
is required under rules adopted under division (K) of this 258
section. 259

~~(I)~~(J) Requirements for the closure of facilities. The 260
requirements shall include minimum requirements for the closure of 261
all facilities and such additional requirements as are reasonably 262
related to the location of the facility and the type and quantity 263
of materials disposed of in the facility. The rules shall require 264
that an owner or operator of a facility, upon the closure of the 265
facility, file in the office of the county recorder of the county 266

in which the facility is located a notice that the property was 267
previously used as a construction and demolition debris facility. 268
The rules shall require that the notice be filed in the same 269
manner as a deed to the property. The rules shall require that the 270
notice include an engineering drawing attachment showing the 271
physical locations of debris placement, an indication of the 272
volumes of debris, and an indication of the depth of the final 273
cover material. 274

(K) Requirements for the post-closure care of facilities for 275
a period of five years after the closure of a facility. However, 276
the rules shall require that the post-closure care period may be 277
extended by order of the applicable board of health, the director, 278
or a court of competent jurisdiction if conditions at a facility 279
are impacting public health or safety or the environment or if 280
ground water assessment and corrective measures are required to be 281
conducted at the facility under rules adopted under division (E) 282
of this section. This division does not limit the authority of the 283
director, a board of health, or a court of competent jurisdiction 284
to issue an order under any other applicable chapter of the 285
Revised Code. 286

The rules adopted under this division shall specify both of 287
the following: 288

(1) With respect to a facility that permanently ceases 289
acceptance of construction and demolition debris in calendar year 290
2006, the post-closure care and post-closure care financial 291
assurance requirements do not apply, provided that the owner or 292
operator of the facility gives written notice of the date of the 293
cessation to the applicable board of health or the director, the 294
owner or operator of the facility does not submit a subsequent 295
application for a license renewal for the facility after that 296
cessation, and no order was issued by the applicable board of 297
health, the director, or a court of competent jurisdiction 298

governing the post-closure care of and post-closure financial 299
assurance for that facility prior to the date specified in the 300
written notice. 301

(2) With respect to a facility that permanently ceases 302
acceptance of construction and demolition debris in calendar year 303
2007, the required period of time for post-closure care and 304
post-closure care financial assurance shall be one year after the 305
closure of the facility, provided that the owner or operator of 306
the facility gives written notice of the date of the cessation to 307
the applicable board of health or the director, the owner or 308
operator does not submit a subsequent application for a license 309
renewal for the facility after that cessation, and no order was 310
issued by the applicable board of health, the director, or a court 311
of competent jurisdiction governing the post-closure care of and 312
post-closure financial assurance for that facility prior to the 313
date specified in the written notice. 314

(L) Standards and procedures governing the modification of 315
operation licenses issued under section 3714.06 of the Revised 316
Code; 317

(M) Procedures and requirements governing the certification 318
of construction and demolition debris by transfer facilities as 319
required under section 3714.082 of the Revised Code; 320

(N) Requirements governing the provision of notification 321
under section 3714.083 of the Revised Code by owners and operators 322
of construction and demolition debris facilities of rejected loads 323
and by transporters and shippers of the final disposition of 324
rejected loads; 325

(O) Requirements governing the certification and training of 326
operators of construction and demolition debris facilities as 327
required under section 3714.062 of the Revised Code; 328

(P) Definitions of "owner" and "operator" for purposes of 329

this chapter.

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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.

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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.

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

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(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.

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(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

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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 391
portion of the facility is proposed to be located in either of the 392
following locations: 393

~~(A)~~(1) Within the boundaries of ~~the~~ a one-hundred-year flood 394
plain ~~of a watercourse~~, as those boundaries are shown on the 395
applicable maps prepared under the "National Flood Insurance Act 396
of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the 397
owner or operator has obtained an exemption from ~~this~~ division 398
(B)(1) of this section in accordance with section 3714.04 of the 399
Revised Code. ~~With respect to watercourses or portions thereof for~~ 400
~~which~~ If no such maps have been prepared, the boundaries of ~~the~~ a 401
one-hundred-year flood plain shall be determined by the applicant 402
for a license permit based upon ~~a design storm of seven inches of~~ 403
~~precipitation in twenty-four hours and upon~~ standard methodologies 404
set forth in "urban hydrology for small watersheds" (soil 405
conservation service technical release number 55) and section 4 of 406
the "national engineering hydrology handbook" of the soil 407
conservation service of the United States department of 408
agriculture. 409

~~(B)~~(2) Within the boundaries of a sole source aquifer 410
designated by the administrator of the United States environmental 411
protection agency under the "Safe Drinking Water Act," 88 Stat. 412
1660 (1974), 42 U.S.C.A. 300f, as amended. 413

(C) Neither the director nor any board shall issue a permit 414
to install under section 3714.051 of the Revised Code to establish 415
a new construction and demolition debris facility when the 416
horizontal limits of construction and demolition debris placement 417
at the new facility are proposed to be located in any of the 418
following locations: 419

(1) Within one hundred feet of a perennial stream as defined 420
by the United States geological survey seven and one-half minute 421
quadrangle map or a category 3 wetland; 422

(2) Within one hundred feet of the facility's property line; 423

(3)(a) Except as provided in division (C)(3)(b) of this 424
section, within five hundred feet of a residential or public water 425
supply well. 426

(b) Division (C)(3)(a) of this section does not apply to a 427
residential well under any of the circumstances specified in 428
divisions (C)(3)(b)(i) to (iii) of this section as follows: 429

(i) The well is controlled by the owner or operator of the 430
construction and demolition debris facility. 431

(ii) The well is hydrologically separated from the horizontal 432
limits of construction and demolition debris placement. 433

(iii) The well is at least three hundred feet upgradient from 434
the horizontal limits of construction and demolition debris 435
placement and division (D) of this section does not prohibit the 436
issuance of the permit to install. 437

(4) Within five hundred feet of a park created or operated 438
pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041 439
of the Revised Code, a state park established or dedicated under 440
Chapter 1541. of the Revised Code, a state park purchase area 441
established under section 1541.02 of the Revised Code, a national 442
recreation area, any unit of the national park system, or any 443
property that lies within the boundaries of a national park or 444
recreation area, but that has not been acquired or is not 445
administered by the secretary of the United States department of 446
the interior, located in this state, or any area located in this 447
state that is recommended by the secretary for study for potential 448
inclusion in the national park system in accordance with "The Act 449
of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended; 450

(5) Within five hundred feet of a natural area, any area 451
established by the department of natural resources as a state 452

wildlife area under Chapter 1531. of the Revised Code and rules 453
adopted under it, any area that is formally dedicated as a nature 454
preserve under section 1517.05 of the Revised Code, or any area 455
designated by the United States department of the interior as a 456
national wildlife refuge; 457

(6) Within five hundred feet of a lake or reservoir of one 458
acre or more that is hydrogeologically connected to ground water. 459
For purposes of division (C)(6) of this section, a lake or 460
reservoir does not include a body of water constructed and used 461
for purposes of surface water drainage or sediment control. 462

(7) Within five hundred feet of a state forest purchased or 463
otherwise acquired under Chapter 1503. of the Revised Code; 464

(8) Within five hundred feet of land that is placed on the 465
state registry of historic landmarks under section 149.55 of the 466
Revised Code; 467

(9) Within five hundred feet of an occupied dwelling unless 468
written permission is given by the owner of the dwelling. 469

(D) Neither the director nor any board shall issue a permit 470
to install under section 3714.051 of the Revised Code to establish 471
a new construction and demolition debris facility when the limits 472
of construction and demolition debris placement at the new 473
facility are proposed to have an isolation distance of less than 474
five feet from the uppermost aquifer system that consists of 475
material that has a maximum hydraulic conductivity of 1×10^{-5} 476
cm/sec and all of the geologic material comprising the isolation 477
distance has a hydraulic conductivity equivalent to or less than 1 478
 $\times 10^{-6}$ cm/sec. 479

(E) Neither the director nor any board shall issue a permit 480
to install under section 3714.051 of the Revised Code to establish 481
a new construction and demolition debris facility when the road 482
that is designated by the owner or operator as the main hauling 483

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.

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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:

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(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;

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

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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.

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(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.

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(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

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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.

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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.

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(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 or 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 ~~those 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 ~~those 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.

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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.

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(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.

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(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.

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(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:

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(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;

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(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.

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(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.

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(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.

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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.

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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:

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(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;

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(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 702
the owner or operator during the ten-year period immediately 703
preceding the submission of the application. 704

(B) If the applicant for a permit to install has been 705
involved in any prior activity involving the operation of a 706
construction and demolition debris facility or other waste 707
disposal facility, the director of environmental protection or a 708
board of health, as applicable, may deny the application if the 709
director or board finds from the application, the information 710
submitted under divisions (A)(1) to (4) of this section, pertinent 711
information submitted to the director or board, and other 712
pertinent information obtained by the director or board at the 713
director's or board's discretion that the applicant or any other 714
person listed on the application, in the operation of construction 715
and demolition debris facilities or other waste disposal 716
facilities, has a history of substantial noncompliance with state 717
and federal laws pertaining to environmental protection or the 718
environmental laws of another country that indicates that the 719
applicant lacks sufficient reliability, expertise, and competence 720
to operate the proposed new construction and demolition debris 721
facility in substantial compliance with this chapter and rules 722
adopted under it. 723

(C) At the same time that an application for an annual 724
operation license required under section 3714.06 of the Revised 725
Code is submitted, an owner or operator of a construction and 726
demolition debris facility that has submitted the information 727
required under division (A) of this section shall submit to the 728
director or board of health, as applicable, all information 729
required to be submitted under division (A) of this section that 730
has changed or been added since the issuance of the most recent 731
annual operation license for the facility. If, during that period, 732
there have been no changes in or additions to that information, 733

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.

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(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.

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(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.

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(F) In lieu of complying with this section, an applicant for
a permit to install for, or a proposed transferee of a permit to

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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~~ 829
~~(A) or (B)(1) or (2) of section 3714.09 of the Revised Code, to~~ 830
~~the director for approval as complying with those rules and~~ 831
~~standards. If the board of health or the director, as appropriate,~~ 832
~~finds that the proposed facility or modification complies with~~ 833
~~those rules and standards, the board or director shall issue a~~ 834
~~license for the facility.~~ Any such license may be issued with such 835
terms and conditions as the board or the director, as appropriate, 836
finds necessary to ensure that the facility will comply with this 837
chapter and the rules adopted under it and to protect the public 838
health and safety and the environment. Licenses issued under this 839
section expire annually on the thirty-first day of December. 840

(B) During the month of December, but before the first day of 841
January of the next year, each person proposing to continue with 842
~~construction or~~ operation of a construction and demolition debris 843
facility shall procure a license for the facility for that year 844
from the board of health of the health district in which the 845
facility is located or, if the facility is located in a health 846
district that is not on the approved list under ~~division (A) or~~ 847
~~(B)(1) or (2) of section 3714.09 of the Revised Code, from the~~ 848
director. The application for a license shall be submitted to the 849
board of health or the director, as appropriate, on or before the 850
last day of September of the year preceding that for which the 851
license is sought. A An application for a license for a new 852
facility shall be submitted prior to operation of the new 853
facility. The license shall be valid until the time that the next 854
annual license is required to be obtained for the facility under 855
this section. 856

A person who has received a license, upon sale or disposition 857
of the facility, may, with the ~~consent~~ approval of the board or 858
the director, as appropriate, have the license as well as a permit 859
to install for the facility transferred to another person. The 860

board or director may disapprove the transfer of the permit or 861
license, as applicable, for any of the reasons specified in 862
division (B) of section 3714.052 of the Revised Code for the 863
denial of an application for a permit to install. 864

~~(C) The owner or operator of a construction and demolition~~ 865
~~debris facility that is in operation or under construction on the~~ 866
~~effective date of this section shall, within six months after the~~ 867
~~effective date of the rules adopted under section 3714.02 of the~~ 868
~~Revised Code, submit to the board of the health district in which~~ 869
~~the facility is located or under construction an application for a~~ 870
~~construction and demolition debris facility installation and~~ 871
~~operation license and accompanying plans, specifications, and~~ 872
~~information regarding the facility and its method of operation. If~~ 873
~~the health district in which such an existing facility is not on~~ 874
~~the approved list under division (A) or (B)(1) or (2) of section~~ 875
~~3714.09 of the Revised Code, the owner or operator of the facility~~ 876
~~shall submit the application for a license and accompanying plans,~~ 877
~~specifications, and information regarding the facility and its~~ 878
~~method of operation to the director within that time. The board or~~ 879
~~the director, as appropriate, shall issue a license for such an~~ 880
~~existing facility within ninety days after receiving a complete~~ 881
~~application therefor and accompanying plans, specifications, and~~ 882
~~information if the board or the director finds that the facility~~ 883
~~complies with the rules adopted under section 3714.02 of the~~ 884
~~Revised Code. When issuing a license under this division for an~~ 885
~~existing facility or a license to expand any existing facility~~ 886
~~that was initially licensed under this division onto contiguous~~ 887
~~land owned by the owner or operator of the existing facility on~~ 888
~~the date on which the application for a license for the facility~~ 889
~~was submitted under this division, neither the board nor the~~ 890
~~director shall consider whether the existing facility complies~~ 891
~~with the standards set forth in divisions (A) and (B) of section~~ 892
~~3714.03 of the Revised Code.~~ 893

~~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.

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(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.

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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.

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(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:

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

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(2) Best management practices governing construction and

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demolition debris facilities and disposal of construction and
demolition debris.

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(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.

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(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.

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

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(2) The owner or operator of a construction and demolition
debris facility or a solid waste facility shall determine if cubic
yards or tons will be used as the unit of measurement. In
estimating the fee based on cubic yards, the owner or operator
shall utilize either the maximum cubic yard capacity of the
container, or the hauling volume of the vehicle, that transports
the construction and demolition debris to the facility or the

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cubic yards actually logged for disposal by the owner or operator 986
in accordance with rules adopted under section 3714.02 of the 987
Revised Code. If basing the fee on tonnage, the owner or operator 988
shall use certified scales to determine the tonnage of 989
construction and demolition debris that is transported to the 990
facility for disposal. 991

(3) The owner or operator of a construction and demolition 992
debris facility or a solid waste facility shall collect the fee 993
levied under division (A) of this section as a trustee for the 994
health district having jurisdiction over the facility, if that 995
district is on the approved list under section 3714.09 of the 996
Revised Code, or for the state. The owner or operator shall 997
prepare and file with the appropriate board of health or the 998
director of environmental protection monthly returns indicating 999
the total volume or weight, as applicable, of construction and 1000
demolition debris received for disposal at the facility and the 1001
total amount of money required to be collected on the construction 1002
and demolition debris disposed of during that month. Not later 1003
than thirty days after the last day of the month to which the 1004
return applies, the owner or operator shall mail to the board of 1005
health or the director the return for that month together with the 1006
money required to be collected on the construction and demolition 1007
debris disposed of during that month. The owner or operator may 1008
request, in writing, an extension of not more than thirty days 1009
after the last day of the month to which the return applies. A 1010
request for extension may be denied. If the owner or operator 1011
submits the money late, the owner or operator shall pay a penalty 1012
of ten per cent of the amount of the money due for each month that 1013
it is late. 1014

(4) Of the money that is collected from a construction and 1015
demolition debris facility or a solid waste facility on a per 1016
cubic yard or per ton basis under this section, a board of health 1017

shall transmit three cents per cubic yard or six cents per ton, as 1018
applicable, to the director not later than forty-five days after 1019
the receipt of the money. The money retained by a board of health 1020
under this section shall be paid into a special fund, which is 1021
hereby created in each health district, and used solely to 1022
administer and enforce this chapter and rules adopted under it. 1023

The director shall transmit all money received from the 1024
boards of health of health districts under this section and all 1025
money from the disposal fee collected by the director under this 1026
section to the treasurer of state to be credited to the 1027
construction and demolition debris facility oversight fund, which 1028
is hereby created in the state treasury. The fund shall be 1029
administered by the director, and money credited to the fund shall 1030
be used exclusively for the administration and enforcement of this 1031
chapter and rules adopted under it. 1032

(B) The board of health of a health district or the director 1033
may enter into an agreement with the owner or operator of a 1034
construction and demolition debris facility or a solid waste 1035
facility for the quarterly payment of the money collected from the 1036
disposal fee. The board of health shall notify the director of any 1037
such agreement. Not later than forty-five days after receipt of 1038
the quarterly payment, the board of health shall transmit the 1039
amount established in division (A)(4) of this section to the 1040
director. The money retained by the board of health shall be 1041
deposited in the special fund of the district as required under 1042
that division. Upon receipt of the money from a board of health, 1043
the director shall transmit the money to the treasurer of state to 1044
be credited to the construction and demolition debris facility 1045
oversight fund. 1046

(C) If a construction and demolition debris facility or a 1047
solid waste facility is located within the territorial boundaries 1048
of a municipal corporation or the unincorporated area of a 1049

township, the municipal corporation or township may appropriate up 1050
to four cents per cubic yard or up to eight cents per ton of the 1051
disposal fee required to be paid by the facility under division 1052
(A) of this section for the same purposes that a municipal 1053
corporation or township may levy a fee under division (C) of 1054
section 3734.57 of the Revised Code. 1055

The legislative authority of the municipal corporation or 1056
township may appropriate the money from the fee by enacting an 1057
ordinance or adopting a resolution establishing the amount of the 1058
fee to be appropriated. Upon doing so, the legislative authority 1059
shall mail a certified copy of the ordinance or resolution to the 1060
board of health of the health district in which the construction 1061
and demolition debris facility or the solid waste facility is 1062
located or, if the facility is located in a health district that 1063
is not on the approved list under section 3714.09 of the Revised 1064
Code, to the director. Upon receipt of the copy of the ordinance 1065
or resolution and not later than forty-five days after receipt of 1066
money collected from the fee, the board or the director, as 1067
applicable, shall transmit to the treasurer or other appropriate 1068
officer of the municipal corporation or clerk of the township that 1069
portion of the money collected from the disposal fee by the owner 1070
or operator of the facility that is required by the ordinance or 1071
resolution to be paid to that municipal corporation or township. 1072

Money received by the treasurer or other appropriate officer 1073
of a municipal corporation under this division shall be paid into 1074
the general fund of the municipal corporation. Money received by 1075
the clerk of a township under this division shall be paid into the 1076
general fund of the township. The treasurer or other officer of 1077
the municipal corporation or the clerk of the township, as 1078
appropriate, shall maintain separate records of the money received 1079
under this division. 1080

The legislative authority of a municipal corporation or 1081

township may cease collecting money under this division by 1082
repealing the ordinance or resolution that was enacted or adopted 1083
under this division. 1084

The director shall adopt rules in accordance with Chapter 1085
119. of the Revised Code establishing requirements for prorating 1086
the amount of the fee that may be appropriated under this division 1087
by a municipal corporation or township in which only a portion of 1088
a construction and demolition debris facility is located within 1089
the territorial boundaries of the municipal corporation or 1090
township. 1091

(D) The board of county commissioners of a county in which a 1092
construction and demolition debris facility or a solid waste 1093
facility is located may appropriate up to three cents per cubic 1094
yard or up to six cents per ton of the disposal fee required to be 1095
paid by the facility under division (A) of this section for the 1096
same purposes that a solid waste management district may levy a 1097
fee under division (B) of section 3734.57 of the Revised Code. 1098

The board of county commissioners may appropriate the money 1099
from the fee by adopting a resolution establishing the amount of 1100
the fee to be appropriated. Upon doing so, the board of county 1101
commissioners shall mail a certified copy of the resolution to the 1102
board of health of the health district in which the construction 1103
and demolition debris facility or the solid waste facility is 1104
located or, if the facility is located in a health district that 1105
is not on the approved list under section 3714.09 of the Revised 1106
Code, to the director. Upon receipt of the copy of the resolution 1107
and not later than forty-five days after receipt of money 1108
collected from the fee, the board of health or the director, as 1109
applicable, shall transmit to the treasurer of the county that 1110
portion of the money collected from the disposal fee by the owner 1111
or operator of the facility that is required by the resolution to 1112
be paid to that county. 1113

Money received by a county treasurer under this division 1114
shall be paid into the general fund of the county. The county 1115
treasurer shall maintain separate records of the money received 1116
under this division. 1117

A board of county commissioners may cease collecting money 1118
under this division by repealing the resolution that was adopted 1119
under this division. 1120

(E)(1) This section does not apply to the disposal of 1121
construction and demolition debris at a solid waste facility that 1122
is licensed under Chapter 3734. of the Revised Code if there is no 1123
construction and demolition debris facility licensed under this 1124
chapter within thirty-five miles of the solid waste facility as 1125
determined by a facility's property boundaries. 1126

(2) This section does not apply to the disposal of 1127
construction and demolition debris at a solid waste facility that 1128
is licensed under Chapter 3734. of the Revised Code if the owner 1129
or operator of the facility chooses to collect fees on the 1130
disposal of the construction and demolition debris that are 1131
identical to the fees that are collected under Chapters 343. and 1132
3734. of the Revised Code on the disposal of solid wastes at that 1133
facility. 1134

(3) This section does not apply to the disposal of source 1135
separated materials that are exclusively composed of reinforced or 1136
nonreinforced concrete, asphalt, clay tile, building or paving 1137
brick, or building or paving stone at a construction and 1138
demolition debris facility that is licensed under this chapter 1139
when either of the following applies: 1140

(a) The materials are placed within the limits of 1141
construction and demolition debris placement at the facility as 1142
specified in the license issued to the facility under section 1143
3714.06 of the Revised Code, are not placed within the unloading 1144

zone of the facility, and are used as a fire prevention measure in 1145
accordance with rules adopted by the director under section 1146
3714.02 of the Revised Code. 1147

(b) The materials are not placed within the unloading zone of 1148
the facility or within the limits of construction and demolition 1149
debris placement at the facility as specified in the license 1150
issued to the facility under section 3714.06 of the Revised Code, 1151
but are used as fill material, either alone or in conjunction with 1152
clean soil, sand, gravel, or other clean aggregates, in legitimate 1153
fill operations for construction purposes at the facility or to 1154
bring the facility up to a consistent grade. 1155

Sec. 3714.071. (A) For the purpose of funding and conducting 1156
ground water monitoring at construction and demolition debris 1157
facilities by boards of health of health districts that are on the 1158
approved list under section 3714.09 of the Revised Code and the 1159
director of environmental protection, the director may adopt rules 1160
under Chapter 119. of the Revised Code for the purpose of levying 1161
a fee of not more than five cents per cubic yard or ten cents per 1162
ton on the disposal of construction and demolition debris at a 1163
construction and demolition debris facility that is licensed under 1164
this chapter. Such a fee shall be in addition to the fee that is 1165
levied under section 3714.07 of the Revised Code. If the director 1166
adopts rules under this section establishing a fee on the disposal 1167
of construction and demolition debris at a construction and 1168
demolition debris facility, the rules shall be subject to review 1169
every five years by the joint committee on agency rule review. 1170

The owner or operator of a construction and demolition debris 1171
facility shall collect the fee levied under rules adopted under 1172
this section as a trustee for the health district having 1173
jurisdiction over the facility, if that district is on the 1174
approved list under section 3714.09 of the Revised Code, or for 1175

the state. The owner or operator shall collect and remit the fee 1176
in the same manner that the fee levied under section 3714.07 of 1177
the Revised Code is collected and remitted. 1178

The money collected by a board of health under this section 1179
shall be paid into a special fund, which is hereby created in each 1180
health district, and used solely to fund and conduct ground water 1181
monitoring at construction and demolition debris facilities within 1182
the health district as specified in division (B) of this section. 1183
Of the money that is collected, a board of health shall transmit 1184
eighty per cent of the money received from the owner or operator 1185
of a facility under this section to the director not later than 1186
forty-five days after the receipt of the money. 1187

The director shall transmit all money received under this 1188
section to the treasurer of state to be credited to the 1189
construction and demolition debris facility ground water 1190
monitoring fund, which is hereby created in the state treasury. 1191
The director shall administer the fund and shall use money 1192
credited to it solely for the purposes specified in division (B) 1193
of this section. 1194

(B) A board of health or the director, as applicable, shall 1195
conduct ground water monitoring at construction and demolition 1196
debris facilities in accordance with this section. In order to 1197
conduct the monitoring, the board or director, as applicable, 1198
shall pay for the installation of ground water monitoring wells, 1199
ground water sampling, and the laboratory analysis of the ground 1200
water samples at a construction and demolition debris facility in 1201
accordance with either of the following, as applicable: 1202

(1) If the facility is operating before ~~the effective date of~~ 1203
~~this section~~ April 15, 2005, and the facility has not had ground 1204
water monitoring wells installed and operating before that date, 1205
the board of health or director, as applicable, shall pay the cost 1206

of the installation of one or more ground water monitoring wells 1207
and the annual sampling and laboratory analysis of the ground 1208
water at the facility. 1209

(2) If the facility is operating before ~~the effective date of~~ 1210
~~this section~~ April 15, 2005, and the facility has had one or more 1211
ground water monitoring wells installed and operating before that 1212
date, the board of health or director, as applicable, shall pay 1213
the cost of the installation of one or more additional ground 1214
water monitoring wells and the annual sampling and laboratory 1215
analysis of the ground water at the facility that exceeds the 1216
facility's annual cost of ground water monitoring certified under 1217
division (C) of this section by the owner or operator of the 1218
facility. 1219

A board of health or the director, as applicable, shall not 1220
pay any costs under this section for the installation of ground 1221
water monitoring wells, ground water sampling, or the laboratory 1222
analysis of ground water samples incurred by a construction and 1223
demolition debris facility to comply with rules adopted under 1224
section 3714.02 of the Revised Code or a permit to install issued 1225
under section 3714.051 of the Revised Code. 1226

(C) For purposes of division (B)(2) of this section, the 1227
owner or operator of a construction and demolition debris facility 1228
that is operating before ~~the effective date of this section~~ April 1229
15, 2005, and that has had ground water monitoring wells installed 1230
and has incurred monitoring costs before that date shall retain 1231
for three years all documents evidencing the cost of the ground 1232
water monitoring. If the board or director, as applicable, 1233
requests documents evidencing the cost of the ground water 1234
monitoring, the owner or operator of the facility shall certify to 1235
the board or director, as applicable, the annual cost of ground 1236
water monitoring at the facility. 1237

(D) A board of health or the director, as applicable, shall 1238

determine the priority of purchases for ground water monitoring 1239
and the payment of the costs of conducting monitoring of ground 1240
water as provided in division (B) of this section. However, a 1241
board of health or the director, as applicable, shall not purchase 1242
ground water monitoring wells or pay the costs of conducting 1243
monitoring of ground water if the applicable fund does not have 1244
sufficient money to pay those costs. The director shall consult 1245
with boards of health to determine the priority of ground water 1246
monitoring at construction and demolition debris facilities that 1247
are licensed under this chapter. 1248

(E) The director may adopt rules in accordance with Chapter 1249
119. of the Revised Code that are necessary to administer this 1250
section. 1251

(F) A board of health or the director, as applicable, may 1252
enter into contracts for the purpose of conducting ground water 1253
monitoring that is required in this section. 1254

Sec. 3714.073. (A) In addition to the fee levied under 1255
division (A)(1) of section 3714.07 of the Revised Code, beginning 1256
July 1, 2005, there is hereby levied on the disposal of 1257
construction and demolition debris at a construction and 1258
demolition debris facility that is licensed under this chapter or 1259
at a solid waste facility that is licensed under Chapter 3734. of 1260
the Revised Code the following fees: 1261

(1) A fee of twelve and one-half cents per cubic yard or 1262
twenty-five cents per ton, as applicable, the proceeds of which 1263
shall be deposited in the state treasury to the credit of the soil 1264
and water conservation district assistance fund created in section 1265
1515.14 of the Revised Code; 1266

(2) A fee of thirty seven and one-half cents per cubic yard 1267
or seventy-five cents per ton, as applicable, the proceeds of 1268

which shall be deposited in the state treasury to the credit of 1269
the recycling and litter prevention fund created in section 1270
1502.02 of the Revised Code. 1271

(B) The owner or operator of a construction and demolition 1272
debris facility or a solid waste facility, as a trustee of the 1273
state, shall collect the fees levied under this section and remit 1274
the money from the fees in the manner that is established in 1275
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 1276
for the fee that is levied under division (A)(1) of that section 1277
and may enter into an agreement for the quarterly payment of the 1278
fees in the manner established in division (B) of that section for 1279
the quarterly payment of the fee that is levied under division 1280
(A)(1) of that section. 1281

(C) The money that is collected from a construction and 1282
demolition debris facility or a solid waste facility and remitted 1283
to a board of health or the director of environmental protection, 1284
as applicable, pursuant to this section shall be transmitted by 1285
the board or director to the treasurer of state not later than 1286
forty-five days after the receipt of the money to be credited to 1287
the soil and water conservation district assistance fund or the 1288
recycling and litter prevention fund, as applicable. 1289

(D) This section does not apply to the disposal of 1290
construction and demolition debris at a solid waste facility that 1291
is licensed under Chapter 3734. of the Revised Code if the owner 1292
or operator of the facility chooses to collect fees on the 1293
disposal of the construction and demolition debris that are 1294
identical to the fees that are collected under Chapters 343. and 1295
3734. of the Revised Code on the disposal of solid wastes at that 1296
facility. 1297

(E) This section does not apply to the disposal of source 1298
separated materials that are exclusively composed of reinforced or 1299

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, 1331
the owner or operator of the facility shall comply with section 1332
3714.083 of the Revised Code and shall do one of the following: 1333

(1) Immediately cause the pulverized debris to be removed 1334
from the facility; 1335

(2) Store the pulverized debris at a location at the facility 1336
where construction and demolition debris is not disposed of for 1337
not more than ten days after the receipt of a request to remove 1338
the debris from the facility. Not later than the end of the 1339
ten-day period, the owner or operator shall cause the pulverized 1340
debris to be removed from the facility. 1341

(C) As used in this section, "working face" has the same 1342
meaning as in section 3714.021 of the Revised Code. 1343

Sec. 3714.082. (A) Except as provided in division (B) of this 1344
section, a construction and demolition debris facility may request 1345
a transfer facility to certify that material that is transferred 1346
from the transfer facility to the construction and demolition 1347
debris facility is not off-specification material; hazardous 1348
waste, solid wastes, or infectious wastes; or low-level 1349
radioactive waste whose treatment, recycling, storage, or disposal 1350
is governed under division (B) of section 3748.10 of the Revised 1351
Code. As used in this section, "hazardous waste," "solid wastes," 1352
and "infectious wastes" have the same meanings as in section 1353
3734.01 of the Revised Code. 1354

(B) With respect to material that is transferred to a 1355
construction and demolition debris facility by a railroad that is 1356
regulated under Title 49 of the United States Code, the facility 1357
may request the railroad to provide a bill of lading, or a copy of 1358
a bill of lading, from the shipper of the material or may request 1359
the railroad to provide written information indicating that the 1360

railroad did not process or add to the material.

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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.

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(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.

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Sec. 3714.09. (A) The director of environmental protection shall place each health district that is on the approved list

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under division (A) or (B) of section 3734.08 of the Revised Code 1391
on the approved list for the purposes of issuing permits to 1392
install and licenses under ~~section 3714.06 of the Revised Code~~ 1393
this chapter. Any survey or resurvey of any such health district 1394
conducted under section 3734.08 of the Revised Code shall also 1395
determine whether there is substantial compliance with this 1396
chapter. If the director removes any such health district from the 1397
approved list under division (B) of that section, the director 1398
shall also remove the health district from the approved list under 1399
this division and shall administer and enforce this chapter in the 1400
health district until the health district is placed on the 1401
approved list under division (B) of section 3734.08 of the Revised 1402
Code or division (B)(1) of this section. 1403

(B)(1) Upon the request of the board of health of a health 1404
district that is not on the approved list under division (A) or 1405
(B) of section 3734.08 of the Revised Code, the director may place 1406
the board on the approved list for the purpose of permitting and 1407
licensing construction and demolition debris facilities under 1408
~~section 3714.06 of the Revised Code~~ this chapter if the director 1409
determines that the board is both capable of and willing to 1410
enforce all of the applicable requirements of this chapter and 1411
rules adopted under it. 1412

(2) The director shall annually survey each health district 1413
on the approved list under division (B)(1) of this section to 1414
determine whether there is substantial compliance with this 1415
chapter and rules adopted under it. Upon determining that there is 1416
substantial compliance, the director shall place the health 1417
district on the approved list under that division. The director 1418
shall make a resurvey when in the director's opinion a resurvey is 1419
necessary and shall remove from the approved list under division 1420
(B)(1) of this section any health district not substantially 1421
complying with this chapter and rules adopted under it. 1422

(3) If, after a survey or resurvey is made under division 1423
(B)(2) of this section, the director determines that a health 1424
district is not eligible to be placed on the approved list or to 1425
continue on that list, the director shall certify that fact to the 1426
board of health of the health district and shall administer and 1427
enforce this chapter and rules adopted under it in the health 1428
district until such time as the health district is placed on the 1429
approved list. 1430

(4) Whenever the director is required to administer and 1431
enforce this chapter in any health district under division (A) or 1432
(B)(3) of this section, the director is hereby vested with all of 1433
the authority and all the duties granted to or imposed upon a 1434
board of health under this chapter and rules adopted under it 1435
within the health district. All disposal fees required to be paid 1436
to a board of health by section 3714.07 of the Revised Code and 1437
all such previous fees paid to the board, together with any money 1438
from construction and demolition debris facility license fees that 1439
were required to be paid to the board under section 3714.07 of the 1440
Revised Code as that section existed prior to ~~the effective date~~ 1441
~~of this amendment~~ April 15, 2005, that have not been expended or 1442
encumbered shall be paid to the director and deposited by the 1443
director to the credit of the construction and demolition debris 1444
facility oversight fund created in section 3714.07 of the Revised 1445
Code. 1446

(C) Nothing in this chapter limits the authority of the 1447
director to initiate and pursue any administrative remedy or to 1448
request the attorney general, the prosecuting attorney of the 1449
appropriate county, or the city director of law of the appropriate 1450
city to initiate and pursue any appropriate judicial remedy 1451
available under this chapter to enforce any provision of this 1452
chapter and any rules or terms or conditions of any permit or 1453
license or order adopted or issued under this chapter with respect 1454

to any construction and demolition debris facility regardless of 1455
whether the facility is located in a health district that is on 1456
the approved list under ~~division (A) or (B)(1) or (2) of this~~ 1457
section. 1458

Sec. 3714.101. Falsification of any material information that 1459
is required to be submitted to a board of health or the director 1460
of environmental protection with respect to a permit to install or 1461
a license issued under this chapter or an application for such a 1462
permit or license, or falsification of any other material 1463
information that is required to be submitted to a board or the 1464
director under this chapter and rules adopted under it, is grounds 1465
for the denial, suspension, or revocation of a permit to install 1466
or a license issued under this chapter. 1467

Sec. 3714.11. (A) The attorney general, the prosecuting 1468
attorney of the county, or the city director of law where a 1469
violation has occurred, is occurring, or may occur, upon the 1470
request of the respective board of health of the health district, 1471
the legislative authority of the political subdivision in which a 1472
violation has occurred, is occurring, or may occur, or the 1473
director of environmental protection, shall prosecute to 1474
termination or bring an action for injunction against any person 1475
who has violated, is violating, or is threatening to violate any 1476
section of this chapter, applicable rules adopted under it, or 1477
terms or conditions of a permit, license, or order issued under 1478
it. The court of common pleas in which an action for injunction is 1479
filed has the jurisdiction to and shall grant preliminary and 1480
permanent injunctive relief upon a showing that the person against 1481
whom the action is brought has violated, is violating, or is 1482
threatening to violate any section of this chapter, applicable 1483
rules adopted under it, or terms or conditions of a permit, 1484
license, or order issued under it. The court shall give precedence 1485

to such an action over all other cases. 1486

(B) If the board of health of the health district in which a 1487
violation has occurred or is occurring or the director determines 1488
that any person has violated or is violating this chapter, a rule 1489
adopted under it, or a term or condition of a permit, license, or 1490
order issued under it, the board or the director may request in 1491
writing that the attorney general, the prosecuting attorney of the 1492
county, or the city director of law where the violation has 1493
occurred or is occurring ~~to~~ bring an action for civil penalties in 1494
any court of competent jurisdiction. Such an action shall have 1495
precedence over all other cases. The court may impose upon the 1496
person a civil penalty of not more than ten thousand dollars for 1497
each day of each violation of this chapter, a rule adopted under 1498
it, or a term or condition of a permit, license, or order issued 1499
under it. 1500

Moneys resulting from civil penalties imposed by an action 1501
brought at the request of the board of health shall be credited to 1502
the special fund of the health district created in section 3714.07 1503
of the Revised Code. Moneys resulting from civil penalties imposed 1504
by an action brought at the request of the director shall be 1505
credited to the hazardous waste clean-up fund created in section 1506
3734.28 of the Revised Code. 1507

Any action under this division is a civil action, governed by 1508
the Rules of Civil Procedure. 1509

(C) The director and board of health, within their respective 1510
territorial jurisdictions, may, upon their own initiative, 1511
investigate or make inquiries regarding the disposal of 1512
construction and demolition debris. 1513

(D) This chapter does not abridge rights of action or 1514
remedies in equity, under common law, or as provided by statute or 1515
prevent the state or any municipal corporation or person in the 1516

exercise of their rights in equity, under common law, or as 1517
provided by statute to suppress nuisances or to abate or prevent 1518
pollution. 1519

Sec. 3714.12. (A) The board of health of a health district 1520
may make orders in accordance with section 3709.20 or 3709.21 of 1521
the Revised Code to a permit or license holder or other person to 1522
abate, within a specified, reasonable time, a violation of any 1523
section of this chapter, a rule adopted under it, or a term or 1524
condition of a permit or license issued under it. The director of 1525
environmental protection may issue enforcement orders in 1526
accordance with Chapter 3745. of the Revised Code to a permit or 1527
license holder or other person to abate, within a specified, 1528
reasonable time, a violation of any section of this chapter, a 1529
rule adopted under it, or a term or condition of a permit or 1530
license issued under it. 1531

(B) If the board of health or the director determines that 1532
conditions at a construction and demolition debris facility or 1533
other location where construction and demolition debris is being 1534
disposed of are causing or threatening to cause an imminent and 1535
substantial threat to public health or safety or the environment 1536
or an imminent and substantial risk of fire and that, due to any 1537
of those conditions, an emergency exists requiring immediate 1538
action to protect the public health or safety or the environment, 1539
the board or the director may, without notice or hearing, issue an 1540
order reciting the existence of the emergency and requiring that 1541
such action be taken as is necessary to meet the emergency. The 1542
order shall be effective immediately. Any person to whom such an 1543
order is directed shall comply immediately, but on application to 1544
the director or the board of health, as appropriate, shall be 1545
afforded a hearing as soon as possible, but not later than thirty 1546
days after application. On the basis of the hearing, the director 1547

or the board of health shall continue the order in effect or 1548
revoke or modify it. No emergency order shall remain in effect for 1549
more than ninety days after its issuance. 1550

Sec. 3714.13. (A) No person shall violate any section of this 1551
chapter. 1552

(B) No person shall violate a rule adopted under this 1553
chapter. 1554

(C) No person shall violate an order issued under this 1555
chapter. Violation of an order issued by a board of health under 1556
this chapter is not also a violation of section 3709.20 or 3709.21 1557
of the Revised Code, whichever is applicable. 1558

(D) No person who holds a permit or license issued under this 1559
chapter shall violate any of the terms or conditions of the permit 1560
or license. 1561

(E) No owner or operator of a construction or demolition 1562
debris facility shall dispose of asbestos or regulated 1563
asbestos-containing materials or products at the facility unless 1564
~~he~~ the owner or operator is specifically authorized to do so by 1565
the board of health of the health district in which the facility 1566
is located, or by the director, pursuant to rules adopted under 1567
division (D) of section 3714.02 of the Revised Code. 1568

(F) No person shall knowingly place or cause to be placed any 1569
reinforced or nonreinforced concrete, asphalt, clay tile, building 1570
or paving brick, or building or paving stone resulting from the 1571
alteration, construction, destruction, rehabilitation, or repair 1572
of any ~~manmade~~ physical structure that is built by humans as fill 1573
material on or in any land owned, leased, or controlled by the 1574
person, other than on the site where the materials were so 1575
generated or removed, without providing written notice to the 1576
board of health of the health district in which the land is 1577

located or, if the health district is not on the approved list 1578
under ~~division (A) or (B)(1) or (2)~~ of section 3714.09 of the 1579
Revised Code, to the director of environmental protection at least 1580
seven days prior to the first placement of any such materials as 1581
fill material at the off-site location. 1582

Sec. 3714.20. The director of environmental protection shall 1583
establish and maintain a database or databases composed of public 1584
information, including, but not limited to, the record made under 1585
section 3714.08 of the Revised Code of inspection of each 1586
construction and demolition debris facility, information from the 1587
annual survey of each health district made under section 3714.09 1588
or 3734.08 of the Revised Code, as applicable, and ground water 1589
and leachate data collected in accordance with rules adopted under 1590
section 3714.02 of the Revised Code. The database or databases 1591
shall be stored in such a manner that they are easily available 1592
for sharing with health districts and all other interested 1593
persons. 1594

Sec. 3734.281. Notwithstanding any provision of law to the 1595
contrary, any moneys set aside by the state for the cleanup and 1596
remediation of the Ashtabula river; any moneys collected from 1597
settlements made by the director of environmental protection, 1598
including those associated with bankruptcies, related to actions 1599
brought under Chapter 3714. and section 3734.13, 3734.20, 3734.22, 1600
6111.03, or 6111.04 of the Revised Code; and any moneys received 1601
under the "Comprehensive Environmental Response, Compensation, and 1602
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9602, as amended, 1603
may be paid into the state treasury to the credit of the 1604
environmental protection remediation fund, which is hereby 1605
created. The environmental protection agency shall use the moneys 1606
in the fund only for the purpose of remediating conditions at a 1607
hazardous waste facility, a solid waste facility, a construction 1608

and demolition debris facility licensed under Chapter 3714. of the 1609
Revised Code, or ~~either~~ another location at which the director has 1610
reason to believe there is a substantial threat to public health 1611
or safety or the environment. Remediation may include the direct 1612
and indirect costs associated with the overseeing, supervising, 1613
performing, verifying, or reviewing of remediation activities by 1614
agency employees. All investment earnings of the fund shall be 1615
credited to the fund. 1616

Sec. 3734.57. (A) The following fees are hereby levied on the 1617
disposal of solid wastes in this state: 1618

(1) One dollar per ton on and after July 1, 2003, through 1619
June 30, 2008, one-half of the proceeds of which shall be 1620
deposited in the state treasury to the credit of the hazardous 1621
waste facility management fund created in section 3734.18 of the 1622
Revised Code and one-half of the proceeds of which shall be 1623
deposited in the state treasury to the credit of the hazardous 1624
waste clean-up fund created in section 3734.28 of the Revised 1625
Code; 1626

(2) An additional one dollar per ton on and after July 1, 1627
2003, through June 30, 2008, the proceeds of which shall be 1628
deposited in the state treasury to the credit of the solid waste 1629
fund, which is hereby created. The environmental protection agency 1630
shall use money in the solid waste fund to pay the costs of 1631
administering and enforcing the laws pertaining to solid wastes, 1632
infectious wastes, and construction and demolition debris, 1633
including, without limitation, ground water evaluations related to 1634
solid wastes, infectious wastes, and construction and demolition 1635
debris, under this chapter and Chapter 3714. of the Revised Code 1636
and any rules adopted under them, providing compliance assistance 1637
to small businesses, and paying a share of the administrative 1638
costs of the environmental protection agency pursuant to section 1639

3745.014 of the Revised Code. 1640

(3) An additional one dollar and fifty cents per ton on and 1641
after July 1, 2005, through June 30, 2008, the proceeds of which 1642
shall be deposited in the state treasury to the credit of the 1643
environmental protection fund created in section 3745.015 of the 1644
Revised Code. 1645

In the case of solid wastes that are taken to a solid waste 1646
transfer facility located in this state prior to being transported 1647
to a solid waste disposal facility for disposal, the fees levied 1648
under this division shall be collected by the owner or operator of 1649
the transfer facility as a trustee for the state. The amount of 1650
fees required to be collected under this division at such a 1651
transfer facility shall equal the total tonnage of solid wastes 1652
received at the facility multiplied by the fees levied under this 1653
division. In the case of solid wastes that are not taken to a 1654
solid waste transfer facility located in this state prior to being 1655
transported to a solid waste disposal facility, the fees shall be 1656
collected by the owner or operator of the solid waste disposal 1657
facility as a trustee for the state. The amount of fees required 1658
to be collected under this division at such a disposal facility 1659
shall equal the total tonnage of solid wastes received at the 1660
facility that was not previously taken to a solid waste transfer 1661
facility located in this state multiplied by the fees levied under 1662
this division. Fees levied under this division do not apply to 1663
materials separated from a mixed waste stream for recycling by a 1664
generator or materials removed from the solid waste stream through 1665
recycling, as "recycling" is defined in rules adopted under 1666
section 3734.02 of the Revised Code. 1667

The owner or operator of a solid waste transfer facility or 1668
disposal facility, as applicable, shall prepare and file with the 1669
director of environmental protection each month a return 1670
indicating the total tonnage of solid wastes received at the 1671

facility during that month and the total amount of the fees 1672
required to be collected under this division during that month. In 1673
addition, the owner or operator of a solid waste disposal facility 1674
shall indicate on the return the total tonnage of solid wastes 1675
received from transfer facilities located in this state during 1676
that month for which the fees were required to be collected by the 1677
transfer facilities. The monthly returns shall be filed on a form 1678
prescribed by the director. Not later than thirty days after the 1679
last day of the month to which a return applies, the owner or 1680
operator shall mail to the director the return for that month 1681
together with the fees required to be collected under this 1682
division during that month as indicated on the return. If the 1683
return is filed and the amount of the fees due is paid in a timely 1684
manner as required in this division, the owner or operator may 1685
retain a discount of three-fourths of one per cent of the total 1686
amount of the fees that are required to be paid as indicated on 1687
the return. 1688

The owner or operator may request an extension of not more 1689
than thirty days for filing the return and remitting the fees, 1690
provided that the owner or operator has submitted such a request 1691
in writing to the director together with a detailed description of 1692
why the extension is requested, the director has received the 1693
request not later than the day on which the return is required to 1694
be filed, and the director has approved the request. If the fees 1695
are not remitted within thirty days after the last day of the 1696
month to which the return applies or are not remitted by the last 1697
day of an extension approved by the director, the owner or 1698
operator shall not retain the three-fourths of one per cent 1699
discount and shall pay an additional ten per cent of the amount of 1700
the fees for each month that they are late. For purposes of 1701
calculating the late fee, the first month in which fees are late 1702
begins on the first day after the deadline has passed for timely 1703

submitting the return and fees, and one additional month shall be 1704
counted every thirty days thereafter. 1705

The owner or operator of a solid waste facility may request a 1706
refund or credit of fees levied under this division and remitted 1707
to the director that have not been paid to the owner or operator. 1708
Such a request shall be made only if the fees have not been 1709
collected by the owner or operator, have become a debt that has 1710
become worthless or uncollectable for a period of six months or 1711
more, and may be claimed as a deduction, including a deduction 1712
claimed if the owner or operator keeps accounts on an accrual 1713
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 1714
U.S.C. 166, as amended, and regulations adopted under it. Prior to 1715
making a request for a refund or credit, an owner or operator 1716
shall make reasonable efforts to collect the applicable fees. A 1717
request for a refund or credit shall not include any costs 1718
resulting from those efforts to collect unpaid fees. 1719

A request for a refund or credit of fees shall be made in 1720
writing, on a form prescribed by the director, and shall be 1721
supported by evidence that may be required in rules adopted by the 1722
director under this chapter. After reviewing the request, and if 1723
the request and evidence submitted with the request indicate that 1724
a refund or credit is warranted, the director ~~may~~ shall grant a 1725
refund to the owner or operator or ~~may~~ shall permit a credit to be 1726
taken by the owner or operator on a subsequent monthly return 1727
submitted by the owner or operator. The amount of a refund or 1728
credit shall not exceed an amount that is equal to ninety days' 1729
worth of fees owed to an owner or operator by a particular debtor 1730
of the owner or operator. A refund or credit shall not be granted 1731
by the director to an owner or operator more than once in any 1732
twelve-month period for fees owed to the owner or operator by a 1733
particular debtor. 1734

If, after receiving a refund or credit from the director, an 1735

owner or operator receives payment of all or part of the fees, the 1736
owner or operator shall remit the fees with the next monthly 1737
return submitted to the director together with a written 1738
explanation of the reason for the submittal. 1739

For purposes of computing the fees levied under this division 1740
or division (B) of this section, any solid waste transfer or 1741
disposal facility that does not use scales as a means of 1742
determining gate receipts shall use a conversion factor of three 1743
cubic yards per ton of solid waste or one cubic yard per ton for 1744
baled waste, as applicable. 1745

The fees levied under this division and divisions (B) and (C) 1746
of this section are in addition to all other applicable fees and 1747
taxes and shall be paid by the customer to the owner or operator 1748
of a solid waste transfer or disposal facility notwithstanding the 1749
existence of any provision in a contract that the customer may 1750
have with the owner or operator that would not require or allow 1751
such payment. 1752

(B) For the purposes specified in division (G) of this 1753
section, the solid waste management policy committee of a county 1754
or joint solid waste management district may levy fees upon the 1755
following activities: 1756

(1) The disposal at a solid waste disposal facility located 1757
in the district of solid wastes generated within the district; 1758

(2) The disposal at a solid waste disposal facility within 1759
the district of solid wastes generated outside the boundaries of 1760
the district, but inside this state; 1761

(3) The disposal at a solid waste disposal facility within 1762
the district of solid wastes generated outside the boundaries of 1763
this state. 1764

The solid waste management plan of the county or joint 1765

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 1798
committee, and to their local trade associations. The committee 1799
shall make good faith efforts to identify those generators within 1800
the district and their local trade associations, but the 1801
nonprovision of notice under this division to a particular 1802
generator or local trade association does not invalidate the 1803
proceedings under this division. The publication shall occur at 1804
least thirty days before the hearing. After the hearing, the 1805
committee may make such revisions to the proposed fees as it 1806
considers appropriate and thereafter, by resolution, shall adopt 1807
the revised fee schedule. Upon adopting the revised fee schedule, 1808
the committee shall deliver a copy of the resolution doing so to 1809
the board of county commissioners of each county forming the 1810
district and to the legislative authority of each municipal 1811
corporation and township under the jurisdiction of the district. 1812
Within sixty days after the delivery of a copy of the resolution 1813
adopting the proposed revised fees by the policy committee, each 1814
such board and legislative authority, by ordinance or resolution, 1815
shall approve or disapprove the revised fees and deliver a copy of 1816
the ordinance or resolution to the committee. If any such board or 1817
legislative authority fails to adopt and deliver to the policy 1818
committee an ordinance or resolution approving or disapproving the 1819
revised fees within sixty days after the policy committee 1820
delivered its resolution adopting the proposed revised fees, it 1821
shall be conclusively presumed that the board or legislative 1822
authority has approved the proposed revised fees. The committee 1823
shall determine if the resolution has been ratified in the same 1824
manner in which it determines if a draft solid waste management 1825
plan has been ratified under division (B) of section 3734.55 of 1826
the Revised Code. 1827

The committee may amend the schedule of fees levied pursuant 1828
to a resolution adopted and ratified under this division by 1829

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 1894
the withdrawal of a county from a joint district, the director 1895
completes the actions required under division (G)(1) or (3) of 1896
section 3734.521 of the Revised Code, as appropriate, less than 1897
forty-five days before the beginning of a calendar year, the 1898
director, on behalf of each of the districts resulting from the 1899
change that obtained the director's approval of an initial or 1900
amended plan in connection with the change proceedings, shall 1901
notify by certified mail the owner or operator of each solid waste 1902
disposal facility that is required to collect the district's fees 1903
that the change is to take effect on the first day of January 1904
immediately following the mailing of the notice and of the amount 1905
of the fees or amended fees levied under divisions (B)(1) to (3) 1906
of this section pursuant to the district's initial or amended plan 1907
as so approved or, if appropriate, the repeal of the district's 1908
fees by that initial or amended plan. Collection of any fees set 1909
forth in such a plan or amended plan shall commence on the first 1910
day of the second month following the month in which notification 1911
is sent to the owner or operator. If such an initial or amended 1912
plan repeals a schedule of fees, collection of the fees shall 1913
cease on the first day of the second month following the month in 1914
which notification is sent to the owner or operator. 1915

If the schedule of fees that a solid waste management 1916
district is levying under divisions (B)(1) to (3) of this section 1917
is amended or repealed, the fees in effect immediately prior to 1918
the amendment or repeal shall continue to be collected until 1919
collection of the amended fees commences or collection of the 1920
repealed fees ceases, as applicable, as specified in this 1921
division. In the case of a change in district composition, money 1922
so received from the collection of the fees of the former 1923
districts shall be divided among the resulting districts in 1924
accordance with division (B) of section 343.012 of the Revised 1925

Code and the agreements entered into under division (B) of section 1926
343.01 of the Revised Code to establish the former and resulting 1927
districts and any amendments to those agreements. 1928

For the purposes of the provisions of division (B) of this 1929
section establishing the times when newly established or amended 1930
fees levied by a district are required to commence and the 1931
collection of fees that have been amended or repealed is required 1932
to cease, "fees" or "schedule of fees" includes, in addition to 1933
fees levied under divisions (B)(1) to (3) of this section, those 1934
levied under section 3734.573 or 3734.574 of the Revised Code. 1935

(C) For the purposes of defraying the added costs to a 1936
municipal corporation or township of maintaining roads and other 1937
public facilities and of providing emergency and other public 1938
services, and compensating a municipal corporation or township for 1939
reductions in real property tax revenues due to reductions in real 1940
property valuations resulting from the location and operation of a 1941
solid waste disposal facility within the municipal corporation or 1942
township, a municipal corporation or township in which such a 1943
solid waste disposal facility is located may levy a fee of not 1944
more than twenty-five cents per ton on the disposal of solid 1945
wastes at a solid waste disposal facility located within the 1946
boundaries of the municipal corporation or township regardless of 1947
where the wastes were generated. 1948

The legislative authority of a municipal corporation or 1949
township may levy fees under this division by enacting an 1950
ordinance or adopting a resolution establishing the amount of the 1951
fees. Upon so doing the legislative authority shall mail a 1952
certified copy of the ordinance or resolution to the board of 1953
county commissioners or directors of the county or joint solid 1954
waste management district in which the municipal corporation or 1955
township is located or, if a regional solid waste management 1956
authority has been formed under section 343.011 of the Revised 1957

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 2020
collected by the owner or operator of the landfill where the 2021
unprocessed waste or compost product is disposed of. 2022

(7) When solid wastes that consist of scrap tires are 2023
processed at a scrap tire recovery facility, the fees levied under 2024
divisions (A), (B), and (C) of this section shall be levied upon 2025
the disposal of the fly ash and bottom ash or other solid wastes 2026
remaining after the processing of the scrap tires and shall be 2027
collected by the owner or operator of the solid waste disposal 2028
facility where the ash or other solid wastes are disposed of. 2029

(8) The director of environmental protection may issue an 2030
order exempting from the fees levied under this section solid 2031
wastes, including, but not limited to, scrap tires, that are 2032
generated, transferred, or disposed of as a result of a contract 2033
providing for the expenditure of public funds entered into by the 2034
administrator or regional administrator of the United States 2035
environmental protection agency, the director of environmental 2036
protection, or the director of administrative services on behalf 2037
of the director of environmental protection for the purpose of 2038
remediating conditions at a hazardous waste facility, solid waste 2039
facility, or other location at which the administrator or regional 2040
administrator or the director of environmental protection has 2041
reason to believe that there is a substantial threat to public 2042
health or safety or the environment or that the conditions are 2043
causing or contributing to air or water pollution or soil 2044
contamination. An order issued by the director of environmental 2045
protection under division (D)(8) of this section shall include a 2046
determination that the amount of the fees not received by a solid 2047
waste management district as a result of the order will not 2048
adversely impact the implementation and financing of the 2049
district's approved solid waste management plan and any approved 2050
amendments to the plan. Such an order is a final action of the 2051

director of environmental protection. 2052

(E) The fees levied under divisions (B) and (C) of this 2053
section shall be collected by the owner or operator of the solid 2054
waste disposal facility where the wastes are disposed of as a 2055
trustee for the county or joint district and municipal corporation 2056
or township where the wastes are disposed of. Moneys from the fees 2057
levied under division (B) of this section shall be forwarded to 2058
the board of county commissioners or board of directors of the 2059
district in accordance with rules adopted under division (H) of 2060
this section. Moneys from the fees levied under division (C) of 2061
this section shall be forwarded to the treasurer or such other 2062
officer of the municipal corporation as, by virtue of the charter, 2063
has the duties of the treasurer or to the fiscal officer of the 2064
township, as appropriate, in accordance with those rules. 2065

(F) Moneys received by the treasurer or other officer of the 2066
municipal corporation under division (E) of this section shall be 2067
paid into the general fund of the municipal corporation. Moneys 2068
received by the fiscal officer of the township under that division 2069
shall be paid into the general fund of the township. The treasurer 2070
or other officer of the municipal corporation or the township 2071
fiscal officer, as appropriate, shall maintain separate records of 2072
the moneys received from the fees levied under division (C) of 2073
this section. 2074

(G) Moneys received by the board of county commissioners or 2075
board of directors under division (E) of this section or section 2076
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 2077
shall be paid to the county treasurer, or other official acting in 2078
a similar capacity under a county charter, in a county district or 2079
to the county treasurer or other official designated by the board 2080
of directors in a joint district and kept in a separate and 2081
distinct fund to the credit of the district. If a regional solid 2082
waste management authority has been formed under section 343.011 2083

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 2115
solid waste management plan or amended plan; 2116

(5) Pursuant to contracts entered into with boards of health 2117
within the district, if solid waste facilities contained in the 2118
district's approved plan or amended plan are located within the 2119
district, for paying the costs incurred by those boards of health 2120
for collecting and analyzing samples from public or private water 2121
wells on lands adjacent to those facilities; 2122

(6) Developing and implementing a program for the inspection 2123
of solid wastes generated outside the boundaries of this state 2124
that are disposed of at solid waste facilities included in the 2125
district's approved solid waste management plan or amended plan; 2126

(7) Providing financial assistance to boards of health within 2127
the district for the enforcement of section 3734.03 of the Revised 2128
Code or to local law enforcement agencies having jurisdiction 2129
within the district for enforcing anti-littering laws and 2130
ordinances; 2131

(8) Providing financial assistance to boards of health of 2132
health districts within the district that are on the approved list 2133
under section 3734.08 of the Revised Code to defray the costs to 2134
the health districts for the participation of their employees 2135
responsible for enforcement of the solid waste provisions of this 2136
chapter and rules adopted and orders and terms and conditions of 2137
permits, licenses, and variances issued under those provisions in 2138
the training and certification program as required by rules 2139
adopted under division (L) of section 3734.02 of the Revised Code; 2140

(9) Providing financial assistance to individual municipal 2141
corporations and townships within the district to defray their 2142
added costs of maintaining roads and other public facilities and 2143
of providing emergency and other public services resulting from 2144
the location and operation within their boundaries of a 2145

composting, energy or resource recovery, incineration, or 2146
recycling facility that either is owned by the district or is 2147
furnishing solid waste management facility or recycling services 2148
to the district pursuant to a contract or agreement with the board 2149
of county commissioners or directors of the district; 2150

(10) Payment of any expenses that are agreed to, awarded, or 2151
ordered to be paid under section 3734.35 of the Revised Code and 2152
of any administrative costs incurred pursuant to that section. In 2153
the case of a joint solid waste management district, if the board 2154
of county commissioners of one of the counties in the district is 2155
negotiating on behalf of affected communities, as defined in that 2156
section, in that county, the board shall obtain the approval of 2157
the board of directors of the district in order to expend moneys 2158
for administrative costs incurred. 2159

Prior to the approval of the district's solid waste 2160
management plan under section 3734.55 of the Revised Code, moneys 2161
in the special fund of the district arising from the fees shall be 2162
expended for those purposes in the manner prescribed by the solid 2163
waste management policy committee by resolution. 2164

Notwithstanding division (G)(6) of this section as it existed 2165
prior to October 29, 1993, or any provision in a district's solid 2166
waste management plan prepared in accordance with division 2167
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 2168
prior to that date, any moneys arising from the fees levied under 2169
division (B)(3) of this section prior to January 1, 1994, may be 2170
expended for any of the purposes authorized in divisions (G)(1) to 2171
(10) of this section. 2172

(H) The director shall adopt rules in accordance with Chapter 2173
119. of the Revised Code prescribing procedures for collecting and 2174
forwarding the fees levied under divisions (B) and (C) of this 2175
section to the boards of county commissioners or directors of 2176

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 2208
appellant, and the director and any party to a proceeding 2209
substantially supporting the finding from which the appeal is 2210
taken shall be known as appellee, except that when an appeal 2211
involves a license to operate a disposal site or facility, the 2212
local board of health or the director of environmental protection, 2213
and any party to a proceeding substantially supporting the finding 2214
from which the appeal is taken, shall, as appropriate, be known as 2215
the appellee. Appellant and appellee shall be deemed to be parties 2216
to the appeal. 2217

The (C) The director may appeal an action of a local board of 2218
health conducted under Chapter 3714. or 3734. of the Revised Code 2219
to the environmental review appeals commission for an order 2220
vacating or modifying the action of the board or may appeal to the 2221
commission for an order requiring the local board of health to 2222
perform an act. 2223

(D) An appeal shall be in writing and shall set forth the 2224
action complained of and the grounds upon which the appeal is 2225
based. 2226

The appeal shall be filed with the commission within thirty 2227
days after notice of the action. Notice of the filing of the 2228
appeal shall be filed with the appellee within three days after 2229
the appeal is filed with the commission. 2230

The appeal shall be accompanied by a filing fee of seventy 2231
dollars, which the commission, in its discretion, may reduce if by 2232
affidavit the appellant demonstrates that payment of the full 2233
amount of the fee would cause extreme hardship. 2234

Within seven days after receipt of the notice of an appeal 2235
filed under division (B) of this section, the director or local 2236
board of health, as applicable, shall prepare and certify to the 2237
commission a record of the proceedings out of which the appeal 2238

arises, including all documents and correspondence, and a 2239
transcript of all testimony. 2240

Upon the filing of ~~the~~ an appeal, the commission shall fix 2241
the time and place at which the hearing on the appeal will be 2242
held. The commission shall give the appellant and the appellee at 2243
least ten days' written notice thereof by certified mail. The 2244
commission shall hold the hearing within thirty days after the 2245
notice of appeal is filed. The commission may postpone or continue 2246
any hearing upon its own motion or upon application of the 2247
appellant or of the appellee. 2248

The filing of an appeal does not automatically suspend or 2249
stay execution of the action appealed from. Upon application by 2250
the appellant, the commission may suspend or stay the execution 2251
pending immediate determination of the appeal without interruption 2252
by continuances, other than for unavoidable circumstances. 2253

(E) As used in this section and sections 3745.05 and 3745.06 2254
of the Revised Code, "director of environmental protection" and 2255
"director" are deemed to include the director of agriculture and 2256
"environmental protection agency" is deemed to include the 2257
department of agriculture with respect to actions that are 2258
appealable to the commission under Chapter 903. of the Revised 2259
Code. 2260

Sec. 3745.05. In hearing the appeal, if an adjudication 2261
hearing was conducted by the director of environmental protection 2262
in accordance with sections 119.09 and 119.10 of the Revised Code 2263
or conducted by a board of health, the environmental review 2264
appeals commission is confined to the record as certified to it by 2265
the director or the board of health, as applicable. The commission 2266
may grant a request for the admission of additional evidence when 2267
satisfied that such additional evidence is newly discovered and 2268
could not with reasonable diligence have been ascertained prior to 2269

the hearing before the director or the board, as applicable. If no 2270
adjudication hearing was conducted in accordance with sections 2271
119.09 and 119.10 of the Revised Code or conducted by a board of 2272
health, the commission shall conduct a hearing de novo on the 2273
appeal. 2274

For the purpose of conducting a de novo hearing, or where the 2275
commission has granted a request for the admission of additional 2276
evidence, the commission may require the attendance of witnesses 2277
and the production of written or printed materials. 2278

When conducting a de novo hearing, or when a request for the 2279
admission of additional evidence has been granted, the commission 2280
may, and at the request of any party it shall, issue subpoenas for 2281
witnesses or for books, papers, correspondence, memoranda, 2282
agreements, or other documents or records relevant or material to 2283
the inquiry directed to the sheriff of the counties where the 2284
witnesses or documents or records are found, which subpoenas shall 2285
be served and returned in the same manner as those allowed by the 2286
court of common pleas in criminal cases. 2287

The fees and mileage of sheriffs and witnesses shall be the 2288
same as those allowed by the court of common pleas in criminal 2289
cases. The fee and mileage expenses incurred at the request of the 2290
appellant shall be paid in advance by the appellant, and the 2291
remainder of the expenses shall be paid out of funds appropriated 2292
for the expenses of the commission. 2293

In case of disobedience or neglect of any subpoena served on 2294
any person, or the refusal of any witness to testify to any matter 2295
regarding which the witness may be lawfully interrogated, the 2296
court of common pleas of the county in which the disobedience, 2297
neglect, or refusal occurs, or any judge thereof, on application 2298
of the ~~board~~ commission or any member thereof, may compel 2299
obedience by attachment proceedings for contempt as in the case of 2300
disobedience of the requirements of a subpoena issued from the 2301

court or a refusal to testify therein. 2302

A witness at any hearing shall testify under oath or 2303
affirmation, which any member of the commission may administer. A 2304
witness, if the witness requests, shall be permitted to be 2305
accompanied, represented, and advised by an attorney, whose 2306
participation in the hearing shall be limited to the protection of 2307
the rights of the witness, and who may not examine or 2308
cross-examine witnesses. A witness shall be advised of the right 2309
to counsel before the witness is interrogated. 2310

A stenographic record of the testimony and other evidence 2311
submitted shall be taken by an official court shorthand reporter. 2312
The record shall include all of the testimony and other evidence 2313
and the rulings on the admissibility thereof presented at the 2314
hearing. The commission shall pass upon the admissibility of 2315
evidence, but any party may at the time object to the admission of 2316
any evidence and except to the rulings of the commission thereon, 2317
and if the commission refuses to admit evidence the party offering 2318
same may make a proffer thereof, and such proffer shall be made a 2319
part of the record of such hearing. 2320

Any party may request the stenographic record of the hearing. 2321
Promptly after receiving such a request, the commission shall 2322
prepare and provide the stenographic record of the hearing to the 2323
party who requested it. The commission may charge a fee to the 2324
party who requested the stenographic record that does not exceed 2325
the cost to the commission for preparing and transcribing it. 2326

If, upon completion of the hearing, the commission finds that 2327
the action appealed from was lawful and reasonable, it shall make 2328
a written order affirming the action, or if the commission finds 2329
that the action was unreasonable or unlawful, it shall make a 2330
written order vacating or modifying the action appealed from. 2331
Every order made by the commission shall contain a written finding 2332
by the commission of the facts upon which the order is based. 2333

Notice of the making of the order shall be given forthwith to each 2334
party to the appeal by mailing a certified copy thereof to each 2335
party by certified mail, with a statement of the time and method 2336
by which an appeal may be perfected. 2337

The order of the commission is final unless vacated or 2338
modified upon judicial review. 2339

Sec. 3745.06. Any party adversely affected by an order of the 2340
environmental review appeals commission may appeal to the court of 2341
appeals of Franklin county, or, if the appeal arises from an 2342
alleged violation of a law or regulation, to the court of appeals 2343
of the district in which the violation was alleged to have 2344
occurred. Any party desiring to so appeal shall file with the 2345
commission a notice of appeal designating the order appealed. A 2346
copy of ~~such~~ the notice also shall be filed by the appellant with 2347
the court, and a copy shall be sent by certified mail to the 2348
director of environmental protection unless the director is the 2349
party appealing the order. Such notices shall be filed and mailed 2350
within thirty days after the date upon which the appellant 2351
received notice from the commission by certified mail of the 2352
making of the order appealed. No appeal bond shall be required to 2353
make an appeal effective. 2354

The filing of a notice of appeal shall not automatically 2355
operate as a suspension of the order of the commission. If it 2356
appears to the court that an unjust hardship to the appellant will 2357
result from the execution of the commission's order pending 2358
determination of the appeal, the court may grant a suspension of 2359
the order and fix its terms. 2360

Within twenty days after receipt of the notice of appeal, the 2361
commission shall prepare and file in the court the complete record 2362
of proceedings out of which the appeal arises, including any 2363
transcript of the testimony and any other evidence ~~which~~ that has 2364

been submitted before the commission. The expense of preparing and 2365
transcribing the record shall be taxed as a part of the costs of 2366
the appeal. The appellant, other than the state or a political 2367
subdivision, or an agency of either, or any officer of them acting 2368
in a representative capacity, shall provide security for costs 2369
satisfactory to the court. Upon demand by a party, the commission 2370
shall furnish at the cost of the party requesting the record a 2371
copy of ~~such~~ the record. If the complete record is not filed 2372
within the time provided for in this section, any party may apply 2373
to the court to have the case docketed, and the court shall order 2374
~~such~~ the record filed. 2375

In hearing the appeal, the court is confined to the record as 2376
certified to it by the commission. The court may grant a request 2377
for the admission of additional evidence when satisfied that such 2378
additional evidence is newly discovered and could not with 2379
reasonable diligence have been ascertained prior to the hearing 2380
before the commission. 2381

The court shall conduct a hearing on the appeal and shall 2382
give preference to all proceedings under this section over all 2383
other civil cases, irrespective of the position of the proceedings 2384
on the calendar of the court. The hearing in the court of appeals 2385
shall proceed as in the case of a civil action, and the court 2386
shall determine the rights of the parties in accordance with the 2387
laws applicable to such action. At the hearing, counsel may be 2388
heard on oral argument, briefs may be submitted, and evidence 2389
introduced if the court has granted a request for the presentation 2390
of additional evidence. 2391

The court shall affirm the order complained of in the appeal 2392
if it finds, upon consideration of the entire record and such 2393
additional evidence as the court has admitted, that the order is 2394
supported by reliable, probative, and substantial evidence and is 2395
in accordance with law. In the absence of such a finding, it shall 2396

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. 2427

(3) The applicant has begun the engineering plans for the 2428
facility prior to submitting the application. 2429

(4) The application submitted by the applicant would have 2430
been determined to be complete if a moratorium had not been in 2431
effect. 2432

The director shall determine whether this division applies to 2433
an applicant within forty-five days after receiving an applicant's 2434
request for a determination under this division. 2435

(B) Notwithstanding the amendments to Chapter 3714. of the 2436
Revised Code by this act and except as otherwise provided in this 2437
division, an application for a license to establish or modify a 2438
construction and demolition debris facility submitted to a board 2439
of health or the Director, as applicable, on or after July 1, 2440
2005, but prior to or on December 31, 2005, shall be reviewed and 2441
the license shall be issued or denied in accordance with the 2442
provisions of that chapter as they existed on July 1, 2005. 2443
However, unless division (G)(2) of section 3714.03 of the Revised 2444
Code, as amended by this act, applies to the facility, a board of 2445
health or the Director, as applicable, may apply any of the siting 2446
criteria established in section 3714.03 of the Revised Code by 2447
this act to such an application and may deny the application if 2448
the facility that is the subject of the application will not 2449
comply with that siting criterion. 2450

(C) Notwithstanding the amendments to Chapter 3714. of the 2451
Revised Code by this act and except as otherwise provided in this 2452
division, beginning January 1, 2006, and until the effective date 2453
of the rules adopted under division (A) of section 3714.02 of the 2454
Revised Code, as amended by this act, a person may submit an 2455
application to a board of health or the Director, as applicable, 2456
for a license to establish or modify a construction and demolition 2457

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	2489
related to such facilities are necessary to protect public health	2490
and the environment. Therefore, this act shall go into immediate	2491
effect.	2492