

**As Passed by the Senate**

**126th General Assembly**

**Regular Session**

**2005-2006**

**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  
Senators Niehaus, Armbruster, Zurz, Cates, Coughlin, Fedor, Harris,  
Prentiss, Hagan, Kearney, Mumper, Roberts, Schuring, Spada, Wilson,  
Gardner, Dann, Schuler, Fingerhut, Padgett, Grendell**

—

**A BILL**

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 18  
general health district or the authority having the duties of a 19  
board of health in any city as authorized by section 3709.05 of 20  
the Revised Code. 21

(B) "Closure" means either the time at which a construction 22  
and demolition debris facility will no longer accept construction 23  
and demolition debris for disposal or the effective date of an 24  
order revoking the license of the facility. "Closure" includes 25  
measures performed to protect public health or safety, to prevent 26  
air or water pollution, or to make the facility suitable for other 27  
uses, if any, including, without limitation, the establishment and 28  
maintenance of suitable cover of soil and vegetation over areas 29  
where construction and demolition debris is buried and the 30  
minimization of erosion, the infiltration of surface water into 31  
such areas, the production of leachate, and the accumulation and 32  
runoff of contaminated surface water. 33

(C) "Construction and demolition debris" means those 34  
materials resulting from the alteration, construction, 35  
destruction, rehabilitation, or repair of any physical structure 36  
that is built by humans, including, without limitation, houses, 37  
buildings, industrial or commercial facilities, or roadways. 38  
"Construction and demolition debris" includes particles and dust 39  
created during demolition activities. "Construction and demolition 40  
debris" does not include materials identified or listed as solid 41  
wastes or hazardous waste pursuant to Chapter 3734. of the Revised 42  
Code and rules adopted under it; materials from mining operations, 43  
nontoxic fly ash, spent nontoxic foundry sand, and slag; or 44  
reinforced or nonreinforced concrete, asphalt, building or paving 45  
brick, or building or paving stone that is stored for a period of 46

less than two years for recycling into a usable construction material.

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(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.

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(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.

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

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(G) "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.

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(H) "Person" includes the state, any political subdivision of the state or other state or local body, the United States and any

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agency or instrumentality thereof, and any legal entity or 78  
organization defined as a person under section 1.59 of the Revised 79  
Code. 80

~~(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

<u>debris facility;</u>	170
<u>(2) A list of the contaminants from the facility that may be causing contamination of ground water;</u>	171 172
<u>(3) Recommendations for actions, if any are necessary, that should be taken to investigate or remediate the source of any ground water contamination.</u>	173 174 175
<u>(F) Requirements for the monitoring and sampling of leachate. The rules adopted under division (F) of this section shall include all of the following:</u>	176 177 178
<u>(1) A requirement that the owner or operator of a construction and demolition debris facility provide for sampling of leachate at least annually. However, the rules shall require that if leachate is recirculated through a facility, the leachate be sampled at least every calendar quarter.</u>	179 180 181 182 183
<u>(2) A requirement that the owner or operator of a facility sample for at least seventy-seven parameters that the director shall establish in the rules, which shall include arsenic, copper, and chromium;</u>	184 185 186 187
<u>(3) Requirements governing facilities that do not have a system for sampling leachate. The rules shall require that the owner or operator of such a facility monitor ground water in accordance with the rules adopted under division (E) of this section for the parameters established in the rules adopted under division (F)(2) of this section.</u>	188 189 190 191 192 193
<u>(4) A requirement that a facility that monitors ground water and leachate add to the parameters monitored by the ground water monitoring system any parameter that is detected through the monitoring of leachate;</u>	194 195 196 197
<u>(5) Requirements governing the reporting of leachate sampling data. The rules shall require that reports be submitted to the</u>	198 199

director and the applicable board of health.

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

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

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

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(1) The rules establishing the financial assurance requirements for the closure of facilities shall require that the owner or operator of a facility, before being issued a an initial license for the facility under section 3714.06 of the Revised Code, submit a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount ~~equal to the estimated costs for closure of those portions of the facility that have been, are being, or are to be used for the disposal of construction and demolition debris as contained in the closure plan for the facility approved by the board of health of the health district in which the facility is or is to be located or, if the facility is or is to be located in a health district that is not on the approved list under division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code,~~ determined by the director or the appropriate board of health, as applicable. The rules shall include a list of the activities for which financial assurance may be required. The

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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 operators of construction and demolition debris facilities as required under section 3714.062 of the Revised Code; 326  
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(P) Definitions of "owner" and "operator" for purposes of this chapter. 329  
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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. 331  
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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. 335  
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**Sec. 3714.03. (A) As used in this section:** 351

(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. 352  
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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 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.

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

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~~(A)(1)~~ Within the boundaries of ~~the~~ a one-hundred-year flood plain ~~of a watercourse~~, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or operator has obtained an exemption from ~~this~~ division

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(B)(1) of this section in accordance with section 3714.04 of the Revised Code. ~~With respect to watercourses or portions thereof for which~~

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If no such maps have been prepared, the boundaries of ~~the~~ a one-hundred-year flood plain shall be determined by the applicant for a ~~license~~ permit based upon ~~a design storm of seven inches of precipitation in twenty four hours and upon~~ standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

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

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(C) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the horizontal limits of construction and demolition debris placement

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at the new facility are proposed to be located in any of the  
following locations:

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

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

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

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

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

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

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

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(4) Within five hundred feet of a park created or operated  
pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041  
of the Revised Code, a state park established or dedicated under  
Chapter 1541. of the Revised Code, a state park purchase area  
established under section 1541.02 of the Revised Code, a national  
recreation area, any unit of the national park system, or any  
property that lies within the boundaries of a national park or  
recreation area, but that has not been acquired or is not  
administered by the secretary of the United States department of  
the interior, located in this state, or any area located in this

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state that is recommended by the secretary for study for potential  
inclusion in the national park system in accordance with "The Act  
of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;

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

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

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

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

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

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

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x 10<sup>-6</sup>-cm/sec.

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

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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 facility up to and including the license issued for that facility for calendar year 2005. The siting criteria established in this section prior to the effective date of this amendment apply to such an expansion.

**Sec. 3714.04.** The (A) Subject to division (B) of this section, the director of environmental protection or the board of health having territorial jurisdiction may by order exempt any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the director or board of health, are unlikely to adversely affect the public health or safety or the environment, or to create a fire hazard, from any provision of this chapter or a rule adopted or order issued under it, other than division (B)(2) of section 3714.03 or division (E) of section 3714.13 of the Revised Code. Neither the director nor any board of health shall grant an exemption under this section from division (A)(B)(1) of section 3714.03 of the Revised Code if the director or board finds from the ~~license~~ permit to install application that the establishment of a new construction or demolition debris facility in the one-hundred-year flood plain of a watercourse would result in an increase of more than one foot in the elevation of the flood stage of the watercourse upstream or downstream from the proposed facility. The applicant for a ~~license~~ permit to install shall determine the increase in the flood stage resulting from the location of the proposed facility within the one-hundred-year flood plain of a watercourse based upon a ~~design~~

~~storm of seven inches of precipitation in twenty four hours and~~ 541  
~~upon~~ standard methodologies set forth in "urban hydrology for 542  
small watersheds" (soil conservation service technical release 543  
number 55) and section 4 of the "national engineering hydrology 544  
handbook" of the soil conservation service of the United States 545  
department of agriculture. 546

(B) Except in the event of a natural disaster or public 547  
health emergency declared by the governor or the director of 548  
health, before a board of health issues an order that exempts a 549  
person disposing of or proposing to dispose of construction and 550  
demolition debris as provided in division (A) of this section, the 551  
board shall provide written notice to the director of 552  
environmental protection of the board's intention to grant an 553  
exemption under that division. The notice shall contain a 554  
description of the facts surrounding the proposed exemption and 555  
any other information that the director may request. Not later 556  
than thirty days after receipt of the notice, the director shall 557  
provide written comment to the board of health regarding the 558  
proposed exemption. The written comment shall be considered by the 559  
board of health prior to the board's issuance of an order granting 560  
the exemption. 561

**Sec. 3714.05.** The board of health of each health district 562  
maintaining a program on the approved list under ~~division (A) or~~ 563  
~~(B)(1) or (2)~~ of section 3714.09 of the Revised Code shall provide 564  
for the issuance of permits to install for and the inspection or 565  
of, licensing of, and enforcement of standards governing 566  
construction and demolition debris facilities under this chapter 567  
and rules adopted under it. The director of environmental 568  
protection shall provide for the issuance of permits to install 569  
for construction and demolition debris facilities, the inspection 570  
and licensing of ~~construction and demolition debris~~ facilities, 571  
and the enforcement of standards in health districts that are not 572

on the approved list under ~~those divisions~~ that section and may 573  
provide for the inspection of the facilities and enforcement of 574  
standards in health districts that are on the approved list under 575  
~~those divisions~~ that section. Further, the director may provide 576  
for the issuance of permits to install in a health district on the 577  
approved list if so requested by the applicable board of health 578  
under section 3714.051 of the Revised Code. 579

**Sec. 3714.051.** (A)(1) Not later than one hundred eighty days 580  
after the effective date of this section and in accordance with 581  
rules adopted under section 3714.02 of the Revised Code, the 582  
director of environmental protection shall establish a program for 583  
the issuance of permits to install for new construction and 584  
demolition debris facilities. 585

(2) On and after the effective date of this section, no 586  
person shall establish a new construction and demolition debris 587  
facility without first obtaining a permit to install issued by the 588  
board of health of the health district in which the facility is or 589  
is to be located or from the director if the facility is or is to 590  
be located in a health district that is not on the approved list 591  
under section 3714.09 of the Revised Code or if a board of health 592  
requests the director to issue the permit to install under 593  
division (G) of this section. 594

(B) The director, the director's authorized representative, a 595  
board of health, or an authorized representative of the board may 596  
assist an applicant for a permit to install during the permitting 597  
process by providing guidance and technical assistance. 598

(C) An applicant for a permit to install shall submit an 599  
application to a board of health or the director, as applicable, 600  
on a form that the director prescribes. The applicant shall 601  
include with the application all of the following: 602

(1) The name and address of the applicant, of all partners if 603

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;

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

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(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.

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

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chapter and rules adopted under it and to protect public health  
and safety and the environment.

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(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; 665  
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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; 670  
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(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; 678  
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(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 691  
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the owner or operator.

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

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

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(C) At the same time that an application for an annual operation license required under section 3714.06 of the Revised Code is submitted, an owner or operator of a construction and demolition debris facility that has submitted the information required under division (A) of this section shall submit to the

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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 734  
affidavit stating that there have been no changes in or additions 735  
to that information during that time period. The director or board 736  
may revoke the license for the facility if the updated information 737  
indicates any of the reasons specified in division (B) of this 738  
section for the denial of an application for a permit to install. 739

(D) A person to whom the permit to install or the license for 740  
a construction and demolition debris facility is proposed to be 741  
transferred under division (B) of section 3714.06 of the Revised 742  
Code shall submit to the director or a board of health, as 743  
applicable, the information that is required to be submitted under 744  
division (A) of this section by an applicant for a permit to 745  
install not later than one hundred twenty days prior to the 746  
proposed acquisition of the facility by the transferee. The 747  
director or board of health may deny the transfer of the permit or 748  
license, as applicable, if the information regarding the 749  
transferee indicates any of the reasons specified in division (B) 750  
of this section for the denial of an application for a permit to 751  
install. 752

(E) When the owner or operator of a facility employs a new 753  
key employee, the owner or operator shall submit or shall require 754  
the new key employee to submit to the director or a board of 755  
health, as applicable, information regarding the new key employee 756  
that is required to be submitted under division (A) of this 757  
section by an applicant for a permit to install. The director or 758  
board may revoke the permit to install or the license for the 759  
facility, as applicable, if the information regarding the new key 760

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 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.

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(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

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supervisory capacity or is empowered to make discretionary 793  
decisions with respect to the operation of the facility. 794

Sec. 3714.053. Not later than sixty days after the director 795  
of environmental protection or a board of health, as applicable, 796  
receives an application for a permit to install a new construction 797  
and demolition debris facility, the applicant shall hold a public 798  
hearing in the township or municipal corporation in which the 799  
facility or proposed facility is or is to be located. At least 800  
thirty days prior to the public hearing, the applicant shall 801  
provide notice of the time, day, and location of the public 802  
hearing in a newspaper of general circulation in the locality of 803  
the facility or proposed facility and shall mail a copy of the 804  
notice to the director or the board of health, whichever is 805  
applicable. Further, at least thirty days prior to the public 806  
hearing, the applicant shall provide notification of the public 807  
hearing by certified mail to the owner of each parcel of real 808  
property that is adjacent to the facility or proposed facility. 809

Sec. 3714.06. (A) No person shall ~~establish, modify, operate,~~ 810  
or maintain a construction and demolition debris facility without 811  
a an annual construction and demolition debris facility 812  
~~installation and~~ operation license issued by the board of health 813  
of the health district in which the facility is ~~or is to be~~ 814  
located or, if the facility is ~~or is to be~~ located in a health 815  
district that is not on the approved list under ~~division (A) or~~ 816  
~~(B)(1) or (2)~~ of section 3714.09 of the Revised Code, from the 817  
director of environmental protection. ~~Each person proposing to~~ 818  
~~open a new construction and demolition debris facility or to~~ 819  
~~modify an existing facility shall, at least ninety days before~~ 820  
~~proposed operation of the facility, submit an application for a~~ 821  
~~license with accompanying plans, specifications, and information~~ 822  
~~regarding the facility and its method of operation to the board of~~ 823

~~health of the health district in which the facility is located or~~ 824  
~~proposed for approval as complying with the rules adopted under~~ 825  
~~section 3714.02 of the Revised Code and the standards set forth in~~ 826  
~~divisions (A) and (B) of section 3714.03 of the Revised Code or,~~ 827  
~~if the health district in which the facility is located or~~ 828  
~~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 of the facility, may, with the ~~consent~~ approval of the board or the director, as appropriate, have the license as well as a permit to install for the facility transferred to another person. The board or director may disapprove the transfer of the permit or license, as applicable, for any of the reasons specified in division (B) of section 3714.052 of the Revised Code for the denial of an application for a permit to install.

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

~~the date on which the application for a license for the facility 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 894  
submitted under this division, the board or the director shall 895  
include in the order denying the application the requirements that 896  
the owner or operator of the facility submit a plan for closure of 897  
the facility to the board or the director, as appropriate, for 898  
approval within six months after issuance of the order; cease 899  
accepting construction and demolition debris for disposal; and 900  
commence closure of the facility within one year after issuance of 901  
the order. 902~~

~~(D) Upon issuance of a license by a board of health under 903  
this section, the board of health shall mail a copy of the license 904  
to the director together with a copy of the plans for the 905  
operation of the facility or any necessary plan updates, as 906  
applicable, that are required under section 3714.061 of the 907  
Revised Code. ~~If a license authorizes construction of a new 908  
facility or modification of an existing facility, the board shall 909  
also mail with the license a copy of the approved plans, 910  
specifications, and information regarding the facility and its 911  
method of operation. 912~~~~

~~(D) A license issued under this section may be modified in 913  
accordance with rules adopted under section 3714.02 of the Revised 914  
Code. 915~~

~~**Sec. 3714.061.** (A) A person who submits an application under 916  
section 3714.06 of the Revised Code for a license to operate a 917  
construction and demolition debris facility shall submit with the 918  
application the plans for the operation of the facility that are 919~~

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

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following: 951

(1) The laws governing construction and demolition debris facilities and disposal of construction and demolition debris; 952  
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(2) Best management practices governing construction and demolition debris facilities and disposal of construction and demolition debris. 954  
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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. 957  
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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. 968  
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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. 971  
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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 979  
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yards or tons will be used as the unit of measurement. In 981  
estimating the fee based on cubic yards, the owner or operator 982  
shall utilize either the maximum cubic yard capacity of the 983  
container, or the hauling volume of the vehicle, that transports 984  
the construction and demolition debris to the facility or the 985  
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  
the municipal corporation or the clerk of the township, as  
appropriate, shall maintain separate records of the money received  
under this division.

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

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

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

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The board of county commissioners may appropriate the money  
from the fee by adopting a resolution establishing the amount of  
the fee to be appropriated. Upon doing so, the board of county  
commissioners shall mail a certified copy of the resolution to the  
board of health of the health district in which the construction  
and demolition debris facility or the solid waste facility is  
located or, if the facility is located in a health district that  
is not on the approved list under section 3714.09 of the Revised  
Code, to the director. Upon receipt of the copy of the resolution

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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  
shall be deposited in the state treasury to the credit of the soil  
and water conservation district assistance fund created in section  
1515.14 of the Revised Code;

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

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

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

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

disposal of the construction and demolition debris that are 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 1300  
brick, or building or paving stone at a construction and 1301  
demolition debris facility that is licensed under this chapter 1302  
when either of the following applies: 1303

(1) The materials are placed within the limits of 1304  
construction and demolition debris placement at the facility as 1305  
specified in the license issued to the facility under section 1306  
3714.06 of the Revised Code, are not placed within the unloading 1307  
zone of the facility, and are used as a fire prevention measure in 1308  
accordance with rules adopted by the director under section 1309  
3714.02 of the Revised Code. 1310

(2) The materials are not placed within the unloading zone of 1311  
the facility or within the limits of construction and demolition 1312  
debris placement at the facility as specified in the license 1313  
issued to the facility under section 3714.06 of the Revised Code, 1314  
but are used as fill material, either alone or in conjunction with 1315  
clean soil, sand, gravel, or other clean aggregates, in legitimate 1316  
fill operations for construction purposes at the facility or to 1317  
bring the facility up to a consistent grade. 1318

Sec. 3714.081. (A) A construction and demolition debris 1319  
facility shall not accept pulverized debris. 1320

(B) The board of health of a health district in which a 1321  
construction and demolition debris facility is located, the 1322  
director of environmental protection, or an authorized 1323

representative of either may request the removal of pulverized 1324  
debris that has been brought to the construction and demolition 1325  
debris facility. A board, the director, or an authorized 1326  
representative of either shall make such a request when the 1327  
pulverized debris is at the unloading zone of the facility 1328  
designated under rules adopted under section 3714.02 of the 1329  
Revised Code and not after the debris has been disposed of on the 1330  
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 construction and demolition debris facility by a railroad that is regulated under Title 49 of the United States Code, the facility may request the railroad to provide a bill of lading, or a copy of a bill of lading, from the shipper of the material or may request the railroad to provide written information indicating that the railroad did not process or add to the material.

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

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

ultimately disposed of after its rejection, the location of the 1386  
disposal, and the name of the owner or operator of the facility 1387  
that accepted the load for disposal. 1388

**Sec. 3714.09.** (A) The director of environmental protection 1389  
shall place each health district that is on the approved list 1390  
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  
appropriate county, or the city director of law of the appropriate  
city to initiate and pursue any appropriate judicial remedy  
available under this chapter to enforce any provision of this  
chapter and any rules or terms or conditions of any permit or  
license or order adopted or issued under this chapter with respect  
to any construction and demolition debris facility regardless of  
whether the facility is located in a health district that is on  
the approved list under ~~division (A) or (B)(1) or (2)~~ of this  
section.

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

**Sec. 3714.11.** (A) The attorney general, the prosecuting  
attorney of the county, or the city director of law where a  
violation has occurred, is occurring, or may occur, upon the  
request of the respective board of health of the health district,  
the legislative authority of the political subdivision in which a  
violation has occurred, is occurring, or may occur, or the  
director of environmental protection, shall prosecute to  
termination or bring an action for injunction against any person  
who has violated, is violating, or is threatening to violate any  
section of this chapter, applicable rules adopted under it, or  
terms or conditions of a permit, license, or order issued under  
it. The court of common pleas in which an action for injunction is



filed has the jurisdiction to and shall grant preliminary and 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 order is directed shall comply immediately, but on application to the director or the board of health, as appropriate, shall be afforded a hearing as soon as possible, but not later than thirty days after application. On the basis of the hearing, the director or the board of health shall continue the order in effect or revoke or modify it. No emergency order shall remain in effect for more than ninety days after its issuance.

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

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

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

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

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

(F) No person shall knowingly place or cause to be placed any reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone resulting from the alteration, construction, destruction, rehabilitation, or repair

of any ~~manmade~~ physical structure that is built by humans as fill 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 ~~other~~ 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  
debris, under this chapter and Chapter 3714. of the Revised Code  
and any rules adopted under them, providing compliance assistance  
to small businesses, and paying a share of the administrative  
costs of the environmental protection agency pursuant to section  
3745.014 of the Revised Code.

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

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

section 3734.02 of the Revised Code.

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

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The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or

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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 1766  
Code and any amendments to it, or the resolution adopted under 1767  
this division, as appropriate, shall establish the rates of the 1768  
fees levied under divisions (B)(1), (2), and (3) of this section, 1769  
if any, and shall specify whether the fees are levied on the basis 1770  
of tons or cubic yards as the unit of measurement. A solid waste 1771  
management district that levies fees under this division on the 1772  
basis of cubic yards shall do so in accordance with division (A) 1773  
of this section. 1774

The fee levied under division (B)(1) of this section shall be 1775  
not less than one dollar per ton nor more than two dollars per 1776  
ton, the fee levied under division (B)(2) of this section shall be 1777  
not less than two dollars per ton nor more than four dollars per 1778  
ton, and the fee levied under division (B)(3) of this section 1779  
shall be not more than the fee levied under division (B)(1) of 1780  
this section. 1781

Prior to the approval of the solid waste management plan of a 1782  
district under section 3734.55 of the Revised Code, the solid 1783  
waste management policy committee of a district may levy fees 1784  
under this division by adopting a resolution establishing the 1785  
proposed amount of the fees. Upon adopting the resolution, the 1786  
committee shall deliver a copy of the resolution to the board of 1787  
county commissioners of each county forming the district and to 1788  
the legislative authority of each municipal corporation and 1789  
township under the jurisdiction of the district and shall prepare 1790  
and publish the resolution and a notice of the time and location 1791  
where a public hearing on the fees will be held. Upon adopting the 1792  
resolution, the committee shall deliver written notice of the 1793

adoption of the resolution; of the amount of the proposed fees; 1794  
and of the date, time, and location of the public hearing to the 1795  
director and to the fifty industrial, commercial, or institutional 1796  
generators of solid wastes within the district that generate the 1797  
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 1830  
amended fees. The committee may repeal the fees levied pursuant to 1831  
such a resolution by adopting a resolution proposing to repeal 1832  
them. Upon adopting such a resolution, the committee shall proceed 1833  
to obtain ratification of the resolution in accordance with this 1834  
division. 1835

Not later than fourteen days after declaring the new fees to 1836  
be ratified or the fees to be repealed under this division, the 1837  
committee shall notify by certified mail the owner or operator of 1838  
each solid waste disposal facility that is required to collect the 1839  
fees of the ratification and the amount of the fees or of the 1840  
repeal of the fees. Collection of any fees shall commence or 1841  
collection of repealed fees shall cease on the first day of the 1842  
second month following the month in which notification is sent to 1843  
the owner or operator. 1844

Fees levied under this division also may be established, 1845  
amended, or repealed by a solid waste management policy committee 1846  
through the adoption of a new district solid waste management 1847  
plan, the adoption of an amended plan, or the amendment of the 1848  
plan or amended plan in accordance with sections 3734.55 and 1849  
3734.56 of the Revised Code or the adoption or amendment of a 1850  
district plan in connection with a change in district composition 1851  
under section 3734.521 of the Revised Code. 1852

Not later than fourteen days after the director issues an 1853  
order approving a district's solid waste management plan, amended 1854  
plan, or amendment to a plan or amended plan that establishes, 1855  
amends, or repeals a schedule of fees levied by the district, the 1856  
committee shall notify by certified mail the owner or operator of 1857

each solid waste disposal facility that is required to collect the 1858  
fees of the approval of the plan or amended plan, or the amendment 1859  
to the plan, as appropriate, and the amount of the fees, if any. 1860  
In the case of an initial or amended plan approved under section 1861  
3734.521 of the Revised Code in connection with a change in 1862  
district composition, other than one involving the withdrawal of a 1863  
county from a joint district, the committee, within fourteen days 1864  
after the change takes effect pursuant to division (G) of that 1865  
section, shall notify by certified mail the owner or operator of 1866  
each solid waste disposal facility that is required to collect the 1867  
fees that the change has taken effect and of the amount of the 1868  
fees, if any. Collection of any fees shall commence or collection 1869  
of repealed fees shall cease on the first day of the second month 1870  
following the month in which notification is sent to the owner or 1871  
operator. 1872

If, in the case of a change in district composition involving 1873  
the withdrawal of a county from a joint district, the director 1874  
completes the actions required under division (G)(1) or (3) of 1875  
section 3734.521 of the Revised Code, as appropriate, forty-five 1876  
days or more before the beginning of a calendar year, the policy 1877  
committee of each of the districts resulting from the change that 1878  
obtained the director's approval of an initial or amended plan in 1879  
connection with the change, within fourteen days after the 1880  
director's completion of the required actions, shall notify by 1881  
certified mail the owner or operator of each solid waste disposal 1882  
facility that is required to collect the district's fees that the 1883  
change is to take effect on the first day of January immediately 1884  
following the issuance of the notice and of the amount of the fees 1885  
or amended fees levied under divisions (B)(1) to (3) of this 1886  
section pursuant to the district's initial or amended plan as so 1887  
approved or, if appropriate, the repeal of the district's fees by 1888  
that initial or amended plan. Collection of any fees set forth in 1889

such a plan or amended plan shall commence on the first day of 1890  
January immediately following the issuance of the notice. If such 1891  
an initial or amended plan repeals a schedule of fees, collection 1892  
of the fees shall cease on that first day of January. 1893

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

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

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

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

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the



combustion of primarily coal in combination with scrap tires, that 1985  
is not combined in any way with garbage at one or more premises 1986  
owned by the generator. 1987

(2) Except as provided in section 3734.571 of the Revised 1988  
Code, any fees levied under division (B)(1) of this section apply 1989  
to solid wastes originating outside the boundaries of a county or 1990  
joint district that are covered by an agreement for the joint use 1991  
of solid waste facilities entered into under section 343.02 of the 1992  
Revised Code by the board of county commissioners or board of 1993  
directors of the county or joint district where the wastes are 1994  
generated and disposed of. 1995

(3) When solid wastes, other than solid wastes that consist 1996  
of scrap tires, are burned in a disposal facility that is an 1997  
incinerator or energy recovery facility, the fees levied under 1998  
divisions (A), (B), and (C) of this section shall be levied upon 1999  
the disposal of the fly ash and bottom ash remaining after burning 2000  
of the solid wastes and shall be collected by the owner or 2001  
operator of the sanitary landfill where the ash is disposed of. 2002

(4) When solid wastes are delivered to a solid waste transfer 2003  
facility, the fees levied under divisions (B) and (C) of this 2004  
section shall be levied upon the disposal of solid wastes 2005  
transported off the premises of the transfer facility for disposal 2006  
and shall be collected by the owner or operator of the solid waste 2007  
disposal facility where the wastes are disposed of. 2008

(5) The fees levied under divisions (A), (B), and (C) of this 2009  
section do not apply to sewage sludge that is generated by a waste 2010  
water treatment facility holding a national pollutant discharge 2011  
elimination system permit and that is disposed of through 2012  
incineration, land application, or composting or at another 2013  
resource recovery or disposal facility that is not a landfill. 2014

(6) The fees levied under divisions (A), (B), and (C) of this 2015

section do not apply to solid wastes delivered to a solid waste 2016  
composting facility for processing. When any unprocessed solid 2017  
waste or compost product is transported off the premises of a 2018  
composting facility and disposed of at a landfill, the fees levied 2019  
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 2084  
that regional authority under division (E) of this section shall 2085  
be kept by the board in a separate and distinct fund to the credit 2086  
of the district. Moneys in the special fund of the county or joint 2087  
district arising from the fees levied under division (B) of this 2088  
section and the fee levied under division (A) of section 3734.573 2089  
of the Revised Code shall be expended by the board of county 2090  
commissioners or directors of the district in accordance with the 2091  
district's solid waste management plan or amended plan approved 2092  
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 2093  
exclusively for the following purposes: 2094

(1) Preparation of the solid waste management plan of the 2095  
district under section 3734.54 of the Revised Code, monitoring 2096  
implementation of the plan, and conducting the periodic review and 2097  
amendment of the plan required by section 3734.56 of the Revised 2098  
Code by the solid waste management policy committee; 2099

(2) Implementation of the approved solid waste management 2100  
plan or amended plan of the district, including, without 2101  
limitation, the development and implementation of solid waste 2102  
recycling or reduction programs; 2103

(3) Providing financial assistance to boards of health within 2104  
the district, if solid waste facilities are located within the 2105  
district, for enforcement of this chapter and rules, orders, and 2106  
terms and conditions of permits, licenses, and variances adopted 2107  
or issued under it, other than the hazardous waste provisions of 2108  
this chapter and rules adopted and orders and terms and conditions 2109  
of permits issued under those provisions; 2110

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

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

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

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

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

(9) Providing financial assistance to individual municipal

corporations and townships within the district to defray their 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 2177  
treasurers or other officers of municipal corporations and the 2178  
fiscal officers of townships. The rules also shall prescribe the 2179  
dates for forwarding the fees to the boards and officials and may 2180  
prescribe any other requirements the director considers necessary 2181  
or appropriate to implement and administer divisions (A), (B), and 2182  
(C) of this section. 2183

**Sec. 3745.04.** (A) As used in this section, "any person" means 2184  
any individual, any partnership, corporation, association, or 2185  
other legal entity, or any political subdivision, instrumentality, 2186  
or agency of a state, whether or not the individual or legal 2187  
entity is an applicant for or holder of a license, permit, or 2188  
variance from the environmental protection agency, and includes 2189  
any department, agency, or instrumentality of the federal 2190  
government that is an applicant for or holder of a license, 2191  
permit, or variance from the environmental protection agency. 2192

As used in this section, "action" or "act" includes the 2193  
adoption, modification, or repeal of a rule or standard, the 2194  
issuance, modification, or revocation of any lawful order other 2195  
than an emergency order, and the issuance, denial, modification, 2196  
or revocation of a license, permit, lease, variance, or 2197  
certificate, or the approval or disapproval of plans and 2198  
specifications pursuant to law or rules adopted thereunder. 2199

(B) Any person who was a party to a proceeding before the 2200  
director of environmental protection may participate in an appeal 2201  
to the environmental review appeals commission for an order 2202  
vacating or modifying the action of the director or a local board 2203

of health, or ordering the director or board of health to perform 2204  
an act. The environmental review appeals commission has exclusive 2205  
original jurisdiction over any matter that may, under this 2206  
section, be brought before it. 2207

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.

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

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

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

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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 2397  
is supported by reliable, probative, and substantial evidence and 2398  
is in accordance with law. When the court finds an ambient air 2399  
quality standard, an emission standard, or a water quality or 2400  
discharge standard to be deficient, it shall order the director of 2401  
environmental protection to modify the standard to comply with the 2402  
laws governing air or water pollution. The court shall retain 2403  
jurisdiction until it approves the modified standard. The judgment 2404  
of the court shall be final and conclusive unless reversed, 2405  
vacated, or modified on appeal. Such appeals may be taken by any 2406  
party to the appeal pursuant to the Rules of Practice of the 2407  
Supreme Court and, to the extent not in conflict with those rules, 2408  
Chapter 2505. of the Revised Code. 2409

**Section 2.** That existing sections 3714.01, 3714.02, 3714.03, 2410  
3714.04, 3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 2411  
3714.11, 3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, 2412  
and 3745.06 of the Revised Code are hereby repealed. 2413

**Section 3.** (A) Notwithstanding the amendments to Chapter 2414  
3714. of the Revised Code by this act, an application for a 2415  
license to establish or modify a construction and demolition 2416  
debris facility submitted to a board of health or the Director of 2417  
Environmental Protection, as applicable, prior to July 1, 2005, 2418  
shall be reviewed and the license shall be issued or denied in 2419  
accordance with the provisions of that chapter as they existed on 2420  
July 1, 2005, if all of the following apply to the applicant for 2421  
the license: 2422

(1) The applicant has acquired an interest in the property on 2423  
which the facility will be located on or before May 1, 2005. 2424

(2) The applicant has begun a hydrogeologic investigation 2425  
pursuant to section 3745-400-09 of the Ohio Administrative Code 2426  
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 Revised Code, as amended by this act, a person may submit an application to a board of health or the Director, as applicable, for a license to establish or modify a construction and demolition debris facility, and such an application shall be reviewed and the license shall be issued or denied in accordance with the provisions of that chapter as they existed on July 1, 2005. However, unless division (G)(2) of section 3714.03 of the Revised Code, amended by this act, applies to the facility, a board of health or the Director, as applicable, shall apply all of the siting criteria established in section 3714.03 of the Revised Code by this act to such an application and shall deny the application if the facility that is the subject of the application will not comply with any of those siting criteria. In addition, the applicant for the license shall submit the information that is required from applicants for permits to install under section 3714.052 of the Revised Code, as enacted by this act. An application for a license may be denied if the information regarding the applicant indicates any of the reasons specified in division (B) of that section for the denial of an application for a permit to install.

**Section 4.** Section 3734.57 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 66 and Sub. S.B. 107 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

**Section 5.** This act is hereby declared to be an emergency



measure necessary for the immediate preservation of the public 2485  
peace, health, and safety. The reason for such necessity is that a 2486  
moratorium on the siting of new construction and demolition debris 2487  
facilities and the expansion of existing facilities is due to 2488  
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