

**As Reported by the House Economic Development and
Environment Committee**

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

Sub. H. B. No. 397

**Representatives Hagan, Collier, Law, Harwood, Schaffer, Cassell, DeBose,
Domenick**

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A B I L L

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 1
3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 2
3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3
3734.57, 3745.04, 3745.05, and 3745.06 and to 4
enact sections 3714.051, 3714.052, 3714.053, 5
3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 6
3714.101, and 3714.20 of the Revised Code to 7
revise the statutes governing construction and 8
demolition debris facilities and to declare an 9
emergency. 10

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

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

Sec. 3714.01. As used in this chapter: 17

(A) "Board of health" means the board of health of a city or 18

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

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

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

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(D) "Disposal" means the discharge, deposit, injection,
dumping, spilling, leaking, emitting, or placing of any

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construction and demolition debris into or on any land or ground 51
or surface water or into the air, except if the disposition or 52
placement constitutes storage. 53

(E) "Facility" means any site, location, tract of land, 54
installation, or building used for the disposal of construction 55
and demolition debris. "Facility" does not include any 56
construction site where construction debris and trees and brush 57
removed in clearing the construction site are used as fill 58
material on the site where the materials are generated or removed 59
and does not include any site where materials composed exclusively 60
of reinforced or nonreinforced concrete, asphalt, clay tile, 61
building or paving brick, or building or paving stone are used as 62
fill material, either alone or in conjunction with clean soil, 63
sand, gravel, or other clean aggregates, in legitimate fill 64
operations for construction purposes or to bring the site up to a 65
consistent grade. 66

(F) "Health district" means a city or general health district 67
created by or under the authority of Chapter 3709. of the Revised 68
Code. 69

(G) "New construction and demolition debris facility" or "new 70
facility" includes an existing facility that is proposing to 71
expand the facility beyond the limits of construction and 72
demolition debris placement approved by a board of health or the 73
director of environmental protection, as applicable, under this 74
chapter. 75

(H) "Person" includes the state, any political subdivision of 76
the state or other state or local body, the United States and any 77
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 of facilities. These standards may include, without limitation, requirements for diking around the areas where debris is buried to prevent runoff of surface water onto adjacent property.~~ issuance of permits to install under section 3714.051 of the Revised Code that shall include all of the following: 114 115 116 117 118 119

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

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

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

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

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

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

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

(B) ~~Standards for control over access to facilities; the design and construction of facilities. The standards may include,~~ 141 142

without limitation, requirements for diking around the areas where 143
debris is buried to prevent runoff of surface water onto adjacent 144
property. 145

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

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

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

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

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

(3) Recommendations for actions, if any are necessary, that 173

should be taken to investigate or remediate the source of any 174
ground water contamination. 175

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

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

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

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

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

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

(G) Requirements respecting written, narrative plans for the 201
operation of facilities. The rules shall require the owner or 202
operator of a facility to use best management practices. In 203

addition, the rules shall require as a part of the plan of 204
operation of a facility the inclusion of the contingency plans 205
required in rules adopted under division (H) of this section. 206

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

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

(1) The rules establishing the financial assurance 214
requirements for the closure of facilities shall require that the 215
owner or operator of a facility, before being issued a an initial 216
license for the facility under section 3714.06 of the Revised 217
Code, submit a surety bond, a letter of credit, or other 218
acceptable financial assurance, as specified by the director in 219
the rules, in an amount ~~equal to the estimated costs for closure~~ 220
~~of those portions of the facility that have been, are being, or~~ 221
~~are to be used for the disposal of construction and demolition~~ 222
~~debris as contained in the closure plan for the facility approved~~ 223
~~by the board of health of the health district in which the~~ 224
facility is or is to be located or, if the facility is or is to be 225
located in a health district that is not on the approved list 226
under ~~division (A) or (B)(1) or (2) of section 3714.09 of the~~ 227
~~Revised Code,~~ determined by the director or the appropriate board 228
of health, as applicable. The rules shall include a list of the 229
activities for which financial assurance may be required. The 230
rules shall allow the director or board of health, as applicable, 231
to adjust the amount of a surety bond, a letter of credit, or 232
other acceptable financial assurance in conjunction with the 233
issuance of an annual license. However, the rules shall require 234
that the amount of a surety bond, letter of credit, or other 235

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

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

~~(I)~~(J) Requirements for the closure of facilities. The 260
requirements shall include minimum requirements for the closure of 261
all facilities and such additional requirements as are reasonably 262
related to the location of the facility and the type and quantity 263
of materials disposed of in the facility. The rules shall require 264
that an owner or operator of a facility, upon the closure of the 265
facility, file in the office of the county recorder of the county 266
in which the facility is located a notice that the property was 267

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

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

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

(1) With respect to a facility that permanently ceases 289
acceptance of construction and demolition debris in calendar year 290
2006, the post-closure care and post-closure care financial 291
assurance requirements do not apply, provided that the owner or 292
operator of the facility gives written notice of the date of the 293
cessation to the applicable board of health or the director, the 294
owner or operator of the facility does not submit a subsequent 295
application for a license renewal for the facility after that 296
cessation, and no order was issued by the applicable board of 297
health, the director, or a court of competent jurisdiction 298
governing the post-closure care of and post-closure financial 299

assurance for that facility prior to the date specified in the 300
written notice. 301

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

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

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

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

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

(P) Definitions of "owner" and "operator" for purposes of 329
this chapter. 330

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

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

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

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

(2) "Category 3 wetland" means a wetland that supports superior habitat or hydrological or recreational functions as determined by an appropriate wetland evaluation methodology acceptable to the director of environmental protection. "Category 3 wetland" includes a wetland with high levels of diversity, a high proportion of native species, and high functional values and

includes, but is not limited to, a wetland that contains or 362
provides habitat for threatened or endangered species. "Category 3 363
wetland" may include high quality forested wetlands, including old 364
growth forested wetlands, mature forested riparian wetlands, 365
vernal pools, bogs, fens, and wetlands that are scarce regionally. 366

(3) "Natural area" means either of the following: 367

(a) An area designated by the director of natural resources 368
as a wild, scenic, or recreational river under section 1517.14 of 369
the Revised Code; 370

(b) An area designated by the United States department of the 371
interior as a national wild or scenic river. 372

(4) "Occupied dwelling" means a residential dwelling and also 373
includes a place of worship as defined in section 5104.01 of the 374
Revised Code, a child day-care center as defined in that section, 375
a hospital as defined in section 3727.01 of the Revised Code, a 376
nursing home as defined in that section, a school, and a 377
restaurant or other eating establishment. "Occupied dwelling" does 378
not include a dwelling owned or controlled by the owner or 379
operator of a construction and demolition debris facility to which 380
the siting criteria established under this section are being 381
applied. 382

(5) "Residential dwelling" means a building used or intended 383
to be used in whole or in part as a personal residence by the 384
owner, part-time owner, or lessee of the building or any person 385
authorized by the owner, part-time owner, or lessee to use the 386
building as a personal residence. 387

(B) Neither the director of environmental protection nor any 388
board of health shall issue a ~~license~~ permit to install under 389
section ~~3714.06~~ 3714.051 of the Revised Code to establish ~~and~~ 390
~~operate~~ a new construction and demolition debris facility when any 391
portion of the facility is proposed to be located in either of the 392

following locations: 393

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

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

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

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

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

(3)(a) Except as provided in division (C)(3)(b) of this section, within five hundred feet of a residential or public water supply well. 424
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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: 427
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(i) The well is controlled by the owner or operator of the construction and demolition debris facility. 430
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(ii) The well is hydrologically separated from the horizontal limits of construction and demolition debris placement. 432
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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. 434
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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 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; 438
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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 451
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preserve under section 1517.05 of the Revised Code, or any area 455
designated by the United States department of the interior as a 456
national wildlife refuge; 457

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

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

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

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

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

(E) Neither the director nor any board shall issue a permit 480
to install under section 3714.051 of the Revised Code to establish 481
a new construction and demolition debris facility when the road 482
that is designated by the owner or operator as the main hauling 483
road at the facility to and from the limits of construction and 484
demolition debris placement is proposed to be located within five 485

hundred feet of an occupied dwelling unless written permission is 486
given by the owner of the occupied dwelling. 487

(F) Neither the director nor any board shall issue a permit 488
to install under section 3714.051 of the Revised Code to establish 489
a new construction and demolition debris facility unless the new 490
facility will have all of the following: 491

(1) Access roads that shall be constructed in a manner that 492
allows use in all weather conditions and will withstand the 493
anticipated degree of use and minimize erosion and generation of 494
dust; 495

(2) Surface water drainage and sediment controls that are 496
required by the director; 497

(3) If the facility is proposed to be located in an area in 498
which an applicable zoning resolution allows residential 499
construction, vegetated earthen berms or an equivalent barrier 500
with a minimum height of six feet separating the facility from 501
adjoining property. 502

(G)(1) The siting criteria established in this section shall 503
be applied to an application for a permit to install at the time 504
that the application is submitted to the director or a board of 505
health, as applicable. Circumstances related to the siting 506
criteria that change after the application is submitted shall not 507
be considered in approving or disapproving the application. 508

(2) The siting criteria established in this section by this 509
amendment do not apply to an expansion of a construction and 510
demolition debris facility that was in operation prior to the 511
effective date of this amendment onto property within the property 512
boundaries identified in the application for the initial license 513
for that facility or any subsequent license issued for that 514
facility up to and including the license issued for that facility 515
for calendar year 2005. The siting criteria established in this 516

section prior to the effective date of this amendment apply to 517
such an expansion. 518

Sec. 3714.04. The (A) Subject to division (B) of this 519
section, the director of environmental protection or the board of 520
health having territorial jurisdiction may by order exempt any 521
person disposing of or proposing to dispose of construction and 522
demolition debris in such quantities or under such circumstances 523
that, in the determination of the director or board of health, are 524
unlikely to adversely affect the public health or safety or the 525
environment, or to create a fire hazard, from any provision of 526
this chapter or a rule adopted or order issued under it, other 527
than division (B)(2) of section 3714.03 or division (E) of section 528
3714.13 of the Revised Code. Neither the director nor any board of 529
health shall grant an exemption under this section from division 530
~~(A)~~(B)(1) of section 3714.03 of the Revised Code if the director 531
or board finds from the ~~license~~ permit to install application that 532
the establishment of a new construction or demolition debris 533
facility in the one-hundred-year flood plain of a watercourse 534
would result in an increase of more than one foot in the elevation 535
of the flood stage of the watercourse upstream or downstream from 536
the proposed facility. The applicant for a ~~license~~ permit to 537
install shall determine the increase in the flood stage resulting 538
from the location of the proposed facility within the 539
one-hundred-year flood plain of a watercourse based upon a ~~design~~ 540
~~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 604
the applicant is a corporation, and of any other person who has a 605
right to control or in fact controls management of the applicant 606
or the selection of officers, directors, or managers of the 607
applicant; 608

(2) The designs and plans for the construction and demolition 609

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 Code.

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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 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

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construction or has entered into a binding contractual obligation 641
to undertake and complete a continuing program of construction 642
within a reasonable time, in which case the director or board, as 643
applicable, may extend the expiration date of a permit to install 644
upon request of the applicant. 645

(F) The director or a board of health, as applicable, may 646
issue, deny, modify, suspend, or revoke a permit to install in 647
accordance with rules. 648

(G) A board of health shall notify the director of its 649
receipt of an application for a permit to install. A board of 650
health, or its authorized representative, may request the director 651
to review an application, or part of an application, for a permit 652
to install and also may request that the director issue or deny it 653
when the board determines that additional expertise is required. 654
The director shall comply with such a request. 655

Upon a board of health's issuance of a permit to install for 656
a new construction and demolition debris facility under this 657
section, the board shall mail a copy of the permit to the director 658
together with approved plans, specifications, and information 659
regarding the facility. 660

Sec. 3714.052. (A) An application for a permit to install a 661
new construction and demolition debris facility that is submitted 662
under section 3714.051 of the Revised Code shall include all of 663
the following: 664

(1) A listing of all construction and demolition debris 665
facilities or other waste disposal facilities that the owner or 666
operator of the proposed new construction and demolition debris 667
facility or a key employee of the owner or operator has operated 668
or is operating in this state; 669

(2) A listing of the construction and demolition debris 670

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; 671
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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 the owner or operator. 691
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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 698
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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
director or board of health, as applicable, all information
required to be submitted under division (A) of this section that
has changed or been added since the issuance of the most recent
annual operation license for the facility. If, during that period,
there have been no changes in or additions to that information,
the owner or operator shall submit to the director or board an

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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 761
this section for the denial of an application for a permit to 762
install. 763

(F) In lieu of complying with this section, an applicant for 764
a permit to install for, or a proposed transferee of a permit to 765
install or a license for, a construction and demolition debris 766

facility may choose to comply with sections 3734.41 to 3734.47 of 767
the Revised Code. An applicant or transferee that so chooses shall 768
comply with those sections. For purposes of this division, 769
sections 3734.41 to 3734.47 of the Revised Code are deemed to 770
apply to applicants for permits to install for, and proposed 771
transferees of permits to install or licenses for, construction 772
and demolition debris facilities. The director shall provide 773
notice in writing to the applicable board of health that the 774
applicant or proposed transferee has complied with sections 775
3734.41 to 3734.47 of the Revised Code and has sufficient 776
reliability, expertise, and competence to operate the construction 777
and demolition debris facility in substantial compliance with this 778
chapter and the rules adopted under it. 779

(G) As used in this section, "key employee" means an 780
individual employed by an applicant for a permit to install for, 781
or by the proposed transferee of a permit to install or license 782
for, a construction and demolition debris facility in a 783
supervisory capacity or who is empowered to make discretionary 784
decisions with respect to the construction and demolition debris 785
operations of the applicant or transferee, but does not include an 786
employee who is exclusively engaged in the physical or mechanical 787
collection, transfer, transportation, storage, or disposal of 788
construction and demolition debris. If the applicant or transferee 789
has entered into a contract with another person to operate the 790
facility that is the subject of the application or transfer, "key 791
employee" includes an employee of the contractor who acts in a 792
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. An application for a license for a new 852
facility shall be submitted prior to operation of the new 853
facility. The license shall be valid until the time that the next 854
annual license is required to be obtained for the facility under 855
this section. 856

A person who has received a license, upon sale or disposition 857
of the facility, may, with the ~~consent~~ approval of the board or 858
the director, as appropriate, have the license as well as a permit 859
to install for the facility transferred to another person. The 860
board or director may disapprove the transfer of the permit or 861

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

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

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

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

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

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

of the Revised Code for an annual license for the continued
operation of the facility. The plans for the operation of the
facility shall include the contingency plans that are required in
rules adopted under division (H) of section 3714.02 of the Revised
Code.

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(B) A person who submits an application under section 3714.06
of the Revised Code for an initial license to operate a
construction and demolition debris facility shall provide, at the
time that the application is submitted, to the fire department
that would respond to the facility a copy of the contingency plans
that are required in rules adopted under division (H) of section
3714.02 of the Revised Code. In addition, the owner or operator of
the facility shall submit any necessary updates to the plans as
required in rules adopted under that division at the time that the
owner or operator submits an application under section 3714.06 of
the Revised Code for an annual license for continued operation of
the facility.

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

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

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

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(2) Best management practices governing construction and demolition debris facilities and disposal of construction and demolition debris. 955
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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. 958
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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. 969
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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. 972
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(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports 980
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the construction and demolition debris to the facility or the 986
cubic yards actually logged for disposal by the owner or operator 987
in accordance with rules adopted under section 3714.02 of the 988
Revised Code. If basing the fee on tonnage, the owner or operator 989
shall use certified scales to determine the tonnage of 990
construction and demolition debris that is transported to the 991
facility for disposal. 992

(3) The owner or operator of a construction and demolition 993
debris facility or a solid waste facility shall collect the fee 994
levied under division (A) of this section as a trustee for the 995
health district having jurisdiction over the facility, if that 996
district is on the approved list under section 3714.09 of the 997
Revised Code, or for the state. The owner or operator shall 998
prepare and file with the appropriate board of health or the 999
director of environmental protection monthly returns indicating 1000
the total volume or weight, as applicable, of construction and 1001
demolition debris received for disposal at the facility and the 1002
total amount of money required to be collected on the construction 1003
and demolition debris disposed of during that month. Not later 1004
than thirty days after the last day of the month to which the 1005
return applies, the owner or operator shall mail to the board of 1006
health or the director the return for that month together with the 1007
money required to be collected on the construction and demolition 1008
debris disposed of during that month. The owner or operator may 1009
request, in writing, an extension of not more than thirty days 1010
after the last day of the month to which the return applies. A 1011
request for extension may be denied. If the owner or operator 1012
submits the money late, the owner or operator shall pay a penalty 1013
of ten per cent of the amount of the money due for each month that 1014
it is late. 1015

(4) Of the money that is collected from a construction and 1016
demolition debris facility or a solid waste facility on a per 1017

cubic yard or per ton basis under this section, a board of health 1018
shall transmit three cents per cubic yard or six cents per ton, as 1019
applicable, to the director not later than forty-five days after 1020
the receipt of the money. The money retained by a board of health 1021
under this section shall be paid into a special fund, which is 1022
hereby created in each health district, and used solely to 1023
administer and enforce this chapter and rules adopted under it. 1024

The director shall transmit all money received from the 1025
boards of health of health districts under this section and all 1026
money from the disposal fee collected by the director under this 1027
section to the treasurer of state to be credited to the 1028
construction and demolition debris facility oversight fund, which 1029
is hereby created in the state treasury. The fund shall be 1030
administered by the director, and money credited to the fund shall 1031
be used exclusively for the administration and enforcement of this 1032
chapter and rules adopted under it. 1033

(B) The board of health of a health district or the director 1034
may enter into an agreement with the owner or operator of a 1035
construction and demolition debris facility or a solid waste 1036
facility for the quarterly payment of the money collected from the 1037
disposal fee. The board of health shall notify the director of any 1038
such agreement. Not later than forty-five days after receipt of 1039
the quarterly payment, the board of health shall transmit the 1040
amount established in division (A)(4) of this section to the 1041
director. The money retained by the board of health shall be 1042
deposited in the special fund of the district as required under 1043
that division. Upon receipt of the money from a board of health, 1044
the director shall transmit the money to the treasurer of state to 1045
be credited to the construction and demolition debris facility 1046
oversight fund. 1047

(C) If a construction and demolition debris facility or a 1048
solid waste facility is located within the territorial boundaries 1049

of a municipal corporation or the unincorporated area of a 1050
township, the municipal corporation or township may appropriate up 1051
to four cents per cubic yard or up to eight cents per ton of the 1052
disposal fee required to be paid by the facility under division 1053
(A) of this section for the same purposes that a municipal 1054
corporation or township may levy a fee under division (C) of 1055
section 3734.57 of the Revised Code. 1056

The legislative authority of the municipal corporation or 1057
township may appropriate the money from the fee by enacting an 1058
ordinance or adopting a resolution establishing the amount of the 1059
fee to be appropriated. Upon doing so, the legislative authority 1060
shall mail a certified copy of the ordinance or resolution to the 1061
board of health of the health district in which the construction 1062
and demolition debris facility or the solid waste facility is 1063
located or, if the facility is located in a health district that 1064
is not on the approved list under section 3714.09 of the Revised 1065
Code, to the director. Upon receipt of the copy of the ordinance 1066
or resolution and not later than forty-five days after receipt of 1067
money collected from the fee, the board or the director, as 1068
applicable, shall transmit to the treasurer or other appropriate 1069
officer of the municipal corporation or clerk of the township that 1070
portion of the money collected from the disposal fee by the owner 1071
or operator of the facility that is required by the ordinance or 1072
resolution to be paid to that municipal corporation or township. 1073

Money received by the treasurer or other appropriate officer 1074
of a municipal corporation under this division shall be paid into 1075
the general fund of the municipal corporation. Money received by 1076
the clerk of a township under this division shall be paid into the 1077
general fund of the township. The treasurer or other officer of 1078
the municipal corporation or the clerk of the township, as 1079
appropriate, shall maintain separate records of the money received 1080
under this division. 1081

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

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

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

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

be paid to that county. 1114

Money received by a county treasurer under this division 1115
shall be paid into the general fund of the county. The county 1116
treasurer shall maintain separate records of the money received 1117
under this division. 1118

A board of county commissioners may cease collecting money 1119
under this division by repealing the resolution that was adopted 1120
under this division. 1121

(E)(1) This section does not apply to the disposal of 1122
construction and demolition debris at a solid waste facility that 1123
is licensed under Chapter 3734. of the Revised Code if there is no 1124
construction and demolition debris facility licensed under this 1125
chapter within thirty-five miles of the solid waste facility as 1126
determined by a facility's property boundaries. 1127

(2) This section does not apply to the disposal of 1128
construction and demolition debris at a solid waste facility that 1129
is licensed under Chapter 3734. of the Revised Code if the owner 1130
or operator of the facility chooses to collect fees on the 1131
disposal of the construction and demolition debris that are 1132
identical to the fees that are collected under Chapters 343. and 1133
3734. of the Revised Code on the disposal of solid wastes at that 1134
facility. 1135

(3) This section does not apply to the disposal of source 1136
separated materials that are exclusively composed of reinforced or 1137
nonreinforced concrete, asphalt, clay tile, building or paving 1138
brick, or building or paving stone at a construction and 1139
demolition debris facility that is licensed under this chapter 1140
when either of the following applies: 1141

(a) The materials are placed within the limits of 1142
construction and demolition debris placement at the facility as 1143
specified in the license issued to the facility under section 1144

3714.06 of the Revised Code, are not placed within the unloading
zone of the facility, and are used as a fire prevention measure in
accordance with rules adopted by the director under section
3714.02 of the Revised Code.

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

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

The owner or operator of a construction and demolition debris
facility shall collect the fee levied under rules adopted under
this section as a trustee for the health district having
jurisdiction over the facility, if that district is on the

approved list under section 3714.09 of the Revised Code, or for 1176
the state. The owner or operator shall collect and remit the fee 1177
in the same manner that the fee levied under section 3714.07 of 1178
the Revised Code is collected and remitted. 1179

The money collected by a board of health under this section 1180
shall be paid into a special fund, which is hereby created in each 1181
health district, and used solely to fund and conduct ground water 1182
monitoring at construction and demolition debris facilities within 1183
the health district as specified in division (B) of this section. 1184
Of the money that is collected, a board of health shall transmit 1185
eighty per cent of the money received from the owner or operator 1186
of a facility under this section to the director not later than 1187
forty-five days after the receipt of the money. 1188

The director shall transmit all money received under this 1189
section to the treasurer of state to be credited to the 1190
construction and demolition debris facility ground water 1191
monitoring fund, which is hereby created in the state treasury. 1192
The director shall administer the fund and shall use money 1193
credited to it solely for the purposes specified in division (B) 1194
of this section. 1195

(B) A board of health or the director, as applicable, shall 1196
conduct ground water monitoring at construction and demolition 1197
debris facilities in accordance with this section. In order to 1198
conduct the monitoring, the board or director, as applicable, 1199
shall pay for the installation of ground water monitoring wells, 1200
ground water sampling, and the laboratory analysis of the ground 1201
water samples at a construction and demolition debris facility in 1202
accordance with either of the following, as applicable: 1203

(1) If the facility is operating before ~~the effective date of~~ 1204
~~this section~~ April 15, 2005, and the facility has not had ground 1205
water monitoring wells installed and operating before that date, 1206

the board of health or director, as applicable, shall pay the cost 1207
of the installation of one or more ground water monitoring wells 1208
and the annual sampling and laboratory analysis of the ground 1209
water at the facility. 1210

(2) If the facility is operating before ~~the effective date of~~ 1211
~~this section~~ April 15, 2005, and the facility has had one or more 1212
ground water monitoring wells installed and operating before that 1213
date, the board of health or director, as applicable, shall pay 1214
the cost of the installation of one or more additional ground 1215
water monitoring wells and the annual sampling and laboratory 1216
analysis of the ground water at the facility that exceeds the 1217
facility's annual cost of ground water monitoring certified under 1218
division (C) of this section by the owner or operator of the 1219
facility. 1220

A board of health or the director, as applicable, shall not 1221
pay any costs under this section for the installation of ground 1222
water monitoring wells, ground water sampling, or the laboratory 1223
analysis of ground water samples incurred by a construction and 1224
demolition debris facility to comply with rules adopted under 1225
section 3714.02 of the Revised Code or a permit to install issued 1226
under section 3714.051 of the Revised Code. 1227

(C) For purposes of division (B)(2) of this section, the 1228
owner or operator of a construction and demolition debris facility 1229
that is operating before ~~the effective date of this section~~ April 1230
15, 2005, and that has had ground water monitoring wells installed 1231
and has incurred monitoring costs before that date shall retain 1232
for three years all documents evidencing the cost of the ground 1233
water monitoring. If the board or director, as applicable, 1234
requests documents evidencing the cost of the ground water 1235
monitoring, the owner or operator of the facility shall certify to 1236
the board or director, as applicable, the annual cost of ground 1237
water monitoring at the facility. 1238

(D) A board of health or the director, as applicable, shall 1239
determine the priority of purchases for ground water monitoring 1240
and the payment of the costs of conducting monitoring of ground 1241
water as provided in division (B) of this section. However, a 1242
board of health or the director, as applicable, shall not purchase 1243
ground water monitoring wells or pay the costs of conducting 1244
monitoring of ground water if the applicable fund does not have 1245
sufficient money to pay those costs. The director shall consult 1246
with boards of health to determine the priority of ground water 1247
monitoring at construction and demolition debris facilities that 1248
are licensed under this chapter. 1249

(E) The director may adopt rules in accordance with Chapter 1250
119. of the Revised Code that are necessary to administer this 1251
section. 1252

(F) A board of health or the director, as applicable, may 1253
enter into contracts for the purpose of conducting ground water 1254
monitoring that is required in this section. 1255

Sec. 3714.073. (A) In addition to the fee levied under 1256
division (A)(1) of section 3714.07 of the Revised Code, beginning 1257
July 1, 2005, there is hereby levied on the disposal of 1258
construction and demolition debris at a construction and 1259
demolition debris facility that is licensed under this chapter or 1260
at a solid waste facility that is licensed under Chapter 3734. of 1261
the Revised Code the following fees: 1262

(1) A fee of twelve and one-half cents per cubic yard or 1263
twenty-five cents per ton, as applicable, the proceeds of which 1264
shall be deposited in the state treasury to the credit of the soil 1265
and water conservation district assistance fund created in section 1266
1515.14 of the Revised Code; 1267

(2) A fee of thirty seven and one-half cents per cubic yard 1268

or seventy-five cents per ton, as applicable, the proceeds of 1269
which shall be deposited in the state treasury to the credit of 1270
the recycling and litter prevention fund created in section 1271
1502.02 of the Revised Code. 1272

(B) The owner or operator of a construction and demolition 1273
debris facility or a solid waste facility, as a trustee of the 1274
state, shall collect the fees levied under this section and remit 1275
the money from the fees in the manner that is established in 1276
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 1277
for the fee that is levied under division (A)(1) of that section 1278
and may enter into an agreement for the quarterly payment of the 1279
fees in the manner established in division (B) of that section for 1280
the quarterly payment of the fee that is levied under division 1281
(A)(1) of that section. 1282

(C) The money that is collected from a construction and 1283
demolition debris facility or a solid waste facility and remitted 1284
to a board of health or the director of environmental protection, 1285
as applicable, pursuant to this section shall be transmitted by 1286
the board or director to the treasurer of state not later than 1287
forty-five days after the receipt of the money to be credited to 1288
the soil and water conservation district assistance fund or the 1289
recycling and litter prevention fund, as applicable. 1290

(D) This section does not apply to the disposal of 1291
construction and demolition debris at a solid waste facility that 1292
is licensed under Chapter 3734. of the Revised Code if the owner 1293
or operator of the facility chooses to collect fees on the 1294
disposal of the construction and demolition debris that are 1295
identical to the fees that are collected under Chapters 343. and 1296
3734. of the Revised Code on the disposal of solid wastes at that 1297
facility. 1298

(E) This section does not apply to the disposal of source 1299

separated materials that are exclusively composed of reinforced or
nonreinforced concrete, asphalt, clay tile, building or paving
brick, or building or paving stone at a construction and
demolition debris facility that is licensed under this chapter
when either of the following applies:

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

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

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

(B) The board of health of a health district in which a
construction and demolition debris facility is located, the
director of environmental protection, or an authorized
representative of either may request the removal of pulverized
debris that has been brought to the construction and demolition
debris facility. A board, the director, or an authorized
representative of either shall make such a request when the
pulverized debris is at the unloading zone of the facility
designated under rules adopted under section 3714.02 of the

Revised Code and not after the debris has been disposed of on the 1331
working face of the facility. Upon the receipt of such a request, 1332
the owner or operator of the facility shall comply with section 1333
3714.083 of the Revised Code and shall do one of the following: 1334

(1) Immediately cause the pulverized debris to be removed 1335
from the facility; 1336

(2) Store the pulverized debris at a location at the facility 1337
where construction and demolition debris is not disposed of for 1338
not more than ten days after the receipt of a request to remove 1339
the debris from the facility. Not later than the end of the 1340
ten-day period, the owner or operator shall cause the pulverized 1341
debris to be removed from the facility. 1342

(C) As used in this section, "working face" has the same 1343
meaning as in section 3714.021 of the Revised Code. 1344

Sec. 3714.082. (A) Except as provided in division (B) of this 1345
section, a construction and demolition debris facility may request 1346
a transfer facility to certify that material that is transferred 1347
from the transfer facility to the construction and demolition 1348
debris facility is not off-specification material; hazardous 1349
waste, solid wastes, or infectious wastes; or low-level 1350
radioactive waste whose treatment, recycling, storage, or disposal 1351
is governed under division (B) of section 3748.10 of the Revised 1352
Code. As used in this section, "hazardous waste," "solid wastes," 1353
and "infectious wastes" have the same meanings as in section 1354
3734.01 of the Revised Code. 1355

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

the railroad to provide written information indicating that the 1361
railroad did not process or add to the material. 1362

Sec. 3714.083. (A) If the owner or operator of a construction 1363
and demolition debris facility rejects a load of debris that has 1364
been accepted at the unloading zone of the facility because the 1365
load is not eligible for disposal at the facility under this 1366
chapter and rules adopted under it, including section 3714.081 of 1367
the Revised Code, the owner or operator shall notify the director 1368
of environmental protection or a board of health, as applicable, 1369
of the rejection of the load. The notification shall be made in 1370
accordance with rules adopted under section 3714.02 of the Revised 1371
Code and shall include the date and time that the load was 1372
rejected, the license plate number of the vehicle transporting the 1373
rejected load as well as an indication of the state of origin of 1374
the vehicle, the name of the transporter or shipper of the load, 1375
if ascertainable, and the reason for rejecting the load. After 1376
rejecting a load, the owner or operator shall give the transporter 1377
or shipper of the load, as applicable, instructions regarding the 1378
requirements of division (B) of this section. The instructions 1379
shall be on a form prescribed by the director. 1380

(B) A transporter or shipper of a load that has been rejected 1381
under division (A) of this section shall notify the director or 1382
board, as applicable, of the ultimate disposition of the load 1383
after the load's rejection. The notification shall be made in 1384
accordance with rules adopted under section 3714.02 of the Revised 1385
Code and shall include the date and time that the load was 1386
ultimately disposed of after its rejection, the location of the 1387
disposal, and the name of the owner or operator of the facility 1388
that accepted the load for disposal. 1389

Sec. 3714.09. (A) The director of environmental protection 1390

shall place each health district that is on the approved list 1391
under division (A) or (B) of section 3734.08 of the Revised Code 1392
on the approved list for the purposes of issuing permits to 1393
install and licenses under ~~section 3714.06 of the Revised Code~~ 1394
this chapter. Any survey or resurvey of any such health district 1395
conducted under section 3734.08 of the Revised Code shall also 1396
determine whether there is substantial compliance with this 1397
chapter. If the director removes any such health district from the 1398
approved list under division (B) of that section, the director 1399
shall also remove the health district from the approved list under 1400
this division and shall administer and enforce this chapter in the 1401
health district until the health district is placed on the 1402
approved list under division (B) of section 3734.08 of the Revised 1403
Code or division (B)(1) of this section. 1404

(B)(1) Upon the request of the board of health of a health 1405
district that is not on the approved list under division (A) or 1406
(B) of section 3734.08 of the Revised Code, the director may place 1407
the board on the approved list for the purpose of permitting and 1408
licensing construction and demolition debris facilities under 1409
~~section 3714.06 of the Revised Code~~ this chapter if the director 1410
determines that the board is both capable of and willing to 1411
enforce all of the applicable requirements of this chapter and 1412
rules adopted under it. 1413

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

complying with this chapter and rules adopted under it. 1423

(3) If, after a survey or resurvey is made under division 1424
(B)(2) of this section, the director determines that a health 1425
district is not eligible to be placed on the approved list or to 1426
continue on that list, the director shall certify that fact to the 1427
board of health of the health district and shall administer and 1428
enforce this chapter and rules adopted under it in the health 1429
district until such time as the health district is placed on the 1430
approved list. 1431

(4) Whenever the director is required to administer and 1432
enforce this chapter in any health district under division (A) or 1433
(B)(3) of this section, the director is hereby vested with all of 1434
the authority and all the duties granted to or imposed upon a 1435
board of health under this chapter and rules adopted under it 1436
within the health district. All disposal fees required to be paid 1437
to a board of health by section 3714.07 of the Revised Code and 1438
all such previous fees paid to the board, together with any money 1439
from construction and demolition debris facility license fees that 1440
were required to be paid to the board under section 3714.07 of the 1441
Revised Code as that section existed prior to ~~the effective date~~ 1442
~~of this amendment~~ April 15, 2005, that have not been expended or 1443
encumbered shall be paid to the director and deposited by the 1444
director to the credit of the construction and demolition debris 1445
facility oversight fund created in section 3714.07 of the Revised 1446
Code. 1447

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

license or order adopted or issued under this chapter with respect 1455
to any construction and demolition debris facility regardless of 1456
whether the facility is located in a health district that is on 1457
the approved list under ~~division (A) or (B)(1) or (2)~~ of this 1458
section. 1459

Sec. 3714.101. Falsification of any material information that 1460
is required to be submitted to a board of health or the director 1461
of environmental protection with respect to a permit to install or 1462
a license issued under this chapter or an application for such a 1463
permit or license, or falsification of any other material 1464
information that is required to be submitted to a board or the 1465
director under this chapter and rules adopted under it, is grounds 1466
for the denial, suspension, or revocation of a permit to install 1467
or a license issued under this chapter. 1468

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

license, or order issued under it. The court shall give precedence 1486
to such an action over all other cases. 1487

(B) If the board of health of the health district in which a 1488
violation has occurred or is occurring or the director determines 1489
that any person has violated or is violating this chapter, a rule 1490
adopted under it, or a term or condition of a permit, license, or 1491
order issued under it, the board or the director may request in 1492
writing that the attorney general, the prosecuting attorney of the 1493
county, or the city director of law where the violation has 1494
occurred or is occurring ~~to~~ bring an action for civil penalties in 1495
any court of competent jurisdiction. Such an action shall have 1496
precedence over all other cases. The court may impose upon the 1497
person a civil penalty of not more than ten thousand dollars for 1498
each day of each violation of this chapter, a rule adopted under 1499
it, or a term or condition of a permit, license, or order issued 1500
under it. 1501

Moneys resulting from civil penalties imposed by an action 1502
brought at the request of the board of health shall be credited to 1503
the special fund of the health district created in section 3714.07 1504
of the Revised Code. Moneys resulting from civil penalties imposed 1505
by an action brought at the request of the director shall be 1506
credited to the hazardous waste clean-up fund created in section 1507
3734.28 of the Revised Code. 1508

Any action under this division is a civil action, governed by 1509
the Rules of Civil Procedure. 1510

(C) The director and board of health, within their respective 1511
territorial jurisdictions, may, upon their own initiative, 1512
investigate or make inquiries regarding the disposal of 1513
construction and demolition debris. 1514

(D) This chapter does not abridge rights of action or 1515
remedies in equity, under common law, or as provided by statute or 1516

prevent the state or any municipal corporation or person in the 1517
exercise of their rights in equity, under common law, or as 1518
provided by statute to suppress nuisances or to abate or prevent 1519
pollution. 1520

Sec. 3714.12. (A) The board of health of a health district 1521
may make orders in accordance with section 3709.20 or 3709.21 of 1522
the Revised Code to a permit or license holder or other person to 1523
abate, within a specified, reasonable time, a violation of any 1524
section of this chapter, a rule adopted under it, or a term or 1525
condition of a permit or license issued under it. The director of 1526
environmental protection may issue enforcement orders in 1527
accordance with Chapter 3745. of the Revised Code to a permit or 1528
license holder or other person to abate, within a specified, 1529
reasonable time, a violation of any section of this chapter, a 1530
rule adopted under it, or a term or condition of a permit or 1531
license issued under it. 1532

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

days after application. On the basis of the hearing, the director 1548
or the board of health shall continue the order in effect or 1549
revoke or modify it. No emergency order shall remain in effect for 1550
more than ninety days after its issuance. 1551

Sec. 3714.13. (A) No person shall violate any section of this 1552
chapter. 1553

(B) No person shall violate a rule adopted under this 1554
chapter. 1555

(C) No person shall violate an order issued under this 1556
chapter. Violation of an order issued by a board of health under 1557
this chapter is not also a violation of section 3709.20 or 3709.21 1558
of the Revised Code, whichever is applicable. 1559

(D) No person who holds a permit or license issued under this 1560
chapter shall violate any of the terms or conditions of the permit 1561
or license. 1562

(E) No owner or operator of a construction or demolition 1563
debris facility shall dispose of asbestos or regulated 1564
asbestos-containing materials or products at the facility unless 1565
~~he~~ the owner or operator is specifically authorized to do so by 1566
the board of health of the health district in which the facility 1567
is located, or by the director, pursuant to rules adopted under 1568
division (D) of section 3714.02 of the Revised Code. 1569

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

board of health of the health district in which the land is 1578
located or, if the health district is not on the approved list 1579
under ~~division (A) or (B)(1) or (2) of~~ section 3714.09 of the 1580
Revised Code, to the director of environmental protection at least 1581
seven days prior to the first placement of any such materials as 1582
fill material at the off-site location. 1583

Sec. 3714.20. The director of environmental protection shall 1584
establish and maintain a database or databases composed of public 1585
information, including, but not limited to, the record made under 1586
section 3714.08 of the Revised Code of inspection of each 1587
construction and demolition debris facility, information from the 1588
annual survey of each health district made under section 3714.09 1589
or 3734.08 of the Revised Code, as applicable, and ground water 1590
and leachate data collected in accordance with rules adopted under 1591
section 3714.02 of the Revised Code. The database or databases 1592
shall be stored in such a manner that they are easily available 1593
for sharing with health districts and all other interested 1594
persons. 1595

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

hazardous waste facility, a solid waste facility, a construction 1609
and demolition debris facility licensed under Chapter 3714. of the 1610
Revised Code, or ~~other~~ another location at which the director has 1611
reason to believe there is a substantial threat to public health 1612
or safety or the environment. Remediation may include the direct 1613
and indirect costs associated with the overseeing, supervising, 1614
performing, verifying, or reviewing of remediation activities by 1615
agency employees. All investment earnings of the fund shall be 1616
credited to the fund. 1617

Sec. 3734.57. (A) The following fees are hereby levied on the 1618
disposal of solid wastes in this state: 1619

(1) One dollar per ton on and after July 1, 2003, through 1620
June 30, 2008, one-half of the proceeds of which shall be 1621
deposited in the state treasury to the credit of the hazardous 1622
waste facility management fund created in section 3734.18 of the 1623
Revised Code and one-half of the proceeds of which shall be 1624
deposited in the state treasury to the credit of the hazardous 1625
waste clean-up fund created in section 3734.28 of the Revised 1626
Code; 1627

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

costs of the environmental protection agency pursuant to section 1640
3745.014 of the Revised Code. 1641

(3) An additional one dollar and fifty cents per ton on and 1642
after July 1, 2005, through June 30, 2008, the proceeds of which 1643
shall be deposited in the state treasury to the credit of the 1644
environmental protection fund created in section 3745.015 of the 1645
Revised Code. 1646

In the case of solid wastes that are taken to a solid waste 1647
transfer facility located in this state prior to being transported 1648
to a solid waste disposal facility for disposal, the fees levied 1649
under this division shall be collected by the owner or operator of 1650
the transfer facility as a trustee for the state. The amount of 1651
fees required to be collected under this division at such a 1652
transfer facility shall equal the total tonnage of solid wastes 1653
received at the facility multiplied by the fees levied under this 1654
division. In the case of solid wastes that are not taken to a 1655
solid waste transfer facility located in this state prior to being 1656
transported to a solid waste disposal facility, the fees shall be 1657
collected by the owner or operator of the solid waste disposal 1658
facility as a trustee for the state. The amount of fees required 1659
to be collected under this division at such a disposal facility 1660
shall equal the total tonnage of solid wastes received at the 1661
facility that was not previously taken to a solid waste transfer 1662
facility located in this state multiplied by the fees levied under 1663
this division. Fees levied under this division do not apply to 1664
materials separated from a mixed waste stream for recycling by a 1665
generator or materials removed from the solid waste stream through 1666
recycling, as "recycling" is defined in rules adopted under 1667
section 3734.02 of the Revised Code. 1668

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

indicating the total tonnage of solid wastes received at the 1672
facility during that month and the total amount of the fees 1673
required to be collected under this division during that month. In 1674
addition, the owner or operator of a solid waste disposal facility 1675
shall indicate on the return the total tonnage of solid wastes 1676
received from transfer facilities located in this state during 1677
that month for which the fees were required to be collected by the 1678
transfer facilities. The monthly returns shall be filed on a form 1679
prescribed by the director. Not later than thirty days after the 1680
last day of the month to which a return applies, the owner or 1681
operator shall mail to the director the return for that month 1682
together with the fees required to be collected under this 1683
division during that month as indicated on the return. If the 1684
return is filed and the amount of the fees due is paid in a timely 1685
manner as required in this division, the owner or operator may 1686
retain a discount of three-fourths of one per cent of the total 1687
amount of the fees that are required to be paid as indicated on 1688
the return. 1689

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

begins on the first day after the deadline has passed for timely 1704
submitting the return and fees, and one additional month shall be 1705
counted every thirty days thereafter. 1706

The owner or operator of a solid waste facility may request a 1707
refund or credit of fees levied under this division and remitted 1708
to the director that have not been paid to the owner or operator. 1709
Such a request shall be made only if the fees have not been 1710
collected by the owner or operator, have become a debt that has 1711
become worthless or uncollectable for a period of six months or 1712
more, and may be claimed as a deduction, including a deduction 1713
claimed if the owner or operator keeps accounts on an accrual 1714
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 1715
U.S.C. 166, as amended, and regulations adopted under it. Prior to 1716
making a request for a refund or credit, an owner or operator 1717
shall make reasonable efforts to collect the applicable fees. A 1718
request for a refund or credit shall not include any costs 1719
resulting from those efforts to collect unpaid fees. 1720

A request for a refund or credit of fees shall be made in 1721
writing, on a form prescribed by the director, and shall be 1722
supported by evidence that may be required in rules adopted by the 1723
director under this chapter. After reviewing the request, and if 1724
the request and evidence submitted with the request indicate that 1725
a refund or credit is warranted, the director ~~may~~ shall grant a 1726
refund to the owner or operator or ~~may~~ shall permit a credit to be 1727
taken by the owner or operator on a subsequent monthly return 1728
submitted by the owner or operator. The amount of a refund or 1729
credit shall not exceed an amount that is equal to ninety days' 1730
worth of fees owed to an owner or operator by a particular debtor 1731
of the owner or operator. A refund or credit shall not be granted 1732
by the director to an owner or operator more than once in any 1733
twelve-month period for fees owed to the owner or operator by a 1734
particular debtor. 1735

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

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

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

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

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

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

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

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

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

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional

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

The committee may amend the schedule of fees levied pursuant

to a resolution adopted and ratified under this division by 1830
adopting a resolution establishing the proposed amount of the 1831
amended fees. The committee may repeal the fees levied pursuant to 1832
such a resolution by adopting a resolution proposing to repeal 1833
them. Upon adopting such a resolution, the committee shall proceed 1834
to obtain ratification of the resolution in accordance with this 1835
division. 1836

Not later than fourteen days after declaring the new fees to 1837
be ratified or the fees to be repealed under this division, the 1838
committee shall notify by certified mail the owner or operator of 1839
each solid waste disposal facility that is required to collect the 1840
fees of the ratification and the amount of the fees or of the 1841
repeal of the fees. Collection of any fees shall commence or 1842
collection of repealed fees shall cease on the first day of the 1843
second month following the month in which notification is sent to 1844
the owner or operator. 1845

Fees levied under this division also may be established, 1846
amended, or repealed by a solid waste management policy committee 1847
through the adoption of a new district solid waste management 1848
plan, the adoption of an amended plan, or the amendment of the 1849
plan or amended plan in accordance with sections 3734.55 and 1850
3734.56 of the Revised Code or the adoption or amendment of a 1851
district plan in connection with a change in district composition 1852
under section 3734.521 of the Revised Code. 1853

Not later than fourteen days after the director issues an 1854
order approving a district's solid waste management plan, amended 1855
plan, or amendment to a plan or amended plan that establishes, 1856
amends, or repeals a schedule of fees levied by the district, the 1857
committee shall notify by certified mail the owner or operator of 1858
each solid waste disposal facility that is required to collect the 1859
fees of the approval of the plan or amended plan, or the amendment 1860
to the plan, as appropriate, and the amount of the fees, if any. 1861

In the case of an initial or amended plan approved under section 1862
3734.521 of the Revised Code in connection with a change in 1863
district composition, other than one involving the withdrawal of a 1864
county from a joint district, the committee, within fourteen days 1865
after the change takes effect pursuant to division (G) of that 1866
section, shall notify by certified mail the owner or operator of 1867
each solid waste disposal facility that is required to collect the 1868
fees that the change has taken effect and of the amount of the 1869
fees, if any. Collection of any fees shall commence or collection 1870
of repealed fees shall cease on the first day of the second month 1871
following the month in which notification is sent to the owner or 1872
operator. 1873

If, in the case of a change in district composition involving 1874
the withdrawal of a county from a joint district, the director 1875
completes the actions required under division (G)(1) or (3) of 1876
section 3734.521 of the Revised Code, as appropriate, forty-five 1877
days or more before the beginning of a calendar year, the policy 1878
committee of each of the districts resulting from the change that 1879
obtained the director's approval of an initial or amended plan in 1880
connection with the change, within fourteen days after the 1881
director's completion of the required actions, shall notify by 1882
certified mail the owner or operator of each solid waste disposal 1883
facility that is required to collect the district's fees that the 1884
change is to take effect on the first day of January immediately 1885
following the issuance of the notice and of the amount of the fees 1886
or amended fees levied under divisions (B)(1) to (3) of this 1887
section pursuant to the district's initial or amended plan as so 1888
approved or, if appropriate, the repeal of the district's fees by 1889
that initial or amended plan. Collection of any fees set forth in 1890
such a plan or amended plan shall commence on the first day of 1891
January immediately following the issuance of the notice. If such 1892
an initial or amended plan repeals a schedule of fees, collection 1893

of the fees shall cease on that first day of January. 1894

If, in the case of a change in district composition involving 1895
the withdrawal of a county from a joint district, the director 1896
completes the actions required under division (G)(1) or (3) of 1897
section 3734.521 of the Revised Code, as appropriate, less than 1898
forty-five days before the beginning of a calendar year, the 1899
director, on behalf of each of the districts resulting from the 1900
change that obtained the director's approval of an initial or 1901
amended plan in connection with the change proceedings, shall 1902
notify by certified mail the owner or operator of each solid waste 1903
disposal facility that is required to collect the district's fees 1904
that the change is to take effect on the first day of January 1905
immediately following the mailing of the notice and of the amount 1906
of the fees or amended fees levied under divisions (B)(1) to (3) 1907
of this section pursuant to the district's initial or amended plan 1908
as so approved or, if appropriate, the repeal of the district's 1909
fees by that initial or amended plan. Collection of any fees set 1910
forth in such a plan or amended plan shall commence on the first 1911
day of the second month following the month in which notification 1912
is sent to the owner or operator. If such an initial or amended 1913
plan repeals a schedule of fees, collection of the fees shall 1914
cease on the first day of the second month following the month in 1915
which notification is sent to the owner or operator. 1916

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

accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

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

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

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management

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

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

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

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

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

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

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

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

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

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

composting facility and disposed of at a landfill, the fees levied 2020
under divisions (A), (B), and (C) of this section shall be 2021
collected by the owner or operator of the landfill where the 2022
unprocessed waste or compost product is disposed of. 2023

(7) When solid wastes that consist of scrap tires are 2024
processed at a scrap tire recovery facility, the fees levied under 2025
divisions (A), (B), and (C) of this section shall be levied upon 2026
the disposal of the fly ash and bottom ash or other solid wastes 2027
remaining after the processing of the scrap tires and shall be 2028
collected by the owner or operator of the solid waste disposal 2029
facility where the ash or other solid wastes are disposed of. 2030

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

amendments to the plan. Such an order is a final action of the 2052
director of environmental protection. 2053

(E) The fees levied under divisions (B) and (C) of this 2054
section shall be collected by the owner or operator of the solid 2055
waste disposal facility where the wastes are disposed of as a 2056
trustee for the county or joint district and municipal corporation 2057
or township where the wastes are disposed of. Moneys from the fees 2058
levied under division (B) of this section shall be forwarded to 2059
the board of county commissioners or board of directors of the 2060
district in accordance with rules adopted under division (H) of 2061
this section. Moneys from the fees levied under division (C) of 2062
this section shall be forwarded to the treasurer or such other 2063
officer of the municipal corporation as, by virtue of the charter, 2064
has the duties of the treasurer or to the fiscal officer of the 2065
township, as appropriate, in accordance with those rules. 2066

(F) Moneys received by the treasurer or other officer of the 2067
municipal corporation under division (E) of this section shall be 2068
paid into the general fund of the municipal corporation. Moneys 2069
received by the fiscal officer of the township under that division 2070
shall be paid into the general fund of the township. The treasurer 2071
or other officer of the municipal corporation or the township 2072
fiscal officer, as appropriate, shall maintain separate records of 2073
the moneys received from the fees levied under division (C) of 2074
this section. 2075

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

waste management authority has been formed under section 343.011 2084
of the Revised Code, moneys received by the board of trustees of 2085
that regional authority under division (E) of this section shall 2086
be kept by the board in a separate and distinct fund to the credit 2087
of the district. Moneys in the special fund of the county or joint 2088
district arising from the fees levied under division (B) of this 2089
section and the fee levied under division (A) of section 3734.573 2090
of the Revised Code shall be expended by the board of county 2091
commissioners or directors of the district in accordance with the 2092
district's solid waste management plan or amended plan approved 2093
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 2094
exclusively for the following purposes: 2095

(1) Preparation of the solid waste management plan of the 2096
district under section 3734.54 of the Revised Code, monitoring 2097
implementation of the plan, and conducting the periodic review and 2098
amendment of the plan required by section 3734.56 of the Revised 2099
Code by the solid waste management policy committee; 2100

(2) Implementation of the approved solid waste management 2101
plan or amended plan of the district, including, without 2102
limitation, the development and implementation of solid waste 2103
recycling or reduction programs; 2104

(3) Providing financial assistance to boards of health within 2105
the district, if solid waste facilities are located within the 2106
district, for enforcement of this chapter and rules, orders, and 2107
terms and conditions of permits, licenses, and variances adopted 2108
or issued under it, other than the hazardous waste provisions of 2109
this chapter and rules adopted and orders and terms and conditions 2110
of permits issued under those provisions; 2111

(4) Providing financial assistance to each county within the 2112
district to defray the added costs of maintaining roads and other 2113
public facilities and of providing emergency and other public 2114

services resulting from the location and operation of a solid	2115
waste facility within the county under the district's approved	2116
solid waste management plan or amended plan;	2117
(5) Pursuant to contracts entered into with boards of health	2118
within the district, if solid waste facilities contained in the	2119
district's approved plan or amended plan are located within the	2120
district, for paying the costs incurred by those boards of health	2121
for collecting and analyzing samples from public or private water	2122
wells on lands adjacent to those facilities;	2123
(6) Developing and implementing a program for the inspection	2124
of solid wastes generated outside the boundaries of this state	2125
that are disposed of at solid waste facilities included in the	2126
district's approved solid waste management plan or amended plan;	2127
(7) Providing financial assistance to boards of health within	2128
the district for the enforcement of section 3734.03 of the Revised	2129
Code or to local law enforcement agencies having jurisdiction	2130
within the district for enforcing anti-littering laws and	2131
ordinances;	2132
(8) Providing financial assistance to boards of health of	2133
health districts within the district that are on the approved list	2134
under section 3734.08 of the Revised Code to defray the costs to	2135
the health districts for the participation of their employees	2136
responsible for enforcement of the solid waste provisions of this	2137
chapter and rules adopted and orders and terms and conditions of	2138
permits, licenses, and variances issued under those provisions in	2139
the training and certification program as required by rules	2140
adopted under division (L) of section 3734.02 of the Revised Code;	2141
(9) Providing financial assistance to individual municipal	2142
corporations and townships within the district to defray their	2143
added costs of maintaining roads and other public facilities and	2144
of providing emergency and other public services resulting from	2145

the location and operation within their boundaries of a 2146
composting, energy or resource recovery, incineration, or 2147
recycling facility that either is owned by the district or is 2148
furnishing solid waste management facility or recycling services 2149
to the district pursuant to a contract or agreement with the board 2150
of county commissioners or directors of the district; 2151

(10) Payment of any expenses that are agreed to, awarded, or 2152
ordered to be paid under section 3734.35 of the Revised Code and 2153
of any administrative costs incurred pursuant to that section. In 2154
the case of a joint solid waste management district, if the board 2155
of county commissioners of one of the counties in the district is 2156
negotiating on behalf of affected communities, as defined in that 2157
section, in that county, the board shall obtain the approval of 2158
the board of directors of the district in order to expend moneys 2159
for administrative costs incurred. 2160

Prior to the approval of the district's solid waste 2161
management plan under section 3734.55 of the Revised Code, moneys 2162
in the special fund of the district arising from the fees shall be 2163
expended for those purposes in the manner prescribed by the solid 2164
waste management policy committee by resolution. 2165

Notwithstanding division (G)(6) of this section as it existed 2166
prior to October 29, 1993, or any provision in a district's solid 2167
waste management plan prepared in accordance with division 2168
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 2169
prior to that date, any moneys arising from the fees levied under 2170
division (B)(3) of this section prior to January 1, 1994, may be 2171
expended for any of the purposes authorized in divisions (G)(1) to 2172
(10) of this section. 2173

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

section to the boards of county commissioners or directors of 2177
county or joint solid waste management districts and to the 2178
treasurers or other officers of municipal corporations and the 2179
fiscal officers of townships. The rules also shall prescribe the 2180
dates for forwarding the fees to the boards and officials and may 2181
prescribe any other requirements the director considers necessary 2182
or appropriate to implement and administer divisions (A), (B), and 2183
(C) of this section. 2184

Sec. 3745.04. (A) As used in this section, "any person" means 2185
any individual, any partnership, corporation, association, or 2186
other legal entity, or any political subdivision, instrumentality, 2187
or agency of a state, whether or not the individual or legal 2188
entity is an applicant for or holder of a license, permit, or 2189
variance from the environmental protection agency, and includes 2190
any department, agency, or instrumentality of the federal 2191
government that is an applicant for or holder of a license, 2192
permit, or variance from the environmental protection agency. 2193

As used in this section, "action" or "act" includes the 2194
adoption, modification, or repeal of a rule or standard, the 2195
issuance, modification, or revocation of any lawful order other 2196
than an emergency order, and the issuance, denial, modification, 2197
or revocation of a license, permit, lease, variance, or 2198
certificate, or the approval or disapproval of plans and 2199
specifications pursuant to law or rules adopted thereunder. 2200

(B) Any person who was a party to a proceeding before the 2201
director of environmental protection may participate in an appeal 2202
to the environmental review appeals commission for an order 2203
vacating or modifying the action of the director or a local board 2204
of health, or ordering the director or board of health to perform 2205
an act. The environmental review appeals commission has exclusive 2206
original jurisdiction over any matter that may, under this 2207

section, be brought before it. 2208

The person so appealing to the commission shall be known as 2209
appellant, and the director and any party to a proceeding 2210
substantially supporting the finding from which the appeal is 2211
taken shall be known as appellee, except that when an appeal 2212
involves a license to operate a disposal site or facility, the 2213
local board of health or the director of environmental protection, 2214
and any party to a proceeding substantially supporting the finding 2215
from which the appeal is taken, shall, as appropriate, be known as 2216
the appellee. Appellant and appellee shall be deemed to be parties 2217
to the appeal. 2218

The (C) The director may appeal an action of a local board of 2219
health conducted under Chapter 3714. or 3734. of the Revised Code 2220
to the environmental review appeals commission for an order 2221
vacating or modifying the action of the board or may appeal to the 2222
commission for an order requiring the local board of health to 2223
perform an act. 2224

(D) An appeal shall be in writing and shall set forth the 2225
action complained of and the grounds upon which the appeal is 2226
based. 2227

The appeal shall be filed with the commission within thirty 2228
days after notice of the action. Notice of the filing of the 2229
appeal shall be filed with the appellee within three days after 2230
the appeal is filed with the commission. 2231

The appeal shall be accompanied by a filing fee of seventy 2232
dollars, which the commission, in its discretion, may reduce if by 2233
affidavit the appellant demonstrates that payment of the full 2234
amount of the fee would cause extreme hardship. 2235

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

commission a record of the proceedings out of which the appeal 2239
arises, including all documents and correspondence, and a 2240
transcript of all testimony. 2241

Upon the filing of ~~the~~ an appeal, the commission shall fix 2242
the time and place at which the hearing on the appeal will be 2243
held. The commission shall give the appellant and the appellee at 2244
least ten days' written notice thereof by certified mail. The 2245
commission shall hold the hearing within thirty days after the 2246
notice of appeal is filed. The commission may postpone or continue 2247
any hearing upon its own motion or upon application of the 2248
appellant or of the appellee. 2249

The filing of an appeal does not automatically suspend or 2250
stay execution of the action appealed from. Upon application by 2251
the appellant, the commission may suspend or stay the execution 2252
pending immediate determination of the appeal without interruption 2253
by continuances, other than for unavoidable circumstances. 2254

(E) As used in this section and sections 3745.05 and 3745.06 2255
of the Revised Code, "director of environmental protection" and 2256
"director" are deemed to include the director of agriculture and 2257
"environmental protection agency" is deemed to include the 2258
department of agriculture with respect to actions that are 2259
appealable to the commission under Chapter 903. of the Revised 2260
Code. 2261

Sec. 3745.05. In hearing the appeal, if an adjudication 2262
hearing was conducted by the director of environmental protection 2263
in accordance with sections 119.09 and 119.10 of the Revised Code 2264
or conducted by a board of health, the environmental review 2265
appeals commission is confined to the record as certified to it by 2266
the director or the board of health, as applicable. The commission 2267
may grant a request for the admission of additional evidence when 2268
satisfied that such additional evidence is newly discovered and 2269

could not with reasonable diligence have been ascertained prior to 2270
the hearing before the director or the board, as applicable. If no 2271
adjudication hearing was conducted in accordance with sections 2272
119.09 and 119.10 of the Revised Code or conducted by a board of 2273
health, the commission shall conduct a hearing de novo on the 2274
appeal. 2275

For the purpose of conducting a de novo hearing, or where the 2276
commission has granted a request for the admission of additional 2277
evidence, the commission may require the attendance of witnesses 2278
and the production of written or printed materials. 2279

When conducting a de novo hearing, or when a request for the 2280
admission of additional evidence has been granted, the commission 2281
may, and at the request of any party it shall, issue subpoenas for 2282
witnesses or for books, papers, correspondence, memoranda, 2283
agreements, or other documents or records relevant or material to 2284
the inquiry directed to the sheriff of the counties where the 2285
witnesses or documents or records are found, which subpoenas shall 2286
be served and returned in the same manner as those allowed by the 2287
court of common pleas in criminal cases. 2288

The fees and mileage of sheriffs and witnesses shall be the 2289
same as those allowed by the court of common pleas in criminal 2290
cases. The fee and mileage expenses incurred at the request of the 2291
appellant shall be paid in advance by the appellant, and the 2292
remainder of the expenses shall be paid out of funds appropriated 2293
for the expenses of the commission. 2294

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

disobedience of the requirements of a subpoena issued from the 2302
court or a refusal to testify therein. 2303

A witness at any hearing shall testify under oath or 2304
affirmation, which any member of the commission may administer. A 2305
witness, if the witness requests, shall be permitted to be 2306
accompanied, represented, and advised by an attorney, whose 2307
participation in the hearing shall be limited to the protection of 2308
the rights of the witness, and who may not examine or 2309
cross-examine witnesses. A witness shall be advised of the right 2310
to counsel before the witness is interrogated. 2311

A stenographic record of the testimony and other evidence 2312
submitted shall be taken by an official court shorthand reporter. 2313
The record shall include all of the testimony and other evidence 2314
and the rulings on the admissibility thereof presented at the 2315
hearing. The commission shall pass upon the admissibility of 2316
evidence, but any party may at the time object to the admission of 2317
any evidence and except to the rulings of the commission thereon, 2318
and if the commission refuses to admit evidence the party offering 2319
same may make a proffer thereof, and such proffer shall be made a 2320
part of the record of such hearing. 2321

Any party may request the stenographic record of the hearing. 2322
Promptly after receiving such a request, the commission shall 2323
prepare and provide the stenographic record of the hearing to the 2324
party who requested it. The commission may charge a fee to the 2325
party who requested the stenographic record that does not exceed 2326
the cost to the commission for preparing and transcribing it. 2327

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

by the commission of the facts upon which the order is based. 2334
Notice of the making of the order shall be given forthwith to each 2335
party to the appeal by mailing a certified copy thereof to each 2336
party by certified mail, with a statement of the time and method 2337
by which an appeal may be perfected. 2338

The order of the commission is final unless vacated or 2339
modified upon judicial review. 2340

Sec. 3745.06. Any party adversely affected by an order of the 2341
environmental review appeals commission may appeal to the court of 2342
appeals of Franklin county, or, if the appeal arises from an 2343
alleged violation of a law or regulation, to the court of appeals 2344
of the district in which the violation was alleged to have 2345
occurred. Any party desiring to so appeal shall file with the 2346
commission a notice of appeal designating the order appealed. A 2347
copy of ~~such~~ the notice also shall be filed by the appellant with 2348
the court, and a copy shall be sent by certified mail to the 2349
director of environmental protection unless the director is the 2350
party appealing the order. Such notices shall be filed and mailed 2351
within thirty days after the date upon which the appellant 2352
received notice from the commission by certified mail of the 2353
making of the order appealed. No appeal bond shall be required to 2354
make an appeal effective. 2355

The filing of a notice of appeal shall not automatically 2356
operate as a suspension of the order of the commission. If it 2357
appears to the court that an unjust hardship to the appellant will 2358
result from the execution of the commission's order pending 2359
determination of the appeal, the court may grant a suspension of 2360
the order and fix its terms. 2361

Within twenty days after receipt of the notice of appeal, the 2362
commission shall prepare and file in the court the complete record 2363
of proceedings out of which the appeal arises, including any 2364

transcript of the testimony and any other evidence ~~which~~ that has 2365
been submitted before the commission. The expense of preparing and 2366
transcribing the record shall be taxed as a part of the costs of 2367
the appeal. The appellant, other than the state or a political 2368
subdivision, or an agency of either, or any officer of them acting 2369
in a representative capacity, shall provide security for costs 2370
satisfactory to the court. Upon demand by a party, the commission 2371
shall furnish at the cost of the party requesting the record a 2372
copy of ~~such~~ the record. If the complete record is not filed 2373
within the time provided for in this section, any party may apply 2374
to the court to have the case docketed, and the court shall order 2375
~~such~~ the record filed. 2376

In hearing the appeal, the court is confined to the record as 2377
certified to it by the commission. The court may grant a request 2378
for the admission of additional evidence when satisfied that such 2379
additional evidence is newly discovered and could not with 2380
reasonable diligence have been ascertained prior to the hearing 2381
before the commission. 2382

The court shall conduct a hearing on the appeal and shall 2383
give preference to all proceedings under this section over all 2384
other civil cases, irrespective of the position of the proceedings 2385
on the calendar of the court. The hearing in the court of appeals 2386
shall proceed as in the case of a civil action, and the court 2387
shall determine the rights of the parties in accordance with the 2388
laws applicable to such action. At the hearing, counsel may be 2389
heard on oral argument, briefs may be submitted, and evidence 2390
introduced if the court has granted a request for the presentation 2391
of additional evidence. 2392

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

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

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

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

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

(2) The applicant has begun a hydrogeologic investigation

pursuant to section 3745-400-09 of the Ohio Administrative Code 2427
prior to submitting the application. 2428

(3) The applicant has begun the engineering plans for the 2429
facility prior to submitting the application. 2430

(4) The application submitted by the applicant would have 2431
been determined to be complete if a moratorium had not been in 2432
effect. 2433

The director shall determine whether this division applies to 2434
an applicant within forty-five days after receiving an applicant's 2435
request for a determination under this division. 2436

(B) Notwithstanding the amendments to Chapter 3714. of the 2437
Revised Code by this act and except as otherwise provided in this 2438
division, an application for a license to establish or modify a 2439
construction and demolition debris facility submitted to a board 2440
of health or the Director, as applicable, on or after July 1, 2441
2005, but prior to or on December 31, 2005, shall be reviewed and 2442
the license shall be issued or denied in accordance with the 2443
provisions of that chapter as they existed on July 1, 2005. 2444
However, unless division (G)(2) of section 3714.03 of the Revised 2445
Code, as amended by this act, applies to the facility, a board of 2446
health or the Director, as applicable, may apply any of the siting 2447
criteria established in section 3714.03 of the Revised Code by 2448
this act to such an application and may deny the application if 2449
the facility that is the subject of the application will not 2450
comply with that siting criterion. 2451

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

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

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

Section 5. This act is hereby declared to be an emergency
measure necessary for the immediate preservation of the public
peace, health, and safety. The reason for such necessity is that a
moratorium on the siting of new construction and demolition debris

facilities and the expansion of existing facilities is due to 2489
expire on December 31, 2005, and additional statutory requirements 2490
related to such facilities are necessary to protect public health 2491
and the environment. Therefore, this act shall go into immediate 2492
effect. 2493