

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

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**Senators Spada, Carey, Mumper, Niehaus, Amstutz, Armbruster, Clancy,
Stivers, Goodman, Harris, Wachtmann**

**Representatives Trakas, Hagan, Wolpert, Combs, Collier, Reinhard, Law,
Cassell**

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A B I L L

To amend section 3704.03 of the Revised Code to make 1
changes in the Air Pollution Control Law regarding 2
the costs of compliance with rules, permits to 3
install, air quality monitoring, and best 4
available technology. 5

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

Section 1. That section 3704.03 of the Revised Code be 6
amended to read as follows: 7

Sec. 3704.03. The director of environmental protection may do 8
any of the following: 9

(A) Develop programs for the prevention, control, and 10
abatement of air pollution; 11

(B) Advise, consult, contract, and cooperate with any 12
governmental or private agency in the furtherance of the purposes 13
of this chapter; 14

(C) Encourage, participate in, or conduct studies, 15

investigations, and research relating to air pollution, collect 16
and disseminate information, and conduct education and training 17
programs relating to the causes, prevention, control, and 18
abatement of air pollution; 19

(D) Adopt, modify, and rescind rules prescribing ambient air 20
quality standards for the state as a whole or for various areas of 21
the state that are consistent with and no more stringent than the 22
national ambient air quality standards in effect under the federal 23
Clean Air Act; 24

(E) Adopt, modify, suspend, and rescind rules for the 25
prevention, control, and abatement of air pollution, including 26
rules prescribing for the state as a whole or for various areas of 27
the state emission standards for air contaminants, and other 28
necessary rules for the purpose of achieving and maintaining 29
compliance with ambient air quality standards in all areas within 30
the state as expeditiously as practicable, but not later than any 31
deadlines applicable under the federal Clean Air Act; rules for 32
the prevention or control of the emission of hazardous or toxic 33
air contaminants; rules prescribing fugitive dust limitations and 34
standards that are related, on an areawide basis, to attainment 35
and maintenance of ambient air quality standards; rules 36
prescribing shade, density, or opacity limitations and standards 37
for emissions, provided that with regard to air contaminant 38
sources for which there are particulate matter emission standards 39
in addition to a shade, density, or opacity rule, upon 40
demonstration by such a source of compliance with those other 41
standards, the shade, density, or opacity rule shall provide for 42
establishment of a shade, density, or opacity limitation for that 43
source that does not require the source to reduce emissions below 44
the level specified by those other standards; rules for the 45
prevention or control of odors and air pollution nuisances; rules 46
that prevent significant deterioration of air quality to the 47

extent required by the federal Clean Air Act; rules for the
protection of visibility as required by the federal Clean Air Act;
and rules prescribing open burning limitations and standards. In
adopting, modifying, suspending, or rescinding any such rules, the
director, to the extent consistent with the federal Clean Air Act,
shall hear and give consideration to evidence relating to all of
the following:

(1) Conditions calculated to result from compliance with the
rules, the overall cost within this state of compliance with the
rules, and their relation to benefits to the people of the state
to be derived from that compliance;

(2) The quantity and characteristics of air contaminants, the
frequency and duration of their presence in the ambient air, and
the dispersion and dilution of those contaminants;

(3) Topography, prevailing wind directions and velocities,
physical conditions, and other factors that may or may combine to
affect air pollution.

Consistent with division (K) of section 3704.036 of the
Revised Code, the director shall consider alternative emission
limits proposed by the owner or operator of an air contaminant
source that is subject to an emission limit established in rules
adopted under this division and shall accept those alternative
emission limits that the director determines to be equivalent to
emission limits established in rules adopted under this division.

(F)(1) Adopt, modify, suspend, and rescind rules consistent
with the purposes of this chapter prohibiting the location,
installation, construction, or modification of any air contaminant
source or any machine, equipment, device, apparatus, or physical
facility intended primarily to prevent or control the emission of
air contaminants unless an installation permit therefor has been
obtained from the director or ~~his~~ the director's authorized

representative. Applications	79
<u>(2) Applications</u> for installation permits shall be	80
accompanied by plans, specifications, construction schedules, and	81
such other pertinent information and data, including data on	82
ambient air quality impact and a demonstration of best available	83
technology, as the director may require. Installation permits	84
shall be issued for a period specified by the director and are	85
transferable. The director shall specify in each permit the	86
applicable emission standards and that the permit is conditioned	87
upon payment of the applicable fees as required by section 3745.11	88
of the Revised Code and upon the right of his <u>the director's</u>	89
authorized representatives to enter upon the premises of the	90
person to whom the permit has been issued, at any reasonable time	91
and subject to safety requirements of the person in control of the	92
premises, for the purpose of determining compliance with such	93
standards, this chapter, the rules adopted thereunder, and the	94
conditions of any permit, variance, or order issued thereunder.	95
Each proposed new or modified air contaminant source shall provide	96
such notice of its proposed installation or modification to other	97
states as is required under the federal Clean Air Act.	98
Installation permits shall include the authorization to operate	99
sources installed and operated in accordance with terms and	100
conditions of the installation permits for a period not to exceed	101
one year from commencement of operation, which authorization shall	102
constitute an operating permit under division (G) of this section	103
and rules adopted under it.	104
<u>No installation permit shall be required for activities that</u>	105
<u>are subject to and in compliance with a plant-wide applicability</u>	106
<u>limit issued by the director in accordance with rules adopted</u>	107
<u>under this section.</u>	108
No installation permit shall be issued except in accordance	109
with all requirements of this chapter and rules adopted	110

thereunder. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

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(3) Not later than two years after the effective date of this amendment, the director shall adopt a rule in accordance with Chapter 119. of the Revised Code specifying that a permit to install is required only for new or modified air contaminant sources that emit any of the following air contaminants:

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(a) An air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act;

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(b) An air contaminant for which the air contaminant source is regulated under the federal Clean Air Act;

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(c) An air contaminant that presents, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects, including, but not limited to, substances that are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, or neurotoxic, that cause reproductive dysfunction, or that are acutely or chronically toxic, or a threat of adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, and that is identified in the rule by chemical name and chemical abstract service number.

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The director may modify the rule adopted under division (F)(3)(c) of this section for the purpose of adding or deleting air contaminants. For each air contaminant that is contained in or deleted from the rule adopted under division (F)(3)(c) of this section, the director shall include in a notice accompanying any proposed or final rule an explanation of the director's determination that the air contaminant meets the criteria

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established in that division and should be added to, or no longer 142
meets the criteria and should be deleted from, the list of air 143
contaminants. The explanation shall include an identification of 144
the scientific evidence on which the director relied in making the 145
determination. Until adoption of the rule under division (F)(3)(c) 146
of this section, nothing shall affect the director's authority to 147
issue, deny, modify, or revoke permits to install under this 148
chapter and rules adopted under it. 149

(4)(a) Applications for permits to install new or modified 150
air contaminant sources shall contain sufficient information 151
regarding air contaminants for which the director may require a 152
permit to install to determine conformity with the environmental 153
protection agency's document entitled "Review of New Sources of 154
Air Toxics Emissions, Option A," dated May 1986, which the 155
director shall use to evaluate toxic emissions from new or 156
modified air contaminant sources. The director shall make copies 157
of the document available to the public upon request at no cost 158
and post the document on the environmental protection agency's web 159
site. Any inconsistency between the document and division (F)(4) 160
of this section shall be resolved in favor of division (F)(4) of 161
this section. 162

(b) The maximum acceptable ground level concentration of an 163
air contaminant shall be calculated in accordance with the 164
document entitled "Review of New Sources of Air Toxics Emissions, 165
Option A." Modeling shall be conducted to determine the increase 166
in the ground level concentration of an air contaminant beyond the 167
facility's boundary caused by the emissions from a new or modified 168
source that is the subject of an application for a permit to 169
install. Modeling shall be based on the maximum hourly rate of 170
emissions from the source using information including, but not 171
limited to, any emission control devices or methods, operational 172
restrictions, stack parameters, and emission dispersion devices or 173

methods that may affect ground level concentrations, either 174
individually or in combination. The director shall determine 175
whether the activities for which a permit to install is sought 176
will cause an increase in the ground level concentration of one or 177
more relevant air contaminants beyond the facility's boundary by 178
an amount in excess of the maximum acceptable ground level 179
concentration. In making the determination as to whether the 180
maximum acceptable ground level concentration will be exceeded, 181
the director shall give consideration to the modeling conducted 182
under division (F)(4)(b) of this section and other relevant 183
information submitted by the applicant. 184

(c) If the modeling conducted under division (F)(4)(b) of 185
this section with respect to an application for a permit to 186
install demonstrates that the maximum ground level concentration 187
from a new or modified source will be greater than or equal to 188
eighty per cent, but less than one hundred per cent of the maximum 189
acceptable ground level concentration for an air contaminant, the 190
director may establish terms and conditions in the permit to 191
install for the air contaminant source that will require the owner 192
or operator of the air contaminant source to maintain emissions of 193
that air contaminant commensurate with the modeled level, which 194
shall be expressed as allowable emissions per day. In order to 195
calculate the allowable emissions per day, the director shall 196
multiply the hourly emission rate modeled under division (F)(4)(b) 197
of this section to determine the ground level concentration by the 198
operating schedule that has been identified in the permit to 199
install application. Terms and conditions imposed under division 200
(F)(4)(c) of this section are not federally enforceable 201
requirements and, if included in a Title V permit, shall be placed 202
in the portion of the permit that is only enforceable by the 203
state. 204

(d) If the modeling conducted under division (F)(4)(b) of 205

this section with respect to an application for a permit to 206
install demonstrates that the maximum ground level concentration 207
from a new or modified source will be less than eighty per cent of 208
the maximum acceptable ground level concentration, the owner or 209
operator of the source annually shall report to the director, on a 210
form prescribed by the director, whether operations of the source 211
are consistent with the information regarding the operations that 212
was used to conduct the modeling with regard to the permit to 213
install application. The annual report to the director shall be in 214
lieu of an emission limit or other permit terms and conditions 215
imposed pursuant to division (F)(4) of this section. The director 216
may consider any significant departure from the operations of the 217
source described in the permit to install application that results 218
in greater emissions than the emissions rate modeled to determine 219
the ground level concentration as a modification and require the 220
owner or operator to submit a permit to install application for 221
the increased emissions. The requirements established in division 222
(F)(4)(d) of this section are not federally enforceable 223
requirements and, if included in a Title V permit, shall be placed 224
in the portion of the permit that is only enforceable by the 225
state. 226

(e) Division (F)(4) of this section and the document entitled 227
"Review of New Sources of Air Toxics Emissions, Option A" shall 228
not be included in the state implementation plan under section 110 229
of the federal Clean Air Act and do not apply to an air 230
contaminant source that is subject to a maximum achievable control 231
technology standard or residual risk standard under section 112 of 232
the federal Clean Air Act, to a particular air contaminant 233
identified under 40 C.F.R. 51.166, division (b)(23), for which the 234
director has determined that the owner or operator of the source 235
is required to install best available control technology for that 236
particular air contaminant, or to a particular air contaminant for 237

which the director has determined that the source is required to 238
meet the lowest achievable emission rate, as defined in 40 C.F.R. 239
part 51, Appendix S, for that particular air contaminant. 240

(f)(i) Division (F)(4) of this section and the document 241
entitled "Review of New Sources of Air Toxics Emissions, Option A" 242
do not apply to parking lots, storage piles, storage tanks, 243
transfer operations, grain silos, grain dryers, emergency 244
generators, gasoline dispensing operations, air contaminant 245
sources that emit air contaminants solely from the combustion of 246
fossil fuels, or the emission of wood dust, sand, glass dust, coal 247
dust, silica, and grain dust. 248

(ii) Notwithstanding division (F)(4)(f)(i) of this section, 249
the director may require an individual air contaminant source that 250
is within one of the source categories identified in division 251
(F)(4)(f)(i) of this section to submit information in an 252
application for a permit to install a new or modified source in 253
order to determine the source's conformity to the document if the 254
director has information to conclude that the particular new or 255
modified source will potentially cause an increase in ground level 256
concentration beyond the facility's boundary that exceeds the 257
maximum acceptable ground level concentration as set forth in the 258
document. 259

(iii) The director may adopt rules in accordance with Chapter 260
119. of the Revised Code that are consistent with the purposes of 261
this chapter and that add to or delete from the source category 262
exemptions established in division (F)(4)(f)(i) of this section. 263

(5) Not later than one year after the effective date of this 264
amendment, the director shall adopt rules in accordance with 265
Chapter 119. of the Revised Code specifying activities that do 266
not, by themselves, constitute beginning actual construction 267
activities related to the installation or modification of an air 268

contaminant source for which a permit to install is required such 269
as the grading and clearing of land, on-site storage of portable 270
parts and equipment, and the construction of foundations or 271
buildings that do not themselves emit air contaminants. The rules 272
also shall allow specified initial activities that are part of the 273
installation or modification of an air contaminant source, such as 274
the installation of electrical and other utilities for the source, 275
prior to issuance of a permit to install, provided that the owner 276
or operator of the source has filed a complete application for a 277
permit to install, the director or the director's designee has 278
determined that the application is complete, and the owner or 279
operator of the source has notified the director that this 280
activity will be undertaken prior to the issuance of a permit to 281
install. Any activity that is undertaken by the source under those 282
rules shall be at the risk of the owner or operator. The rules 283
shall not apply to activities that are precluded prior to permit 284
issuance under section 111, section 112, Part C of Title I, and 285
Part D of Title I of the federal Clean Air Act. 286

(G) Adopt, modify, suspend, and rescind rules prohibiting the 287
operation or other use of any new, modified, or existing air 288
contaminant source unless an operating permit has been obtained 289
from the director or ~~his~~ the director's authorized representative, 290
or the air contaminant source is being operated in compliance with 291
the conditions of a variance issued pursuant to division (H) of 292
this section. Applications for operating permits shall be 293
accompanied by such plans, specifications, and other pertinent 294
information as the director may require. Operating permits may be 295
issued for a period determined by the director not to exceed five 296
years, are renewable, and are transferable. The director shall 297
specify in each operating permit that the permit is conditioned 298
upon payment of the applicable fees as required by section 3745.11 299
of the Revised Code and upon the right of ~~his~~ the director's 300

authorized representatives to enter upon the premises of the 301
person to whom the permit has been issued, at any reasonable time 302
and subject to safety requirements of the person in control of the 303
premises, for the purpose of determining compliance with this 304
chapter, the rules adopted thereunder, and the conditions of any 305
permit, variance, or order issued thereunder. Operating permits 306
may be denied or revoked for failure to comply with this chapter 307
or the rules adopted thereunder. An operating permit shall be 308
issued only upon a showing satisfactory to the director or ~~his~~ the 309
director's representative that the air contaminant source is being 310
operated in compliance with applicable emission standards and 311
other rules or upon submission of a schedule of compliance 312
satisfactory to the director for a source that is not in 313
compliance with all applicable requirements at the time of permit 314
issuance, provided that the compliance schedule shall be 315
consistent with and at least as stringent as that contained in any 316
judicial consent decree or administrative order to which the air 317
contaminant source is subject. The rules shall provide for the 318
issuance of conditional operating permits for such reasonable 319
periods as the director may determine to allow the holder of an 320
installation permit, who has constructed, installed, located, or 321
modified a new air contaminant source in accordance with the 322
provisions of an installation permit, to make adjustments or 323
modifications necessary to enable the new air contaminant source 324
to comply with applicable emission standards and other rules. 325
Terms and conditions of operating permits issued pursuant to this 326
division shall be federally enforceable for the purpose of 327
establishing the potential to emit of a stationary source and 328
shall be expressly designated as federally enforceable. Any such 329
federally enforceable restrictions on a source's potential to emit 330
shall include both an annual limit and a short-term limit of not 331
more than thirty days for each pollutant to be restricted together 332
with adequate methods for establishing compliance with the 333

restrictions. In other respects, operating permits issued pursuant 334
to this division are enforceable as state law only. No application 335
shall be denied or permit revoked or modified without a written 336
order stating the findings upon which denial, revocation, or 337
modification is based. A copy of the order shall be sent to the 338
applicant or permit holder by certified mail. 339

(H) Adopt, modify, and rescind rules governing the issuance, 340
revocation, modification, or denial of variances that authorize 341
emissions in excess of the applicable emission standards. 342

No variance shall be issued except pursuant to those rules. 343
The rules shall prescribe conditions and criteria in furtherance 344
of the purposes of this chapter and consistent with the federal 345
Clean Air Act governing eligibility for issuance of variances, 346
which shall include all of the following: 347

(1) Provisions requiring consistency of emissions authorized 348
by a variance with timely attainment and maintenance of ambient 349
air quality standards; 350

(2) Provisions prescribing the classes and categories of air 351
contaminants and air contaminant sources for which variances may 352
be issued; 353

(3) Provisions defining the circumstances under which an 354
applicant shall demonstrate that compliance with applicable 355
emission standards is technically infeasible, economically 356
unreasonable, or impossible because of conditions beyond the 357
control of the applicant; 358

(4) Other provisions prescribed in furtherance of the goals 359
of this chapter. 360

The rules shall prohibit the issuance of variances from any 361
emission limitation that was applicable to a source pursuant to an 362
installation permit and shall prohibit issuance of variances that 363
conflict with the federal Clean Air Act. 364

Applications for variances shall be accompanied by such 365
information as the director may require. In issuing variances, the 366
director may order the person to whom a variance is issued to 367
furnish plans and specifications and such other information and 368
data, including interim reports, as the director may require and 369
to proceed to take such action within such time as the director 370
may determine to be appropriate and reasonable to prevent, 371
control, or abate ~~his~~ the person's existing emissions of air 372
contaminants. The director shall specify in each variance that the 373
variance is conditioned upon payment of the applicable fees as 374
required by section 3745.11 of the Revised Code and upon the right 375
of ~~his~~ the director's authorized representatives to enter upon the 376
premises of the person to whom the variance has been issued, at 377
any reasonable time and subject to safety requirements of the 378
person in control of the premises, for the purpose of determining 379
compliance with this chapter, the rules adopted thereunder, and 380
the conditions of any permit, variance, or order issued 381
thereunder. 382

The director may hold a public hearing on an application for 383
a variance or renewal thereof at a location in the county where 384
the variance is sought. The director shall give not less than 385
twenty days' notice of the hearing to the applicant by certified 386
mail and cause at least one publication of notice in a newspaper 387
with general circulation in the county where the variance is 388
sought. The director shall keep available for public inspection at 389
the principal office of the environmental protection agency a 390
current schedule of pending applications for variances and a 391
current schedule of pending variance hearings. The director shall 392
make a complete stenographic record of testimony and other 393
evidence submitted at the hearing. The director shall make a 394
written determination to issue, renew, or deny the variance and 395
shall enter ~~his~~ the determination and the basis therefor into the 396

record of the hearing. The director shall issue, renew, or deny an 397
application for a variance or renewal thereof, or issue a proposed 398
action upon the application pursuant to section 3745.07 of the 399
Revised Code, within six months of the date upon which the 400
director receives a complete application with all pertinent 401
information and data required by the director. 402

Any variance granted pursuant to rules adopted under this 403
division shall be for a period specified by the director, not to 404
exceed three years, and may be renewed from time to time on such 405
terms and for such periods, not to exceed three years each, as the 406
director determines to be appropriate. A variance may be revoked, 407
or renewal denied, for failure to comply with conditions specified 408
in the variance. No variance shall be issued, denied, revoked, or 409
modified without a written order stating the findings upon which 410
the issuance, denial, revocation, or modification is based. A copy 411
of the order shall be sent to the applicant or variance holder by 412
certified mail. 413

(I) Require the ~~person responsible for any~~ owner or operator 414
of an air contaminant source to install, employ, maintain, and 415
operate such emissions, ambient air quality, meteorological, or 416
other monitoring devices or methods as the director shall 417
prescribe; to sample those emissions at such locations, at such 418
intervals, and in such manner as the director prescribes; to 419
maintain records and file periodic reports with the director 420
containing information as to location, size, and height of 421
emission outlets, rate, duration, and composition of emissions, 422
and any other pertinent information the director prescribes; and 423
to provide such written notice to other states as the director 424
shall prescribe. In requiring monitoring devices, records, and 425
reports, the director, to the extent consistent with the federal 426
Clean Air Act, shall give consideration to technical feasibility 427
and economic reasonableness and allow reasonable time for 428

compliance. For sources where a specific monitoring, 429
record-keeping, or reporting requirement is specified for a 430
particular air contaminant from a particular air contaminant 431
source in an applicable regulation adopted by the United States 432
environmental protection agency under the federal Clean Air Act or 433
in an applicable rule adopted by the director, the director shall 434
not impose an additional requirement in a permit that is a 435
different monitoring, record-keeping, or reporting requirement 436
other than the requirement specified in the applicable regulation 437
or rule for that air contaminant except as otherwise agreed to by 438
the owner or operator of the air contaminant source and the 439
director. If two or more regulations or rules impose different 440
monitoring, record-keeping, or reporting requirements for the same 441
air contaminant from the same air contaminant source, the director 442
may impose permit terms and conditions that consolidate or 443
streamline the monitoring, record-keeping, or reporting 444
requirements in a manner that conforms with each applicable 445
requirement. To the extent consistent with the federal Clean Air 446
Act and except as otherwise agreed to by the owner or operator of 447
an air contaminant source and the director, the director shall not 448
require an operating restriction that has the practical effect of 449
increasing the stringency of an existing applicable emission 450
limitation or standard. 451

(J) Establish, operate, and maintain monitoring stations and 452
other devices designed to measure air pollution and ~~to~~ enter into 453
contracts with any public or private agency for the establishment, 454
operation, or maintenance of such stations and devices; 455

(K) By rule adopt procedures for giving reasonable public 456
notice and conducting public hearings on any plans for the 457
prevention, control, and abatement of air pollution that the 458
director is required to submit to the federal government; 459

(L) Through any employee, agent, or authorized representative 460

of the director or the environmental protection agency, enter upon 461
private or public property, including improvements thereon, at any 462
reasonable time, to make inspections, take samples, conduct tests, 463
and examine records or reports pertaining to any emission of air 464
contaminants and any monitoring equipment or methods and to 465
determine if there are any actual or potential emissions from such 466
premises and, if so, to determine the sources, amounts, contents, 467
and extent of those emissions, or to ascertain whether there is 468
compliance with this chapter, any orders issued or rules adopted 469
thereunder, or any other determination of the director. The 470
director, at reasonable times, may have access to and copy any 471
such records. If entry or inspection authorized by this division 472
is refused, hindered, or thwarted, the director or ~~his~~ the 473
director's authorized representative may by affidavit apply for, 474
and any judge of a court of record may issue, an appropriate 475
inspection warrant necessary to achieve the purposes of this 476
chapter within the court's territorial jurisdiction. 477

(M) Accept and administer gifts or grants from the federal 478
government and from any other source, public or private, for 479
carrying out any of the functions under this chapter; 480

(N) Obtain necessary scientific, technical, and laboratory 481
services; 482

(O) Establish advisory boards in accordance with section 483
121.13 of the Revised Code; 484

(P) Delegate to any city or general health district or 485
political subdivision of the state any of ~~his~~ the director's 486
enforcement and monitoring powers and duties, other than 487
rule-making powers, as the director elects to delegate, and in 488
addition employ, compensate, and prescribe the powers and duties 489
of such officers, employees, and consultants as are necessary to 490
enable the director to exercise ~~his~~ the authority and perform 491

duties imposed upon ~~him~~ the director by law. Technical and other 492
services shall be performed, insofar as practical, by personnel of 493
the environmental protection agency. 494

(Q) Certify to the government of the United States or any 495
agency thereof that an industrial air pollution facility is in 496
conformity with the state program or requirements for control of 497
air pollution whenever such certificate is required for a taxpayer 498
pursuant to any federal law or requirements; 499

(R) Issue, modify, or revoke orders requiring abatement of or 500
prohibiting emissions ~~which~~ that violate applicable emission 501
standards or other requirements of this chapter and rules adopted 502
thereunder, or requiring emission control devices or measures in 503
order to comply with applicable emission standards or other 504
requirements of this chapter and rules adopted thereunder. Any 505
such order shall require compliance with applicable emission 506
standards by a specified date and shall not conflict with any 507
requirement of the federal Clean Air Act. In the making of such 508
orders, the director, to the extent consistent with the federal 509
Clean Air Act, shall give consideration to, and base ~~his~~ the 510
determination on, evidence relating to the technical feasibility 511
and economic reasonableness of compliance with such orders and 512
their relation to benefits to the people of the state to be 513
derived from such compliance. If, under the federal Clean Air Act, 514
any such order shall provide for the posting of a bond or surety 515
to secure compliance with the order as a condition of issuance of 516
the order, the order shall so provide, but only to the extent 517
required by the federal Clean Air Act. 518

(S) To the extent provided by the federal Clean Air Act, 519
adopt, modify, and rescind rules providing for the administrative 520
assessment and collection of monetary penalties, not in excess of 521
those required pursuant to the federal Clean Air Act, for failure 522
to comply with any emission limitation or standard, compliance 523

schedule, or other requirement of any rule, order, permit, or 524
variance issued or adopted under this chapter or required under 525
the applicable implementation plan whether or not the source is 526
subject to a federal or state consent decree. The director may 527
require the submission of compliance schedules, calculations of 528
penalties for noncompliance, and related information. Any orders, 529
payments, sanctions, or other requirements imposed pursuant to 530
rules adopted under this division shall be in addition to any 531
other permits, orders, payments, sanctions, or other requirements 532
established under this chapter and shall not affect any civil or 533
criminal enforcement proceedings brought under any provision of 534
this chapter or any other provision of state or local law. This 535
division does not apply to any requirement of this chapter 536
regarding the prevention or abatement of odors. 537

~~(T) Adopt procedures under which the director shall consider 538
best available technology for the pollutants regulated by the new 539
source performance standards established pursuant to the federal 540
Clean Air Act in order to establish emission limits in 541
installation permits issued pursuant to division (F) of this 542
section. The emission limits shall be equivalent to those new 543
source performance standards unless the standards are more than 544
five years old or have not been reviewed by the United States 545
environmental protection agency for more than five years. In 546
determining what technology is best for a specific source 547
application, the director may consider the extent to which a 548
technology generates pollution or waste other than air emissions 549
and shall approve the most cost effective among essentially 550
similar efficient control technologies as demonstrated by the 551
permit applicant to the satisfaction of the director. Any facility 552
that is subject to the federal prevention of significant 553
deterioration regulations and major new source review shall comply 554
with those regulations Require new or modified air contaminant 555~~

sources to install best available technology, but only in 556
accordance with this division. With respect to permits issued 557
pursuant to division (F) of this section beginning three years 558
after the effective date of this amendment, best available 559
technology for air contaminant sources and air contaminants 560
emitted by those sources that are subject to standards adopted 561
under section 112, Part C of Title I, and Part D of Title I of the 562
federal Clean Air Act shall be equivalent to and no more stringent 563
than those standards. For an air contaminant or precursor of an 564
air contaminant for which a national ambient air quality standard 565
has been adopted under the federal Clean Air Act, best available 566
technology only shall be required to the extent required by rules 567
adopted under Chapter 119. of the Revised Code for permit to 568
install applications filed three or more years after the effective 569
date of this amendment. 570

Best available technology requirements established in rules 571
adopted under this division shall be expressed only in one of the 572
following ways that is most appropriate for the applicable source 573
or source categories: 574

(1) Work practices; 575

(2) Source design characteristics or design efficiency of 576
applicable air contaminant control devices; 577

(3) Raw material specifications or throughput limitations 578
averaged over a twelve-month rolling period; 579

(4) Monthly allowable emissions averaged over a twelve-month 580
rolling period. 581

Best available technology requirements shall not apply to an 582
air contaminant source that has the potential to emit, taking into 583
account air pollution controls installed on the source, less than 584
ten tons per year of emissions of an air contaminant or precursor 585
of an air contaminant for which a national ambient air quality 586

standard has been adopted under the federal Clean Air Act. In 587
addition, best available technology requirements established in 588
rules adopted under this division shall not apply to any existing, 589
new, or modified air contaminant source that is subject to a 590
plant-wide applicability limit that has been approved by the 591
director. Further, best available technology requirements 592
established in rules adopted under this division shall not apply 593
to general permits issued prior to January 1, 2006, under rules 594
adopted under this chapter. 595

For permits to install issued three or more years after the 596
effective date of this amendment, any new or modified air 597
contaminant source that has the potential to emit, taking into 598
account air pollution controls installed on the source, ten or 599
more tons per year of volatile organic compounds or nitrogen 600
oxides shall meet, at a minimum, the requirements of any 601
applicable reasonably available control technology rule in effect 602
as of January 1, 2006, regardless of the location of the source. 603

(U) Consistent with section 507 of the federal Clean Air Act, 604
adopt, modify, suspend, and rescind rules for the establishment of 605
a small business stationary source technical and environmental 606
compliance assistance program as provided in section 3704.18 of 607
the Revised Code; 608

(V) Provide for emissions trading, marketable permits, 609
auctions of emission rights, and economic incentives that would 610
reduce the cost or increase the efficiency of achieving a 611
specified level of environmental protection; 612

(W) Provide for the construction of an air contaminant source 613
prior to obtaining a permit to install pursuant to division (F) of 614
this section if the applicant demonstrates that the source will be 615
installed to comply with all applicable emission limits and will 616
not adversely affect public health or safety or the environment 617

and if the director determines that such an action will avoid an
unreasonable hardship on the owner or operator of the source. Any
such determination shall be consistent with the federal Clean Air
Act.

(X) Exercise all incidental powers, including adoption of
rules, required to carry out this chapter.

The environmental protection agency shall develop a plan to
control air pollution resulting from state-operated facilities and
property.

Section 2. That existing section 3704.03 of the Revised Code
is hereby repealed.

Section 3. The General Assembly hereby finds and declares its
intention that no part of this act shall be interpreted or applied
to encourage, facilitate, allow, or otherwise result, directly or
indirectly, in the establishment or reestablishment of a motor
vehicle inspection and maintenance program in any part of this
state in which a motor vehicle inspection and maintenance program
is not operating on the effective date of this act. Further, the
General Assembly hereby finds and declares its intention that no
part of this act shall be interpreted or applied to encourage,
facilitate, allow, or otherwise result, directly or indirectly, in
the extension of the motor vehicle inspection and maintenance
program in any part of this state in which it is operating on the
effective date of this act beyond December 31, 2007, as required
by section 3704.14 of the Revised Code. The General Assembly
further directs the Director of Environmental Protection to take
all necessary actions to ensure that, in implementing the
provisions of this act, the Director does nothing to bring about
the institution, reinstatement, or extension of the motor vehicle
inspection and maintenance program, as applicable, in any part of
the state.