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Committee**

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**Senators Spada, Carey, Mumper, Niehaus, Amstutz, Armbruster, Clancy,
Stivers**

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A B I L L

To amend sections 3704.02 and 3704.03 of the Revised 1
Code to make changes in the Air Pollution Control 2
Law regarding statutory construction, the costs of 3
compliance with rules, permits to install, air 4
quality monitoring, and best available technology. 5

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

Section 1. That sections 3704.02 and 3704.03 of the Revised 6
Code be amended to read as follows: 7

Sec. 3704.02. (A) The purposes of this chapter are the 8
following: 9

(1) To protect and enhance the quality of the state's air 10
resources so as to promote the public health, welfare, economic 11
vitality, and productive capacity of the people of the state; 12

(2) To enable the state, through the director of 13
environmental protection, to adopt and maintain a program for the 14
prevention, control, and abatement of air pollution that is 15
consistent with the federal Clean Air Act; 16

(3) To authorize the state to obtain financial assistance and 17

delegation of powers from the federal government for purposes of
the prevention, control, and abatement of air pollution.

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(B) This chapter, all rules adopted under it, and all
permits, variances, and orders issued under it shall be construed,
to the extent reasonably possible, to be consistent with the
federal Clean Air Act and to promote the purposes of this chapter.
If ambiguity exists as to whether a rule, permit, variance, or
order adopted or issued under this chapter is more stringent than
required by the federal Clean Air Act, the rule, permit, variance,
or order shall be construed to be no more stringent than the
federal Clean Air Act.

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

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

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

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(C) Encourage, participate in, or conduct studies,
investigations, and research relating to air pollution, collect
and disseminate information, and conduct education and training
programs relating to the causes, prevention, control, and
abatement of air pollution;

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

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(E) Adopt, modify, suspend, and rescind rules for the
prevention, control, and abatement of air pollution, including

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rules prescribing for the state as a whole or for various areas of
the state emission standards for air contaminants, and other
necessary rules for the purpose of achieving and maintaining
compliance with ambient air quality standards in all areas within
the state as expeditiously as practicable, but not later than any
deadlines applicable under the federal Clean Air Act; rules for
the prevention or control of the emission of hazardous or toxic
air contaminants; rules prescribing fugitive dust limitations and
standards that are related, on an areawide basis, to attainment
and maintenance of ambient air quality standards; rules
prescribing shade, density, or opacity limitations and standards
for emissions, provided that with regard to air contaminant
sources for which there are particulate matter emission standards
in addition to a shade, density, or opacity rule, upon
demonstration by such a source of compliance with those other
standards, the shade, density, or opacity rule shall provide for
establishment of a shade, density, or opacity limitation for that
source that does not require the source to reduce emissions below
the level specified by those other standards; rules for the
prevention or control of odors and air pollution nuisances; rules
that prevent significant deterioration of air quality to the
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~~

(2) Applications for installation permits shall be accompanied by plans, specifications, construction schedules, and such other pertinent information and data, including data on ambient air quality impact and a demonstration of best available technology, as the director may require. Installation permits shall be issued for a period specified by the director and are transferable. The director shall specify in each permit the applicable emission standards and that the permit is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of ~~his~~ the director's

authorized representatives to enter upon the premises of the 111
person to whom the permit has been issued, at any reasonable time 112
and subject to safety requirements of the person in control of the 113
premises, for the purpose of determining compliance with such 114
standards, this chapter, the rules adopted thereunder, and the 115
conditions of any permit, variance, or order issued thereunder. 116
Each proposed new or modified air contaminant source shall provide 117
such notice of its proposed installation or modification to other 118
states as is required under the federal Clean Air Act. 119
Installation permits shall include the authorization to operate 120
sources installed and operated in accordance with terms and 121
conditions of the installation permits for a period not to exceed 122
one year from commencement of operation, which authorization shall 123
constitute an operating permit under division (G) of this section 124
and rules adopted under it. 125

No installation permit shall be required for activities that 126
are subject to and in compliance with a plant-wide applicability 127
limit issued by the director in accordance with rules adopted 128
under this section. 129

No installation permit shall be issued except in accordance 130
with all requirements of this chapter and rules adopted 131
thereunder. No application shall be denied or permit revoked or 132
modified without a written order stating the findings upon which 133
denial, revocation, or modification is based. A copy of the order 134
shall be sent to the applicant or permit holder by certified mail. 135

(3) Not later than two years after the effective date of this 136
amendment, the director shall adopt a rule in accordance with 137
Chapter 119. of the Revised Code specifying that a permit to 138
install is required only for new or modified air contaminant 139
sources that emit any of the following air contaminants: 140

(a) An air contaminant or precursor of an air contaminant for 141
which a national ambient air quality standard has been adopted 142

under the federal Clean Air Act; 143

(b) An air contaminant for which the air contaminant source 144
is regulated under the federal Clean Air Act; 145

(c) An air contaminant that presents, or may present, through 146
inhalation or other routes of exposure, a threat of adverse human 147
health effects, including, but not limited to, substances that are 148
known to be, or may reasonably be anticipated to be, carcinogenic, 149
mutagenic, teratogenic, or neurotoxic, that cause reproductive 150
dysfunction, or that are acutely or chronically toxic, or a threat 151
of adverse environmental effects whether through ambient 152
concentrations, bioaccumulation, deposition, or otherwise, and 153
that is identified in the rule by chemical name and chemical 154
abstract service number. 155

The director may modify the rule adopted under division 156
(F)(3)(c) of this section for the purpose of adding or deleting 157
air contaminants. For each air contaminant that is contained in or 158
deleted from the rule adopted under division (F)(3)(c) of this 159
section, the director shall include in a notice accompanying any 160
proposed or final rule an explanation of the director's 161
determination that the air contaminant meets the criteria 162
established in that division and should be added to, or no longer 163
meets the criteria and should be deleted from, the list of air 164
contaminants. The explanation shall include an identification of 165
the scientific evidence on which the director relied in making the 166
determination. Until adoption of the rule under division (F)(3)(c) 167
of this section, nothing shall affect the director's authority to 168
issue, deny, modify, or revoke permits to install under this 169
chapter and rules adopted under it. 170

(4)(a) Applications for permits to install new or modified 171
air contaminant sources shall contain sufficient information 172
regarding air contaminants for which the director may require a 173

permit to install to determine conformity with the environmental protection agency's document entitled "Review of New Sources of Air Toxics Emissions, Option A," dated May 1986, which the director shall use to evaluate toxic emissions from new or modified air contaminant sources. The director shall make copies of the document available to the public upon request at no cost and post the document on the environmental protection agency's web site. Any inconsistency between the document and division (F)(4) of this section shall be resolved in favor of division (F)(4) of this section.

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(b) The maximum acceptable ground level concentration of an air contaminant shall be calculated in accordance with the document entitled "Review of New Sources of Air Toxics Emissions, Option A." Modeling shall be conducted to determine the increase in the ground level concentration of an air contaminant beyond the facility's boundary caused by the emissions from a new or modified source that is the subject of an application for a permit to install. Modeling shall be based on the maximum hourly rate of emissions from the source using information including, but not limited to, any emission control devices or methods, operational restrictions, stack parameters, and emission dispersion devices or methods that may affect ground level concentrations, either individually or in combination. The director shall determine whether the activities for which a permit to install is sought will cause an increase in the ground level concentration of one or more relevant air contaminants beyond the facility's boundary by an amount in excess of the maximum acceptable ground level concentration. In making the determination as to whether the maximum acceptable ground level concentration will be exceeded, the director shall give consideration to the modeling conducted under division (F)(4)(b) of this section and other relevant information submitted by the applicant.

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(c) If the modeling conducted under division (F)(4)(b) of 206
this section with respect to an application for a permit to 207
install demonstrates that the maximum ground level concentration 208
from a new or modified source will be greater than or equal to 209
eighty per cent, but less than one hundred per cent of the maximum 210
acceptable ground level concentration for an air contaminant, the 211
director may establish terms and conditions in the permit to 212
install for the air contaminant source that will require the owner 213
or operator of the air contaminant source to maintain emissions of 214
that air contaminant commensurate with the modeled level, which 215
shall be expressed as allowable emissions per day. In order to 216
calculate the allowable emissions per day, the director shall 217
multiply the hourly emission rate modeled under division (F)(4)(b) 218
of this section to determine the ground level concentration by the 219
operating schedule that has been identified in the permit to 220
install application. Terms and conditions imposed under division 221
(F)(4)(c) of this section are not federally enforceable 222
requirements and, if included in a Title V permit, shall be placed 223
in the portion of the permit that is only enforceable by the 224
state. 225

(d) If the modeling conducted under division (F)(4)(b) of 226
this section with respect to an application for a permit to 227
install demonstrates that the maximum ground level concentration 228
from a new or modified source will be less than eighty per cent of 229
the maximum acceptable ground level concentration, the owner or 230
operator of the source annually shall report to the director, on a 231
form prescribed by the director, whether operations of the source 232
are consistent with the information regarding the operations that 233
was used to conduct the modeling with regard to the permit to 234
install application. The annual report to the director shall be in 235
lieu of an emission limit or other permit terms and conditions 236
imposed pursuant to division (F)(4) of this section. The director 237

may consider any significant departure from the operations of the 238
source described in the permit to install application that results 239
in greater emissions than the emissions rate modeled to determine 240
the ground level concentration as a modification and require the 241
owner or operator to submit a permit to install application for 242
the increased emissions. The requirements established in division 243
(F)(4)(d) of this section are not federally enforceable 244
requirements and, if included in a Title V permit, shall be placed 245
in the portion of the permit that is only enforceable by the 246
state. 247

(e) Division (F)(4) of this section and the document entitled 248
"Review of New Sources of Air Toxics Emissions, Option A" shall 249
not be included in the state implementation plan under section 110 250
of the federal Clean Air Act and do not apply to an air 251
contaminant source that is subject to a maximum achievable control 252
technology standard or residual risk standard under section 112 of 253
the federal Clean Air Act, to a particular air contaminant 254
identified under 40 C.F.R. 51.166, division (b)(23), for which the 255
director has determined that the owner or operator of the source 256
is required to install best available control technology for that 257
particular air contaminant, or to a particular air contaminant for 258
which the director has determined that the source is required to 259
meet the lowest achievable emission rate, as defined in 40 C.F.R. 260
part 51, Appendix S, for that particular air contaminant. 261

(f)(i) Division (F)(4) of this section and the document 262
entitled "Review of New Sources of Air Toxics Emissions, Option A" 263
do not apply to parking lots, storage piles, storage tanks, 264
transfer operations, grain silos, grain dryers, emergency 265
generators, gasoline dispensing operations, air contaminant 266
sources that emit air contaminants solely from the combustion of 267
fossil fuels, or the emission of wood dust, sand, glass dust, coal 268
dust, silica, and grain dust. 269

(ii) Notwithstanding division (F)(4)(f)(i) of this section, 270
the director may require an individual air contaminant source that 271
is within one of the source categories identified in division 272
(F)(4)(f)(i) of this section to submit information in an 273
application for a permit to install a new or modified source in 274
order to determine the source's conformity to the document if the 275
director has information to conclude that the particular new or 276
modified source will potentially cause an increase in ground level 277
concentration beyond the facility's boundary that exceeds the 278
maximum acceptable ground level concentration as set forth in the 279
document. 280

(iii) The director may adopt rules in accordance with Chapter 281
119. of the Revised Code that are consistent with the purposes of 282
this chapter and that add to or delete from the source category 283
exemptions established in division (F)(4)(f)(i) of this section. 284

(5) Not later than one year after the effective date of this 285
amendment, the director shall adopt rules in accordance with 286
Chapter 119. of the Revised Code specifying activities that do 287
not, by themselves, constitute beginning actual construction 288
activities related to the installation or modification of an air 289
contaminant source for which a permit to install is required such 290
as the grading and clearing of land, on-site storage of portable 291
parts and equipment, and the construction of foundations or 292
buildings that do not themselves emit air contaminants. The rules 293
also shall allow specified initial activities that are part of the 294
installation or modification of an air contaminant source, such as 295
the installation of electrical and other utilities for the source, 296
prior to issuance of a permit to install, provided that the owner 297
or operator of the source has filed a complete application for a 298
permit to install, the director or the director's designee has 299
determined that the application is complete, and the owner or 300
operator of the source has notified the director that this 301

activity will be undertaken prior to the issuance of a permit to 302
install. Any activity that is undertaken by the source under those 303
rules shall be at the risk of the owner or operator. The rules 304
shall not apply to activities that are precluded prior to permit 305
issuance under section 111, section 112, Part C of Title I, and 306
Part D of Title I of the federal Clean Air Act. 307

(G) Adopt, modify, suspend, and rescind rules prohibiting the 308
operation or other use of any new, modified, or existing air 309
contaminant source unless an operating permit has been obtained 310
from the director or ~~his~~ the director's authorized representative, 311
or the air contaminant source is being operated in compliance with 312
the conditions of a variance issued pursuant to division (H) of 313
this section. Applications for operating permits shall be 314
accompanied by such plans, specifications, and other pertinent 315
information as the director may require. Operating permits may be 316
issued for a period determined by the director not to exceed five 317
years, are renewable, and are transferable. The director shall 318
specify in each operating permit that the permit is conditioned 319
upon payment of the applicable fees as required by section 3745.11 320
of the Revised Code and upon the right of ~~his~~ the director's 321
authorized representatives to enter upon the premises of the 322
person to whom the permit has been issued, at any reasonable time 323
and subject to safety requirements of the person in control of the 324
premises, for the purpose of determining compliance with this 325
chapter, the rules adopted thereunder, and the conditions of any 326
permit, variance, or order issued thereunder. Operating permits 327
may be denied or revoked for failure to comply with this chapter 328
or the rules adopted thereunder. An operating permit shall be 329
issued only upon a showing satisfactory to the director or ~~his~~ the 330
director's representative that the air contaminant source is being 331
operated in compliance with applicable emission standards and 332
other rules or upon submission of a schedule of compliance 333

satisfactory to the director for a source that is not in 334
compliance with all applicable requirements at the time of permit 335
issuance, provided that the compliance schedule shall be 336
consistent with and at least as stringent as that contained in any 337
judicial consent decree or administrative order to which the air 338
contaminant source is subject. The rules shall provide for the 339
issuance of conditional operating permits for such reasonable 340
periods as the director may determine to allow the holder of an 341
installation permit, who has constructed, installed, located, or 342
modified a new air contaminant source in accordance with the 343
provisions of an installation permit, to make adjustments or 344
modifications necessary to enable the new air contaminant source 345
to comply with applicable emission standards and other rules. 346
Terms and conditions of operating permits issued pursuant to this 347
division shall be federally enforceable for the purpose of 348
establishing the potential to emit of a stationary source and 349
shall be expressly designated as federally enforceable. Any such 350
federally enforceable restrictions on a source's potential to emit 351
shall include both an annual limit and a short-term limit of not 352
more than thirty days for each pollutant to be restricted together 353
with adequate methods for establishing compliance with the 354
restrictions. In other respects, operating permits issued pursuant 355
to this division are enforceable as state law only. No application 356
shall be denied or permit revoked or modified without a written 357
order stating the findings upon which denial, revocation, or 358
modification is based. A copy of the order shall be sent to the 359
applicant or permit holder by certified mail. 360

(H) Adopt, modify, and rescind rules governing the issuance, 361
revocation, modification, or denial of variances that authorize 362
emissions in excess of the applicable emission standards. 363

No variance shall be issued except pursuant to those rules. 364
The rules shall prescribe conditions and criteria in furtherance 365

of the purposes of this chapter and consistent with the federal
Clean Air Act governing eligibility for issuance of variances,
which shall include all of the following:

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

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

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

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

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

Applications for variances shall be accompanied by such
information as the director may require. In issuing variances, the
director may order the person to whom a variance is issued to
furnish plans and specifications and such other information and
data, including interim reports, as the director may require and
to proceed to take such action within such time as the director
may determine to be appropriate and reasonable to prevent,
control, or abate ~~his~~ the person's existing emissions of air
contaminants. The director shall specify in each variance that the
variance is conditioned upon payment of the applicable fees as
required by section 3745.11 of the Revised Code and upon the right

of ~~his~~ the director's authorized representatives to enter upon the 397
premises of the person to whom the variance has been issued, at 398
any reasonable time and subject to safety requirements of the 399
person in control of the premises, for the purpose of determining 400
compliance with this chapter, the rules adopted thereunder, and 401
the conditions of any permit, variance, or order issued 402
thereunder. 403

The director may hold a public hearing on an application for 404
a variance or renewal thereof at a location in the county where 405
the variance is sought. The director shall give not less than 406
twenty days' notice of the hearing to the applicant by certified 407
mail and cause at least one publication of notice in a newspaper 408
with general circulation in the county where the variance is 409
sought. The director shall keep available for public inspection at 410
the principal office of the environmental protection agency a 411
current schedule of pending applications for variances and a 412
current schedule of pending variance hearings. The director shall 413
make a complete stenographic record of testimony and other 414
evidence submitted at the hearing. The director shall make a 415
written determination to issue, renew, or deny the variance and 416
shall enter ~~his~~ the determination and the basis therefor into the 417
record of the hearing. The director shall issue, renew, or deny an 418
application for a variance or renewal thereof, or issue a proposed 419
action upon the application pursuant to section 3745.07 of the 420
Revised Code, within six months of the date upon which the 421
director receives a complete application with all pertinent 422
information and data required by the director. 423

Any variance granted pursuant to rules adopted under this 424
division shall be for a period specified by the director, not to 425
exceed three years, and may be renewed from time to time on such 426
terms and for such periods, not to exceed three years each, as the 427
director determines to be appropriate. A variance may be revoked, 428

or renewal denied, for failure to comply with conditions specified 429
in the variance. No variance shall be issued, denied, revoked, or 430
modified without a written order stating the findings upon which 431
the issuance, denial, revocation, or modification is based. A copy 432
of the order shall be sent to the applicant or variance holder by 433
certified mail. 434

(I) Require the person responsible for any air contaminant 435
source to install, employ, maintain, and operate such emissions, 436
ambient air quality, meteorological, or other monitoring devices 437
or methods as the director shall prescribe; to sample those 438
emissions at such locations, at such intervals, and in such manner 439
as the director prescribes; to maintain records and file periodic 440
reports with the director containing information as to location, 441
size, and height of emission outlets, rate, duration, and 442
composition of emissions, and any other pertinent information the 443
director prescribes; and to provide such written notice to other 444
states as the director shall prescribe. In requiring monitoring 445
devices, records, and reports, the director, to the extent 446
consistent with the federal Clean Air Act, shall give 447
consideration to technical feasibility and economic reasonableness 448
and allow reasonable time for compliance, and, for sources where a 449
specific monitoring, record-keeping, or reporting requirement is 450
specified for a particular air contaminant from a particular air 451
contaminant source in an applicable regulation adopted by the 452
United States environmental protection agency under the federal 453
Clean Air Act or in an applicable rule adopted by the director, 454
the director shall not impose an additional requirement in a 455
permit that is a different monitoring, record-keeping, or 456
reporting requirement other than the requirement specified in the 457
applicable regulation or rule for that air contaminant. If two or 458
more regulations or rules impose different monitoring, 459
record-keeping, or reporting requirements for the same air 460

contaminant from the same air contaminant source, the director may 461
impose permit terms and conditions that consolidate or streamline 462
the monitoring, record-keeping, or reporting requirements in a 463
manner that conforms with each applicable requirement. To the 464
extent consistent with the federal Clean Air Act, the director 465
shall not require an operating restriction that has the practical 466
effect of increasing the stringency of an existing applicable 467
emission limitation or standard. 468

(J) Establish, operate, and maintain monitoring stations and 469
other devices designed to measure air pollution and ~~to~~ enter into 470
contracts with any public or private agency for the establishment, 471
operation, or maintenance of such stations and devices; 472

(K) By rule adopt procedures for giving reasonable public 473
notice and conducting public hearings on any plans for the 474
prevention, control, and abatement of air pollution that the 475
director is required to submit to the federal government; 476

(L) Through any employee, agent, or authorized representative 477
of the director or the environmental protection agency, enter upon 478
private or public property, including improvements thereon, at any 479
reasonable time, to make inspections, take samples, conduct tests, 480
and examine records or reports pertaining to any emission of air 481
contaminants and any monitoring equipment or methods and to 482
determine if there are any actual or potential emissions from such 483
premises and, if so, to determine the sources, amounts, contents, 484
and extent of those emissions, or to ascertain whether there is 485
compliance with this chapter, any orders issued or rules adopted 486
thereunder, or any other determination of the director. The 487
director, at reasonable times, may have access to and copy any 488
such records. If entry or inspection authorized by this division 489
is refused, hindered, or thwarted, the director or ~~his~~ the 490
director's authorized representative may by affidavit apply for, 491
and any judge of a court of record may issue, an appropriate 492

inspection warrant necessary to achieve the purposes of this	493
chapter within the court's territorial jurisdiction.	494
(M) Accept and administer gifts or grants from the federal	495
government and from any other source, public or private, for	496
carrying out any of the functions under this chapter;	497
(N) Obtain necessary scientific, technical, and laboratory	498
services;	499
(O) Establish advisory boards in accordance with section	500
121.13 of the Revised Code;	501
(P) Delegate to any city or general health district or	502
political subdivision of the state any of his <u>the director's</u>	503
enforcement and monitoring powers and duties, other than	504
rule-making powers, as the director elects to delegate, and in	505
addition employ, compensate, and prescribe the powers and duties	506
of such officers, employees, and consultants as are necessary to	507
enable the director to exercise his <u>the</u> authority and perform	508
duties imposed upon him <u>the director</u> by law. Technical and other	509
services shall be performed, insofar as practical, by personnel of	510
the environmental protection agency.	511
(Q) Certify to the government of the United States or any	512
agency thereof that an industrial air pollution facility is in	513
conformity with the state program or requirements for control of	514
air pollution whenever such certificate is required for a taxpayer	515
pursuant to any federal law or requirements;	516
(R) Issue, modify, or revoke orders requiring abatement of or	517
prohibiting emissions which <u>that</u> violate applicable emission	518
standards or other requirements of this chapter and rules adopted	519
thereunder, or requiring emission control devices or measures in	520
order to comply with applicable emission standards or other	521
requirements of this chapter and rules adopted thereunder. Any	522
such order shall require compliance with applicable emission	523

standards by a specified date and shall not conflict with any 524
requirement of the federal Clean Air Act. In the making of such 525
orders, the director, to the extent consistent with the federal 526
Clean Air Act, shall give consideration to, and base ~~his~~ the 527
determination on, evidence relating to the technical feasibility 528
and economic reasonableness of compliance with such orders and 529
their relation to benefits to the people of the state to be 530
derived from such compliance. If, under the federal Clean Air Act, 531
any such order shall provide for the posting of a bond or surety 532
to secure compliance with the order as a condition of issuance of 533
the order, the order shall so provide, but only to the extent 534
required by the federal Clean Air Act. 535

(S) To the extent provided by the federal Clean Air Act, 536
adopt, modify, and rescind rules providing for the administrative 537
assessment and collection of monetary penalties, not in excess of 538
those required pursuant to the federal Clean Air Act, for failure 539
to comply with any emission limitation or standard, compliance 540
schedule, or other requirement of any rule, order, permit, or 541
variance issued or adopted under this chapter or required under 542
the applicable implementation plan whether or not the source is 543
subject to a federal or state consent decree. The director may 544
require the submission of compliance schedules, calculations of 545
penalties for noncompliance, and related information. Any orders, 546
payments, sanctions, or other requirements imposed pursuant to 547
rules adopted under this division shall be in addition to any 548
other permits, orders, payments, sanctions, or other requirements 549
established under this chapter and shall not affect any civil or 550
criminal enforcement proceedings brought under any provision of 551
this chapter or any other provision of state or local law. This 552
division does not apply to any requirement of this chapter 553
regarding the prevention or abatement of odors. 554

(T) ~~Adopt procedures under which the director shall consider~~ 555

~~best available technology for the pollutants regulated by the new~~ 556
~~source performance standards established pursuant to the federal~~ 557
~~Clean Air Act in order to establish emission limits in~~ 558
~~installation permits issued pursuant to division (F) of this~~ 559
~~section. The emission limits shall be equivalent to those new~~ 560
~~source performance standards unless the standards are more than~~ 561
~~five years old or have not been reviewed by the United States~~ 562
~~environmental protection agency for more than five years. In~~ 563
~~determining what technology is best for a specific source~~ 564
~~application, the director may consider the extent to which a~~ 565
~~technology generates pollution or waste other than air emissions~~ 566
~~and shall approve the most cost effective among essentially~~ 567
~~similar efficient control technologies as demonstrated by the~~ 568
~~permit applicant to the satisfaction of the director. Any facility~~ 569
~~that is subject to the federal prevention of significant~~ 570
~~deterioration regulations and major new source review shall comply~~ 571
~~with those regulations Require new or modified air contaminant~~ 572
~~sources to install best available technology, but only in~~ 573
~~accordance with this division. With respect to permits issued~~ 574
~~pursuant to division (F) of this section beginning two years after~~ 575
~~the effective date of this amendment, best available technology~~ 576
~~for air contaminant sources and air contaminants emitted by those~~ 577
~~sources that are subject to standards adopted under section 112,~~ 578
~~Part C of Title I, and Part D of Title I of the federal Clean Air~~ 579
~~Act shall be equivalent to and no more stringent than those~~ 580
~~standards. For an air contaminant or precursor of an air~~ 581
~~contaminant for which a national ambient air quality standard has~~ 582
~~been adopted under the federal Clean Air Act, best available~~ 583
~~technology only shall be required to the extent required by rules~~ 584
~~adopted under Chapter 119. of the Revised Code for permit to~~ 585
~~install applications filed two or more years after the effective~~ 586
~~date of this amendment.~~ 587

Best available technology requirements established in rules 588

adopted under this division shall be expressed only in one of the 589
following ways that is most appropriate for the applicable source 590
or source categories: 591

(1) Work practices; 592

(2) Source design characteristics or design efficiency of 593
applicable air contaminant control devices; 594

(3) Raw material specifications or throughput limitations 595
averaged over a twelve-month rolling period; 596

(4) Monthly allowable emissions averaged over a twelve-month 597
rolling period. 598

Best available technology requirements established in rules 599
adopted under this division shall not apply to an air contaminant 600
source that has the potential to emit, taking into account air 601
pollution controls installed on the source, less than ten tons per 602
year of emissions of an air contaminant or precursor of an air 603
contaminant for which a national ambient air quality standard has 604
been adopted under the federal Clean Air Act. In addition, best 605
available technology requirements established in rules adopted 606
under this division shall not apply to any existing, new, or 607
modified air contaminant source that is subject to a plant-wide 608
applicability limit that has been approved by the director. 609

(U) Consistent with section 507 of the federal Clean Air Act, 610
adopt, modify, suspend, and rescind rules for the establishment of 611
a small business stationary source technical and environmental 612
compliance assistance program as provided in section 3704.18 of 613
the Revised Code; 614

(V) Provide for emissions trading, marketable permits, 615
auctions of emission rights, and economic incentives that would 616
reduce the cost or increase the efficiency of achieving a 617
specified level of environmental protection; 618

(W) Provide for the construction of an air contaminant source 619
prior to obtaining a permit to install pursuant to division (F) of 620
this section if the applicant demonstrates that the source will be 621
installed to comply with all applicable emission limits and will 622
not adversely affect public health or safety or the environment 623
and if the director determines that such an action will avoid an 624
unreasonable hardship on the owner or operator of the source. Any 625
such determination shall be consistent with the federal Clean Air 626
Act. 627

(X) Exercise all incidental powers, including adoption of 628
rules, required to carry out this chapter. 629

The environmental protection agency shall develop a plan to 630
control air pollution resulting from state-operated facilities and 631
property. 632

Section 2. That existing sections 3704.02 and 3704.03 of the 633
Revised Code are hereby repealed. 634