

**As Reported by the House Agriculture and Natural Resources
Committee**

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Sub. S. B. No. 294

Senator Schaffer

**Cosponsors: Senators Balderson, Hite, Jones, Eklund, Bacon, LaRose,
Beagle, Coley, Lehner, Manning, Niehaus, Patton, Peterson, Seitz
Representatives Kozlowski, Boose, Buchy, Murray**

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A B I L L

To amend sections 3714.07, 3714.073, 3734.01,	1
3734.02, 3734.021, 3734.027, 3734.05, 3734.06,	2
3734.12, 3734.121, 3734.41, 3734.42, 3734.57,	3
3734.573, 3734.85, 3737.87, 3737.88, 3745.11,	4
3745.31, 3746.02, 6109.31, 6109.32, 6111.02,	5
6111.022, 6111.023, 6111.024, 6111.025, 6111.027,	6
6111.03, 6111.035, and 6111.30, to enact sections	7
3745.017, 6109.99, and 6111.0382, and to repeal	8
sections 3734.022, 3734.131, 3734.132, and	9
3734.133 of the Revised Code to revise the laws	10
governing environmental protection.	11

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

Section 1. That sections 3714.07, 3714.073, 3734.01, 3734.02,	12
3734.021, 3734.027, 3734.05, 3734.06, 3734.12, 3734.121, 3734.41,	13
3734.42, 3734.57, 3734.573, 3734.85, 3737.87, 3737.88, 3745.11,	14
3745.31, 3746.02, 6109.31, 6109.32, 6111.02, 6111.022, 6111.023,	15
6111.024, 6111.025, 6111.027, 6111.03, 6111.035, and 6111.30 be	16
amended and sections 3745.017, 6109.99, and 6111.0382 of the	17

Revised Code be enacted to read as follows: 18

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 19
health and the environmental protection agency in administering 20
and enforcing this chapter and rules adopted under it, there is 21
hereby levied a fee of thirty cents per cubic yard or sixty cents 22
per ton, as applicable, on both of the following: 23

(a) The disposal of construction and demolition debris at a 24
construction and demolition debris facility that is licensed under 25
this chapter or at a solid waste facility that is licensed under 26
Chapter 3734. of the Revised Code ~~a fee of thirty cents per cubic~~ 27
~~yard or sixty cents per ton, as applicable;~~ 28

(b) The disposal of asbestos or asbestos-containing materials 29
or products at a construction and demolition debris facility that 30
is licensed under this chapter or at a solid waste facility that 31
is licensed under Chapter 3734. of the Revised Code. 32

(2) The owner or operator of a construction and demolition 33
debris facility or a solid waste facility shall determine if cubic 34
yards or tons will be used as the unit of measurement. ~~In~~ 35
~~estimating~~ If basing the fee ~~based~~ on cubic yards, the owner or 36
operator shall utilize either the maximum cubic yard capacity of 37
the container, or the hauling volume of the vehicle, that 38
transports the construction and demolition debris to the facility 39
or the cubic yards actually logged for disposal by the owner or 40
operator in accordance with rules adopted under section 3714.02 of 41
the Revised Code. If basing the fee on tonnage, the owner or 42
operator shall use certified scales to determine the tonnage of 43
construction and demolition debris that is ~~transported to the~~ 44
~~facility for disposal~~ disposed of. 45

(3) The owner or operator of a construction and demolition 46
debris facility or a solid waste facility shall ~~collect~~ calculate 47

the amount of money generated from the fee levied under division 48
(A)(1) of this section and shall hold that amount as a trustee for 49
the health district having jurisdiction over the facility, if that 50
district is on the approved list under section 3714.09 of the 51
Revised Code, or for the state. The owner or operator shall 52
prepare and file with the appropriate board of health or the 53
director of environmental protection monthly returns indicating 54
the total volume or weight, as applicable, of construction and 55
demolition debris ~~received for disposal~~ and asbestos or 56
asbestos-containing materials or products disposed of at the 57
facility and the total amount of money ~~required to be collected~~ 58
generated during that month from the fee levied under division 59
(A)(1) of this section on the disposal of construction and 60
demolition debris ~~disposed of during that month~~ and asbestos or 61
asbestos-containing materials or products. Not later than thirty 62
days after the last day of the month to which the return applies, 63
the owner or operator shall mail to the board of health or the 64
director the return for that month together with the amount of 65
money ~~required to be collected~~ calculated under division (A)(3) of 66
this section on the disposal of construction and demolition debris 67
~~disposed of~~ and asbestos or asbestos-containing materials or 68
products during that month or may submit the return and money 69
electronically in a manner approved by the director. The owner or 70
operator may request, in writing, an extension of not more than 71
thirty days after the last day of the month to which the return 72
applies. A request for extension may be denied. If the owner or 73
operator submits the money late, the owner or operator shall pay a 74
penalty of ten per cent of the amount of the money due for each 75
month that it is late. 76

(4) Of the money that is ~~collected from~~ submitted by a 77
construction and demolition debris facility or a solid waste 78
facility on a per cubic yard or per ton basis under this section, 79
a board of health shall transmit three cents per cubic yard or six 80

cents per ton, as applicable, to the director not later than 81
forty-five days after the receipt of the money. The money retained 82
by a board of health under this section shall be paid into a 83
special fund, which is hereby created in each health district, and 84
used solely to administer and enforce this chapter and rules 85
adopted under it. 86

The director shall transmit all money received ~~from the~~ 87
~~boards of health of health districts under this section and all~~ 88
~~money from the disposal fee collected by the director~~ under this 89
section to the treasurer of state to be credited to the 90
construction and demolition debris facility oversight fund, which 91
is hereby created in the state treasury. The fund shall be 92
administered by the director, and money credited to the fund shall 93
be used exclusively for the administration and enforcement of this 94
chapter and rules adopted under it. 95

(B) The board of health of a health district or the director 96
may enter into an agreement with the owner or operator of a 97
construction and demolition debris facility or a solid waste 98
facility for the quarterly payment of ~~the money collected~~ 99
generated from the disposal fee as calculated in division (A)(3) 100
of this section. The board of health shall notify the director of 101
any such agreement. Not later than forty-five days after receipt 102
of the quarterly payment, the board of health shall transmit the 103
amount established in division (A)(4) of this section to the 104
director. The money retained by the board of health shall be 105
deposited in the special fund of the district as required under 106
that division. Upon receipt of the money from a board of health, 107
the director shall transmit the money to the treasurer of state to 108
be credited to the construction and demolition debris facility 109
oversight fund. 110

(C) If a construction and demolition debris facility or a 111
solid waste facility is located within the territorial boundaries 112

of a municipal corporation or the unincorporated area of a 113
township, the municipal corporation or township may appropriate up 114
to four cents per cubic yard or up to eight cents per ton of the 115
disposal fee required to be paid by the facility under division 116
(A)(1) of this section for the same purposes that a municipal 117
corporation or township may levy a fee under division (C) of 118
section 3734.57 of the Revised Code. 119

The legislative authority of the municipal corporation or 120
township may appropriate the money from the fee by enacting an 121
ordinance or adopting a resolution establishing the amount of the 122
fee to be appropriated. Upon doing so, the legislative authority 123
shall mail a certified copy of the ordinance or resolution to the 124
board of health of the health district in which the construction 125
and demolition debris facility or the solid waste facility is 126
located or, if the facility is located in a health district that 127
is not on the approved list under section 3714.09 of the Revised 128
Code, to the director. Upon receipt of the copy of the ordinance 129
or resolution and not later than forty-five days after receipt of 130
money ~~collected~~ generated from the fee, the board or the director, 131
as applicable, shall transmit to the treasurer or other 132
appropriate officer of the municipal corporation or clerk of the 133
township that portion of the money ~~collected~~ generated from the 134
disposal fee by the owner or operator of the facility that is 135
required by the ordinance or resolution to be paid to that 136
municipal corporation or township. 137

Money received by the treasurer or other appropriate officer 138
of a municipal corporation under this division shall be paid into 139
the general fund of the municipal corporation. Money received by 140
the clerk of a township under this division shall be paid into the 141
general fund of the township. The treasurer or other officer of 142
the municipal corporation or the clerk of the township, as 143
appropriate, shall maintain separate records of the money received 144

under this division. 145

The legislative authority of a municipal corporation or 146
township may cease ~~collecting~~ appropriating money under this 147
division by repealing the ordinance or resolution that was enacted 148
or adopted under this division. 149

The director shall adopt rules in accordance with Chapter 150
119. of the Revised Code establishing requirements for prorating 151
the amount of the fee that may be appropriated under this division 152
by a municipal corporation or township in which only a portion of 153
a construction and demolition debris facility is located within 154
the territorial boundaries of the municipal corporation or 155
township. 156

(D) The board of county commissioners of a county in which a 157
construction and demolition debris facility or a solid waste 158
facility is located may appropriate up to three cents per cubic 159
yard or up to six cents per ton of the disposal fee required to be 160
paid by the facility under division (A)(1) of this section for the 161
same purposes that a solid waste management district may levy a 162
fee under division (B) of section 3734.57 of the Revised Code. 163

The board of county commissioners may appropriate the money 164
from the fee by adopting a resolution establishing the amount of 165
the fee to be appropriated. Upon doing so, the board of county 166
commissioners shall mail a certified copy of the resolution to the 167
board of health of the health district in which the construction 168
and demolition debris facility or the solid waste facility is 169
located or, if the facility is located in a health district that 170
is not on the approved list under section 3714.09 of the Revised 171
Code, to the director. Upon receipt of the copy of the resolution 172
and not later than forty-five days after receipt of money 173
~~collected~~ generated from the fee, the board of health or the 174
director, as applicable, shall transmit to the treasurer of the 175
county that portion of the money ~~collected~~ generated from the 176

disposal fee by the owner or operator of the facility that is 177
required by the resolution to be paid to that county. 178

Money received by a county treasurer under this division 179
shall be paid into the general fund of the county. The county 180
treasurer shall maintain separate records of the money received 181
under this division. 182

A board of county commissioners may cease ~~collecting~~ 183
appropriating money under this division by repealing the 184
resolution that was adopted under this division. 185

(E)(1) This section does not apply to the disposal of 186
construction and demolition debris at a solid waste facility that 187
is licensed under Chapter 3734. of the Revised Code if there is no 188
construction and demolition debris facility licensed under this 189
chapter within thirty-five miles of the solid waste facility as 190
determined by a facility's property boundaries. 191

(2) This section does not apply to the disposal of 192
construction and demolition debris at a solid waste facility that 193
is licensed under Chapter 3734. of the Revised Code if the owner 194
or operator of the facility chooses to collect fees on the 195
disposal of the construction and demolition debris and asbestos or 196
asbestos-containing materials or products that are identical to 197
the fees that are collected under Chapters 343. and 3734. of the 198
Revised Code on the disposal of solid wastes at that facility. 199

(3) This section does not apply to the disposal of source 200
separated materials that are exclusively composed of reinforced or 201
nonreinforced concrete, asphalt, clay tile, building or paving 202
brick, or building or paving stone at a construction and 203
demolition debris facility that is licensed under this chapter 204
when either of the following applies: 205

(a) The materials are placed within the limits of 206
construction and demolition debris placement at the facility as 207

specified in the license issued to the facility under section 208
3714.06 of the Revised Code, are not placed within the unloading 209
zone of the facility, and are used as a fire prevention measure in 210
accordance with rules adopted by the director under section 211
3714.02 of the Revised Code. 212

(b) The materials are not placed within the unloading zone of 213
the facility or within the limits of construction and demolition 214
debris placement at the facility as specified in the license 215
issued to the facility under section 3714.06 of the Revised Code, 216
but are used as fill material, either alone or in conjunction with 217
clean soil, sand, gravel, or other clean aggregates, in legitimate 218
fill operations for construction purposes at the facility or to 219
bring the facility up to a consistent grade. 220

Sec. 3714.073. (A) In addition to the fee levied under 221
division (A)(1) of section 3714.07 of the Revised Code, beginning 222
July 1, 2005, there is hereby levied on the disposal of 223
construction and demolition debris at a construction and 224
demolition debris facility that is licensed under this chapter or 225
at a solid waste facility that is licensed under Chapter 3734. of 226
the Revised Code and on the disposal of asbestos or 227
asbestos-containing materials or products at a construction and 228
demolition debris facility that is licensed under this chapter or 229
at a solid waste facility that is licensed under Chapter 3734. of 230
the Revised Code the following fees: 231

(1) A fee of twelve and one-half cents per cubic yard or 232
twenty-five cents per ton, as applicable, the proceeds of which 233
shall be deposited in the state treasury to the credit of the soil 234
and water conservation district assistance fund created in section 235
1515.14 of the Revised Code; 236

(2) A fee of thirty-seven and one-half cents per cubic yard 237
or seventy-five cents per ton, as applicable, the proceeds of 238

which shall be deposited in the state treasury to the credit of 239
the recycling and litter prevention fund created in section 240
1502.02 of the Revised Code. 241

(B) The owner or operator of a construction and demolition 242
debris facility or a solid waste facility, as a trustee of the 243
state, shall ~~collect~~ calculate the amount of money generated from 244
the fees levied under this section and remit the money from the 245
fees in the manner that is established in divisions (A)(2) and (3) 246
of section 3714.07 of the Revised Code for the fee that is levied 247
under division (A)(1) of that section and may enter into an 248
agreement for the quarterly payment of money generated from the 249
fees in the manner established in division (B) of that section for 250
the quarterly payment of money generated from the fee that is 251
levied under division (A)(1) of that section. 252

(C) The amount of money that is ~~collected from~~ calculated by 253
the owner or operator of a construction and demolition debris 254
facility or a solid waste facility and remitted to a board of 255
health or the director of environmental protection, as applicable, 256
pursuant to this section shall be transmitted by the board or 257
director to the treasurer of state not later than forty-five days 258
after the receipt of the money to be credited to the soil and 259
water conservation district assistance fund or the recycling and 260
litter prevention fund, as applicable. 261

(D) This section does not apply to the disposal of 262
construction and demolition debris at a solid waste facility that 263
is licensed under Chapter 3734. of the Revised Code if the owner 264
or operator of the facility chooses to collect fees on the 265
disposal of the construction and demolition debris and asbestos or 266
asbestos-containing materials or products that are identical to 267
the fees that are collected under Chapters 343. and 3734. of the 268
Revised Code on the disposal of solid wastes at that facility. 269

(E) This section does not apply to the disposal of source 270

separated materials that are exclusively composed of reinforced or 271
nonreinforced concrete, asphalt, clay tile, building or paving 272
brick, or building or paving stone at a construction and 273
demolition debris facility that is licensed under this chapter 274
when either of the following applies: 275

(1) The materials are placed within the limits of 276
construction and demolition debris placement at the facility as 277
specified in the license issued to the facility under section 278
3714.06 of the Revised Code, are not placed within the unloading 279
zone of the facility, and are used as a fire prevention measure in 280
accordance with rules adopted by the director under section 281
3714.02 of the Revised Code. 282

(2) The materials are not placed within the unloading zone of 283
the facility or within the limits of construction and demolition 284
debris placement at the facility as specified in the license 285
issued to the facility under section 3714.06 of the Revised Code, 286
but are used as fill material, either alone or in conjunction with 287
clean soil, sand, gravel, or other clean aggregates, in legitimate 288
fill operations for construction purposes at the facility or to 289
bring the facility up to a consistent grade. 290

Sec. 3734.01. As used in this chapter: 291

(A) "Board of health" means the board of health of a city or 292
general health district or the authority having the duties of a 293
board of health in any city as authorized by section 3709.05 of 294
the Revised Code. 295

(B) "Director" means the director of environmental 296
protection. 297

(C) "Health district" means a city or general health district 298
as created by or under authority of Chapter 3709. of the Revised 299
Code. 300

(D) "Agency" means the environmental protection agency. 301

(E) "Solid wastes" means such unwanted residual solid or 302
semisolid material as results from industrial, commercial, 303
agricultural, and community operations, excluding earth or 304
material from construction, mining, or demolition operations, or 305
other waste materials of the type that normally would be included 306
in demolition debris, nontoxic fly ash and bottom ash, including 307
at least ash that results from the combustion of coal and ash that 308
results from the combustion of coal in combination with scrap 309
tires where scrap tires comprise not more than fifty per cent of 310
heat input in any month, spent nontoxic foundry sand, and slag and 311
other substances that are not harmful or inimical to public 312
health, and includes, but is not limited to, garbage, scrap tires, 313
combustible and noncombustible material, street dirt, and debris. 314
"Solid wastes" does not include any material that is an infectious 315
waste or a hazardous waste. 316

(F) "Disposal" means the discharge, deposit, injection, 317
dumping, spilling, leaking, emitting, or placing of any solid 318
wastes or hazardous waste into or on any land or ground or surface 319
water or into the air, except if the disposition or placement 320
constitutes storage or treatment or, if the solid wastes consist 321
of scrap tires, the disposition or placement constitutes a 322
beneficial use or occurs at a scrap tire recovery facility 323
licensed under section 3734.81 of the Revised Code. 324

(G) "Person" includes the state, any political subdivision 325
and other state or local body, the United States and any agency or 326
instrumentality thereof, and any legal entity defined as a person 327
under section 1.59 of the Revised Code. 328

(H) "Open burning" means the burning of solid wastes in an 329
open area or burning of solid wastes in a type of chamber or 330
vessel that is not approved or authorized in rules adopted by the 331
director under section 3734.02 of the Revised Code or, if the 332

solid wastes consist of scrap tires, in rules adopted under 333
division (V) of this section or section 3734.73 of the Revised 334
Code, or the burning of treated or untreated infectious wastes in 335
an open area or in a type of chamber or vessel that is not 336
approved in rules adopted by the director under section 3734.021 337
of the Revised Code. 338

(I) "Open dumping" means the depositing of solid wastes into 339
a body or stream of water or onto the surface of the ground at a 340
site that is not licensed as a solid waste facility under section 341
3734.05 of the Revised Code or, if the solid wastes consist of 342
scrap tires, as a scrap tire collection, storage, monocell, 343
monofill, or recovery facility under section 3734.81 of the 344
Revised Code; the depositing of solid wastes that consist of scrap 345
tires onto the surface of the ground at a site or in a manner not 346
specifically identified in divisions (C)(2) to (5), (7), or (10) 347
of section 3734.85 of the Revised Code; the depositing of 348
untreated infectious wastes into a body or stream of water or onto 349
the surface of the ground; or the depositing of treated infectious 350
wastes into a body or stream of water or onto the surface of the 351
ground at a site that is not licensed as a solid waste facility 352
under section 3734.05 of the Revised Code. 353

(J) "Hazardous waste" means any waste or combination of 354
wastes in solid, liquid, semisolid, or contained gaseous form that 355
in the determination of the director, because of its quantity, 356
concentration, or physical or chemical characteristics, may do 357
either of the following: 358

(1) Cause or significantly contribute to an increase in 359
mortality or an increase in serious irreversible or incapacitating 360
reversible illness; 361

(2) Pose a substantial present or potential hazard to human 362
health or safety or to the environment when improperly stored, 363
treated, transported, disposed of, or otherwise managed. 364

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process ~~designed to render that~~ renders the wastes noninfectious so that it is no longer an infectious waste and is no longer an infectious substance as defined in applicable federal law, including, without limitation, steam sterilization and incineration, or and, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or

reclaimed in a beneficial manner. When used in connection with 397
solid wastes that consist of scrap tires, "storage" means the 398
holding of scrap tires for a temporary period in such a manner 399
that they remain retrievable and, at the end of that period, are 400
beneficially used; stored elsewhere; placed in a scrap tire 401
monocell or monofill facility licensed under section 3734.81 of 402
the Revised Code; processed at a scrap tire recovery facility 403
licensed under that section or a solid waste incineration or 404
energy recovery facility subject to regulation under this chapter; 405
or transported to a scrap tire monocell, monofill, or recovery 406
facility, any other solid waste facility authorized to dispose of 407
scrap tires, or a facility that will beneficially use the scrap 408
tires, that is located in another state and is operating in 409
compliance with the laws of the state in which the facility is 410
located. 411

(N) "Facility" means any site, location, tract of land, 412
installation, or building used for incineration, composting, 413
sanitary landfilling, or other methods of disposal of solid wastes 414
or, if the solid wastes consist of scrap tires, for the 415
collection, storage, or processing of the solid wastes; for the 416
transfer of solid wastes; for the treatment of infectious wastes; 417
or for the storage, treatment, or disposal of hazardous waste. 418

(O) "Closure" means the time at which a hazardous waste 419
facility will no longer accept hazardous waste for treatment, 420
storage, or disposal, the time at which a solid waste facility 421
will no longer accept solid wastes for transfer or disposal or, if 422
the solid wastes consist of scrap tires, for storage or 423
processing, or the effective date of an order revoking the permit 424
for a hazardous waste facility or the registration certificate, 425
permit, or license for a solid waste facility, as applicable. 426
"Closure" includes measures performed to protect public health or 427
safety, to prevent air or water pollution, or to make the facility 428

suitable for other uses, if any, including, but not limited to, 429
the removal of processing residues resulting from solid wastes 430
that consist of scrap tires; the establishment and maintenance of 431
a suitable cover of soil and vegetation over cells in which 432
hazardous waste or solid wastes are buried; minimization of 433
erosion, the infiltration of surface water into such cells, the 434
production of leachate, and the accumulation and runoff of 435
contaminated surface water; the final construction of facilities 436
for the collection and treatment of leachate and contaminated 437
surface water runoff, except as otherwise provided in this 438
division; the final construction of air and water quality 439
monitoring facilities, except as otherwise provided in this 440
division; the final construction of methane gas extraction and 441
treatment systems; or the removal and proper disposal of hazardous 442
waste or solid wastes from a facility when necessary to protect 443
public health or safety or to abate or prevent air or water 444
pollution. With regard to a solid waste facility that is a scrap 445
tire facility, "closure" includes the final construction of 446
facilities for the collection and treatment of leachate and 447
contaminated surface water runoff and the final construction of 448
air and water quality monitoring facilities only if those actions 449
are determined to be necessary. 450

(P) "Premises" means either of the following: 451

(1) Geographically contiguous property owned by a generator; 452

(2) Noncontiguous property that is owned by a generator and 453
connected by a right-of-way that the generator controls and to 454
which the public does not have access. Two or more pieces of 455
property that are geographically contiguous and divided by public 456
or private right-of-way or rights-of-way are a single premises. 457

(Q) "Post-closure" means that period of time following 458
closure during which a hazardous waste facility is required to be 459
monitored and maintained under this chapter and rules adopted 460

under it, including, without limitation, operation and maintenance 461
of methane gas extraction and treatment systems, or the period of 462
time after closure during which a scrap tire monocell or monofill 463
facility licensed under section 3734.81 of the Revised Code is 464
required to be monitored and maintained under this chapter and 465
rules adopted under it. 466

(R) "Infectious wastes" ~~includes all of the following~~ 467
~~substances or categories of substances:~~ 468

~~(1) Cultures means any wastes or combination of wastes that~~ 469
~~include cultures~~ and stocks of infectious agents and associated 470
biologicals, ~~including, without limitation, specimen cultures,~~ 471
~~cultures and stocks of infectious agents, wastes from production~~ 472
~~of biologicals, and discarded live and attenuated vaccines;~~ 473

~~(2) human blood and blood products, and substances that were~~ 474
~~or are likely to have been exposed to or contaminated with or are~~ 475
~~likely to transmit an infectious agent or zoonotic agent,~~ 476
~~including all of the following:~~ 477

~~(1) Laboratory wastes that were, or are likely to have been,~~ 478
~~in contact with infectious agents that may present a substantial~~ 479
~~threat to public health if improperly managed;~~ 480

~~(3)(2) Pathological wastes, including, without limitation,~~ 481
~~human and animal tissues, organs, and body parts, and body fluids~~ 482
~~and excreta that are contaminated with or are likely to be~~ 483
~~contaminated with infectious agents, removed or obtained during~~ 484
~~surgery or autopsy or for diagnostic evaluation, provided that,~~ 485
~~with regard to pathological wastes from animals, the animals have~~ 486
~~or are likely to have been exposed to a zoonotic or infectious~~ 487
~~agent;~~ 488

(3) Animal blood and blood products; 489

(4) Animal carcasses and parts; 490

(5) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)~~(8)~~(7) of this section.

~~(5) Human and animal blood specimens and blood products that are being disposed of, provided that, with regard to blood specimens and blood products from animals, the animals were or are likely to have been exposed to a zoonotic or infectious agent. "Blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.~~

~~(6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to public health if improperly managed;~~

~~(7) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without~~

~~limitation, hypodermic needles and syringes, scalpel blades, and
glass articles that have been broken;~~ 523
524

~~(8)~~(7) Any other waste materials generated in the diagnosis, 525
treatment, or immunization of human beings or animals, in research 526
pertaining thereto, or in the production or testing of 527
biologicals, that the public health council created in section 528
3701.33 of the Revised Code, by rules adopted in accordance with 529
Chapter 119. of the Revised Code, identifies as infectious wastes 530
after determining that the wastes present a substantial threat to 531
human health when improperly managed because they are contaminated 532
with, or are likely to be contaminated with, infectious agents. 533

As used in this division, "blood products" does not include 534
patient care waste such as bandages or disposable gowns that are 535
lightly soiled with blood or other body fluids unless those wastes 536
are soiled to the extent that the generator of the wastes 537
determines that they should be managed as infectious wastes. 538

(S) "Infectious agent" means a type of microorganism, 539
~~helminth, or pathogen, virus, or proteinaceous infectious particle~~ 540
that ~~causes, can cause~~ or significantly ~~contributes~~ contribute to 541
~~the cause of, increased morbidity~~ disease in or ~~mortality~~ death of 542
human beings. 543

(T) "Zoonotic agent" means a type of microorganism, ~~helminth~~ 544
pathogen, or virus that causes disease in vertebrate animals ~~and~~ 545
~~that,~~ is transmissible to human beings, ~~and causes~~ can cause or 546
significantly ~~contributes~~ contribute to ~~the cause of increased~~ 547
~~morbidity~~ disease in or ~~mortality~~ death of human beings. 548

(U) "Solid waste transfer facility" means any site, location, 549
tract of land, installation, or building that is used or intended 550
to be used primarily for the purpose of transferring solid wastes 551
that were generated off the premises of the facility from vehicles 552
or containers into other vehicles for transportation to a solid 553

waste disposal facility. "Solid waste transfer facility" does not 554
include any facility that consists solely of portable containers 555
that have an aggregate volume of fifty cubic yards or less nor any 556
facility where legitimate recycling activities are conducted. 557

(V) "Beneficially use" means to use a scrap tire in a manner 558
that results in a commodity for sale or exchange or in any other 559
manner authorized as a beneficial use in rules adopted by the 560
director in accordance with Chapter 119. of the Revised Code. 561

(W) "Commercial car," "commercial tractor," "farm machinery," 562
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 563
the same meanings as in section 4501.01 of the Revised Code. 564

(X) "Construction equipment" means road rollers, traction 565
engines, power shovels, power cranes, and other equipment used in 566
construction work, or in mining or producing or processing 567
aggregates, and not designed for or used in general highway 568
transportation. 569

(Y) "Motor vehicle salvage dealer" has the same meaning as in 570
section 4738.01 of the Revised Code. 571

(Z) "Scrap tire" means an unwanted or discarded tire. 572

(AA) "Scrap tire collection facility" means any facility that 573
meets all of the following qualifications: 574

(1) The facility is used for the receipt and storage of whole 575
scrap tires from the public prior to their transportation to a 576
scrap tire storage, monocell, monofill, or recovery facility 577
licensed under section 3734.81 of the Revised Code; a solid waste 578
incineration or energy recovery facility subject to regulation 579
under this chapter; a premises within the state where the scrap 580
tires will be beneficially used; or a scrap tire storage, 581
monocell, monofill, or recovery facility, any other solid waste 582
disposal facility authorized to dispose of scrap tires, or a 583
facility that will beneficially use the scrap tires, that is 584

located in another state, and that is operating in compliance with 585
the laws of the state in which the facility is located. 586

(2) The facility exclusively stores scrap tires in portable 587
containers. 588

(3) The aggregate storage of the portable containers in which 589
the scrap tires are stored does not exceed five thousand cubic 590
feet. 591

(BB) "Scrap tire monocell facility" means an individual site 592
within a solid waste landfill that is used exclusively for the 593
environmentally sound storage or disposal of whole scrap tires or 594
scrap tires that have been shredded, chipped, or otherwise 595
mechanically processed. 596

(CC) "Scrap tire monofill facility" means an engineered 597
facility used or intended to be used exclusively for the storage 598
or disposal of scrap tires, including at least facilities for the 599
submergence of whole scrap tires in a body of water. 600

(DD) "Scrap tire recovery facility" means any facility, or 601
portion thereof, for the processing of scrap tires for the purpose 602
of extracting or producing usable products, materials, or energy 603
from the scrap tires through a controlled combustion process, 604
mechanical process, or chemical process. "Scrap tire recovery 605
facility" includes any facility that uses the controlled 606
combustion of scrap tires in a manufacturing process to produce 607
process heat or steam or any facility that produces usable heat or 608
electric power through the controlled combustion of scrap tires in 609
combination with another fuel, but does not include any solid 610
waste incineration or energy recovery facility that is designed, 611
constructed, and used for the primary purpose of incinerating 612
mixed municipal solid wastes and that burns scrap tires in 613
conjunction with mixed municipal solid wastes, or any tire 614
retreading business, tire manufacturing finishing center, or tire 615

adjustment center having on the premises of the business a single, 616
covered scrap tire storage area at which not more than four 617
thousand scrap tires are stored. 618

(EE) "Scrap tire storage facility" means any facility where 619
whole scrap tires are stored prior to their transportation to a 620
scrap tire monocell, monofill, or recovery facility licensed under 621
section 3734.81 of the Revised Code; a solid waste incineration or 622
energy recovery facility subject to regulation under this chapter; 623
a premises within the state where the scrap tires will be 624
beneficially used; or a scrap tire storage, monocell, monofill, or 625
recovery facility, any other solid waste disposal facility 626
authorized to dispose of scrap tires, or a facility that will 627
beneficially use the scrap tires, that is located in another 628
state, and that is operating in compliance with the laws of the 629
state in which the facility is located. 630

(FF) "Used oil" means any oil that has been refined from 631
crude oil, or any synthetic oil, that has been used and, as a 632
result of that use, is contaminated by physical or chemical 633
impurities. "Used oil" includes only those substances identified 634
as used oil by the United States environmental protection agency 635
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 636
U.S.C.A. 6901a, as amended. 637

(GG) "Accumulated speculatively" has the same meaning as in 638
rules adopted by the director under section 3734.12 of the Revised 639
Code. 640

Sec. 3734.02. (A) The director of environmental protection, 641
in accordance with Chapter 119. of the Revised Code, shall adopt 642
and may amend, suspend, or rescind rules having uniform 643
application throughout the state governing solid waste facilities 644
and the inspections of and issuance of permits and licenses for 645
all solid waste facilities in order to ensure that the facilities 646

will be located, maintained, and operated, and will undergo 647
closure and post-closure care, in a sanitary manner so as not to 648
create a nuisance, cause or contribute to water pollution, create 649
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 650
257.3-8, as amended. The rules may include, without limitation, 651
financial assurance requirements for closure and post-closure care 652
and corrective action and requirements for taking corrective 653
action in the event of the surface or subsurface discharge or 654
migration of explosive gases or leachate from a solid waste 655
facility, or of ground water contamination resulting from the 656
transfer or disposal of solid wastes at a facility, beyond the 657
boundaries of any area within a facility that is operating or is 658
undergoing closure or post-closure care where solid wastes were 659
disposed of or are being disposed of. The rules shall not concern 660
or relate to personnel policies, salaries, wages, fringe benefits, 661
or other conditions of employment of employees of persons owning 662
or operating solid waste facilities. The director, in accordance 663
with Chapter 119. of the Revised Code, shall adopt and may amend, 664
suspend, or rescind rules governing the issuance, modification, 665
revocation, suspension, or denial of variances from the director's 666
solid waste rules, including, without limitation, rules adopted 667
under this chapter governing the management of scrap tires. 668

Variances shall be issued, modified, revoked, suspended, or 669
rescinded in accordance with this division, rules adopted under 670
it, and Chapter 3745. of the Revised Code. The director may order 671
the person to whom a variance is issued to take such action within 672
such time as the director may determine to be appropriate and 673
reasonable to prevent the creation of a nuisance or a hazard to 674
the public health or safety or the environment. Applications for 675
variances shall contain such detail plans, specifications, and 676
information regarding objectives, procedures, controls, and other 677
pertinent data as the director may require. The director shall 678
grant a variance only if the applicant demonstrates to the 679

director's satisfaction that construction and operation of the 680
solid waste facility in the manner allowed by the variance and any 681
terms or conditions imposed as part of the variance will not 682
create a nuisance or a hazard to the public health or safety or 683
the environment. In granting any variance, the director shall 684
state the specific provision or provisions whose terms are to be 685
varied and also shall state specific terms or conditions imposed 686
upon the applicant in place of the provision or provisions. The 687
director may hold a public hearing on an application for a 688
variance or renewal of a variance at a location in the county 689
where the operations that are the subject of the application for 690
the variance are conducted. The director shall give not less than 691
twenty days' notice of the hearing to the applicant by certified 692
mail or by another type of mail accompanied by a receipt and shall 693
publish at least one notice of the hearing in a newspaper with 694
general circulation in the county where the hearing is to be held. 695
The director shall make available for public inspection at the 696
principal office of the environmental protection agency a current 697
list of pending applications for variances and a current schedule 698
of pending variance hearings. The director shall make a complete 699
stenographic record of testimony and other evidence submitted at 700
the hearing. Within ten days after the hearing, the director shall 701
make a written determination to issue, renew, or deny the variance 702
and shall enter the determination and the basis for it into the 703
record of the hearing. The director shall issue, renew, or deny an 704
application for a variance or renewal of a variance within six 705
months of the date upon which the director receives a complete 706
application with all pertinent information and data required. No 707
variance shall be issued, revoked, modified, or denied until the 708
director has considered the relative interests of the applicant, 709
other persons and property affected by the variance, and the 710
general public. Any variance granted under this division shall be 711
for a period specified by the director and may be renewed from 712

time to time on such terms and for such periods as the director 713
determines to be appropriate. No application shall be denied and 714
no variance shall be revoked or modified without a written order 715
stating the findings upon which the denial, revocation, or 716
modification is based. A copy of the order shall be sent to the 717
applicant or variance holder by certified mail or by another type 718
of mail accompanied by a receipt. 719

(B) The director shall prescribe and furnish the forms 720
necessary to administer and enforce this chapter. The director may 721
cooperate with and enter into agreements with other state, local, 722
or federal agencies to carry out the purposes of this chapter. The 723
director may exercise all incidental powers necessary to carry out 724
the purposes of this chapter. 725

The director may use moneys in the infectious waste 726
management fund created in section 3734.021 of the Revised Code 727
exclusively for administering and enforcing the provisions of this 728
chapter governing the management of infectious wastes. ~~Of each~~ 729
~~registration and renewal fee collected under rules adopted under~~ 730
~~division (A)(2)(a) of section 3734.021 or under section 3734.022~~ 731
~~of the Revised Code, the director, within forty five days of its~~ 732
~~receipt, shall remit from the fund one half of the fee received to~~ 733
~~the board of health of the health district in which the registered~~ 734
~~premises is located, or, in the instance of an infectious wastes~~ 735
~~transporter, to the board of health of the health district in~~ 736
~~which the transporter's principal place of business is located.~~ 737
~~However, if the board of health having jurisdiction over a~~ 738
~~registrant's premises or principal place of business is not on the~~ 739
~~approved list under section 3734.08 of the Revised Code, the~~ 740
~~director shall not make that payment to the board of health.~~ 741

(C) Except as provided in this division and divisions (N)(2) 742
and (3) of this section, no person shall establish a new solid 743
waste facility or infectious waste treatment facility, or modify 744

an existing solid waste facility or infectious waste treatment 745
facility, without submitting an application for a permit with 746
accompanying detail plans, specifications, and information 747
regarding the facility and method of operation and receiving a 748
permit issued by the director, except that no permit shall be 749
required under this division to install or operate a solid waste 750
facility for sewage sludge treatment or disposal when the 751
treatment or disposal is authorized by a current permit issued 752
under Chapter 3704. or 6111. of the Revised Code. 753

No person shall continue to operate a solid waste facility 754
for which the director has denied a permit for which an 755
application was required under division (A)(3) of section 3734.05 756
of the Revised Code, or for which the director has disapproved 757
plans and specifications required to be filed by an order issued 758
under division (A)(5) of that section, after the date prescribed 759
for commencement of closure of the facility in the order issued 760
under division (A)(6) of section 3734.05 of the Revised Code 761
denying the permit application or approval. 762

On and after the effective date of the rules adopted under 763
division (A) of this section and division (D) of section 3734.12 764
of the Revised Code governing solid waste transfer facilities, no 765
person shall establish a new, or modify an existing, solid waste 766
transfer facility without first submitting an application for a 767
permit with accompanying engineering detail plans, specifications, 768
and information regarding the facility and its method of operation 769
to the director and receiving a permit issued by the director. 770

No person shall establish a new compost facility or continue 771
to operate an existing compost facility that accepts exclusively 772
source separated yard wastes without submitting a completed 773
registration for the facility to the director in accordance with 774
rules adopted under divisions (A) and (N)(3) of this section. 775

This division does not apply to ~~an~~ a generator of infectious 776

~~waste treatment facility wastes~~ that ~~meets~~ does any of the 777
following ~~conditions~~: 778

~~(1) Is owned or operated by the generator of the wastes and~~ 779
~~exclusively treats~~ Treats, by methods, techniques, and practices 780
established by rules adopted under division ~~(C)(1) or (3)(B)(2)(a)~~ 781
of section 3734.021 of the Revised Code, ~~wastes that are generated~~ 782
~~at any premises owned or operated by that generator regardless of~~ 783
~~whether the wastes are generated on the premises where the~~ 784
~~generator's treatment facility is located or, if the generator is~~ 785
~~a hospital as defined in section 3727.01 of the Revised Code,~~ 786
~~infectious wastes that are described in division (A)(1)(g), (h),~~ 787
~~or (i) of section 3734.021 of the Revised Code; any of the~~ 788
following: 789

(a) Infectious wastes that are generated on any premises that 790
are owned or operated by the generator; 791

(b) Infectious wastes that are generated by a generator who 792
has staff privileges at a hospital as defined in section 3727.01 793
of the Revised Code; 794

(c) Infectious wastes that are generated in providing care to 795
a patient by an emergency medical services organization as defined 796
in section 4765.01 of the Revised Code. 797

(2) Holds a license or renewal of a license to operate a 798
crematory facility issued under Chapter 4717. and a permit issued 799
under Chapter 3704. of the Revised Code; 800

(3) Treats or disposes of dead animals or parts thereof, or 801
the blood of animals, and is subject to any of the following: 802

(a) Inspection under the "Federal Meat Inspection Act," 81 803
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 804

(b) Chapter 918. of the Revised Code; 805

(c) Chapter 953. of the Revised Code. 806

(D) Neither this chapter nor any rules adopted under it apply 807
to single-family residential premises; to infectious wastes 808
generated by individuals for purposes of their own care or 809
treatment ~~that are disposed of with solid wastes from the~~ 810
~~individual's residence~~; to the temporary storage of solid wastes, 811
other than scrap tires, prior to their collection for disposal; to 812
the storage of one hundred or fewer scrap tires unless they are 813
stored in such a manner that, in the judgment of the director or 814
the board of health of the health district in which the scrap 815
tires are stored, the storage causes a nuisance, a hazard to 816
public health or safety, or a fire hazard; or to the collection of 817
solid wastes, other than scrap tires, by a political subdivision 818
or a person holding a franchise or license from a political 819
subdivision of the state; to composting, as defined in section 820
1511.01 of the Revised Code, conducted in accordance with section 821
1511.022 of the Revised Code; or to any person who is licensed to 822
transport raw rendering material to a compost facility pursuant to 823
section 953.23 of the Revised Code. 824

(E)(1) As used in this division: 825

(a) "On-site facility" means a facility that stores, treats, 826
or disposes of hazardous waste that is generated on the premises 827
of the facility. 828

(b) "Off-site facility" means a facility that stores, treats, 829
or disposes of hazardous waste that is generated off the premises 830
of the facility and includes such a facility that is also an 831
on-site facility. 832

(c) "Satellite facility" means any of the following: 833

(i) An on-site facility that also receives hazardous waste 834
from other premises owned by the same person who generates the 835
waste on the facility premises; 836

(ii) An off-site facility operated so that all of the 837

hazardous waste it receives is generated on one or more premises 838
owned by the person who owns the facility; 839

(iii) An on-site facility that also receives hazardous waste 840
that is transported uninterruptedly and directly to the facility 841
through a pipeline from a generator who is not the owner of the 842
facility. 843

(2) Except as provided in division (E)(3) of this section, no 844
person shall establish or operate a hazardous waste facility, or 845
use a solid waste facility for the storage, treatment, or disposal 846
of any hazardous waste, without a hazardous waste facility 847
installation and operation permit issued in accordance with 848
section 3734.05 of the Revised Code and subject to the payment of 849
an application fee not to exceed one thousand five hundred 850
dollars, payable upon application for a hazardous waste facility 851
installation and operation permit and upon application for a 852
renewal permit issued under division (H) of section 3734.05 of the 853
Revised Code, to be credited to the hazardous waste facility 854
management fund created in section 3734.18 of the Revised Code. 855
The term of a hazardous waste facility installation and operation 856
permit shall not exceed ten years. 857

In addition to the application fee, there is hereby levied an 858
annual permit fee to be paid by the permit holder upon the 859
anniversaries of the date of issuance of the hazardous waste 860
facility installation and operation permit and of any subsequent 861
renewal permits and to be credited to the hazardous waste facility 862
management fund. Annual permit fees totaling forty thousand 863
dollars or more for any one facility may be paid on a quarterly 864
basis with the first quarterly payment each year being due on the 865
anniversary of the date of issuance of the hazardous waste 866
facility installation and operation permit and of any subsequent 867
renewal permits. The annual permit fee shall be determined for 868
each permit holder by the director in accordance with the 869

following schedule:			870
TYPE OF BASIC			871
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	872
Storage facility using:			873
Containers	On-site, off-site, and satellite	\$ 500	874 875
Tanks	On-site, off-site, and satellite	500	876 877
Waste pile	On-site, off-site, and satellite	3,000	878 879
Surface impoundment	On-site and satellite	8,000	880
	Off-site	10,000	881
Disposal facility using:			882
Deep well injection	On-site and satellite	15,000	883
	Off-site	25,000	884
Landfill	On-site and satellite	25,000	885
	Off-site	40,000	886
Land application	On-site and satellite	2,500	887
	Off-site	5,000	888
Surface impoundment	On-site and satellite	10,000	889
	Off-site	20,000	890
Treatment facility using:			891
Tanks	On-site, off-site, and satellite	700	892 893
Surface impoundment	On-site and satellite	8,000	894
	Off-site	10,000	895
Incinerator	On-site and satellite	5,000	896
	Off-site	10,000	897
Other forms			898
of treatment	On-site, off-site, and satellite	1,000	899 900
A hazardous waste disposal facility that disposes of			901
hazardous waste by deep well injection and that pays the annual			902

permit fee established in section 6111.046 of the Revised Code is 903
not subject to the permit fee established in this division for 904
disposal facilities using deep well injection unless the director 905
determines that the facility is not in compliance with applicable 906
requirements established under this chapter and rules adopted 907
under it. 908

In determining the annual permit fee required by this 909
section, the director shall not require additional payments for 910
multiple units of the same method of storage, treatment, or 911
disposal or for individual units that are used for both storage 912
and treatment. A facility using more than one method of storage, 913
treatment, or disposal shall pay the permit fee indicated by the 914
schedule for each such method. 915

The director shall not require the payment of that portion of 916
an annual permit fee of any permit holder that would apply to a 917
hazardous waste management unit for which a permit has been 918
issued, but for which construction has not yet commenced. Once 919
construction has commenced, the director shall require the payment 920
of a part of the appropriate fee indicated by the schedule that 921
bears the same relationship to the total fee that the number of 922
days remaining until the next anniversary date at which payment of 923
the annual permit fee is due bears to three hundred sixty-five. 924

The director, by rules adopted in accordance with Chapters 925
119. and 3745. of the Revised Code, shall prescribe procedures for 926
collecting the annual permit fee established by this division and 927
may prescribe other requirements necessary to carry out this 928
division. 929

(3) The prohibition against establishing or operating a 930
hazardous waste facility without a hazardous waste facility 931
installation and operation permit does not apply to either of the 932
following: 933

(a) A facility that is operating in accordance with a permit 934
renewal issued under division (H) of section 3734.05 of the 935
Revised Code, a revision issued under division (I) of that section 936
as it existed prior to August 20, 1996, or a modification issued 937
by the director under division (I) of that section on and after 938
August 20, 1996; 939

(b) Except as provided in division (J) of section 3734.05 of 940
the Revised Code, a facility that will operate or is operating in 941
accordance with a permit by rule, or that is not subject to permit 942
requirements, under rules adopted by the director. In accordance 943
with Chapter 119. of the Revised Code, the director shall adopt, 944
and subsequently may amend, suspend, or rescind, rules for the 945
purposes of division (E)(3)(b) of this section. Any rules so 946
adopted shall be consistent with and equivalent to regulations 947
pertaining to interim status adopted under the "Resource 948
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 949
6921, as amended, except as otherwise provided in this chapter. 950

If a modification is requested or proposed for a facility 951
described in division (E)(3)(a) or (b) of this section, division 952
(I)(7) of section 3734.05 of the Revised Code applies. 953

(F) No person shall store, treat, or dispose of hazardous 954
waste identified or listed under this chapter and rules adopted 955
under it, regardless of whether generated on or off the premises 956
where the waste is stored, treated, or disposed of, or transport 957
or cause to be transported any hazardous waste identified or 958
listed under this chapter and rules adopted under it to any other 959
premises, except at or to any of the following: 960

(1) A hazardous waste facility operating under a permit 961
issued in accordance with this chapter; 962

(2) A facility in another state operating under a license or 963
permit issued in accordance with the "Resource Conservation and 964

Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 965
amended; 966

(3) A facility in another nation operating in accordance with 967
the laws of that nation; 968

(4) A facility holding a permit issued pursuant to Title I of 969
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 970
Stat. 1052, 33 U.S.C.A. 1401, as amended; 971

(5) A hazardous waste facility as described in division 972
(E)(3)(a) or (b) of this section. 973

(G) The director, by order, may exempt any person generating, 974
collecting, storing, treating, disposing of, or transporting solid 975
wastes, infectious wastes, or hazardous waste, or processing solid 976
wastes that consist of scrap tires, in such quantities or under 977
such circumstances that, in the determination of the director, are 978
unlikely to adversely affect the public health or safety or the 979
environment from any requirement to obtain a registration 980
certificate, permit, or license or comply with the manifest system 981
or other requirements of this chapter. Such an exemption shall be 982
consistent with and equivalent to any regulations adopted by the 983
administrator of the United States environmental protection agency 984
under the "Resource Conservation and Recovery Act of 1976," 90 985
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 986
provided in this chapter. 987

(H) No person shall engage in filling, grading, excavating, 988
building, drilling, or mining on land where a hazardous waste 989
facility, or a solid waste facility, was operated without prior 990
authorization from the director, who shall establish the procedure 991
for granting such authorization by rules adopted in accordance 992
with Chapter 119. of the Revised Code. 993

A public utility that has main or distribution lines above or 994
below the land surface located on an easement or right-of-way 995

across land where a solid waste facility was operated may engage 996
in any such activity within the easement or right-of-way without 997
prior authorization from the director for purposes of performing 998
emergency repair or emergency replacement of its lines; of the 999
poles, towers, foundations, or other structures supporting or 1000
sustaining any such lines; or of the appurtenances to those 1001
structures, necessary to restore or maintain existing public 1002
utility service. A public utility may enter upon any such easement 1003
or right-of-way without prior authorization from the director for 1004
purposes of performing necessary or routine maintenance of those 1005
portions of its existing lines; of the existing poles, towers, 1006
foundations, or other structures sustaining or supporting its 1007
lines; or of the appurtenances to any such supporting or 1008
sustaining structure, located on or above the land surface on any 1009
such easement or right-of-way. Within twenty-four hours after 1010
commencing any such emergency repair, replacement, or maintenance 1011
work, the public utility shall notify the director or the 1012
director's authorized representative of those activities and shall 1013
provide such information regarding those activities as the 1014
director or the director's representative may request. Upon 1015
completion of the emergency repair, replacement, or maintenance 1016
activities, the public utility shall restore any land of the solid 1017
waste facility disturbed by those activities to the condition 1018
existing prior to the commencement of those activities. 1019

(I) No owner or operator of a hazardous waste facility, in 1020
the operation of the facility, shall cause, permit, or allow the 1021
emission therefrom of any particulate matter, dust, fumes, gas, 1022
mist, smoke, vapor, or odorous substance that, in the opinion of 1023
the director, unreasonably interferes with the comfortable 1024
enjoyment of life or property by persons living or working in the 1025
vicinity of the facility, or that is injurious to public health. 1026
Any such action is hereby declared to be a public nuisance. 1027

(J) Notwithstanding any other provision of this chapter, in 1028
the event the director finds an imminent and substantial danger to 1029
public health or safety or the environment that creates an 1030
emergency situation requiring the immediate treatment, storage, or 1031
disposal of hazardous waste, the director may issue a temporary 1032
emergency permit to allow the treatment, storage, or disposal of 1033
the hazardous waste at a facility that is not otherwise authorized 1034
by a hazardous waste facility installation and operation permit to 1035
treat, store, or dispose of the waste. The emergency permit shall 1036
not exceed ninety days in duration and shall not be renewed. The 1037
director shall adopt, and may amend, suspend, or rescind, rules in 1038
accordance with Chapter 119. of the Revised Code governing the 1039
issuance, modification, revocation, and denial of emergency 1040
permits. 1041

(K) ~~No~~ Except for infectious wastes generated by a person who 1042
produces fewer than fifty pounds of infectious wastes at a 1043
premises during any one month, no owner or operator of a sanitary 1044
landfill shall knowingly accept for disposal, or dispose of, any 1045
infectious wastes, ~~other than those subject to division (A)(1)(c)~~ 1046
~~of section 3734.021 of the Revised Code,~~ that have not been 1047
treated to render them noninfectious. ~~For the purposes of this~~ 1048
~~division, certification by the owner or operator of the treatment~~ 1049
~~facility where the wastes were treated on the shipping paper~~ 1050
~~required by rules adopted under division (D)(2) of that section~~ 1051
~~creates a rebuttable presumption that the wastes have been so~~ 1052
~~treated.~~ 1053

(L) The director, in accordance with Chapter 119. of the 1054
Revised Code, shall adopt, and may amend, suspend, or rescind, 1055
rules having uniform application throughout the state establishing 1056
a training and certification program that shall be required for 1057
employees of boards of health who are responsible for enforcing 1058
the solid waste and infectious waste provisions of this chapter 1059

and rules adopted under them and for persons who are responsible 1060
for the operation of solid waste facilities or infectious waste 1061
treatment facilities. The rules shall provide all of the 1062
following, without limitation: 1063

(1) The program shall be administered by the director and 1064
shall consist of a course on new solid waste and infectious waste 1065
technologies, enforcement procedures, and rules; 1066

(2) The course shall be offered on an annual basis; 1067

(3) Those persons who are required to take the course under 1068
division (L) of this section shall do so triennially; 1069

(4) Persons who successfully complete the course shall be 1070
certified by the director; 1071

(5) Certification shall be required for all employees of 1072
boards of health who are responsible for enforcing the solid waste 1073
or infectious waste provisions of this chapter and rules adopted 1074
under them and for all persons who are responsible for the 1075
operation of solid waste facilities or infectious waste treatment 1076
facilities; 1077

(6)(a) All employees of a board of health who, on the 1078
effective date of the rules adopted under this division, are 1079
responsible for enforcing the solid waste or infectious waste 1080
provisions of this chapter and the rules adopted under them shall 1081
complete the course and be certified by the director not later 1082
than January 1, 1995; 1083

(b) All employees of a board of health who, after the 1084
effective date of the rules adopted under division (L) of this 1085
section, become responsible for enforcing the solid waste or 1086
infectious waste provisions of this chapter and rules adopted 1087
under them and who do not hold a current and valid certification 1088
from the director at that time shall complete the course and be 1089
certified by the director within two years after becoming 1090

responsible for performing those activities. 1091

No person shall fail to obtain the certification required 1092
under this division. 1093

(M) The director shall not issue a permit under section 1094
3734.05 of the Revised Code to establish a solid waste facility, 1095
or to modify a solid waste facility operating on December 21, 1096
1988, in a manner that expands the disposal capacity or geographic 1097
area covered by the facility, that is or is to be located within 1098
the boundaries of a state park established or dedicated under 1099
Chapter 1541. of the Revised Code, a state park purchase area 1100
established under section 1541.02 of the Revised Code, any unit of 1101
the national park system, or any property that lies within the 1102
boundaries of a national park or recreation area, but that has not 1103
been acquired or is not administered by the secretary of the 1104
United States department of the interior, located in this state, 1105
or any candidate area located in this state and identified for 1106
potential inclusion in the national park system in the edition of 1107
the "national park system plan" submitted under paragraph (b) of 1108
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 1109
U.S.C.A. 1a-5, as amended, current at the time of filing of the 1110
application for the permit, unless the facility or proposed 1111
facility is or is to be used exclusively for the disposal of solid 1112
wastes generated within the park or recreation area and the 1113
director determines that the facility or proposed facility will 1114
not degrade any of the natural or cultural resources of the park 1115
or recreation area. The director shall not issue a variance under 1116
division (A) of this section and rules adopted under it, or issue 1117
an exemption order under division (G) of this section, that would 1118
authorize any such establishment or expansion of a solid waste 1119
facility within the boundaries of any such park or recreation 1120
area, state park purchase area, or candidate area, other than a 1121
solid waste facility exclusively for the disposal of solid wastes 1122

generated within the park or recreation area when the director 1123
determines that the facility will not degrade any of the natural 1124
or cultural resources of the park or recreation area. 1125

(N)(1) The rules adopted under division (A) of this section, 1126
other than those governing variances, do not apply to scrap tire 1127
collection, storage, monocell, monofill, and recovery facilities. 1128
Those facilities are subject to and governed by rules adopted 1129
under sections 3734.70 to 3734.73 of the Revised Code, as 1130
applicable. 1131

(2) Division (C) of this section does not apply to scrap tire 1132
collection, storage, monocell, monofill, and recovery facilities. 1133
The establishment and modification of those facilities are subject 1134
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 1135
Code, as applicable. 1136

(3) The director may adopt, amend, suspend, or rescind rules 1137
under division (A) of this section creating an alternative system 1138
for authorizing the establishment, operation, or modification of a 1139
solid waste compost facility in lieu of the requirement that a 1140
person seeking to establish, operate, or modify a solid waste 1141
compost facility apply for and receive a permit under division (C) 1142
of this section and section 3734.05 of the Revised Code and a 1143
license under division (A)(1) of that section. The rules may 1144
include requirements governing, without limitation, the 1145
classification of solid waste compost facilities, the submittal of 1146
operating records for solid waste compost facilities, and the 1147
creation of a registration or notification system in lieu of the 1148
issuance of permits and licenses for solid waste compost 1149
facilities. The rules shall specify the applicability of divisions 1150
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 1151
Code to a solid waste compost facility. 1152

(O)(1) As used in this division, "secondary aluminum waste" 1153
means waste material or byproducts, when disposed of, containing 1154

aluminum generated from secondary aluminum smelting operations and 1155
consisting of dross, salt cake, baghouse dust associated with 1156
aluminum recycling furnace operations, or dry-milled wastes. 1157

(2) The owner or operator of a sanitary landfill shall not 1158
dispose of municipal solid waste that has been commingled with 1159
secondary aluminum waste. 1160

(3) The owner or operator of a sanitary landfill may dispose 1161
of secondary aluminum waste, but only in a monocell or monofill 1162
that has been permitted for that purpose in accordance with this 1163
chapter and rules adopted under it. 1164

Sec. 3734.021. (A) Infectious wastes shall be segregated, 1165
packaged ~~managed~~, treated, ~~transported~~, and disposed of in 1166
accordance with rules adopted under this section. 1167

(B) The director of environmental protection, in accordance 1168
with Chapter 119. of the Revised Code, shall adopt, ~~and may amend~~ 1169
~~and rescind~~, rules necessary or appropriate to protect human 1170
health or safety or the environment that do both of the following: 1171

~~(A) Establishing~~ (1) Establish standards for generators of 1172
infectious wastes that include, without limitation, the following 1173
requirements and authorizations that: 1174

~~(1)(a)~~ (a) All generators of infectious wastes: 1175

~~(a) Place all infectious wastes identified in division (R)(7)~~ 1176
~~of section 3734.01 of the Revised Code, and all unused, discarded~~ 1177
~~hypodermic needles, syringes, and scalpel blades, in rigid,~~ 1178
~~tightly closed, puncture-resistant containers on the premises~~ 1179
~~where they are generated before they are transported off that~~ 1180
~~premises. Containers containing such wastes shall be labeled~~ 1181
~~"sharps" and, if the wastes have not been treated to render them~~ 1182
~~noninfectious, shall be conspicuously labeled with the~~ 1183
~~international biohazard symbol.~~ 1184

~~(b)(i)~~ Either treat all specimen cultures and cultures of 1185
viable infectious agents on the premises where they are generated 1186
to render them noninfectious by methods, techniques, or practices 1187
prescribed by rules adopted under division ~~(C)(1)(B)(2)(a)~~ of this 1188
section before they are transported off that premises for disposal 1189
or ensure that such wastes are treated to render them 1190
noninfectious at an infectious waste treatment facility off that 1191
premises ~~that is owned or operated by the generator, an infectious~~ 1192
~~waste treatment facility that holds a license issued under~~ 1193
~~division (B) of section 3734.05 of the Revised Code, an infectious~~ 1194
~~waste treatment facility that is located in another state that is~~ 1195
~~in compliance with applicable state and federal laws, or a~~ 1196
~~treatment facility that is authorized by rules adopted under~~ 1197
~~division (C)(6) of this section,~~ prior to disposal of the wastes- 1198

~~(c)~~ Except as otherwise provided in division ~~(A)(1)(c)~~ of 1199
this section, wastes generated by a generator who; 1200

(ii) Transport and dispose of infectious wastes, if a 1201
generator produces fewer than fifty pounds of infectious wastes 1202
during any one month that are subject to and packaged and labeled 1203
in accordance with ~~rules adopted under division (A)(1)(a) of this~~ 1204
~~section shall be transported and disposed of~~ federal requirements, 1205
in the same manner as solid wastes. Such generators who treat 1206
specimen cultures and cultures of viable infectious agents on the 1207
premises where they are generated shall not be considered 1208
treatment facilities as "treatment" and "facility" are defined in 1209
section 3734.01 of the Revised Code. 1210

~~(d) Wastes~~ 1211

(iii) Dispose of infectious wastes subject to and treated in 1212
accordance with rules adopted under division ~~(A)(1)(b)~~ (B)(1)(a)(i) 1213
of this section ~~shall be transported and disposed of~~ in the same 1214
manner as solid wastes- 1215

~~(e) For the purposes of this section and rules adopted under it, no wastes consisting of dead animals or parts thereof shall be considered when determining the quantity of infectious wastes produced by any generator if the dead animals or parts meet either of the following:~~

~~(i) Were not intentionally exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;~~

~~(ii) Either were produced by a veterinarian holding a license issued under Chapter 4741. of the Revised Code or were treated or disposed of by a person holding a license issued under Chapter 953. of the Revised Code.~~

~~(f) For the purposes of this section and rules adopted under it, no blood, blood products, other body fluids, or embalming fluids that are discharged on the site of their generation into a disposal system, as defined in section 6111.01 of the Revised Code, by a facility that holds a license or renewal of a license issued under Chapter 4717. of the Revised Code shall be considered when determining the quantity of infectious wastes produced by that generator.~~

~~(g) Wastes generated by a generator who produces fewer than fifty pounds of infectious wastes during any one month that are subject to and packaged in accordance with rules adopted under division (A)(1)(a) of this section may be transported to a treatment facility owned or operated by a hospital with which the generator has staff privileges, as "hospital" is defined in section 3727.01 of the Revised Code. Such a generator who so transports infectious wastes, other than untreated specimen cultures and cultures and stocks of viable infectious agents, that are generated on the generator's premises is not a transporter for the purposes of this section or section 3734.022 of the Revised Code.~~

(h) Wastes;	1248
<u>(iv) May take wastes</u> generated in providing care to a patient	1249
by an emergency medical services organization, as defined in	1250
section 4765.01 of the Revised Code, may be taken to and left	1251
<u>leave them</u> at a hospital, as defined in section 3727.01 of the	1252
Revised Code, for treatment at a treatment facility owned or	1253
operated by the hospital or, in conjunction with infectious wastes	1254
generated by the hospital, at another treatment facility	1255
regardless of whether the wastes were generated in providing care	1256
to the patient at the scene of an emergency or during the	1257
transportation of the patient to a hospital. An emergency medical	1258
services organization that transports infectious wastes that are	1259
so generated to a hospital for that purpose is not a transporter	1260
for the purposes of this section or section 3734.022 of the	1261
Revised Code.	1262
(i) Wastes;	1263
<u>(v) May take wastes</u> generated by an individual for purposes	1264
of the individual's own care or treatment may be taken to and left	1265
<u>leave them</u> at a hospital, as defined in section 3727.01 of the	1266
Revised Code, for treatment at a treatment facility owned or	1267
operated by the hospital or, in conjunction with infectious wastes	1268
generated by the hospital, at another treatment facility. An	1269
individual or member of an individual's household who transports	1270
wastes so generated by the individual to a hospital for that	1271
purpose is not a transporter for the purposes of this section or	1272
section 3734.022 of the Revised Code.	1273
(2)(b) Each generator of fifty pounds or more of infectious	1274
wastes during any one month:	1275
(a)(i) Register with the environmental protection agency as a	1276
generator of infectious wastes and obtain a registration	1277
certificate. The fee for issuance of a generator registration	1278

certificate is ~~three~~ one hundred forty dollars payable at the time 1279
of application. The registration certificate applies to all the 1280
premises owned or operated by the generator in this state where 1281
infectious wastes are generated and shall list the address of each 1282
such premises. If a generator owns or operates facilities for the 1283
treatment of infectious wastes it generates, the certificate shall 1284
list the address and method of treatment used at each such 1285
facility. 1286

A generator registration certificate is valid for three years 1287
from the date of issuance and shall be renewed for a term of three 1288
years upon the generator's submission of an application for 1289
renewal and payment of a ~~three~~ one hundred forty dollar renewal 1290
fee. 1291

The rules may establish a system of staggered renewal dates 1292
with approximately one-third of such certificates subject to 1293
renewal each year. The applicable renewal date shall be prescribed 1294
on each registration certificate. Registration fees shall be 1295
prorated according to the time remaining in the registration cycle 1296
to the nearest year. 1297

The registration and renewal fees collected under division 1298
(B)(1)(b)(i) of this section shall be credited to the infectious 1299
wastes management fund, hereby created in the state treasury. 1300

~~(b)(ii)~~ Segregate infectious wastes from other wastes at the 1301
point of generation. Nothing in this section and rules adopted 1302
under it prohibits a generator of infectious wastes from 1303
designating and managing any wastes, in addition to those defined 1304
as infectious wastes under section 3734.01 of the Revised Code, as 1305
infectious wastes ~~when, in the judgment of the generator, those~~ 1306
~~other wastes should be managed as infectious wastes because they~~ 1307
~~are, or are likely to be, contaminated with infectious agents.~~ 1308
After designating any such other wastes as infectious, the 1309
generator shall manage those wastes in compliance with the 1310

requirements of this chapter and rules adopted under it applicable 1311
to the management of infectious wastes. 1312

~~(c) For purposes of containment, place infectious wastes, 1313
other than those subject to rules adopted under division (A)(1)(a) 1314
of this section, in plastic bags that are impervious to moisture 1315
and are sufficiently strong to preclude ripping, tearing, or 1316
bursting under normal conditions of handling and ensure that the 1317
filled bags are securely tied to prevent leakage or expulsion of 1318
the wastes from them during storage, handling, or transport. The 1319
generator shall ensure that, prior to transportation off the 1320
premises where generated, infectious wastes that have not been 1321
treated to render them noninfectious, other than those subject to 1322
division (A)(1)(a) of this section, are contained in bags that 1323
either are red in color or conspicuously labeled with the 1324
international biohazard symbol. 1325~~

~~(d)(iii) Either treat the infectious wastes that it generates 1326
at a facility owned or operated by the generator by methods, 1327
techniques, or practices prescribed by rules adopted under 1328
division ~~(C)(1)~~(B)(2)(a) of this section to render them 1329
noninfectious, or designate the wastes for treatment off that 1330
premises at an infectious waste treatment facility holding a 1331
license issued under division (B) of section 3734.05 of the 1332
Revised Code, at an infectious waste treatment facility that is 1333
located in another state that is in compliance with applicable 1334
state and federal laws, or at a treatment facility authorized by 1335
rules adopted under division ~~(C)(6)~~(B)(2)(d) of this section, 1336
prior to disposal of the wastes. After being treated to render 1337
them noninfectious, the wastes shall be disposed of at a solid 1338
waste disposal facility holding a license issued under division 1339
(A) of section 3734.05 of the Revised Code or at a disposal 1340
facility in another state that is in compliance with applicable 1341
state and federal laws. 1342~~

~~(e)(iv) Not grind any infectious wastes identified in~~ 1343
~~division (R)(7) of section 3734.01 of the Revised Code, not~~ 1344
~~compact any such wastes until after the wastes have been treated~~ 1345
~~in accordance with rules adopted under divisions (C)(1) and (3) of~~ 1346
~~this section, and not compact or grind any other type of~~ 1347
~~infectious wastes until after the wastes have been treated prior~~ 1348
~~to treatment in accordance with rules adopted under division~~ 1349
~~(C)(1)(B)(2)(a) of this section;~~ 1350

~~(f)(v) May discharge untreated liquid or semiliquid~~ 1351
~~infectious wastes consisting of blood, blood products, body~~ 1352
~~fluids, and excreta into a disposal system, as defined in section~~ 1353
~~6111.01 of the Revised Code, unless the discharge of those wastes~~ 1354
~~into a disposal system is inconsistent with the terms and~~ 1355
~~conditions of the permit for the system issued under Chapter 6111.~~ 1356
~~of the Revised Code;~~ 1357

~~(g) Employ only transporters who are registered under section~~ 1358
~~3734.022 of the Revised Code to transport off the premises where~~ 1359
~~they were generated infectious wastes that have not been treated~~ 1360
~~to render them noninfectious;~~ 1361

~~(h) Cause all infectious wastes that have not been treated to~~ 1362
~~render them noninfectious, and those subject to rules adopted~~ 1363
~~under division (A)(1)(a) of this section that have not also been~~ 1364
~~treated in accordance with rules adopted under division (C)(3) of~~ 1365
~~this section, to be transported in shipments consisting only of~~ 1366
~~untreated infectious wastes;~~ 1367

~~(i)(vi) May transport or cause to be transported infectious~~ 1368
~~wastes that have been treated to render them noninfectious, and~~ 1369
~~those wastes subject to rules adopted under division (A)(1)(a) of~~ 1370
~~this section that have also been treated in accordance with rules~~ 1371
~~adopted under division (C)(3) of this section, in the same manner~~ 1372
~~as solid wastes are transported;~~ 1373

~~(j) Provide information on the composition of its infectious wastes, the treatment of the wastes to render them noninfectious, and the generator's system for distinguishing between waste packages that contain treated and untreated wastes to persons with whom the generator has entered into a contract or agreement to transport, treat, or dispose of the wastes upon receiving a written request from those persons;~~ 1374
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~~(k) Ensure that all infectious wastes, whether treated or untreated, that are transported off the premises where they are generated are accompanied by a shipping paper that meets the requirements of rules adopted under division (D)(1) or (2) of this section, as appropriate.~~ 1381
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~~(B) Establishing standards for transporters of infectious wastes that include, without limitation, the following requirements that the transporters:~~ 1386
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1388

~~(1) Transport only properly packaged and labeled wastes;~~ 1389

~~(2) Transport wastes that have not been treated to render them noninfectious only in a leak resistant, fully covered vehicle compartment;~~ 1390
1391
1392

~~(3) Not compact infectious wastes that have not been treated to render them noninfectious and not compact any infectious wastes subject to rules adopted under division (A)(1)(a) of this section that have not also been treated in accordance with rules adopted under division (C)(3) of this section;~~ 1393
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~~(4) Transport infectious wastes that have not been treated to render them noninfectious and infectious wastes subject to rules adopted under division (A)(1)(a) of this section, that have not also been treated in accordance with rules adopted under division (C)(3) of this section, in shipments consisting only of untreated infectious wastes;~~ 1398
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~~(5) Transport infectious wastes that have been treated to~~ 1404

~~render them noninfectious, and, in the case of wastes subject to 1405
rules adopted under division (A)(1)(a) of this section, have also 1406
been treated in accordance with rules adopted under division 1407
(C)(3) of this section, in the same manner as solid wastes; 1408~~

~~(6) Promptly disinfect surfaces of transport vehicles that 1409
have had untreated infectious wastes leaked or spilled onto them, 1410
in accordance with methods prescribed by the director by rule; 1411~~

~~(7) Transport infectious wastes that have not been treated to 1412
render them noninfectious only to an infectious waste treatment 1413
facility holding an operating license issued under division (B) of 1414
section 3734.05 of the Revised Code, to an infectious waste 1415
treatment facility that is located in another state that is in 1416
compliance with applicable state and federal laws, to a treatment 1417
facility authorized by rules adopted under division (C)(6) of this 1418
section, or to an infectious waste treatment facility owned or 1419
operated by the generator of the wastes. If the generator 1420
designates a treatment facility on the shipping paper accompanying 1421
the wastes, the transporter shall deliver the wastes to that 1422
treatment facility. 1423~~

~~(8) Comply with the shipping paper system established by 1424
rules adopted under division (D) of this section. 1425~~

~~(C) Establishing (2) Establish standards for owners and 1426
operators of infectious waste treatment facilities that include, 1427
without limitation, the following requirements and authorizations 1428
that: 1429~~

~~(1) Treatment (a) Require treatment of all wastes received to 1430
be performed in accordance with methods, techniques, and practices 1431
approved by the director; 1432~~

~~(2)(b) Govern the location, design, construction, and 1433
operation of infectious waste treatment facilities. The rules 1434
adopted under division (C)(2)(B)(2)(b) of this section shall 1435~~

require that a new infectious waste incineration facility be 1436
located so that the incinerator unit and all areas where 1437
infectious wastes are handled on the premises where the facility 1438
is proposed to be located are at least three hundred feet inside 1439
the property line of the tract of land on which the facility is 1440
proposed to be located and are at least one thousand feet from any 1441
domicile, school, prison, or jail that is in existence on the date 1442
on which the application for the permit to establish the 1443
incinerator is submitted under division (B)(2)(b) of section 1444
3734.05 of the Revised Code. 1445

~~(3) Establish methods, techniques, and practices for 1446
treatment of wastes subject to rules adopted under division 1447
(A)(1)(a) of this section that may be used to substantially reduce 1448
or eliminate the potential of those wastes to cause lacerations or 1449
puncture wounds during handling, transportation, and disposal;~~ 1450

~~(4)(c) Establish quality control and testing procedures to 1451
ensure compliance with the rules adopted under divisions (C)(2) 1452
and (3) division (B)(2)(b) of this section;~~ 1453

~~(5) Owners and operators of such facilities comply with the 1454
shipping paper system established by rules adopted under division 1455
(D) of this section;~~ 1456

~~(6) Infectious (d) Authorize infectious wastes may to be 1457
treated at a facility that holds a license or renewal of a license 1458
to operate a crematory facility issued under Chapter 4717., and a 1459
permit issued under Chapter 3704., of the Revised Code to the 1460
extent that the treatment of those wastes is consistent with that 1461
permit and its terms and conditions. The rules adopted under 1462
divisions ~~(C)(2)~~(B)(2)(b) and ~~(4)(c)~~ of this section do not apply 1463
to a facility holding such a license and permit. 1464~~

In adopting the rules required by divisions ~~(C)(1)~~(B)(2)(a) 1465
to ~~(4)(d)~~ of this section, the director shall consider and, to the 1466

maximum feasible extent, utilize existing standards and guidelines 1467
established by professional and governmental organizations having 1468
expertise in the fields of infection control and infectious wastes 1469
management. 1470

~~(D) Establishing a system of shipping papers to accompany 1471
shipments of infectious wastes that are transported off the 1472
premises where they are generated, including the following 1473
requirements: 1474~~

~~(1) Shipping papers that accompany shipments of wastes that 1475
have not been treated to render them noninfectious shall include 1476
the following elements: 1477~~

~~(a) The name of the generator and address of the premises 1478
where the wastes were generated; 1479~~

~~(b) A brief, general description of the nature of the wastes 1480
being shipped; 1481~~

~~(c) A method by which the person causing the transportation 1482
of a shipment of wastes may designate the treatment or disposal 1483
facility, as appropriate, to which the transporter shall deliver 1484
the wastes; 1485~~

~~(d) The requirement that when a shipment of wastes is 1486
transported off the premises where generated to a treatment 1487
facility owned or operated by the generator, the shipment need not 1488
be accompanied by a shipping paper and that, after treatment, the 1489
generator shall prepare a shipping paper that meets the 1490
requirements of rules adopted under division (D)(2) of this 1491
section to accompany the further shipment of the treated wastes to 1492
a solid waste disposal facility. When a shipment of untreated 1493
wastes is transported to a treatment facility not owned or 1494
operated by the generator of the waste, the owner or operator of 1495
the treatment facility shall prepare a separate shipping paper 1496
that meets the requirements of rules adopted under division (D)(2) 1497~~

~~of this section to accompany the shipment of the treated wastes 1498
from the owner's or operator's premises to a solid waste disposal 1499
facility. 1500~~

~~(e) A certification by the person causing the wastes to be 1501
transported that the wastes are packaged and labeled in accordance 1502
with the rules adopted under this section and that the description 1503
of the wastes is accurate. 1504~~

~~(2) Shipping (e) Require shipping papers that to accompany 1505
shipments of wastes that have been treated to render them 1506
noninfectious. The shipping papers shall include only the 1507
following elements: 1508~~

~~(a)(i) The name of the owner or operator of the facility 1509
where the wastes were treated and the address of the treatment 1510
facility; 1511~~

~~(b) A certification by the owner or operator of the treatment 1512
facility where the wastes were treated that the wastes have been 1513
treated by methods, techniques, and practices prescribed by rules 1514
adopted under division (C)(1) of this section. If the treated 1515
wastes are to be compacted prior to transportation and contain any 1516
wastes subject to rules adopted under division (A)(1)(a) of this 1517
section, the shipping paper shall include an additional 1518
certification by the owner or operator of the treatment facility 1519
where the wastes were treated that they also have been treated in 1520
accordance with rules adopted under division (C)(3) of this 1521
section. 1522~~

~~(ii) A certification by the owner or operator of the 1523
treatment facility where the wastes were treated indicating that 1524
the wastes have been treated by the methods, techniques, and 1525
practices prescribed in rules adopted under division (B)(2)(a) of 1526
this section. 1527~~

~~(E)(C) This section and rules adopted under it do not apply 1528~~

to the treatment or disposal of wastes consisting of dead animals 1529
or parts thereof, or the blood of animals: 1530

(1) By the owner of the animal after slaughter by the owner 1531
on the owner's premises to obtain meat for consumption by the 1532
owner and the members of the owner's household; 1533

(2) In accordance with Chapter 941. of the Revised Code; or 1534

(3) By persons who are subject to any of the following: 1535

(a) Inspection under the "Federal Meat Inspection Act," 81 1536
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 1537

(b) Chapter 918. of the Revised Code; 1538

(c) Chapter 953. of the Revised Code. 1539

~~(F)~~(D) As used in this section, "generator" means a person 1540
who produces infectious wastes at a specific premises. 1541

~~(G)~~(E) Rules adopted under this section shall not concern or 1542
relate to personnel policies, salaries, wages, fringe benefits, or 1543
other conditions of employment of employees of persons owning or 1544
operating infectious waste treatment facilities. 1545

~~(H)~~ The director shall not issue any variance from the rules 1546
adopted under this section (F)(1) The director, in accordance with 1547
Chapter 119. of the Revised Code, shall adopt rules governing the 1548
issuance, modification, revocation, suspension, and denial of 1549
variances from the rules adopted under division (B) of this 1550
section. Variances shall be issued, modified, revoked, suspended, 1551
or denied in accordance with division (F) of this section, rules 1552
adopted under it, and Chapter 3745. of the Revised Code. 1553

(2) A person who desires to obtain a variance or renew a 1554
variance from the rules adopted under division (B) of this section 1555
shall submit to the director an application as prescribed by the 1556
director. The application shall contain detail plans, 1557
specifications, and information regarding objectives, procedures, 1558

controls, and any other information that the director may require. 1559
The director shall issue, renew, or deny a variance or renewal of 1560
a variance within six months of the date on which the director 1561
receives a complete application with all required information and 1562
data. 1563

(3) The director may hold a public hearing on an application 1564
submitted under division (F) of this section for a variance at a 1565
location in the county in which the operations that are the 1566
subject of the application for a variance or renewal of variance 1567
are conducted. Not less than twenty days before the hearing, the 1568
director shall provide to the applicant notice of the hearing by 1569
certified mail or by another type of mail that is accompanied by a 1570
receipt and shall publish notice of the hearing at least one time 1571
in a newspaper of general circulation in the county in which the 1572
hearing is to be held. The director shall make a complete 1573
stenographic record of testimony and other evidence submitted at 1574
the hearing. Not later than ten days after the hearing, the 1575
director shall make a written determination to issue, renew, or 1576
deny the variance and shall enter the determination and the basis 1577
for it into the record of the hearing. 1578

(4) A variance shall not be issued, modified, revoked, or 1579
denied under division (F) of this section until the director has 1580
considered the relative interests of the applicant, other persons 1581
and property that will be affected by the variance, and the 1582
general public. The director shall grant a variance only if the 1583
applicant demonstrates to the director's satisfaction that the 1584
requested action will not create a nuisance or a hazard to the 1585
health or safety of the public or to the environment. In granting 1586
a variance, the director shall state the specific provision or 1587
provisions whose terms are to be varied and also shall state 1588
specific terms or conditions imposed on the applicant in place of 1589
the provision or provisions. 1590

(5) A variance granted under division (F) of this section shall be for a period specified by the director and may be renewed from time to time on terms and for periods that the director determines to be appropriate. The director may order the person to whom a variance has been issued to take action within the time that the director determines to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the health or safety of the public or to the environment. 1591
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(6) An application submitted under division (F) of this section shall not be denied and a variance shall not be revoked or modified under that division without a written order of the director stating the findings on which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or holder of a variance by certified mail or by another type of mail that is accompanied by a receipt. 1599
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(7) The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances submitted under division (F) of this section and a current schedule of pending variance hearings under it. 1606
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Sec. 3734.027. (A) No person shall commingle with any type of solid wastes, hazardous waste, or infectious wastes any low-level radioactive waste whose treatment, recycling, storage, or disposal is governed under division (B) of section 3748.10 of the Revised Code. 1611
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(B) ~~No~~ Except as authorized by the director of health under Chapter 3748. of the Revised Code and rules adopted under it, no owner or operator of a solid waste facility, infectious waste treatment facility, or hazardous waste facility shall accept for transfer, storage, treatment, or disposal or shall transfer, store, treat, or dispose of, as applicable, any such radioactive 1616
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waste specified in division (A) of this section. 1622

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 1623
(8), and (9) of this section, no person shall operate or maintain 1624
a solid waste facility without a license issued under this 1625
division by the board of health of the health district in which 1626
the facility is located or by the director of environmental 1627
protection when the health district in which the facility is 1628
located is not on the approved list under section 3734.08 of the 1629
Revised Code. 1630

During the month of December, but before the first day of 1631
January of the next year, every person proposing to continue to 1632
operate an existing solid waste facility shall procure a license 1633
under this division to operate the facility for that year from the 1634
board of health of the health district in which the facility is 1635
located or, if the health district is not on the approved list 1636
under section 3734.08 of the Revised Code, from the director. The 1637
application for such a license shall be submitted to the board of 1638
health or to the director, as appropriate, on or before the last 1639
day of September of the year preceding that for which the license 1640
is sought. In addition to the application fee prescribed in 1641
division (A)(2) of this section, a person who submits an 1642
application after that date shall pay an additional ten per cent 1643
of the amount of the application fee for each week that the 1644
application is late. Late payment fees accompanying an application 1645
submitted to the board of health shall be credited to the special 1646
fund of the health district created in division (B) of section 1647
3734.06 of the Revised Code, and late payment fees accompanying an 1648
application submitted to the director shall be credited to the 1649
general revenue fund. A person who has received a license, upon 1650
sale or disposition of a solid waste facility, and upon consent of 1651
the board of health and the director, may have the license 1652
transferred to another person. The board of health or the director 1653

may include such terms and conditions in a license or revision to 1654
a license as are appropriate to ensure compliance with this 1655
chapter and rules adopted under it. The terms and conditions may 1656
establish the authorized maximum daily waste receipts for the 1657
facility. Limitations on maximum daily waste receipts shall be 1658
specified in cubic yards of volume for the purpose of regulating 1659
the design, construction, and operation of solid waste facilities. 1660
Terms and conditions included in a license or revision to a 1661
license by a board of health shall be consistent with, and pertain 1662
only to the subjects addressed in, the rules adopted under 1663
division (A) of section 3734.02 and division (D) of section 1664
3734.12 of the Revised Code. 1665

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 1666
(9) of this section, each person proposing to open a new solid 1667
waste facility or to modify an existing solid waste facility shall 1668
submit an application for a permit with accompanying detail plans 1669
and specifications to the environmental protection agency for 1670
required approval under the rules adopted by the director pursuant 1671
to division (A) of section 3734.02 of the Revised Code and 1672
applicable rules adopted under division (D) of section 3734.12 of 1673
the Revised Code at least two hundred seventy days before proposed 1674
operation of the facility and shall concurrently make application 1675
for the issuance of a license under division (A)(1) of this 1676
section with the board of health of the health district in which 1677
the proposed facility is to be located. 1678

(b) On and after the effective date of the rules adopted 1679
under division (A) of section 3734.02 of the Revised Code and 1680
division (D) of section 3734.12 of the Revised Code governing 1681
solid waste transfer facilities, each person proposing to open a 1682
new solid waste transfer facility or to modify an existing solid 1683
waste transfer facility shall submit an application for a permit 1684
with accompanying engineering detail plans, specifications, and 1685

information regarding the facility and its method of operation to 1686
the environmental protection agency for required approval under 1687
those rules at least two hundred seventy days before commencing 1688
proposed operation of the facility and concurrently shall make 1689
application for the issuance of a license under division (A)(1) of 1690
this section with the board of health of the health district in 1691
which the facility is located or proposed. 1692

(c) Each application for a permit under division (A)(2)(a) or 1693
(b) of this section shall be accompanied by a nonrefundable 1694
application fee of four hundred dollars that shall be credited to 1695
the general revenue fund. Each application for an annual license 1696
under division (A)(1) or (2) of this section shall be accompanied 1697
by a nonrefundable application fee of one hundred dollars. If the 1698
application for an annual license is submitted to a board of 1699
health on the approved list under section 3734.08 of the Revised 1700
Code, the application fee shall be credited to the special fund of 1701
the health district created in division (B) of section 3734.06 of 1702
the Revised Code. If the application for an annual license is 1703
submitted to the director, the application fee shall be credited 1704
to the general revenue fund. If a permit or license is issued, the 1705
amount of the application fee paid shall be deducted from the 1706
amount of the permit fee due under division (Q) of section 3745.11 1707
of the Revised Code or the amount of the license fee due under 1708
division (A)(1), (2), (3), (4), or (5) of section 3734.06 of the 1709
Revised Code. 1710

(d) As used in divisions (A)(2)(d), (e), and (f) of this 1711
section, "modify" means any of the following: 1712

(i) Any increase of more than ten per cent in the total 1713
capacity of a solid waste facility; 1714

(ii) Any expansion of the limits of solid waste placement at 1715
a solid waste facility; 1716

(iii) Any increase in the depth of excavation at a solid waste facility; 1717
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(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. 1719
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Not later than forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, 1723
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any person may submit written or oral comments on or objections to 1749
the application. Not more than thirty days after the public 1750
meeting, the applicant shall provide the director with a copy of a 1751
transcript of the full meeting, copies of any exhibits, displays, 1752
or other materials presented by the applicant at the meeting, and 1753
the original copy of any written comments submitted at the 1754
meeting. 1755

(e) Except as provided in division (A)(2)(f) of this section, 1756
prior to taking an action, other than a proposed or final denial, 1757
upon an application submitted under division (A)(2)(a) of this 1758
section for a permit to open a new or modify an existing solid 1759
waste facility, the director shall hold a public information 1760
session and a public hearing on the application within the county 1761
in which the new or modified solid waste facility is or is 1762
proposed to be located or within a contiguous county. If the 1763
application is for a permit to open a new solid waste facility, 1764
the director shall hold the hearing not less than fourteen days 1765
after the information session. If the application is for a permit 1766
to modify an existing solid waste facility, the director may hold 1767
both the information session and the hearing on the same day 1768
unless any individual affected by the application requests in 1769
writing that the information session and the hearing not be held 1770
on the same day, in which case the director shall hold the hearing 1771
not less than fourteen days after the information session. The 1772
director shall publish notice of the public information session or 1773
public hearing not less than thirty days before holding the 1774
information session or hearing, as applicable. The notice shall be 1775
published in each newspaper of general circulation that is 1776
published in the county in which the facility is or is proposed to 1777
be located. If no newspaper of general circulation is published in 1778
the county, the director shall publish the notice in a newspaper 1779
of general circulation in the county. The notice shall contain the 1780
date, time, and location of the information session or hearing, as 1781

applicable, and a general description of the proposed new or 1782
modified facility. At the public information session, an officer 1783
or employee of the environmental protection agency shall describe 1784
the status of the permit application and be available to respond 1785
to comments or questions concerning the application. At the public 1786
hearing, any person may submit written or oral comments on or 1787
objections to the approval of the application. The applicant, or a 1788
representative of the applicant who has knowledge of the location, 1789
construction, and operation of the facility, shall attend the 1790
information session and public hearing to respond to comments or 1791
questions concerning the facility directed to the applicant or 1792
representative by the officer or employee of the environmental 1793
protection agency presiding at the information session and 1794
hearing. 1795

(f) The solid waste management policy committee of a county 1796
or joint solid waste management district may adopt a resolution 1797
requesting expeditious consideration of a specific application 1798
submitted under division (A)(2)(a) of this section for a permit to 1799
modify an existing solid waste facility within the district. The 1800
resolution shall make the finding that expedited consideration of 1801
the application without the public information session and public 1802
hearing under division (A)(2)(e) of this section is in the public 1803
interest and will not endanger human health, as determined by the 1804
director by rules adopted in accordance with Chapter 119. of the 1805
Revised Code. Upon receiving such a resolution, the director, at 1806
the director's discretion, may issue a final action upon the 1807
application without holding a public information session or public 1808
hearing pursuant to division (A)(2)(e) of this section. 1809

(3) Except as provided in division (A)(10) of this section, 1810
and unless the owner or operator of any solid waste facility, 1811
other than a solid waste transfer facility or a compost facility 1812
that accepts exclusively source separated yard wastes, that 1813

commenced operation on or before July 1, 1968, has obtained an 1814
exemption from the requirements of division (A)(3) of this section 1815
in accordance with division (G) of section 3734.02 of the Revised 1816
Code, the owner or operator shall submit to the director an 1817
application for a permit with accompanying engineering detail 1818
plans, specifications, and information regarding the facility and 1819
its method of operation for approval under rules adopted under 1820
division (A) of section 3734.02 of the Revised Code and applicable 1821
rules adopted under division (D) of section 3734.12 of the Revised 1822
Code in accordance with the following schedule: 1823

(a) Not later than September 24, 1988, if the facility is 1824
located in the city of Garfield Heights or Parma in Cuyahoga 1825
county; 1826

(b) Not later than December 24, 1988, if the facility is 1827
located in Delaware, Greene, Guernsey, Hamilton, Madison, 1828
Mahoning, Ottawa, or Vinton county; 1829

(c) Not later than March 24, 1989, if the facility is located 1830
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 1831
Washington county, or is located in the city of Brooklyn or 1832
Cuyahoga Heights in Cuyahoga county; 1833

(d) Not later than June 24, 1989, if the facility is located 1834
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 1835
Summit county or is located in Cuyahoga county outside the cities 1836
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 1837

(e) Not later than September 24, 1989, if the facility is 1838
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 1839
county; 1840

(f) Not later than December 24, 1989, if the facility is 1841
located in a county not listed in divisions (A)(3)(a) to (e) of 1842
this section; 1843

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 1844

section, not later than December 31, 1990, if the facility is a 1845
solid waste facility owned by a generator of solid wastes when the 1846
solid waste facility exclusively disposes of solid wastes 1847
generated at one or more premises owned by the generator 1848
regardless of whether the facility is located on a premises where 1849
the wastes are generated and if the facility disposes of more than 1850
one hundred thousand tons of solid wastes per year, provided that 1851
any such facility shall be subject to division (A)(5) of this 1852
section. 1853

(4) Except as provided in divisions (A)(8), (9), and (10) of 1854
this section, unless the owner or operator of any solid waste 1855
facility for which a permit was issued after July 1, 1968, but 1856
before January 1, 1980, has obtained an exemption from the 1857
requirements of division (A)(4) of this section under division (G) 1858
of section 3734.02 of the Revised Code, the owner or operator 1859
shall submit to the director an application for a permit with 1860
accompanying engineering detail plans, specifications, and 1861
information regarding the facility and its method of operation for 1862
approval under those rules. 1863

(5) The director may issue an order in accordance with 1864
Chapter 3745. of the Revised Code to the owner or operator of a 1865
solid waste facility requiring the person to submit to the 1866
director updated engineering detail plans, specifications, and 1867
information regarding the facility and its method of operation for 1868
approval under rules adopted under division (A) of section 3734.02 1869
of the Revised Code and applicable rules adopted under division 1870
(D) of section 3734.12 of the Revised Code if, in the director's 1871
judgment, conditions at the facility constitute a substantial 1872
threat to public health or safety or are causing or contributing 1873
to or threatening to cause or contribute to air or water pollution 1874
or soil contamination. Any person who receives such an order shall 1875
submit the updated engineering detail plans, specifications, and 1876

information to the director within one hundred eighty days after 1877
the effective date of the order. 1878

(6) The director shall act upon an application submitted 1879
under division (A)(3) or (4) of this section and any updated 1880
engineering plans, specifications, and information submitted under 1881
division (A)(5) of this section within one hundred eighty days 1882
after receiving them. If the director denies any such permit 1883
application, the order denying the application or disapproving the 1884
plans shall include the requirements that the owner or operator 1885
submit a plan for closure and post-closure care of the facility to 1886
the director for approval within six months after issuance of the 1887
order, cease accepting solid wastes for disposal or transfer at 1888
the facility, and commence closure of the facility not later than 1889
one year after issuance of the order. If the director determines 1890
that closure of the facility within that one-year period would 1891
result in the unavailability of sufficient solid waste management 1892
facility capacity within the county or joint solid waste 1893
management district in which the facility is located to dispose of 1894
or transfer the solid waste generated within the district, the 1895
director in the order of denial or disapproval may postpone 1896
commencement of closure of the facility for such period of time as 1897
the director finds necessary for the board of county commissioners 1898
or directors of the district to secure access to or for there to 1899
be constructed within the district sufficient solid waste 1900
management facility capacity to meet the needs of the district, 1901
provided that the director shall certify in the director's order 1902
that postponing the date for commencement of closure will not 1903
endanger ground water or any property surrounding the facility, 1904
allow methane gas migration to occur, or cause or contribute to 1905
any other type of environmental damage. 1906

If an emergency need for disposal capacity that may affect 1907
public health and safety exists as a result of closure of a 1908

facility under division (A)(6) of this section, the director may 1909
issue an order designating another solid waste facility to accept 1910
the wastes that would have been disposed of at the facility to be 1911
closed. 1912

(7) If the director determines that standards more stringent 1913
than those applicable in rules adopted under division (A) of 1914
section 3734.02 of the Revised Code and division (D) of section 1915
3734.12 of the Revised Code, or standards pertaining to subjects 1916
not specifically addressed by those rules, are necessary to ensure 1917
that a solid waste facility constructed at the proposed location 1918
will not cause a nuisance, cause or contribute to water pollution, 1919
or endanger public health or safety, the director may issue a 1920
permit for the facility with such terms and conditions as the 1921
director finds necessary to protect public health and safety and 1922
the environment. If a permit is issued, the director shall state 1923
in the order issuing it the specific findings supporting each such 1924
term or condition. 1925

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 1926
not apply to a solid waste compost facility that accepts 1927
exclusively source separated yard wastes and that is registered 1928
under division (C) of section 3734.02 of the Revised Code or, 1929
unless otherwise provided in rules adopted under division (N)(3) 1930
of section 3734.02 of the Revised Code, to a solid waste compost 1931
facility if the director has adopted rules establishing an 1932
alternative system for authorizing the establishment, operation, 1933
or modification of a solid waste compost facility under that 1934
division. 1935

(9) Divisions (A)(1) to (7) of this section do not apply to 1936
scrap tire collection, storage, monocell, monofill, and recovery 1937
facilities. The approval of plans and specifications, as 1938
applicable, and the issuance of registration certificates, 1939
permits, and licenses for those facilities are subject to sections 1940

3734.75 to 3734.78 of the Revised Code, as applicable, and section 1941
3734.81 of the Revised Code. 1942

(10) Divisions (A)(3) and (4) of this section do not apply to 1943
a solid waste incinerator that was placed into operation on or 1944
before October 12, 1994, and that is not authorized to accept and 1945
treat infectious wastes pursuant to division (B) of this section. 1946

~~(B)(1) Each person who is engaged in the business of treating 1947
infectious wastes for profit at a treatment facility located off 1948
the premises where the wastes are generated that is in operation 1949
on August 10, 1988, and who proposes to continue operating the 1950
facility shall submit to the board of health of the health 1951
district in which the facility is located an application for a 1952
license to operate the facility. 1953~~

~~Thereafter, no~~ No person shall operate or maintain an 1954
infectious waste treatment facility without a license issued by 1955
the board of health of the health district in which the facility 1956
is located or by the director when the health district in which 1957
the facility is located is not on the approved list under section 1958
3734.08 of the Revised Code. 1959

(2)(a) During the month of December, but before the first day 1960
of January of the next year, every person proposing to continue to 1961
operate an existing infectious waste treatment facility shall 1962
procure a license to operate the facility for that year from the 1963
board of health of the health district in which the facility is 1964
located or, if the health district is not on the approved list 1965
under section 3734.08 of the Revised Code, from the director. The 1966
application for such a license shall be submitted to the board of 1967
health or to the director, as appropriate, on or before the last 1968
day of September of the year preceding that for which the license 1969
is sought. In addition to the application fee prescribed in 1970
division (B)(2)(c) of this section, a person who submits an 1971
application after that date shall pay an additional ten per cent 1972

of the amount of the application fee for each week that the 1973
application is late. Late payment fees accompanying an application 1974
submitted to the board of health shall be credited to the special 1975
infectious waste fund of the health district created in division 1976
(C) of section 3734.06 of the Revised Code, and late payment fees 1977
accompanying an application submitted to the director shall be 1978
credited to the general revenue fund. A person who has received a 1979
license, upon sale or disposition of an infectious waste treatment 1980
facility and upon consent of the board of health and the director, 1981
may have the license transferred to another person. The board of 1982
health or the director may include such terms and conditions in a 1983
license or revision to a license as are appropriate to ensure 1984
compliance with the infectious waste provisions of this chapter 1985
and rules adopted under them. 1986

(b) Each person proposing to open a new infectious waste 1987
treatment facility or to modify an existing infectious waste 1988
treatment facility shall submit an application for a permit with 1989
accompanying detail plans and specifications to the environmental 1990
protection agency for required approval under the rules adopted by 1991
the director pursuant to section 3734.021 of the Revised Code two 1992
hundred seventy days before proposed operation of the facility and 1993
concurrently shall make application for a license with the board 1994
of health of the health district in which the facility is or is 1995
proposed to be located. Not later than ninety days after receiving 1996
a ~~completed~~ complete application under division (B)(2)(b) of this 1997
section for a permit to open a new infectious waste treatment 1998
facility or modify an existing infectious waste treatment facility 1999
to expand its treatment capacity, or receiving a ~~completed~~ 2000
complete application under division (A)(2)(a) of this section for 2001
a permit to open a new solid waste incineration facility, or 2002
modify an existing solid waste incineration facility to also treat 2003
infectious wastes or to increase its infectious waste treatment 2004
capacity, that pertains to a facility for which a notation 2005

authorizing infectious waste treatment is included or proposed to 2006
be included in the solid waste incineration facility's license 2007
pursuant to division (B)(3) of this section, the director shall 2008
hold a public hearing on the application within the county in 2009
which the new or modified infectious waste or solid waste facility 2010
is or is proposed to be located or within a contiguous county. Not 2011
less than thirty days before holding the public hearing on the 2012
application, the director shall publish notice of the hearing in 2013
each newspaper that has general circulation and that is published 2014
in the county in which the facility is or is proposed to be 2015
located. If there is no newspaper that has general circulation and 2016
that is published in the county, the director shall publish the 2017
notice in a newspaper of general circulation in the county. The 2018
notice shall contain the date, time, and location of the public 2019
hearing and a general description of the proposed new or modified 2020
facility. At the public hearing, any person may submit written or 2021
oral comments on or objections to the approval or disapproval of 2022
the application. The applicant, or a representative of the 2023
applicant who has knowledge of the location, construction, and 2024
operation of the facility, shall attend the public hearing to 2025
respond to comments or questions concerning the facility directed 2026
to the applicant or representative by the officer or employee of 2027
the environmental protection agency presiding at the hearing. 2028

(c) Each application for a permit under division (B)(2)(b) of 2029
this section shall be accompanied by a nonrefundable application 2030
fee of four hundred dollars that shall be credited to the general 2031
revenue fund. Each application for an annual license under 2032
division (B)(2)(a) of this section shall be accompanied by a 2033
nonrefundable application fee of one hundred dollars. If the 2034
application for an annual license is submitted to a board of 2035
health on the approved list under section 3734.08 of the Revised 2036
Code, the application fee shall be credited to the special 2037
infectious waste fund of the health district created in division 2038

(C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

~~(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:~~

~~(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;~~

~~(ii) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;~~

~~(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;~~

~~(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;~~

~~(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv)~~

~~of this section.~~ 2070

~~The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to modify the facility.~~ 2071
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~~(e)~~ The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order. 2078
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~~(f)~~(e) The director shall act ~~upon an application submitted under division (B)(2)(d) of this section and on~~ any updated engineering plans, specifications, and information submitted under division (B)(2)~~(e)~~(d) of this section within one hundred eighty days after receiving them. If the director ~~denies any such permit application or~~ disapproves any such updated engineering plans, specifications, and information, the director shall include in the order ~~denying the application or~~ disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility. 2092
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(3) Division (B) of this section does not apply to ~~an a~~ 2102
generator of infectious waste treatment facility wastes that meets 2103
any of the following conditions: 2104

(a) ~~Is owned or operated by the generator of the wastes and~~ 2105
~~exclusively treats~~ Treats, by methods, techniques, and practices 2106
established by rules adopted under division ~~(C)(1) or (3)(B)(2)(a)~~ 2107
of section 3734.021 of the Revised Code, any of the following 2108
~~wastes that are generated at any premises owned or operated by~~ 2109
~~that generator regardless of whether the wastes are generated on~~ 2110
~~the same premises where the generator's treatment facility is~~ 2111
~~located or, if the generator is a hospital as defined in section~~ 2112
~~3727.01 of the Revised Code, infectious wastes that are described~~ 2113
~~in division (A)(1)(g), (h), or (i) of section 3734.021 of the~~ 2114
~~Revised Code;~~ 2115

(i) Infectious wastes that are generated on any premises that 2116
are owned or operated by the generator; 2117

(ii) Infectious wastes that are generated by a generator who 2118
has staff privileges at a hospital as defined in section 3727.01 2119
of the Revised Code; 2120

(iii) Infectious wastes that are generated in providing care 2121
to a patient by an emergency medical services organization as 2122
defined in section 4765.01 of the Revised Code. 2123

(b) Holds a license or renewal of a license to operate a 2124
crematory facility issued under Chapter 4717. and a permit issued 2125
under Chapter 3704. of the Revised Code; 2126

(c) Treats or disposes of dead animals or parts thereof, or 2127
the blood of animals, and is subject to any of the following: 2128

(i) Inspection under the "Federal Meat Inspection Act," 81 2129
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 2130

(ii) Chapter 918. of the Revised Code; 2131

(iii) Chapter 953. of the Revised Code. 2132

Nothing in division (B) of this section requires a facility 2133
that holds a license issued under division (A) of this section as 2134
a solid waste facility and that also treats infectious wastes by 2135
the same method, technique, or process to obtain a license under 2136
division (B) of this section as an infectious waste treatment 2137
facility. However, the solid waste facility license for the 2138
facility shall include the notation that the facility also treats 2139
infectious wastes. 2140

~~On and after the effective date of the amendments to the~~ 2141
~~rules adopted under division (C)(2) of section 3734.021 of the~~ 2142
~~Revised Code that are required by Section 6 of Substitute House~~ 2143
~~Bill No. 98 of the 120th General Assembly, the The director shall~~ 2144
not issue a permit to open a new solid waste incineration facility 2145
unless the proposed facility complies with the requirements for 2146
the location of new infectious waste incineration facilities 2147
established in ~~the required amendments to those rules~~ adopted 2148
under division (B)(2)(b) of section 3734.021 of the Revised Code. 2149

(C) Except for a facility or activity described in division 2150
(E)(3) of section 3734.02 of the Revised Code, a person who 2151
proposes to establish or operate a hazardous waste facility shall 2152
submit a complete application for a hazardous waste facility 2153
installation and operation permit and accompanying detail plans, 2154
specifications, and such information as the director may require 2155
to the environmental protection agency at least one hundred eighty 2156
days before the proposed beginning of operation of the facility. 2157
The applicant shall notify by certified mail the legislative 2158
authority of each municipal corporation, township, and county in 2159
which the facility is proposed to be located of the submission of 2160
the application within ten days after the submission or at such 2161
earlier time as the director may establish by rule. If the 2162
application is for a proposed new hazardous waste disposal or 2163

thermal treatment facility, the applicant also shall give actual 2164
notice of the general design and purpose of the facility to the 2165
legislative authority of each municipal corporation, township, and 2166
county in which the facility is proposed to be located at least 2167
ninety days before the permit application is submitted to the 2168
environmental protection agency. 2169

In accordance with rules adopted under section 3734.12 of the 2170
Revised Code, prior to the submission of a complete application 2171
for a hazardous waste facility installation and operation permit, 2172
the applicant shall hold at least one meeting in the township or 2173
municipal corporation in which the facility is proposed to be 2174
located, whichever is geographically closer to the proposed 2175
location of the facility. The meeting shall be open to the public 2176
and shall be held to inform the community of the proposed 2177
hazardous waste management activities and to solicit questions 2178
from the community concerning the activities. 2179

(D)(1) Except as provided in section 3734.123 of the Revised 2180
Code, upon receipt of a complete application for a hazardous waste 2181
facility installation and operation permit under division (C) of 2182
this section, the director shall consider the application and 2183
accompanying information to determine whether the application 2184
complies with agency rules and the requirements of division (D)(2) 2185
of this section. After making a determination, the director shall 2186
issue either a draft permit or a notice of intent to deny the 2187
permit. The director, in accordance with rules adopted under 2188
section 3734.12 of the Revised Code or with rules adopted to 2189
implement Chapter 3745. of the Revised Code, shall provide public 2190
notice of the application and the draft permit or the notice of 2191
intent to deny the permit, provide an opportunity for public 2192
comments, and, if significant interest is shown, schedule a public 2193
meeting in the county in which the facility is proposed to be 2194
located and give public notice of the date, time, and location of 2195

the public meeting in a newspaper of general circulation in that county. 2196
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(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows: 2198
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(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility; 2202
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(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code; 2204
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(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations; 2207
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(d) That the facility represents the minimum risk of all of the following: 2211
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(i) Fires or explosions from treatment, storage, or disposal methods; 2213
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(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility; 2215
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(iii) Adverse impact on the public health and safety. 2217

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them; 2218
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(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous 2221
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waste, that person has a history of compliance with this chapter 2226
and Chapters 3704. and 6111. of the Revised Code and all rules and 2227
standards adopted under them, the "Resource Conservation and 2228
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2229
amended, and all regulations adopted under it, and similar laws 2230
and rules of other states if any such prior operation was located 2231
in another state that demonstrates sufficient reliability, 2232
expertise, and competency to operate a hazardous waste facility 2233
under the applicable provisions of this chapter and Chapters 3704. 2234
and 6111. of the Revised Code, the applicable rules and standards 2235
adopted under them, and terms and conditions of a hazardous waste 2236
facility installation and operation permit, given the potential 2237
for harm to the public health and safety and the environment that 2238
could result from the irresponsible operation of the facility. For 2239
off-site facilities, as defined in section 3734.41 of the Revised 2240
Code, the director may use the investigative reports of the 2241
attorney general prepared pursuant to section 3734.42 of the 2242
Revised Code as a basis for making a finding and determination 2243
under division (D)(2)(f) of this section. 2244

(g) That the active areas within a new hazardous waste 2245
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 2246
(e), as amended, or organic waste that is toxic and is listed 2247
under 40 C.F.R. 261, as amended, is being stored, treated, or 2248
disposed of and where the aggregate of the storage design capacity 2249
and the disposal design capacity of all hazardous waste in those 2250
areas is greater than two hundred fifty thousand gallons, are not 2251
located or operated within any of the following: 2252

(i) Two thousand feet of any residence, school, hospital, 2253
jail, or prison; 2254

(ii) Any naturally occurring wetland; 2255

(iii) Any flood hazard area if the applicant cannot show that 2256
the facility will be designed, constructed, operated, and 2257

maintained to prevent washout by a one-hundred-year flood. 2258

Division (D)(2)(g) of this section does not apply to the 2259
facility of any applicant who demonstrates to the director that 2260
the limitations specified in that division are not necessary 2261
because of the nature or volume of the waste and the manner of 2262
management applied, the facility will impose no substantial danger 2263
to the health and safety of persons occupying the structures 2264
listed in division (D)(2)(g)(i) of this section, and the facility 2265
is to be located or operated in an area where the proposed 2266
hazardous waste activities will not be incompatible with existing 2267
land uses in the area. 2268

(h) That the facility will not be located within the 2269
boundaries of a state park established or dedicated under Chapter 2270
1541. of the Revised Code, a state park purchase area established 2271
under section 1541.02 of the Revised Code, any unit of the 2272
national park system, or any property that lies within the 2273
boundaries of a national park or recreation area, but that has not 2274
been acquired or is not administered by the secretary of the 2275
United States department of the interior, located in this state, 2276
or any candidate area located in this state identified for 2277
potential inclusion in the national park system in the edition of 2278
the "national park system plan" submitted under paragraph (b) of 2279
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 2280
U.S.C.A. 1a-5, as amended, current at the time of filing of the 2281
application for the permit, unless the facility will be used 2282
exclusively for the storage of hazardous waste generated within 2283
the park or recreation area in conjunction with the operation of 2284
the park or recreation area. Division (D)(2)(h) of this section 2285
does not apply to the facility of any applicant for modification 2286
of a permit unless the modification application proposes to 2287
increase the land area included in the facility or to increase the 2288
quantity of hazardous waste that will be treated, stored, or 2289

disposed of at the facility. 2290

(3) Not later than one hundred eighty days after the end of 2291
the public comment period, the director, without prior hearing, 2292
shall issue or deny the permit in accordance with Chapter 3745. of 2293
the Revised Code. If the director approves an application for a 2294
hazardous waste facility installation and operation permit, the 2295
director shall issue the permit, upon such terms and conditions as 2296
the director finds are necessary to ensure the construction and 2297
operation of the hazardous waste facility in accordance with the 2298
standards of this section. 2299

(E) No political subdivision of this state shall require any 2300
additional zoning or other approval, consent, permit, certificate, 2301
or condition for the construction or operation of a hazardous 2302
waste facility authorized by a hazardous waste facility 2303
installation and operation permit issued pursuant to this chapter, 2304
nor shall any political subdivision adopt or enforce any law, 2305
ordinance, or rule that in any way alters, impairs, or limits the 2306
authority granted in the permit. 2307

(F) The director may issue a single hazardous waste facility 2308
installation and operation permit to a person who operates two or 2309
more adjoining facilities where hazardous waste is stored, 2310
treated, or disposed of if the application includes detail plans, 2311
specifications, and information on all facilities. For the 2312
purposes of this section, "adjoining" means sharing a common 2313
boundary, separated only by a public road, or in such proximity 2314
that the director determines that the issuance of a single permit 2315
will not create a hazard to the public health or safety or the 2316
environment. 2317

(G) No person shall falsify or fail to keep or submit any 2318
plans, specifications, data, reports, records, manifests, or other 2319
information required to be kept or submitted to the director by 2320
this chapter or the rules adopted under it. 2321

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient

reliability, expertise, and competency to operate the facility 2355
henceforth under this chapter, rules adopted under it, and the 2356
renewal permit. If the director approves an application for a 2357
renewal permit, the director shall issue the permit subject to the 2358
payment of the annual permit fee required under division (E) of 2359
section 3734.02 of the Revised Code and upon such terms and 2360
conditions as the director finds are reasonable to ensure that 2361
continued operation, maintenance, closure, and post-closure care 2362
of the hazardous waste facility are in accordance with the rules 2363
adopted under section 3734.12 of the Revised Code. 2364

(3) An installation and operation permit renewal application 2365
submitted to the director that also contains or would constitute 2366
an application for a modification shall be acted upon by the 2367
director in accordance with division (I) of this section in the 2368
same manner as an application for a modification. In approving or 2369
disapproving the renewal portion of a permit renewal application 2370
containing an application for a modification, the director shall 2371
apply the criteria established under division (H)(2) of this 2372
section. 2373

(4) An application for renewal or modification of a permit 2374
that does not contain an application for a modification as 2375
described in divisions (I)(3)(a) to (d) of this section shall not 2376
be subject to division (D)(2) of this section. 2377

(I)(1) As used in this section, "modification" means a change 2378
or alteration to a hazardous waste facility or its operations that 2379
is inconsistent with or not authorized by its existing permit or 2380
authorization to operate. Modifications shall be classified as 2381
Class 1, 2, or 3 modifications in accordance with rules adopted 2382
under division (K) of this section. Modifications classified as 2383
Class 3 modifications, in accordance with rules adopted under that 2384
division, shall be further classified by the director as either 2385
Class 3 modifications that are to be approved or disapproved by 2386

the director under divisions (I)(3)(a) to (d) of this section or 2387
as Class 3 modifications that are to be approved or disapproved by 2388
the director under division (I)(5) of this section. Not later than 2389
thirty days after receiving a request for a modification under 2390
division (I)(4) of this section that is not listed in Appendix I 2391
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 2392
section, the director shall classify the modification and shall 2393
notify the owner or operator of the facility requesting the 2394
modification of the classification. Notwithstanding any other law 2395
to the contrary, a modification that involves the transfer of a 2396
hazardous waste facility installation and operation permit to a 2397
new owner or operator for any off-site facility as defined in 2398
section 3734.41 of the Revised Code shall be classified as a Class 2399
3 modification. The transfer of a hazardous waste facility 2400
installation and operation permit to a new owner or operator for a 2401
facility that is not an off-site facility shall be classified as a 2402
Class 1 modification requiring prior approval of the director. 2403

(2) Except as provided in section 3734.123 of the Revised 2404
Code, a hazardous waste facility installation and operation permit 2405
may be modified at the request of the director or upon the written 2406
request of the permittee only if any of the following applies: 2407

(a) The permittee desires to accomplish alterations, 2408
additions, or deletions to the permitted facility or to undertake 2409
alterations, additions, deletions, or activities that are 2410
inconsistent with or not authorized by the existing permit; 2411

(b) New information or data justify permit conditions in 2412
addition to or different from those in the existing permit; 2413

(c) The standards, criteria, or rules upon which the existing 2414
permit is based have been changed by new, amended, or rescinded 2415
standards, criteria, or rules, or by judicial decision after the 2416
existing permit was issued, and the change justifies permit 2417
conditions in addition to or different from those in the existing 2418

permit; 2419

(d) The permittee proposes to transfer the permit to another 2420
person. 2421

(3) The director shall approve or disapprove an application 2422
for a modification in accordance with division (D)(2) of this 2423
section and rules adopted under division (K) of this section for 2424
all of the following categories of Class 3 modifications: 2425

(a) Authority to conduct treatment, storage, or disposal at a 2426
site, location, or tract of land that has not been authorized for 2427
the proposed category of treatment, storage, or disposal activity 2428
by the facility's permit; 2429

(b) Modification or addition of a hazardous waste management 2430
unit, as defined in rules adopted under section 3734.12 of the 2431
Revised Code, that results in an increase in a facility's storage 2432
capacity of more than twenty-five per cent over the capacity 2433
authorized by the facility's permit, an increase in a facility's 2434
treatment rate of more than twenty-five per cent over the rate so 2435
authorized, or an increase in a facility's disposal capacity over 2436
the capacity so authorized. The authorized disposal capacity for a 2437
facility shall be calculated from the approved design plans for 2438
the disposal units at that facility. In no case during a five-year 2439
period shall a facility's storage capacity or treatment rate be 2440
modified to increase by more than twenty-five per cent in the 2441
aggregate without the director's approval in accordance with 2442
division (D)(2) of this section. Notwithstanding any provision of 2443
division (I) of this section to the contrary, a request for 2444
modification of a facility's annual total waste receipt limit 2445
shall be classified and approved or disapproved by the director 2446
under division (I)(5) of this section. 2447

(c) Authority to add any of the following categories of 2448
regulated activities not previously authorized at a facility by 2449

the facility's permit: storage at a facility not previously 2450
authorized to store hazardous waste, treatment at a facility not 2451
previously authorized to treat hazardous waste, or disposal at a 2452
facility not previously authorized to dispose of hazardous waste; 2453
or authority to add a category of hazardous waste management unit 2454
not previously authorized at the facility by the facility's 2455
permit. Notwithstanding any provision of division (I) of this 2456
section to the contrary, a request for authority to add or to 2457
modify an activity or a hazardous waste management unit for the 2458
purposes of performing a corrective action shall be classified and 2459
approved or disapproved by the director under division (I)(5) of 2460
this section. 2461

(d) Authority to treat, store, or dispose of waste types 2462
listed or characterized as reactive or explosive, in rules adopted 2463
under section 3734.12 of the Revised Code, or any acute hazardous 2464
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 2465
previously authorized to treat, store, or dispose of those types 2466
of wastes by the facility's permit unless the requested authority 2467
is limited to wastes that no longer exhibit characteristics 2468
meeting the criteria for listing or characterization as reactive 2469
or explosive wastes, or for listing as acute hazardous waste, but 2470
still are required to carry those waste codes as established in 2471
rules adopted under section 3734.12 of the Revised Code because of 2472
the requirements established in 40 C.F.R. 261(a) and (e), as 2473
amended, that is, the "mixture," "derived-from," or "contained-in" 2474
regulations. 2475

(4) A written request for a modification from the permittee 2476
shall be submitted to the director and shall contain such 2477
information as is necessary to support the request. Requests for 2478
modifications shall be acted upon by the director in accordance 2479
with this section and rules adopted under it. 2480

(5) Class 1 modification applications that require prior 2481

approval of the director, as provided in division (I)(1) of this 2482
section or as determined in accordance with rules adopted under 2483
division (K) of this section, Class 2 modification applications, 2484
and Class 3 modification applications that are not described in 2485
divisions (I)(3)(a) to (d) of this section shall be approved or 2486
disapproved by the director in accordance with rules adopted under 2487
division (K) of this section. The board of county commissioners of 2488
the county, the board of township trustees of the township, and 2489
the city manager or mayor of the municipal corporation in which a 2490
hazardous waste facility is located shall receive notification of 2491
any application for a modification for that facility and shall be 2492
considered as interested persons with respect to the director's 2493
consideration of the application. 2494

As used in division (I) of this section: 2495

(a) "Owner" means the person who owns a majority or 2496
controlling interest in a facility. 2497

(b) "Operator" means the person who is responsible for the 2498
overall operation of a facility. 2499

The director shall approve or disapprove an application for a 2500
Class 1 modification that requires the director's approval within 2501
sixty days after receiving the request for modification. The 2502
director shall approve or disapprove an application for a Class 2 2503
modification within three hundred days after receiving the request 2504
for modification. The director shall approve or disapprove an 2505
application for a Class 3 modification within three hundred 2506
sixty-five days after receiving the request for modification. 2507

(6) The approval or disapproval by the director of a Class 1 2508
modification application is not a final action that is appealable 2509
under Chapter 3745. of the Revised Code. The approval or 2510
disapproval by the director of a Class 2 modification or a Class 3 2511
modification is a final action that is appealable under that 2512

chapter. In approving or disapproving a request for a 2513
modification, the director shall consider all comments pertaining 2514
to the request that are received during the public comment period 2515
and the public meetings. The administrative record for appeal of a 2516
final action by the director in approving or disapproving a 2517
request for a modification shall include all comments received 2518
during the public comment period relating to the request for 2519
modification, written materials submitted at the public meetings 2520
relating to the request, and any other documents related to the 2521
director's action. 2522

(7) Notwithstanding any other provision of law to the 2523
contrary, a change or alteration to a hazardous waste facility 2524
described in division (E)(3)(a) or (b) of section 3734.02 of the 2525
Revised Code, or its operations, is a modification for the 2526
purposes of this section. An application for a modification at 2527
such a facility shall be submitted, classified, and approved or 2528
disapproved in accordance with divisions (I)(1) to (6) of this 2529
section in the same manner as a modification to a hazardous waste 2530
facility installation and operation permit. 2531

(J)(1) Except as provided in division (J)(2) of this section, 2532
an owner or operator of a hazardous waste facility that is 2533
operating in accordance with a permit by rule under rules adopted 2534
by the director under division (E)(3)(b) of section 3734.02 of the 2535
Revised Code shall submit either a hazardous waste facility 2536
installation and operation permit application for the facility or 2537
a modification application, whichever is required under division 2538
(J)(1)(a) or (b) of this section, within one hundred eighty days 2539
after the director has requested the application or upon a later 2540
date if the owner or operator demonstrates to the director good 2541
cause for the late submittal. 2542

(a) If the owner or operator does not have a hazardous waste 2543
facility installation and operation permit for any hazardous waste 2544

treatment, storage, or disposal activities at the facility, the 2545
owner or operator shall submit an application for such a permit to 2546
the director for the activities authorized by the permit by rule. 2547
Notwithstanding any other provision of law to the contrary, the 2548
director shall approve or disapprove the application for the 2549
permit in accordance with the procedures governing the approval or 2550
disapproval of permit renewals under division (H) of this section. 2551

(b) If the owner or operator has a hazardous waste facility 2552
installation and operation permit for hazardous waste treatment, 2553
storage, or disposal activities at the facility other than those 2554
authorized by the permit by rule, the owner or operator shall 2555
submit to the director a request for modification in accordance 2556
with division (I) of this section. Notwithstanding any other 2557
provision of law to the contrary, the director shall approve or 2558
disapprove the modification application in accordance with 2559
division (I)(5) of this section. 2560

(2) The owner or operator of a boiler or industrial furnace 2561
that is conducting thermal treatment activities in accordance with 2562
a permit by rule under rules adopted by the director under 2563
division (E)(3)(b) of section 3734.02 of the Revised Code shall 2564
submit a hazardous waste facility installation and operation 2565
permit application if the owner or operator does not have such a 2566
permit for any hazardous waste treatment, storage, or disposal 2567
activities at the facility or, if the owner or operator has such a 2568
permit for hazardous waste treatment, storage, or disposal 2569
activities at the facility other than thermal treatment activities 2570
authorized by the permit by rule, a modification application to 2571
add those activities authorized by the permit by rule, whichever 2572
is applicable, within one hundred eighty days after the director 2573
has requested the submission of the application or upon a later 2574
date if the owner or operator demonstrates to the director good 2575
cause for the late submittal. The application shall be accompanied 2576

by information necessary to support the request. The director 2577
shall approve or disapprove an application for a hazardous waste 2578
facility installation and operation permit in accordance with 2579
division (D) of this section and approve or disapprove an 2580
application for a modification in accordance with division (I)(3) 2581
of this section, except that the director shall not disapprove an 2582
application for the thermal treatment activities on the basis of 2583
the criteria set forth in division (D)(2)(g) or (h) of this 2584
section. 2585

(3) As used in division (J) of this section: 2586

(a) "Modification application" means a request for a 2587
modification submitted in accordance with division (I) of this 2588
section. 2589

(b) "Thermal treatment," "boiler," and "industrial furnace" 2590
have the same meanings as in rules adopted under section 3734.12 2591
of the Revised Code. 2592

(K) The director shall adopt, and may amend, suspend, or 2593
rescind, rules in accordance with Chapter 119. of the Revised Code 2594
in order to implement divisions (H) and (I) of this section. 2595
Except when in actual conflict with this section, rules governing 2596
the classification of and procedures for the modification of 2597
hazardous waste facility installation and operation permits shall 2598
be substantively and procedurally identical to the regulations 2599
governing hazardous waste facility permitting and permit 2600
modifications adopted under the "Resource Conservation and 2601
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2602
amended. 2603

Sec. 3734.06. (A)(1) Except as provided in divisions (A)(2), 2604
(3), (4), and (5) of this section and in section 3734.82 of the 2605
Revised Code, the annual fee for a solid waste facility license 2606
shall be in accordance with the following schedule: 2607

AUTHORIZED MAXIMUM	ANNUAL	2608
DAILY WASTE	LICENSE	2609
RECEIPT (TONS)	FEE	2610
100 or less	\$ 5,000	2611
101 to 200	12,500	2612
201 to 500	30,000	2613
501 or more	60,000	2614

For the purpose of determining the applicable license fee 2615
under divisions (A)(1), (2), and (3) of this section, the 2616
authorized maximum daily waste receipt shall be the maximum amount 2617
of wastes the facility is authorized to receive daily that is 2618
established in the permit for the facility, and any modifications 2619
to that permit, issued under division (A)(2) or (3) of section 2620
3734.05 of the Revised Code; the annual license for the facility, 2621
and any revisions to that license, issued under division (A)(1) of 2622
section 3734.05 of the Revised Code; the approved operating plan 2623
or operational report for which submission and approval are 2624
required by rules adopted by the director of environmental 2625
protection under section 3734.02 of the Revised Code; an order 2626
issued by the director as authorized by rule; or the updated 2627
engineering plans, specifications, and facility and operation 2628
information approved under division (A)(4) of section 3734.05 of 2629
the Revised Code. If no authorized maximum daily waste receipt is 2630
so established, the annual license fee is sixty thousand dollars 2631
under division (A)(1) of this section and thirty thousand dollars 2632
under divisions (A)(2) and (3) of this section. 2633

The authorized maximum daily waste receipt set forth in any 2634
such document shall be stated in terms of cubic yards of volume 2635
for the purpose of regulating the design, construction, and 2636
operation of a solid waste facility. For the purpose of 2637
determining applicable license fees under this section, the 2638
authorized maximum daily waste receipt so stated shall be 2639
converted from cubic yards to tons as the unit of measurement 2640

based upon a conversion factor of three cubic yards per ton for 2641
compacted wastes generally and one cubic yard per ton for baled 2642
wastes. 2643

(2) The annual license fee for a facility that is an 2644
incinerator facility is one-half the amount shown in division 2645
(A)(1) of this section. When a municipal corporation, county, or 2646
township owns and operates more than one incinerator within its 2647
boundaries, the municipal corporation, county, or township shall 2648
pay one fee for the licenses for all of its incinerators. The fee 2649
shall be determined on the basis of the aggregate maximum daily 2650
waste receipt for all the incinerators owned and operated by the 2651
municipal corporation, county, or township in an amount that is 2652
one-half the amount shown in division (A)(1) of this section. 2653

(3) The annual fee for a solid waste compost facility license 2654
shall be in accordance with the following schedule: 2655

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
12 or less	\$ 300	2659
13 to 25	600	2660
26 to 50	1,200	2661
51 to 75	1,800	2662
76 to 100	2,500	2663
101 to 150	3,750	2664
151 to 200	5,000	2665
201 to 250	6,250	2666
251 to 300	7,500	2667
301 to 400	10,000	2668
401 to 500	12,500	2669
501 or more	30,000	2670

(4) The annual license fee for a solid waste facility, 2671
regardless of its authorized maximum daily waste receipt, is five 2672

thousand dollars for a facility meeting either of the following 2673
qualifications: 2674

(a) The facility is owned by a generator of solid wastes when 2675
the solid waste facility exclusively disposes of solid wastes 2676
generated at one or more premises owned by the generator 2677
regardless of whether the facility is located on a premises where 2678
the wastes are generated. 2679

(b) The facility exclusively disposes of wastes that are 2680
generated from the combustion of coal, or from the combustion of 2681
primarily coal in combination with scrap tires, that is not 2682
combined in any way with garbage at one or more premises owned by 2683
the generator. 2684

(5) The annual license fee for a facility that is a transfer 2685
facility is seven hundred fifty dollars. 2686

(6) The same fees shall apply to private operators and to the 2687
state and its political subdivisions and shall be paid within 2688
thirty days after issuance of a license. The fee includes the cost 2689
of licensing, all inspections, and other costs associated with the 2690
administration of the solid waste provisions of this chapter and 2691
rules adopted under them, excluding the provisions governing scrap 2692
tires. Each such license shall specify that it is conditioned upon 2693
payment of the applicable fee to the board of health or the 2694
director, as appropriate, within thirty days after issuance of the 2695
license. 2696

(B) The board of health shall retain two thousand five 2697
hundred dollars of each license fee collected by the board under 2698
divisions (A)(1), (2), (3), and (4) of this section or the entire 2699
amount of any such fee that is less than two thousand five hundred 2700
dollars. The moneys retained shall be paid into a special fund, 2701
which is hereby created in each health district, and used solely 2702
to administer and enforce the solid waste provisions of this 2703

chapter and the rules adopted under them, excluding the provisions 2704
governing scrap tires. The remainder of each license fee collected 2705
by the board shall be transmitted to the director within 2706
forty-five days after receipt of the fee. The director shall 2707
transmit these moneys to the treasurer of state to be credited to 2708
the general revenue fund. The board of health shall retain the 2709
entire amount of each fee collected under division (A)(5) of this 2710
section, which moneys shall be paid into the special fund of the 2711
health district. 2712

(C)(1) Except as provided in divisions (C)(2) and (3) of this 2713
section, the annual fee for an infectious waste treatment facility 2714
license shall be in accordance with the following schedule: 2715

<u>AVERAGE</u> <u>MAXIMUM</u>	ANNUAL	2716
DAILY WASTE	LICENSE	2717
RECEIPT (TONS)	FEE	2718
100 or less	\$ 5,000	2719
101 to 200	12,500	2720
201 to 500	30,000	2721
501 or more	60,000	2722

For the purpose of determining the applicable license fee 2723
under divisions (C)(1) and (2) of this section, the ~~average~~ 2724
maximum daily waste receipt shall be the ~~average~~ maximum amount of 2725
infectious wastes the facility is authorized to receive daily that 2726
is established in the permit for the facility, and any 2727
modifications to that permit, issued under division (B)(2)(b) ~~or~~ 2728
(~~d~~) of section 3734.05 of the Revised Code; or the annual license 2729
for the facility, and any revisions to that license, issued under 2730
division (B)(2)(a) of section 3734.05 of the Revised Code. If no 2731
~~average~~ maximum daily waste receipt is so established, the annual 2732
license fee is sixty thousand dollars under division (C)(1) of 2733
this section and thirty thousand dollars under division (C)(2) of 2734
this section. 2735

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Sec. 3734.12. The As used in this section, "Resource Conservation and Recovery Act" means the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. 6921, as amended.

The director of environmental protection shall adopt ~~and may amend, suspend, and rescind~~ rules in accordance with Chapter 119 of the Revised Code, which shall be consistent with and equivalent to the regulations adopted under the "Resource Conservation and

Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2767
amended, except for rules adopted under divisions (D) and (F) of 2768
this section governing solid waste facilities and except as 2769
otherwise provided in this chapter, doing all of the following: 2770

(A) Adopting the criteria and procedures established under 2771
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2772
2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous 2773
waste. The director shall prepare, revise when appropriate, and 2774
publish a list of substances or categories of substances 2775
identified to be hazardous using the criteria specified in 40 2776
C.F.R. 261, as amended, which shall be composed of at least those 2777
substances identified as hazardous pursuant to section 3001(B) of 2778
that act. The director shall not list any waste that the 2779
administrator of the United States environmental protection agency 2780
delisted or excluded by an amendment to the federal regulations, 2781
any waste that the administrator declined to list by publishing a 2782
denial of a rulemaking petition or by withdrawal of a proposed 2783
listing in the United States federal register after May 18, 1980, 2784
or any waste oil or polychlorinated biphenyl not listed by the 2785
administrator. 2786

(B) Establishing standards for generators of hazardous waste 2787
necessary to protect human health or safety or the environment in 2788
accordance with this chapter, including, but not limited to, 2789
requirements respecting all of the following: 2790

(1) Record-keeping practices that accurately identify the 2791
quantities of hazardous waste generated, the constituents that are 2792
significant in quantity or in potential harm to human health or 2793
safety or the environment, and the disposition of the waste; 2794

(2) Labeling of containers used for storage, transportation, 2795
or disposal of hazardous waste to identify the waste accurately; 2796

(3) Use of appropriate containers for hazardous waste; 2797

(4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;	2798 2799 2800
(5) A manifest system requiring a manifest consistent with that prescribed under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a manifest for any hazardous waste transported off the premises where generated and assuring that all hazardous waste that is transported off the premises where generated is designated for treatment, storage, or disposal in facilities for which a permit has been issued or in the other facilities specified in division (F) of section 3734.02 of the Revised Code;	2801 2802 2803 2804 2805 2806 2807 2808 2809
(6) Submission of such reports to the director as the director determines necessary;	2810 2811
(7) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	2812 2813
(8) Obtainment of a United States environmental protection agency identification number.	2814 2815
(C) Establishing standards for transporters of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:	2816 2817 2818 2819
(1) Record-keeping concerning hazardous waste transported, including source and delivery points;	2820 2821
(2) Submission of such reports to the director as the director determines necessary;	2822 2823
(3) Transportation of only properly labeled waste;	2824
(4) Compliance with the manifest system required by division (B) of this section;	2825 2826
(5) Transportation of hazardous waste only to the treatment,	2827

storage, or disposal facility that the shipper designates on the	2828
manifest to be a facility holding a permit or another facility	2829
specified in division (F) of section 3734.02 of the Revised Code;	2830
(6) Contingency plans to minimize unanticipated damage from	2831
transportation of hazardous waste;	2832
(7) Financial responsibility, including, but not limited to,	2833
provisions requiring a financial mechanism to cover the costs of	2834
spill cleanup and liability for sudden accidental occurrences that	2835
result in damage to persons, property, or the environment;	2836
(8) Obtainment of a United States environmental protection	2837
agency identification number.	2838
In the case of any hazardous waste that is subject to the	2839
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49	2840
U.S.C.A. 1801, as amended, the rules shall be consistent with that	2841
act and regulations adopted under it.	2842
(D) Establishing performance standards for owners and	2843
operators of hazardous waste facilities and owners and operators	2844
of solid waste facilities, necessary to protect human health or	2845
safety or the environment in accordance with this chapter,	2846
including, but not limited to, requirements respecting all of the	2847
following:	2848
(1) Maintaining records of all hazardous waste that is	2849
treated, stored, or disposed of and of the manner in which the	2850
waste was treated, stored, or disposed of or records of all solid	2851
wastes transferred or disposed of and of the manner in which the	2852
wastes were disposed of;	2853
(2) Submission of such reports to the director as the	2854
director determines necessary;	2855
(3) Reporting, monitoring, inspection, and, except with	2856
respect to solid waste facilities, compliance with the manifest	2857

system referred to in division (B) of this section;	2858
(4) Treatment, storage, or disposal of all hazardous waste received by methods, techniques, and practices approved by the director and disposal or transfer of all solid wastes received by methods, techniques, and practices approved by the director;	2859 2860 2861 2862
(5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;	2863 2864 2865
(6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;	2866 2867 2868
(7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.	2869 2870 2871 2872 2873 2874 2875 2876 2877 2878
(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;	2879 2880 2881 2882
(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	2883 2884
(10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;	2885 2886 2887

(11) Trial burns and land treatment demonstrations.	2888
The rules adopted under divisions (D) and (F) of this section	2889
pertaining to solid waste facilities do not apply to scrap tire	2890
collection, storage, monocell, monofill, and recovery facilities.	2891
Those facilities are subject to and governed by rules adopted	2892
under sections 3734.70 to 3734.73 of the Revised Code, as	2893
applicable.	2894
(E) Governing the issuance, modification, revocation,	2895
suspension, withdrawal, and denial of installation and operation	2896
permits, draft permits, and transportation certificates of	2897
registration;	2898
(F) Specifying information required to be included in	2899
applications for hazardous waste facility installation and	2900
operation permits and solid waste permits, including, but not	2901
limited to, detail plans, specifications, and information	2902
respecting all of the following:	2903
(1) The composition, quantities, and concentrations of	2904
hazardous waste and solid wastes to be stored, treated,	2905
transported, or disposed of and such other information as the	2906
director may require regarding the method of operation;	2907
(2) The facility to which the waste will be transported or	2908
where it will be stored, treated, or disposed of;	2909
(3) The closure and post-closure care of a facility where	2910
hazardous waste will no longer be treated, stored, or disposed of	2911
and of a solid waste facility where solid wastes will no longer be	2912
disposed of or transferred.	2913
(G) Establishing procedures ensuring that all information	2914
entitled to protection as trade secrets disclosed to the director	2915
or the director's authorized representative is not disclosed	2916
without the consent of the owner, except that such information may	2917
be disclosed, upon request, to authorized representatives of the	2918

United States environmental protection agency, or as required by 2919
law. As used in this section, "trade secrets" means any formula, 2920
plan, pattern, process, tool, mechanism, compound, procedure, 2921
production date, or compilation of information that is not 2922
patented, that is known only to certain individuals within a 2923
commercial concern who are using it to fabricate, produce, or 2924
compound an article, trade, or service having commercial value, 2925
and that gives its user an opportunity to obtain a business 2926
advantage over competitors who do not know or use it. 2927

(H) Prohibiting the disposal of specified hazardous wastes in 2928
this state if the director has determined both of the following: 2929

(1) The potential impacts on human health or safety or the 2930
environment are such that disposal of those wastes should not be 2931
allowed. 2932

(2) A technically feasible and environmentally sound 2933
alternative is reasonably available, either within or outside this 2934
state, for processing, recycling, fixation of, neutralization of, 2935
or other treatment of those wastes. Such reasonable availability 2936
shall not be determined without a consideration of the costs to 2937
the generator of implementing the alternatives. 2938

The director shall adopt, and may amend, suspend, or rescind, 2939
rules to specify hazardous wastes that shall not be disposed of in 2940
accordance with this division. Nothing in this division, either 2941
prior to or after adoption of those rules, shall preclude the 2942
director from prohibiting the disposal of specified hazardous 2943
wastes at particular facilities under the terms or conditions of a 2944
permit or by order. 2945

(I)(1)(a) Governing the following that may be more stringent 2946
than the regulations adopted under the "Resource Conservation and 2947
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2948
~~amended~~, when the director determines that such more stringent 2949

rules are reasonable in order to protect human health or safety or the environment: 2950
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(i) Specific wastes that the director determines, because of their physical, chemical, or biological characteristics, are so extremely hazardous that the storage, treatment, or disposal of the wastes in compliance with those regulations would present an imminent danger to human health or safety or the environment; 2952
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(ii) The use of only properly designed, operated, and approved transfer facilities; 2957
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(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including record-keeping, reporting, and manifest requirements. 2959
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(b) In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent: 2962
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(i) Geography of the state; 2966

(ii) Geology of the state; 2967

(iii) Hydrogeology of the state; 2968

(iv) Climate of the state; 2969

(v) Engineering and technical feasibility; 2970

(vi) Availability of alternative technologies or methods of storage, treatment, or disposal. 2971
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(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, to the extent that such reports contain information that the generator, transporter, or facility 2973
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owner or operator is required to obtain in order to comply with 2980
the regulations adopted by the administrator of the United States 2981
environmental protection agency under the "Resource Conservation 2982
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2983
~~amended~~, or to the extent that such reports are required by the 2984
director to meet the requirements of division (B)(7), (D)(9), or 2985
(H) of this section or section 3734.121 of the Revised Code. 2986

(J) Governing the storage, treatment, or disposal of 2987
hazardous waste in, and the permitting, design, construction, 2988
operation, monitoring, inspection, closure, and post-closure care 2989
of, hazardous waste underground injection wells, surface 2990
impoundments, waste piles other than those composed of materials 2991
removed from the ground as part of coal or mineral extraction or 2992
cleaning processes, land treatment facilities, thermal treatment 2993
facilities, and landfills that may be more stringent than the 2994
regulations adopted under the "Resource Conservation and Recovery 2995
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as ~~amended~~, 2996
whenever the director reasonably determines that federal 2997
regulations will not adequately protect the public health or 2998
safety or the environment of this state with respect to the 2999
subject matter of the more stringent rules. Such more stringent 3000
rules shall be developed to achieve a degree of protection, as 3001
determined by the director, consistent with the degree of hazard 3002
potentially posed by the various wastes or categories of wastes to 3003
be treated, stored, or disposed of and the types of facilities at 3004
which they are to be treated, stored, or disposed of. In adopting 3005
such more stringent rules, the director shall give consideration 3006
to and base the rules on evidence concerning factors including, 3007
but not limited to, the following insofar as pertinent: 3008

(1) Geography of the state; 3009

(2) Geology of the state; 3010

(3) Hydrogeology of the state; 3011

(4) Climate of the state;	3012
(5) Engineering and technical feasibility;	3013
(6) Availability of alternative technologies or methods of storage, treatment, or disposal.	3014 3015
(K) Establishing performance standards and other requirements necessary to protect public health and the environment from hazards associated with used oil, including, without limitation, standards and requirements respecting all of the following:	3016 3017 3018 3019
(1) Material that is subject to regulation as used oil;	3020
(2) Generation of used oil;	3021
(3) Used oil collection centers and aggregation points;	3022
(4) Transportation of used oil;	3023
(5) Processing and re-refining of used oil;	3024
(6) Burning of used oil;	3025
(7) Marketing of used oil;	3026
(8) Disposal of used oil;	3027
(9) Use of used oil as a dust suppressant.	3028
<u>(L) Establishing any other requirements, standards, or criteria that are consistent with and equivalent to the Resource Conservation and Recovery Act governing any matter not specifically addressed by divisions (A) to (K) of this section.</u>	3029 3030 3031 3032
Sec. 3734.121. (A) The director of environmental protection shall+	3033 3034
(1) No, <u>no</u> later than the first day of June <u>October</u> each <u>even-numbered</u> year, compile and make available to the extent allowed by rules adopted under division (G) of section 3734.12 of the Revised Code a list of hazardous wastes generated within the state during the preceding calendar year by any person who is not	3035 3036 3037 3038 3039

exempt from regulation under this chapter and rules adopted under 3040
it. The list shall contain at least: 3041

~~(a)(1)~~ The name and address of each person generating 3042
hazardous waste; 3043

~~(b)(2)~~ The waste description of each waste generated and the 3044
United States environmental protection agency hazardous waste 3045
number assigned to each waste under regulations promulgated under 3046
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 3047
2806, 42 U.S.C.A. 6921, as amended; and 3048

~~(c)(3)~~ The quantity of waste generated during the ~~reporting~~ 3049
~~period preceding calendar year.~~ 3050

~~(2) No later than December 31, 1986, compile and make 3051
available a list of technically feasible and environmentally sound 3052
alternatives reasonably available within and outside this state 3053
for processing, recycling, fixating, neutralizing, or otherwise 3054
treating hazardous wastes identified in the lists compiled under 3055
division (A)(1) of this section.~~ 3056

(B) The director of environmental protection may: 3057

(1) From funds made available by the general assembly, make 3058
grants on a fifty per cent matching basis to a municipal 3059
corporation or county for the purposes of: 3060

(a) Providing training for local public health and public 3061
safety officers in the proper procedures for dealing with 3062
emergencies involving hazardous waste facilities in their 3063
jurisdictions; 3064

(b) Providing special clothing and equipment needed by local 3065
public health and public safety officers for dealing with 3066
emergencies involving hazardous waste facilities in their 3067
jurisdictions; and 3068

(c) Reviewing materials provided to them by the director 3069

relating to applications for a hazardous waste facility 3070
installation and operation permit. 3071

(2) From funds made available by the general assembly, make 3072
grants to any generator wishing to conduct applied research on 3073
technically feasible and environmentally sound alternatives for 3074
waste reduction, processing, recycling, fixating, neutralizing, or 3075
otherwise treating its own hazardous waste. 3076

Sec. 3734.41. As used in sections 3734.41 to 3734.47 of the 3077
Revised Code: 3078

(A) "Applicant" means any person seeking a permit or license 3079
for an off-site facility. 3080

(B) "Application" means the forms and accompanying documents 3081
filed in connection with the applicant's request for a permit. 3082

(C) "Business concern" means any corporation, association, 3083
firm, partnership, trust, or other form of commercial 3084
organization. 3085

(D) "Disclosure statement" means a statement submitted to the 3086
director of environmental protection and the attorney general by 3087
an applicant. The statement shall include all of the following: 3088

(1) The full name, business address, and social security 3089
number of the applicant or, if the applicant is a business 3090
concern, of all officers, directors, partners, or key employees 3091
thereof and all individuals or business concerns holding any 3092
equity in or debt liability of that business concern or, if the 3093
business concern is a publicly traded corporation, all individuals 3094
or business concerns holding more than five per cent of the equity 3095
in or debt liability of that business concern, except that when 3096
the debt liability is held by a chartered lending institution, the 3097
applicant need supply only the name and business address of the 3098
lending institution; 3099

(2) The full name, business address, and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or debt liability of any business concern so disclosed or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(3) The full name and business address of any company in which the applicant holds an equity interest and that collects, transfers, transports, treats, stores, or disposes of solid wastes, infectious wastes, or hazardous waste or processes solid wastes that consist of scrap tires;

(4) A description of the experience and credentials, including any past or present permits or licenses, for the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, or the processing of solid wastes that consist of scrap tires, possessed by the applicant or, if the applicant is a business concern, by the officers, directors, partners, or key employees thereof;

(5) A listing and explanation of any civil or criminal prosecution by government agencies, administrative enforcement actions resulting in the imposition of sanctions, or license revocations or denials issued by any state or federal authority in the ten years immediately preceding the filing of the application, that are pending or have resulted in a finding or a settlement of a violation of any law or rule or regulation relating to the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste,

or the processing of solid wastes that consist of scrap tires, or 3132
of any other environmental protection statute, by the applicant 3133
or, if the applicant is a business concern, by the business 3134
concern or any officer, director, partner, or key employee 3135
thereof. For the purposes of division (D)(5) of this section, 3136
violations of any law or rule relating to the transportation of 3137
solid wastes, infectious wastes, or hazardous waste do not include 3138
violations that also apply to the transportation of commodities 3139
that are not wastes. 3140

(6) A listing and explanation of any judgment of liability or 3141
conviction that was rendered pursuant to any state or federal law 3142
or local ordinance resulting in the imposition of a sanction 3143
against the applicant or, if the applicant is a business concern, 3144
against the business concern or any officer, director, partner, or 3145
key employee thereof; 3146

(7) A listing of any agency outside this state that has or 3147
has had regulatory responsibility over the applicant in connection 3148
with its collection, transfer, transportation, treatment, storage, 3149
or disposal of solid wastes, infectious wastes, or hazardous waste 3150
or processing of solid wastes that consist of scrap tires; 3151

(8) Any other information the attorney general or the 3152
director may require that relates to the competency, reliability, 3153
or good character of the applicant. 3154

(E) "Key employee" means any individual, other than a public 3155
official or employee as defined in division (B) of section 102.01 3156
of the Revised Code who is required to file a statement under 3157
section 102.02 of the Revised Code, employed by the applicant or 3158
the licensee in a supervisory capacity or empowered to make 3159
discretionary decisions with respect to the solid waste, 3160
infectious waste, or hazardous waste operations of the business 3161
concern, but does not include any employee exclusively engaged in 3162
the physical or mechanical collection, transfer, transportation, 3163

treatment, storage, or disposal of solid wastes, infectious 3164
wastes, or hazardous waste or processing of solid wastes that 3165
consist of scrap tires. If the applicant or permittee has entered 3166
into a contract with another person to operate the facility that 3167
is the subject of the permit or license or application for a 3168
permit or license, "key employee" also includes those employees of 3169
the contractor who act in a supervisory capacity, or are empowered 3170
to make discretionary decisions, with respect to the operation of 3171
the solid, infectious, or hazardous waste facility. An officer or 3172
director of a business concern required to file a disclosure 3173
statement under section 3734.42 of the Revised Code who meets the 3174
definition of "key employee" shall be considered a key employee 3175
for purposes of the filing and disclosure requirements of sections 3176
3734.42 to 3734.47 of the Revised Code. 3177

(F) "License" means the annual license required by section 3178
3734.05 of the Revised Code for an off-site solid waste disposal 3179
or transfer facility or an off-site infectious waste treatment 3180
facility. 3181

(G) "Off-site facility" means a facility that is located off 3182
the premises where the solid wastes, infectious wastes, or 3183
hazardous waste is generated, but does not include any such 3184
facility that exclusively disposes of wastes that are generated 3185
from the combustion of coal, or from the combustion of primarily 3186
coal in combination with scrap tires, that is not combined in any 3187
way with garbage or any such facility that is owned and operated 3188
by the generator of the waste and that exclusively stores, 3189
processes, or disposes of or transfers solid wastes, exclusively 3190
treats infectious wastes, or exclusively disposes of hazardous 3191
waste, generated at one or more premises owned by the generator. 3192

(H) "Permit" means a permit to install ~~and any subsequent~~ 3193
~~modifications for an a new~~ off-site solid waste disposal facility, 3194
including an incineration facility, or a new transfer facility. 3195

issued under section 3734.05 of the Revised Code; a permit to 3196
install ~~and any subsequent modifications for an~~ a new off-site 3197
solid waste facility that is a scrap tire storage, monocell, 3198
monofill, or recovery facility issued under section 3734.76, 3199
3734.77, or 3734.78 of the Revised Code, as applicable; a permit 3200
to install ~~and any subsequent modifications for an~~ a new off-site 3201
infectious waste treatment facility issued under section 3734.05 3202
of the Revised Code; and a permit to install and operate ~~an~~ a new 3203
off-site hazardous waste treatment, storage, or disposal facility 3204
~~and the modification or renewal of a hazardous waste permit for~~ 3205
~~the treatment, storage, or disposal of hazardous waste~~ issued 3206
under section 3734.05 of the Revised Code. 3207

(I) "Permittee" means any person who has received a permit or 3208
license for an off-site facility. 3209

Sec. 3734.42. (A)(1) ~~Except as otherwise provided in division~~ 3210
~~(E)(2) of this section, every~~ Every applicant for a permit ~~other~~ 3211
~~than a permit modification or renewal~~ shall file a disclosure 3212
statement, on a form developed by the attorney general, with the 3213
director of environmental protection and the attorney general at 3214
the same time the applicant files an application for ~~a~~ the permit 3215
~~other than a permit modification or renewal~~ with the director. 3216

(2) Any individual required to be listed in the disclosure 3217
statement shall be fingerprinted for identification and 3218
investigation purposes in accordance with procedures established 3219
by the attorney general. An individual required to be 3220
fingerprinted under this section shall not be required to be 3221
fingerprinted more than once under this section. 3222
3223

(3) The attorney general, within one hundred eighty days 3224
after receipt of the disclosure statement from an applicant for a 3225
permit, shall prepare and transmit to the director an 3226

investigative report on the applicant, based in part upon the 3227
disclosure statement, except that this deadline may be extended 3228
for a reasonable period of time, for good cause, by the director 3229
or the attorney general. In preparing this report, the attorney 3230
general may request and receive criminal history information from 3231
the federal bureau of investigation and any other law enforcement 3232
agency or organization. The attorney general may provide such 3233
confidentiality regarding the information received from a law 3234
enforcement agency as may be imposed by that agency as a condition 3235
for providing that information to the attorney general. 3236

(4) The review of the application by the director shall 3237
include a review of the disclosure statement and investigative 3238
report. 3239

(B) All applicants and permittees shall provide any 3240
assistance or information requested by the director or the 3241
attorney general and shall cooperate in any inquiry or 3242
investigation conducted by the attorney general and any inquiry, 3243
investigation, or hearing conducted by the director. If, upon 3244
issuance of a formal request to answer any inquiry or produce 3245
information, evidence, or testimony, any applicant or permittee, 3246
any officer, director, or partner of any business concern, or any 3247
key employee of the applicant or permittee refuses to comply, the 3248
permit of the applicant or permittee may be denied or revoked by 3249
the director. 3250

(C) The attorney general may charge and collect such fees 3251
from applicants and permittees as are necessary to cover the costs 3252
of administering and enforcing the investigative procedures 3253
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 3254
attorney general shall transmit moneys collected under this 3255
division to the treasurer of state to be credited to the solid and 3256
hazardous waste background investigations fund, which is hereby 3257
created in the state treasury. Moneys in the fund shall be used 3258

solely for paying the attorney general's costs of administering 3259
and enforcing the investigative procedures authorized in sections 3260
3734.41 to 3734.47 of the Revised Code. 3261

(D) Annually on the anniversary date of the submission to the 3262
director by the attorney general of the investigative report for a 3263
specific facility, or annually on another date assigned by the 3264
attorney general, the appropriate applicant, permittee, or 3265
prospective owner shall submit to the attorney general, on a form 3266
provided by the attorney general, any and all information required 3267
to be included in a disclosure statement that has changed or been 3268
added in the immediately preceding year. If, in the immediately 3269
preceding year, there have been no changes in or additions to the 3270
information required to be included in a disclosure statement, the 3271
appropriate applicant, permittee, or prospective owner shall 3272
submit to the attorney general an affidavit stating that there 3273
have been no changes in or additions to that information during 3274
that time period. 3275

Notwithstanding the requirement for an annual submission of 3276
information, the following information shall be submitted within 3277
the periods specified: 3278

(1) Information required to be included in the disclosure 3279
statement for any new officer, director, partner, or key employee, 3280
to be submitted within ninety days from the addition of the 3281
officer, director, partner, or key employee; 3282

(2) Information required to be included in a disclosure 3283
statement for any new business concern, to be submitted within 3284
ninety days from the addition of the new business concern; 3285

(3) Information regarding any new criminal conviction, to be 3286
submitted within ninety days from the judgment entry of 3287
conviction. 3288

The failure to provide such information may constitute the 3289

basis for the revocation or denial of renewal of any permit or 3290
license issued in accordance with this chapter, provided that 3291
prior to any such denial or revocation, the director shall notify 3292
the applicant or permittee of the director's intention to do so 3293
and give the applicant or permittee fourteen days from the date of 3294
the notice to explain why the information was not provided. The 3295
director shall consider this information when determining whether 3296
to revoke or deny the permit or license. 3297

Nothing in this division affects the rights of the director 3298
or the attorney general granted under sections 3734.40 to 3734.47 3299
of the Revised Code to request information from a person at any 3300
other time. 3301

~~(E)(1) Except as otherwise provided in division (E)(2) of 3302
this section, every permittee who is not otherwise required to 3303
file a disclosure statement shall file a disclosure statement 3304
within five years after June 24, 1988, pursuant to a schedule for 3305
submissions of disclosure statements developed by the attorney 3306
general. The schedule shall provide all permittees and holders of 3307
a license with at least one hundred eighty days' notice prior to 3308
the date upon which the statement is to be submitted. All other 3309
terms of the schedule shall be established at the discretion of 3310
the attorney general and shall not be subject to judicial review. 3311~~

~~(2) An applicant for a permit for an off site solid waste 3312
facility that is a scrap tire storage, monocell, monofill, or 3313
recovery facility issued under section 3734.76, 3734.77, or 3314
3734.78 of the Revised Code, as applicable, shall file a 3315
disclosure statement within five years after October 29, 1993, 3316
pursuant to a schedule for submissions of disclosure statements 3317
developed by the attorney general. The schedule shall provide all 3318
such applicants with at least one hundred eighty days' notice 3319
prior to the date upon which the statement shall be submitted. All 3320
other terms of the schedule shall be established at the discretion 3321~~

~~of the attorney general and shall not be subject to judicial review.~~ 3322
3323

~~Beginning five years after October 29, 1993, an applicant for such a permit shall file a disclosure statement in accordance with division (A)(1) of this section.~~ 3324
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~~(3) When a permittee submits a disclosure statement at the time it submits an application for a renewal or modification of its permit, the attorney general shall remove the permittee from the submission schedule established pursuant to division (E)(1) or (2) of this section.~~ 3327
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~~(4) After receiving a disclosure statement under division (E)(1) or (2) of this section, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director may revoke any previously issued permit pursuant to section 3734.45 of the Revised Code, or the director shall deny any application for a renewal of a permit or license. When the renewal of the license is being performed by a board of health, the director shall instruct the board of health about those circumstances under which the renewal is required to be denied by this section.~~ 3332
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~~(F)(1) Whenever there is a change in ownership of any operating off-site solid waste facility, including incinerators, any transfer facility, any operating off-site infectious waste treatment facility, or any operating off-site hazardous waste treatment, storage, or disposal facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the~~ 3347
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proposed change in ownership. In addition, whenever there is a 3354
change in ownership of any operating on-site solid waste facility, 3355
any operating on-site infectious waste facility, or any operating 3356
on-site hazardous waste facility and the prospective owner intends 3357
to operate the facility as an off-site facility by accepting 3358
wastes other than wastes generated by the facility owner, the 3359
prospective owner shall file a disclosure statement with the 3360
attorney general and the director. The prospective owner shall 3361
file the disclosure statement at least one hundred eighty days 3362
prior to the proposed change in ownership. ~~Upon~~ 3363

Upon receipt of the disclosure statement, the attorney 3364
general shall prepare an investigative report and transmit it to 3365
the director. The director shall review the disclosure statement 3366
and investigative report to determine whether the statement or 3367
report contains information that if submitted with a permit 3368
application would require a denial of the permit pursuant to 3369
section 3734.44 of the Revised Code. If the director determines 3370
that the statement or report contains such information, the 3371
director shall disapprove the change in ownership. 3372

(2) If the parties to a change in ownership decide to proceed 3373
with the change prior to the action of the director on the 3374
disclosure statement and investigative report, the parties shall 3375
include in all contracts or other documents reflecting the change 3376
in ownership language expressly making the change in ownership 3377
subject to the approval of the director and expressly negating the 3378
change if it is disapproved by the director pursuant to division 3379
~~(F)~~(E)(1) of this section. 3380

(3) As used in this section, "change in ownership" includes 3381
~~any a change in the names, other than those of the individuals or~~ 3382
entities who own a solid waste facility, infectious waste 3383
facility, or hazardous waste facility. "Change in ownership" does 3384
not include a legal change in a business concern's name when its 3385

ownership otherwise remains the same. "Change in ownership" also 3386
does not include a personal name change of officers, directors, 3387
partners, or key employees, contained in ~~the~~ a disclosure 3388
statement. 3389

Sec. 3734.57. (A) The following fees are hereby levied on the 3390
transfer or disposal of solid wastes in this state: 3391

(1) One dollar per ton through June 30, 2014, one-half of the 3392
proceeds of which shall be deposited in the state treasury to the 3393
credit of the hazardous waste facility management fund created in 3394
section 3734.18 of the Revised Code and one-half of the proceeds 3395
of which shall be deposited in the state treasury to the credit of 3396
the hazardous waste clean-up fund created in section 3734.28 of 3397
the Revised Code; 3398

(2) An additional one dollar per ton through June 30, 2014, 3399
the proceeds of which shall be deposited in the state treasury to 3400
the credit of the solid waste fund, which is hereby created. The 3401
environmental protection agency shall use money in the solid waste 3402
fund to pay the costs of administering and enforcing the laws 3403
pertaining to solid wastes, infectious wastes, and construction 3404
and demolition debris, including, without limitation, ground water 3405
evaluations related to solid wastes, infectious wastes, and 3406
construction and demolition debris, under this chapter and Chapter 3407
3714. of the Revised Code and any rules adopted under them, 3408
providing compliance assistance to small businesses, and paying a 3409
share of the administrative costs of the environmental protection 3410
agency pursuant to section 3745.014 of the Revised Code. 3411

(3) An additional two dollars and fifty cents per ton through 3412
June 30, 2014, the proceeds of which shall be deposited in the 3413
state treasury to the credit of the environmental protection fund 3414
created in section 3745.015 of the Revised Code; 3415

(4) An additional twenty-five cents per ton through June 30, 3416

2013, the proceeds of which shall be deposited in the state 3417
treasury to the credit of the soil and water conservation district 3418
assistance fund created in section 1515.14 of the Revised Code. 3419

In the case of solid wastes that are taken to a solid waste 3420
transfer facility located in this state prior to being transported 3421
for disposal at a solid waste disposal facility located in this 3422
state or outside of this state, the fees levied under this 3423
division shall be collected by the owner or operator of the 3424
transfer facility as a trustee for the state. The amount of fees 3425
required to be collected under this division at such a transfer 3426
facility shall equal the total tonnage of solid wastes received at 3427
the facility multiplied by the fees levied under this division. In 3428
the case of solid wastes that are not taken to a solid waste 3429
transfer facility located in this state prior to being transported 3430
to a solid waste disposal facility, the fees shall be collected by 3431
the owner or operator of the solid waste disposal facility as a 3432
trustee for the state. The amount of fees required to be collected 3433
under this division at such a disposal facility shall equal the 3434
total tonnage of solid wastes received at the facility that was 3435
not previously taken to a solid waste transfer facility located in 3436
this state multiplied by the fees levied under this division. Fees 3437
levied under this division do not apply to materials separated 3438
from a mixed waste stream for recycling by a generator or 3439
materials removed from the solid waste stream through recycling, 3440
as "recycling" is defined in rules adopted under section 3734.02 3441
of the Revised Code. 3442

The owner or operator of a solid waste transfer facility or 3443
disposal facility, as applicable, shall prepare and file with the 3444
director of environmental protection each month a return 3445
indicating the total tonnage of solid wastes received at the 3446
facility during that month and the total amount of the fees 3447
required to be collected under this division during that month. In 3448

addition, the owner or operator of a solid waste disposal facility 3449
shall indicate on the return the total tonnage of solid wastes 3450
received from transfer facilities located in this state during 3451
that month for which the fees were required to be collected by the 3452
transfer facilities. The monthly returns shall be filed on a form 3453
prescribed by the director. Not later than thirty days after the 3454
last day of the month to which a return applies, the owner or 3455
operator shall mail to the director the return for that month 3456
together with the fees required to be collected under this 3457
division during that month as indicated on the return or may 3458
submit the return and fees electronically in a manner approved by 3459
the director. If the return is filed and the amount of the fees 3460
due is paid in a timely manner as required in this division, the 3461
owner or operator may retain a discount of three-fourths of one 3462
per cent of the total amount of the fees that are required to be 3463
paid as indicated on the return. 3464

The owner or operator may request an extension of not more 3465
than thirty days for filing the return and remitting the fees, 3466
provided that the owner or operator has submitted such a request 3467
in writing to the director together with a detailed description of 3468
why the extension is requested, the director has received the 3469
request not later than the day on which the return is required to 3470
be filed, and the director has approved the request. If the fees 3471
are not remitted within thirty days after the last day of the 3472
month to which the return applies or are not remitted by the last 3473
day of an extension approved by the director, the owner or 3474
operator shall not retain the three-fourths of one per cent 3475
discount and shall pay an additional ten per cent of the amount of 3476
the fees for each month that they are late. For purposes of 3477
calculating the late fee, the first month in which fees are late 3478
begins on the first day after the deadline has passed for timely 3479
submitting the return and fees, and one additional month shall be 3480
counted every thirty days thereafter. 3481

The owner or operator of a solid waste facility may request a 3482
refund or credit of fees levied under this division and remitted 3483
to the director that have not been paid to the owner or operator. 3484
Such a request shall be made only if the fees have not been 3485
collected by the owner or operator, have become a debt that has 3486
become worthless or uncollectable for a period of six months or 3487
more, and may be claimed as a deduction, including a deduction 3488
claimed if the owner or operator keeps accounts on an accrual 3489
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 3490
U.S.C. 166, as amended, and regulations adopted under it. Prior to 3491
making a request for a refund or credit, an owner or operator 3492
shall make reasonable efforts to collect the applicable fees. A 3493
request for a refund or credit shall not include any costs 3494
resulting from those efforts to collect unpaid fees. 3495

A request for a refund or credit of fees shall be made in 3496
writing, on a form prescribed by the director, and shall be 3497
supported by evidence that may be required in rules adopted by the 3498
director under this chapter. After reviewing the request, and if 3499
the request and evidence submitted with the request indicate that 3500
a refund or credit is warranted, the director shall grant a refund 3501
to the owner or operator or shall permit a credit to be taken by 3502
the owner or operator on a subsequent monthly return submitted by 3503
the owner or operator. The amount of a refund or credit shall not 3504
exceed an amount that is equal to ninety days' worth of fees owed 3505
to an owner or operator by a particular debtor of the owner or 3506
operator. A refund or credit shall not be granted by the director 3507
to an owner or operator more than once in any twelve-month period 3508
for fees owed to the owner or operator by a particular debtor. 3509

If, after receiving a refund or credit from the director, an 3510
owner or operator receives payment of all or part of the fees, the 3511
owner or operator shall remit the fees with the next monthly 3512
return submitted to the director together with a written 3513

explanation of the reason for the submittal. 3514

For purposes of computing the fees levied under this division 3515
or division (B) of this section, any solid waste transfer or 3516
disposal facility that does not use scales as a means of 3517
determining gate receipts shall use a conversion factor of three 3518
cubic yards per ton of solid waste or one cubic yard per ton for 3519
baled waste, as applicable. 3520

The fees levied under this division and divisions (B) and (C) 3521
of this section are in addition to all other applicable fees and 3522
taxes and shall be paid by the customer or a political subdivision 3523
to the owner or operator of a solid waste transfer or disposal 3524
facility. In the alternative, the fees shall be paid by a customer 3525
or political subdivision to a transporter of waste who 3526
subsequently transfers the fees to the owner or operator of such a 3527
facility. The fees shall be paid notwithstanding the existence of 3528
any provision in a contract that the customer or a political 3529
subdivision may have with the owner or operator or with a 3530
transporter of waste to the facility that would not require or 3531
allow such payment regardless of whether the contract was entered 3532
prior to or after ~~the effective date of this amendment~~ October 16, 3533
2009. For those purposes, "customer" means a person who contracts 3534
with, or utilizes the solid waste services of, the owner or 3535
operator of a solid waste transfer or disposal facility or a 3536
transporter of solid waste to such a facility. 3537

(B) For the purposes specified in division (G) of this 3538
section, the solid waste management policy committee of a county 3539
or joint solid waste management district may levy fees upon the 3540
following activities: 3541

(1) The disposal at a solid waste disposal facility located 3542
in the district of solid wastes generated within the district; 3543

(2) The disposal at a solid waste disposal facility within 3544

the district of solid wastes generated outside the boundaries of 3545
the district, but inside this state; 3546

(3) The disposal at a solid waste disposal facility within 3547
the district of solid wastes generated outside the boundaries of 3548
this state. 3549

The solid waste management plan of the county or joint 3550
district approved under section 3734.521 or 3734.55 of the Revised 3551
Code and any amendments to it, or the resolution adopted under 3552
this division, as appropriate, shall establish the rates of the 3553
fees levied under divisions (B)(1), (2), and (3) of this section, 3554
if any, and shall specify whether the fees are levied on the basis 3555
of tons or cubic yards as the unit of measurement. A solid waste 3556
management district that levies fees under this division on the 3557
basis of cubic yards shall do so in accordance with division (A) 3558
of this section. 3559

The fee levied under division (B)(1) of this section shall be 3560
not less than one dollar per ton nor more than two dollars per 3561
ton, the fee levied under division (B)(2) of this section shall be 3562
not less than two dollars per ton nor more than four dollars per 3563
ton, and the fee levied under division (B)(3) of this section 3564
shall be not more than the fee levied under division (B)(1) of 3565
this section. 3566

Prior to the approval of the solid waste management plan of a 3567
district under section 3734.55 of the Revised Code, the solid 3568
waste management policy committee of a district may levy fees 3569
under this division by adopting a resolution establishing the 3570
proposed amount of the fees. Upon adopting the resolution, the 3571
committee shall deliver a copy of the resolution to the board of 3572
county commissioners of each county forming the district and to 3573
the legislative authority of each municipal corporation and 3574
township under the jurisdiction of the district and shall prepare 3575
and publish the resolution and a notice of the time and location 3576

where a public hearing on the fees will be held. Upon adopting the 3577
resolution, the committee shall deliver written notice of the 3578
adoption of the resolution; of the amount of the proposed fees; 3579
and of the date, time, and location of the public hearing to the 3580
director and to the fifty industrial, commercial, or institutional 3581
generators of solid wastes within the district that generate the 3582
largest quantities of solid wastes, as determined by the 3583
committee, and to their local trade associations. The committee 3584
shall make good faith efforts to identify those generators within 3585
the district and their local trade associations, but the 3586
nonprovision of notice under this division to a particular 3587
generator or local trade association does not invalidate the 3588
proceedings under this division. The publication shall occur at 3589
least thirty days before the hearing. After the hearing, the 3590
committee may make such revisions to the proposed fees as it 3591
considers appropriate and thereafter, by resolution, shall adopt 3592
the revised fee schedule. Upon adopting the revised fee schedule, 3593
the committee shall deliver a copy of the resolution doing so to 3594
the board of county commissioners of each county forming the 3595
district and to the legislative authority of each municipal 3596
corporation and township under the jurisdiction of the district. 3597
Within sixty days after the delivery of a copy of the resolution 3598
adopting the proposed revised fees by the policy committee, each 3599
such board and legislative authority, by ordinance or resolution, 3600
shall approve or disapprove the revised fees and deliver a copy of 3601
the ordinance or resolution to the committee. If any such board or 3602
legislative authority fails to adopt and deliver to the policy 3603
committee an ordinance or resolution approving or disapproving the 3604
revised fees within sixty days after the policy committee 3605
delivered its resolution adopting the proposed revised fees, it 3606
shall be conclusively presumed that the board or legislative 3607
authority has approved the proposed revised fees. The committee 3608
shall determine if the resolution has been ratified in the same 3609

manner in which it determines if a draft solid waste management 3610
plan has been ratified under division (B) of section 3734.55 of 3611
the Revised Code. 3612

The committee may amend the schedule of fees levied pursuant 3613
to a resolution adopted and ratified under this division by 3614
adopting a resolution establishing the proposed amount of the 3615
amended fees. The committee may repeal the fees levied pursuant to 3616
such a resolution by adopting a resolution proposing to repeal 3617
them. Upon adopting such a resolution, the committee shall proceed 3618
to obtain ratification of the resolution in accordance with this 3619
division. 3620

Not later than fourteen days after declaring the new fees to 3621
be ratified or the fees to be repealed under this division, the 3622
committee shall notify by certified mail the owner or operator of 3623
each solid waste disposal facility that is required to collect the 3624
fees of the ratification and the amount of the fees or of the 3625
repeal of the fees. Collection of any fees shall commence or 3626
collection of repealed fees shall cease on the first day of the 3627
second month following the month in which notification is sent to 3628
the owner or operator. 3629

Fees levied under this division also may be established, 3630
amended, or repealed by a solid waste management policy committee 3631
through the adoption of a new district solid waste management 3632
plan, the adoption of an amended plan, or the amendment of the 3633
plan or amended plan in accordance with sections 3734.55 and 3634
3734.56 of the Revised Code or the adoption or amendment of a 3635
district plan in connection with a change in district composition 3636
under section 3734.521 of the Revised Code. 3637

Not later than fourteen days after the director issues an 3638
order approving a district's solid waste management plan, amended 3639
plan, or amendment to a plan or amended plan that establishes, 3640
amends, or repeals a schedule of fees levied by the district, the 3641

committee shall notify by certified mail the owner or operator of 3642
each solid waste disposal facility that is required to collect the 3643
fees of the approval of the plan or amended plan, or the amendment 3644
to the plan, as appropriate, and the amount of the fees, if any. 3645
In the case of an initial or amended plan approved under section 3646
3734.521 of the Revised Code in connection with a change in 3647
district composition, other than one involving the withdrawal of a 3648
county from a joint district, the committee, within fourteen days 3649
after the change takes effect pursuant to division (G) of that 3650
section, shall notify by certified mail the owner or operator of 3651
each solid waste disposal facility that is required to collect the 3652
fees that the change has taken effect and of the amount of the 3653
fees, if any. Collection of any fees shall commence or collection 3654
of repealed fees shall cease on the first day of the second month 3655
following the month in which notification is sent to the owner or 3656
operator. 3657

If, in the case of a change in district composition involving 3658
the withdrawal of a county from a joint district, the director 3659
completes the actions required under division (G)(1) or (3) of 3660
section 3734.521 of the Revised Code, as appropriate, forty-five 3661
days or more before the beginning of a calendar year, the policy 3662
committee of each of the districts resulting from the change that 3663
obtained the director's approval of an initial or amended plan in 3664
connection with the change, within fourteen days after the 3665
director's completion of the required actions, shall notify by 3666
certified mail the owner or operator of each solid waste disposal 3667
facility that is required to collect the district's fees that the 3668
change is to take effect on the first day of January immediately 3669
following the issuance of the notice and of the amount of the fees 3670
or amended fees levied under divisions (B)(1) to (3) of this 3671
section pursuant to the district's initial or amended plan as so 3672
approved or, if appropriate, the repeal of the district's fees by 3673
that initial or amended plan. Collection of any fees set forth in 3674

such a plan or amended plan shall commence on the first day of 3675
January immediately following the issuance of the notice. If such 3676
an initial or amended plan repeals a schedule of fees, collection 3677
of the fees shall cease on that first day of January. 3678

If, in the case of a change in district composition involving 3679
the withdrawal of a county from a joint district, the director 3680
completes the actions required under division (G)(1) or (3) of 3681
section 3734.521 of the Revised Code, as appropriate, less than 3682
forty-five days before the beginning of a calendar year, the 3683
director, on behalf of each of the districts resulting from the 3684
change that obtained the director's approval of an initial or 3685
amended plan in connection with the change proceedings, shall 3686
notify by certified mail the owner or operator of each solid waste 3687
disposal facility that is required to collect the district's fees 3688
that the change is to take effect on the first day of January 3689
immediately following the mailing of the notice and of the amount 3690
of the fees or amended fees levied under divisions (B)(1) to (3) 3691
of this section pursuant to the district's initial or amended plan 3692
as so approved or, if appropriate, the repeal of the district's 3693
fees by that initial or amended plan. Collection of any fees set 3694
forth in such a plan or amended plan shall commence on the first 3695
day of the second month following the month in which notification 3696
is sent to the owner or operator. If such an initial or amended 3697
plan repeals a schedule of fees, collection of the fees shall 3698
cease on the first day of the second month following the month in 3699
which notification is sent to the owner or operator. 3700

If the schedule of fees that a solid waste management 3701
district is levying under divisions (B)(1) to (3) of this section 3702
is amended or repealed, the fees in effect immediately prior to 3703
the amendment or repeal shall continue to be collected until 3704
collection of the amended fees commences or collection of the 3705
repealed fees ceases, as applicable, as specified in this 3706

division. In the case of a change in district composition, money 3707
so received from the collection of the fees of the former 3708
districts shall be divided among the resulting districts in 3709
accordance with division (B) of section 343.012 of the Revised 3710
Code and the agreements entered into under division (B) of section 3711
343.01 of the Revised Code to establish the former and resulting 3712
districts and any amendments to those agreements. 3713

For the purposes of the provisions of division (B) of this 3714
section establishing the times when newly established or amended 3715
fees levied by a district are required to commence and the 3716
collection of fees that have been amended or repealed is required 3717
to cease, "fees" or "schedule of fees" includes, in addition to 3718
fees levied under divisions (B)(1) to (3) of this section, those 3719
levied under section 3734.573 or 3734.574 of the Revised Code. 3720

(C) For the purposes of defraying the added costs to a 3721
municipal corporation or township of maintaining roads and other 3722
public facilities and of providing emergency and other public 3723
services, and compensating a municipal corporation or township for 3724
reductions in real property tax revenues due to reductions in real 3725
property valuations resulting from the location and operation of a 3726
solid waste disposal facility within the municipal corporation or 3727
township, a municipal corporation or township in which such a 3728
solid waste disposal facility is located may levy a fee of not 3729
more than twenty-five cents per ton on the disposal of solid 3730
wastes at a solid waste disposal facility located within the 3731
boundaries of the municipal corporation or township regardless of 3732
where the wastes were generated. 3733

The legislative authority of a municipal corporation or 3734
township may levy fees under this division by enacting an 3735
ordinance or adopting a resolution establishing the amount of the 3736
fees. Upon so doing the legislative authority shall mail a 3737
certified copy of the ordinance or resolution to the board of 3738

county commissioners or directors of the county or joint solid 3739
waste management district in which the municipal corporation or 3740
township is located or, if a regional solid waste management 3741
authority has been formed under section 343.011 of the Revised 3742
Code, to the board of trustees of that regional authority, the 3743
owner or operator of each solid waste disposal facility in the 3744
municipal corporation or township that is required to collect the 3745
fee by the ordinance or resolution, and the director of 3746
environmental protection. Although the fees levied under this 3747
division are levied on the basis of tons as the unit of 3748
measurement, the legislative authority, in its ordinance or 3749
resolution levying the fees under this division, may direct that 3750
the fees be levied on the basis of cubic yards as the unit of 3751
measurement based upon a conversion factor of three cubic yards 3752
per ton generally or one cubic yard per ton for baled wastes. 3753

Not later than five days after enacting an ordinance or 3754
adopting a resolution under this division, the legislative 3755
authority shall so notify by certified mail the owner or operator 3756
of each solid waste disposal facility that is required to collect 3757
the fee. Collection of any fee levied on or after March 24, 1992, 3758
shall commence on the first day of the second month following the 3759
month in which notification is sent to the owner or operator. 3760

(D)(1) The fees levied under divisions (A), (B), and (C) of 3761
this section do not apply to the disposal of solid wastes that: 3762

(a) Are disposed of at a facility owned by the generator of 3763
the wastes when the solid waste facility exclusively disposes of 3764
solid wastes generated at one or more premises owned by the 3765
generator regardless of whether the facility is located on a 3766
premises where the wastes are generated; 3767

(b) Are generated from the combustion of coal, or from the 3768
combustion of primarily coal ~~in combination with scrap tires,~~ 3769
regardless of whether the disposal facility is located on the 3770

premises where the wastes are generated; 3771

(c) Are asbestos or asbestos-containing materials or products 3772
disposed of at a construction and demolition debris facility that 3773
is licensed under Chapter 3714. of the Revised Code or at a solid 3774
waste facility that is licensed under this chapter. 3775

(2) Except as provided in section 3734.571 of the Revised 3776
Code, any fees levied under division (B)(1) of this section apply 3777
to solid wastes originating outside the boundaries of a county or 3778
joint district that are covered by an agreement for the joint use 3779
of solid waste facilities entered into under section 343.02 of the 3780
Revised Code by the board of county commissioners or board of 3781
directors of the county or joint district where the wastes are 3782
generated and disposed of. 3783

(3) When solid wastes, other than solid wastes that consist 3784
of scrap tires, are burned in a disposal facility that is an 3785
incinerator or energy recovery facility, the fees levied under 3786
divisions (A), (B), and (C) of this section shall be levied upon 3787
the disposal of the fly ash and bottom ash remaining after burning 3788
of the solid wastes and shall be collected by the owner or 3789
operator of the sanitary landfill where the ash is disposed of. 3790

(4) When solid wastes are delivered to a solid waste transfer 3791
facility, the fees levied under divisions (B) and (C) of this 3792
section shall be levied upon the disposal of solid wastes 3793
transported off the premises of the transfer facility for disposal 3794
and shall be collected by the owner or operator of the solid waste 3795
disposal facility where the wastes are disposed of. 3796

(5) The fees levied under divisions (A), (B), and (C) of this 3797
section do not apply to sewage sludge that is generated by a waste 3798
water treatment facility holding a national pollutant discharge 3799
elimination system permit and that is disposed of through 3800
incineration, land application, or composting or at another 3801

resource recovery or disposal facility that is not a landfill. 3802

(6) The fees levied under divisions (A), (B), and (C) of this 3803
section do not apply to solid wastes delivered to a solid waste 3804
composting facility for processing. When any unprocessed solid 3805
waste or compost product is transported off the premises of a 3806
composting facility and disposed of at a landfill, the fees levied 3807
under divisions (A), (B), and (C) of this section shall be 3808
collected by the owner or operator of the landfill where the 3809
unprocessed waste or compost product is disposed of. 3810

(7) When solid wastes that consist of scrap tires are 3811
processed at a scrap tire recovery facility, the fees levied under 3812
divisions (A), (B), and (C) of this section shall be levied upon 3813
the disposal of the fly ash and bottom ash or other solid wastes 3814
remaining after the processing of the scrap tires and shall be 3815
collected by the owner or operator of the solid waste disposal 3816
facility where the ash or other solid wastes are disposed of. 3817

(8) The director of environmental protection may issue an 3818
order exempting from the fees levied under this section solid 3819
wastes, including, but not limited to, scrap tires, that are 3820
generated, transferred, or disposed of as a result of a contract 3821
providing for the expenditure of public funds entered into by the 3822
administrator or regional administrator of the United States 3823
environmental protection agency, the director of environmental 3824
protection, or the director of administrative services on behalf 3825
of the director of environmental protection for the purpose of 3826
remediating conditions at a hazardous waste facility, solid waste 3827
facility, or other location at which the administrator or regional 3828
administrator or the director of environmental protection has 3829
reason to believe that there is a substantial threat to public 3830
health or safety or the environment or that the conditions are 3831
causing or contributing to air or water pollution or soil 3832
contamination. An order issued by the director of environmental 3833

protection under division (D)(8) of this section shall include a 3834
determination that the amount of the fees not received by a solid 3835
waste management district as a result of the order will not 3836
adversely impact the implementation and financing of the 3837
district's approved solid waste management plan and any approved 3838
amendments to the plan. Such an order is a final action of the 3839
director of environmental protection. 3840

(E) The fees levied under divisions (B) and (C) of this 3841
section shall be collected by the owner or operator of the solid 3842
waste disposal facility where the wastes are disposed of as a 3843
trustee for the county or joint district and municipal corporation 3844
or township where the wastes are disposed of. Moneys from the fees 3845
levied under division (B) of this section shall be forwarded to 3846
the board of county commissioners or board of directors of the 3847
district in accordance with rules adopted under division (H) of 3848
this section. Moneys from the fees levied under division (C) of 3849
this section shall be forwarded to the treasurer or such other 3850
officer of the municipal corporation as, by virtue of the charter, 3851
has the duties of the treasurer or to the fiscal officer of the 3852
township, as appropriate, in accordance with those rules. 3853

(F) Moneys received by the treasurer or other officer of the 3854
municipal corporation under division (E) of this section shall be 3855
paid into the general fund of the municipal corporation. Moneys 3856
received by the fiscal officer of the township under that division 3857
shall be paid into the general fund of the township. The treasurer 3858
or other officer of the municipal corporation or the township 3859
fiscal officer, as appropriate, shall maintain separate records of 3860
the moneys received from the fees levied under division (C) of 3861
this section. 3862

(G) Moneys received by the board of county commissioners or 3863
board of directors under division (E) of this section or section 3864
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 3865

shall be paid to the county treasurer, or other official acting in 3866
a similar capacity under a county charter, in a county district or 3867
to the county treasurer or other official designated by the board 3868
of directors in a joint district and kept in a separate and 3869
distinct fund to the credit of the district. If a regional solid 3870
waste management authority has been formed under section 343.011 3871
of the Revised Code, moneys received by the board of trustees of 3872
that regional authority under division (E) of this section shall 3873
be kept by the board in a separate and distinct fund to the credit 3874
of the district. Moneys in the special fund of the county or joint 3875
district arising from the fees levied under division (B) of this 3876
section and the fee levied under division (A) of section 3734.573 3877
of the Revised Code shall be expended by the board of county 3878
commissioners or directors of the district in accordance with the 3879
district's solid waste management plan or amended plan approved 3880
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 3881
exclusively for the following purposes: 3882

(1) Preparation of the solid waste management plan of the 3883
district under section 3734.54 of the Revised Code, monitoring 3884
implementation of the plan, and conducting the periodic review and 3885
amendment of the plan required by section 3734.56 of the Revised 3886
Code by the solid waste management policy committee; 3887

(2) Implementation of the approved solid waste management 3888
plan or amended plan of the district, including, without 3889
limitation, the development and implementation of solid waste 3890
recycling or reduction programs; 3891

(3) Providing financial assistance to boards of health within 3892
the district, if solid waste facilities are located within the 3893
district, for enforcement of this chapter and rules, orders, and 3894
terms and conditions of permits, licenses, and variances adopted 3895
or issued under it, other than the hazardous waste provisions of 3896
this chapter and rules adopted and orders and terms and conditions 3897

of permits issued under those provisions;	3898
(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;	3899 3900 3901 3902 3903 3904
(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;	3905 3906 3907 3908 3909 3910
(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;	3911 3912 3913 3914
(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;	3915 3916 3917 3918 3919
(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;	3920 3921 3922 3923 3924 3925 3926 3927 3928

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

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

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

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

(H) The director shall adopt rules in accordance with Chapter 3961
119. of the Revised Code prescribing procedures for collecting and 3962
forwarding the fees levied under divisions (B) and (C) of this 3963
section to the boards of county commissioners or directors of 3964
county or joint solid waste management districts and to the 3965
treasurers or other officers of municipal corporations and the 3966
fiscal officers of townships. The rules also shall prescribe the 3967
dates for forwarding the fees to the boards and officials and may 3968
prescribe any other requirements the director considers necessary 3969
or appropriate to implement and administer divisions (A), (B), and 3970
(C) of this section. 3971

Sec. 3734.573. (A) For the purposes specified in division (G) 3972
of section 3734.57 of the Revised Code, the solid waste management 3973
policy committee of a county or joint solid waste management 3974
district may levy a fee on the generation of solid wastes within 3975
the district. 3976

The initial or amended solid waste management plan of the 3977
county or joint district approved under section 3734.521, 3734.55, 3978
or 3734.56 of the Revised Code, an amendment to the district's 3979
plan adopted under division (E) of section 3734.56 of the Revised 3980
Code, or the resolution adopted and ratified under division (B) of 3981
this section shall establish the rate of the fee levied under this 3982
division and shall specify whether the fee is levied on the basis 3983
of tons or cubic yards as the unit of measurement. 3984

(B) Prior to the approval under division (A) of section 3985
3734.56 of the Revised Code of the first amended plan that the 3986
district is required to submit for approval under that section, 3987
the approval of an initial plan under section 3734.521 of the 3988
Revised Code, the approval of an amended plan under section 3989
3734.521 or division (D) of section 3734.56 of the Revised Code, 3990
or the amendment of the district's plan under division (E) of 3991

section 3734.56 of the Revised Code, the solid waste management 3992
policy committee of a county or joint district that is operating 3993
under an initial plan approved under section 3734.55 of the 3994
Revised Code, or one for which approval of its initial plan is 3995
pending before the director of environmental protection on October 3996
29, 1993, under section 3734.55 of the Revised Code, may levy a 3997
fee under division (A) of this section by adopting and obtaining 3998
ratification of a resolution establishing the amount of the fee. A 3999
policy committee that, after December 1, 1993, concurrently 4000
proposes to levy a fee under division (A) of this section and to 4001
amend the fees levied by the district under divisions (B)(1) to 4002
(3) of section 3734.57 of the Revised Code may adopt and obtain 4003
ratification of one resolution proposing to do both. The 4004
requirements and procedures set forth in division (B) of section 4005
3734.57 of the Revised Code governing the adoption, amendment, and 4006
repeal of resolutions levying fees under divisions (B)(1) to (3) 4007
of that section, the ratification of those resolutions, and the 4008
notification of owners and operators of solid waste facilities 4009
required to collect fees levied under those divisions govern the 4010
adoption of the resolutions authorized to be adopted under this 4011
division, the ratification thereof, and the notification of owners 4012
and operators required to collect the fees, except as otherwise 4013
specifically provided in division (C) of this section. 4014

(C) Any initial or amended plan of a district adopted under 4015
section 3734.521 or 3734.56 of the Revised Code, or resolution 4016
adopted under division (B) of this section, that proposes to levy 4017
a fee under division (A) of this section that exceeds five dollars 4018
per ton shall be ratified in accordance with the provisions of 4019
section 3734.55 or division (B) of section 3734.57 of the Revised 4020
Code, as applicable, except that such an initial or amended plan 4021
or resolution shall be approved by a combination of municipal 4022
corporations and townships with a combined population within the 4023
boundaries of the district comprising at least seventy-five per 4024

cent, rather than at least sixty per cent, of the total population 4025
of the district. 4026

(D) The policy committee of a county or joint district may 4027
amend the fee levied by the district under division (A) of this 4028
section by adopting and obtaining ratification of a resolution 4029
establishing the amount of the amended fee. The policy committee 4030
may abolish the fee or an amended fee established under this 4031
division by adopting and obtaining ratification of a resolution 4032
proposing to repeal it. The requirements and procedures under 4033
division (B) and, if applicable, division (C) of this section 4034
govern the adoption and ratification of a resolution authorized to 4035
be adopted under this division and the notification of owners and 4036
operators of solid waste facilities required to collect the fees. 4037

(E) Collection of a fee or amended fee levied under division 4038
(A) or (D) of this section shall commence or cease in accordance 4039
with division (B) of section 3734.57 of the Revised Code. If a 4040
district is levying a fee under section 3734.572 of the Revised 4041
Code, collection of that fee shall cease on the date on which 4042
collection of the fee levied under division (A) of this section 4043
commences in accordance with division (B) of section 3734.57 of 4044
the Revised Code. 4045

(F) In the case of solidwastes that are taken to a solid 4046
waste transfer facility prior to being transported to a solid 4047
waste disposal facility for disposal, the fee levied under 4048
division (A) of this section shall be collected by the owner or 4049
operator of the transfer facility as a trustee for the district. 4050
In the case of solid wastes that are not taken to a solid waste 4051
transfer facility prior to being transported to a solid waste 4052
disposal facility, the fee shall be collected by the owner or 4053
operator of the solid waste disposal facility where the wastes are 4054
disposed of. An owner or operator of a solid waste transfer or 4055
disposal facility who is required to collect the fee shall collect 4056

and forward the fee to the district in accordance with section 4057
3734.57 of the Revised Code and rules adopted under division (H) 4058
of that section. 4059

If the owner or operator of a solid waste transfer or 4060
disposal facility who did not receive notice pursuant to division 4061
(B) of this section to collect the fee levied by a district under 4062
division (A) of this section receives solid wastes generated in 4063
the district, the owner or operator, within thirty days after 4064
receiving the wastes, shall send written notice of that fact to 4065
the board of county commissioners or directors of the district. 4066
Within thirty days after receiving such a notice, the board of 4067
county commissioners or directors shall send written notice to the 4068
owner or operator indicating whether the district is levying a fee 4069
under division (A) of this section and, if so, the amount of the 4070
fee. 4071

(G) Moneys received by a district levying a fee under 4072
division (A) of this section shall be credited to the special fund 4073
of the district created in division (G) of section 3734.57 of the 4074
Revised Code and shall be used exclusively for the purposes 4075
specified in that division. Prior to the approval under division 4076
(A) of section 3734.56 of the Revised Code of the first amended 4077
plan that the district is required to submit for approval under 4078
that section, the approval of an initial plan under section 4079
3734.521 of the Revised Code, the approval of an amended plan 4080
under that section or division (D) of section 3734.56 of the 4081
Revised Code, or the amendment of the district's plan under 4082
division (E) of section 3734.56 of the Revised Code, moneys 4083
credited to the special fund arising from the fee levied pursuant 4084
to a resolution adopted and ratified under division (B) of this 4085
section shall be expended for those purposes in the manner 4086
prescribed by the solid waste management policy committee by 4087
resolution. 4088

(H) The fee levied under division (A) of this section does 4089
not apply to the management of solid wastes that: 4090

(1) Are disposed of at a facility owned by the generator of 4091
the wastes when the solid waste facility exclusively disposes of 4092
solid wastes generated at one or more premises owned by the 4093
generator regardless of whether the facility is located on a 4094
premises where the wastes were generated; 4095

~~(2) Are disposed of at facilities that exclusively dispose of 4096
wastes that are generated from the combustion of coal, or from the 4097
combustion of primarily coal in combination with scrap tires, that 4098
is not combined in any way with garbage at one or more regardless 4099
of whether the disposal facility is located on the premises owned 4100
by the generator where the wastes are generated;~~ 4101

(3) Are asbestos or asbestos-containing materials or products 4102
disposed of at a construction and demolition debris facility that 4103
is licensed under Chapter 3714. of the Revised Code or at a solid 4104
waste facility that is licensed under this chapter. 4105

(I) When solid wastes that are burned in a disposal facility 4106
that is an incinerator or energy recovery facility are delivered 4107
to a solid waste transfer facility prior to being transported to 4108
the incinerator or energy recovery facility where they are burned, 4109
the fee levied under division (A) of this section shall be levied 4110
on the wastes delivered to the transfer facility. 4111

(J) When solid wastes that are burned in a disposal facility 4112
that is an incinerator or energy recovery facility are not 4113
delivered to a solid waste transfer facility prior to being 4114
transported to the incinerator or energy recovery facility where 4115
they are burned, the fee levied under division (A) of this section 4116
shall be levied on the wastes delivered to the incinerator or 4117
energy recovery facility. 4118

(K) The fee levied under division (A) of this section does 4119

not apply to sewage sludge that is generated by a waste water 4120
treatment facility holding a national pollutant discharge 4121
elimination system permit and that is disposed of through 4122
incineration, land application, or composting or at another 4123
resource recovery or disposal facility that is not a landfill. 4124

(L) The fee levied under division (A) of this section does 4125
not apply to solid waste delivered to a solid waste composting 4126
facility for processing. If any unprocessed solid waste or compost 4127
product is transported off the premises of a composting facility 4128
for disposal at a landfill, the fee levied under division (A) of 4129
this section applies and shall be collected by the owner or 4130
operator of the landfill. 4131

(M) The fee levied under division (A) of this section does 4132
not apply to materials separated from a mixed waste stream for 4133
recycling by the generator or materials removed from the solid 4134
waste stream as a result of recycling, as "recycling" is defined 4135
in rules adopted under section 3734.02 of the Revised Code. 4136

(N) The director of environmental protection may issue an 4137
order exempting from the fees levied under this section solid 4138
wastes, including, but not limited to, scrap tires, that are 4139
generated, transferred, or disposed of as a result of a contract 4140
providing for the expenditure of public funds entered into by the 4141
administrator or regional administrator of the United States 4142
environmental protection agency, the director of environmental 4143
protection, or the director of administrative services on behalf 4144
of the director of environmental protection for the purpose of 4145
remediating conditions at a hazardous waste facility, solid waste 4146
facility, or other location at which the administrator or regional 4147
administrator or the director of environmental protection has 4148
reason to believe that there is a substantial threat to public 4149
health or safety or the environment or that the conditions are 4150
causing or contributing to air or water pollution or soil 4151

contamination. An order issued by the director of environmental 4152
protection under this division shall include a determination that 4153
the amount of fees not received by a solid waste management 4154
district as a result of the order will not adversely impact the 4155
implementation and financing of the district's approved solid 4156
waste management plan and any approved amendments to the plan. 4157
Such an order is a final action of the director of environmental 4158
protection. 4159

Sec. 3734.85. (A) On and after the effective date of the 4160
rules adopted under sections 3734.70, 3734.71, 3734.72, and 4161
3734.73 of the Revised Code, the director of environmental 4162
protection may take action under this section to abate 4163
accumulations of scrap tires. If the director determines that an 4164
accumulation of scrap tires constitutes a danger to the public 4165
health or safety or to the environment, the director shall issue 4166
an order under section 3734.13 of the Revised Code to the person 4167
responsible for the accumulation of scrap tires directing that 4168
person, within one hundred twenty days after the issuance of the 4169
order, to remove the accumulation of scrap tires from the premises 4170
on which it is located and transport the tires to a scrap tire 4171
storage, monocell, monofill, or recovery facility licensed under 4172
section 3734.81 of the Revised Code, to such a facility in another 4173
state operating in compliance with the laws of the state in which 4174
it is located, or to any other solid waste disposal facility in 4175
another state that is operating in compliance with the laws of 4176
that state. If the person responsible for causing the accumulation 4177
of scrap tires is a person different from the owner of the land on 4178
which the accumulation is located, the director may issue such an 4179
order to the landowner. 4180

If the director is unable to ascertain immediately the 4181
identity of the person responsible for causing the accumulation of 4182
scrap tires, the director shall examine the records of the 4183

applicable board of health and law enforcement agencies to 4184
ascertain that person's identity. Before initiating any 4185
enforcement or removal actions under this division against the 4186
owner of the land on which the accumulation is located, the 4187
director shall initiate any such actions against the person that 4188
the director has identified as responsible for causing the 4189
accumulation of scrap tires. Failure of the director to make 4190
diligent efforts to ascertain the identity of the person 4191
responsible for causing the accumulation of scrap tires or to 4192
initiate an action against the person responsible for causing the 4193
accumulation shall not constitute an affirmative defense by a 4194
landowner to an enforcement action initiated by the director under 4195
this division requiring immediate removal of any accumulation of 4196
scrap tires. 4197

Upon the written request of the recipient of an order issued 4198
under this division, the director may extend the time for 4199
compliance with the order if the request demonstrates that the 4200
recipient has acted in good faith to comply with the order. If the 4201
recipient of an order issued under this division fails to comply 4202
with the order within one hundred twenty days after the issuance 4203
of the order or, if the time for compliance with the order was so 4204
extended, within that time, the director shall take such actions 4205
as the director considers reasonable and necessary to remove and 4206
properly manage the scrap tires located on the land named in the 4207
order. The director, through employees of the environmental 4208
protection agency or a contractor, may enter upon the land on 4209
which the accumulation of scrap tires is located and remove and 4210
transport them to a scrap tire recovery facility for processing, 4211
to a scrap tire storage facility for storage, or to a scrap tire 4212
monocell or monofill facility for storage or disposal. 4213

The director shall enter into contracts for the storage, 4214
disposal, or processing of scrap tires removed through removal 4215

operations conducted under this section. 4216

If a person to whom a removal order is issued under this 4217
division fails to comply with the order and if the director 4218
performs a removal action under this section, the person to whom 4219
the removal order is issued is liable to the director for the 4220
costs incurred by the director for conducting the removal 4221
operation, storage at a scrap tire storage facility, storage or 4222
disposal at a scrap tire monocell or monofill facility, or 4223
processing of the scrap tires so removed, the transportation of 4224
the scrap tires from the site of the accumulation to the scrap 4225
tire storage, monocell, monofill, or recovery facility where the 4226
scrap tires were stored, disposed of, or processed, and the 4227
administrative and legal expenses incurred by the director in 4228
connection with the removal operation. The director shall keep an 4229
itemized record of those costs. Upon completion of the actions for 4230
which the costs were incurred, the director shall record the costs 4231
at the office of the county recorder of the county in which the 4232
accumulation of scrap tires was located. The costs so recorded 4233
constitute a lien on the property on which the accumulation of 4234
scrap tires was located until discharged. Upon the written request 4235
of the director, the attorney general shall bring a civil action 4236
against the person responsible for the accumulation of the scrap 4237
tires that were the subject of the removal operation to recover 4238
the costs for which the person is liable under this division. Any 4239
money so received or recovered shall be credited to the scrap tire 4240
management fund created in section 3734.82 of the Revised Code. 4241

If, in a civil action brought under this division, an owner 4242
of real property is ordered to pay to the director the costs of a 4243
removal action that removed an accumulation of scrap tires from 4244
the person's land or if a lien is placed on the person's land for 4245
the costs of such a removal action, and, in either case, if the 4246
landowner was not the person responsible for causing the 4247

accumulation of scrap tires so removed, the landowner may bring a 4248
civil action against the person who was responsible for causing 4249
the accumulation to recover the amount of the removal costs that 4250
the court ordered the landowner to pay to the director or the 4251
amount of the removal costs certified to the county recorder as a 4252
lien on the landowner's property, whichever is applicable. If the 4253
landowner prevails in the civil action against the person who was 4254
responsible for causing the accumulation of scrap tires, the 4255
court, as it considers appropriate, may award to the landowner the 4256
reasonable attorney's fees incurred by the landowner for bringing 4257
the action, court costs, and other reasonable expenses incurred by 4258
the landowner in connection with the civil action. A landowner 4259
shall bring such a civil action within two years after making the 4260
final payment of the removal costs to the director pursuant to the 4261
judgment rendered against the landowner in the civil action 4262
brought under this division upon the director's request or within 4263
two years after the director certified the costs of the removal 4264
action to the county recorder, as appropriate. A person who, at 4265
the time that a removal action was conducted under this division, 4266
owned the land on which the removal action was performed may bring 4267
an action under this division to recover the costs of the removal 4268
action from the person responsible for causing the accumulation of 4269
scrap tires so removed regardless of whether the person owns the 4270
land at the time of bringing the action. 4271

Subject to the limitations set forth in division (G) of 4272
section 3734.82 of the Revised Code, the director may use moneys 4273
in the scrap tire management fund for conducting removal actions 4274
under this division. Any moneys recovered under this division 4275
shall be credited to the scrap tire management fund. 4276

(B) The director shall initiate enforcement and removal 4277
actions under division (A) of this section in accordance with the 4278
following descending listing of priorities: 4279

(1) Accumulations of scrap tires that the director finds constitute a fire hazard or threat to public health;	4280 4281
(2) Accumulations of scrap tires determined by the director to contain more than one million scrap tires;	4282 4283
(3) Accumulations of scrap tires in densely populated areas;	4284
(4) Other accumulations of scrap tires that the director or board of health of the health district in which the accumulation is located determines constitute a public nuisance;	4285 4286 4287
(5) Any other accumulations of scrap tires present on premises operating without a valid license issued under section 3734.05 or 3734.81 of the Revised Code.	4288 4289 4290
(C) The director shall not take enforcement and removal actions under division (A) of this section against the owner or operator of, or the owner of the land on which is located, any of the following:	4291 4292 4293 4294
(1) A premises where not more than one hundred scrap tires are present at any time;	4295 4296
(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:	4297 4298
(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location.	4299 4300
(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.	4301 4302
(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;	4303 4304 4305 4306
(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more	4307 4308 4309

than twenty-five hundred square feet; 4310

(5) A solid waste facility licensed under section 3734.05 of 4311
the Revised Code that stores scrap tires on the surface of the 4312
ground if the total land area on which scrap tires are actually 4313
stored does not exceed ten thousand square feet; 4314

(6) A premises where not more than two hundred fifty scrap 4315
tires are stored or kept for agricultural use; 4316

(7) A construction site where scrap tires are stored for use 4317
or used in road resurfacing or the construction of embankments; 4318

(8) A scrap tire collection, storage, monocell, monofill, or 4319
recovery facility licensed under section 3734.81 of the Revised 4320
Code; 4321

(9) A solid waste incineration or energy recovery facility 4322
that is subject to regulation under this chapter and that burns 4323
scrap tires; 4324

(10) A premises where scrap tires are beneficially used and 4325
for which the notice required by rules adopted under section 4326
3734.84 of the Revised Code has been given; 4327

(11) A transporter registered under section 3734.83 of the 4328
Revised Code that collects and holds scrap tires in a covered 4329
trailer or vehicle for not longer than thirty days prior to 4330
transporting them to their final destination. 4331

(D) Nothing in this section restricts any right any person 4332
may have under statute or common law to enforce or seek 4333
enforcement of any law applicable to the management of scrap 4334
tires, abate a nuisance, or seek any other appropriate relief. 4335

(E) An owner of real property upon which there is located an 4336
accumulation of not more than ~~two~~ five thousand scrap tires is not 4337
liable under division (A) of this section for the cost of the 4338
removal of the scrap tires, and no lien shall attach to the 4339

property under this section, if all of the following conditions 4340
are met: 4341

(1) The tires were placed on the property after the owner 4342
acquired title to the property, or the tires were placed on the 4343
property before the owner acquired title to the property and the 4344
owner acquired title to the property by bequest or devise. 4345

(2) The owner of the property did not have knowledge that the 4346
tires were being placed on the property, or the owner posted on 4347
the property signs prohibiting dumping or took other action to 4348
prevent the placing of tires on the property. 4349

(3) The owner of the property did not participate in or 4350
consent to the placing of the tires on the property. 4351

(4) The owner of the property received no financial benefit 4352
from the placing of the tires on the property or otherwise having 4353
the tires on the property. 4354

(5) Title to the property was not transferred to the owner 4355
for the purpose of evading liability under division (A) of this 4356
section. 4357

(6) The person responsible for placing the tires on the 4358
property, in doing so, was not acting as an agent for the owner of 4359
the property. 4360

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the 4361
Revised Code: 4362

(A) "Accidental release" means any sudden or nonsudden 4363
release of petroleum that was neither expected nor intended by the 4364
owner or operator of the applicable underground storage tank 4365
system and that results in the need for corrective action or 4366
compensation for bodily injury or property damage. 4367

(B) "Corrective action" means any action necessary to protect 4368
human health and the environment in the event of a release of 4369

petroleum into the environment, including, without limitation, any 4370
action necessary to monitor, assess, and evaluate the release. In 4371
the instance of a suspected release, "corrective action" includes, 4372
without limitation, an investigation to confirm or disprove the 4373
occurrence of the release. In the instance of a confirmed release, 4374
"corrective action" includes, without limitation, the initial 4375
corrective action taken under section 3737.88 or 3737.882 of the 4376
Revised Code and rules adopted or orders issued under those 4377
sections and any action taken consistent with a remedial action to 4378
clean up contaminated ground water, surface water, soils, and 4379
subsurface material and to address the residual effects of a 4380
release after the initial corrective action is taken. 4381

(C) "Eligible lending institution" means a financial 4382
institution that is eligible to make commercial loans, is a public 4383
depository of state funds under section 135.03 of the Revised 4384
Code, and agrees to participate in the petroleum underground 4385
storage tank linked deposit program provided for in sections 4386
3737.95 to 3737.98 of the Revised Code. 4387

(D) "Eligible owner" means any person that owns six or fewer 4388
petroleum underground storage tanks comprising a petroleum 4389
underground storage tank or underground storage tank system. 4390

(E) "Installer" means a person who supervises the 4391
installation of, performance of major repairs on site to, 4392
abandonment of, or removal of underground storage tank systems. 4393

(F) "Major repair" means the restoration of a tank or an 4394
underground storage tank system component that has caused a 4395
release of a product from the underground storage tank system, ~~the~~ 4396
~~upgrading of a tank or an underground storage tank system~~ 4397
~~component, or the modification of a tank or an underground storage~~ 4398
~~tank system component.~~ "Major repair" does not include 4399
modifications, upgrades, or routine maintenance for normal 4400
operational upkeep to prevent an underground storage tank system 4401

from releasing a product. 4402

(G) "Operator" means the person in daily control of, or 4403
having responsibility for the daily operation of, an underground 4404
storage tank system. 4405

(H) "Owner" means: 4406

(1) In the instance of an underground storage tank system in 4407
use on November 8, 1984, or brought into use after that date, the 4408
person who owns the underground storage tank system; 4409

(2) In the instance of an underground storage tank system in 4410
use before November 8, 1984, that was no longer in use on that 4411
date, the person who owned the underground storage tank system 4412
immediately before the discontinuation of its use. 4413

"Owner" includes any person who holds, or, in the instance of 4414
an underground storage tank system in use before November 8, 1984, 4415
but no longer in use on that date, any person who held immediately 4416
before the discontinuation of its use, a legal, equitable, or 4417
possessory interest of any kind in an underground storage tank 4418
system or in the property on which the underground storage tank 4419
system is located, including, without limitation, a trust, vendor, 4420
vendee, lessor, or lessee. "Owner" does not include any person 4421
who, without participating in the management of an underground 4422
storage tank system and without otherwise being engaged in 4423
petroleum production, refining, or marketing, holds indicia of 4424
ownership in an underground storage tank system primarily to 4425
protect the person's security interest in it. 4426

(I) "Person," in addition to the meaning in section 3737.01 4427
of the Revised Code, means the United States and any department, 4428
agency, or instrumentality thereof. 4429

(J) "Petroleum" means petroleum, including crude oil or any 4430
fraction thereof, that is a liquid at the temperature of sixty 4431
degrees Fahrenheit and the pressure of fourteen and seven-tenths 4432

pounds per square inch absolute. "Petroleum" includes, without 4433
limitation, motor fuels, jet fuels, distillate fuel oils, residual 4434
fuel oils, lubricants, petroleum solvents, and used oils. 4435

(K) "Petroleum underground storage tank linked deposit" means 4436
a certificate of deposit placed by the treasurer of state with an 4437
eligible lending institution pursuant to sections 3737.95 to 4438
3737.98 of the Revised Code. 4439

(L) "Regulated substance" means petroleum or any substance 4440
identified or listed as a hazardous substance in rules adopted 4441
under division (D) of section 3737.88 of the Revised Code. 4442

(M) "Release" means any spilling, leaking, emitting, 4443
discharging, escaping, leaching, or disposing of from an 4444
underground storage tank system into ground or surface water or 4445
subsurface soils or otherwise into the environment. 4446

(N) Notwithstanding division (F) of section 3737.01 of the 4447
Revised Code, "responsible person" means the person who is the 4448
owner or operator of an underground storage tank system. 4449

(O) "Tank" means a stationary device designed to contain an 4450
accumulation of regulated substances that is constructed of 4451
manufactured materials. 4452

(P) "Underground storage tank" means one or any combination 4453
of tanks, including the underground pipes connected thereto, that 4454
are used to contain an accumulation of regulated substances the 4455
volume of which, including the volume of the underground pipes 4456
connected thereto, is ten per cent or more beneath the surface of 4457
the ground. 4458

"Underground storage tank" does not include any of the 4459
following or any pipes connected to any of the following: 4460

(1) Pipeline facilities, including gathering lines, regulated 4461
under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 4462

49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended;	4463 4464
(2) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;	4465 4466 4467
(3) Tanks used for storing heating fuel for consumptive use on the premises where stored;	4468 4469
(4) Surface impoundments, pits, ponds, or lagoons;	4470
(5) Storm or waste water collection systems;	4471
(6) Flow-through process tanks;	4472
(7) Storage tanks located in underground areas, including, without limitation, basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;	4473 4474 4475 4476
(8) Septic tanks;	4477
(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.	4478 4479
(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.	4480 4481 4482
(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.	4483 4484 4485 4486 4487 4488 4489
(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue	4490 4491 4492

refunding bonds that are issued by the petroleum underground 4493
storage tank release compensation board pursuant to sections 4494
3737.90 to 3737.948 of the Revised Code. 4495

(T) "Class C release" means a release of petroleum occurring 4496
or identified from an underground storage tank system subject to 4497
sections 3737.87 to 3737.89 of the Revised Code for which the 4498
responsible person for the release is specifically determined by 4499
the fire marshal not to be a viable person capable of undertaking 4500
or completing the corrective actions required under those sections 4501
for the release. "Class C release" also includes any release 4502
designated as a "class C release" in accordance with rules adopted 4503
under section 3737.88 of the Revised Code. 4504

Sec. 3737.88. (A)(1) The fire marshal shall have 4505
responsibility for implementation of the underground storage tank 4506
program and corrective action program for releases of petroleum 4507
from underground storage tanks established by the "Resource 4508
Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 4509
6901, as amended. To implement the programs, the fire marshal may 4510
adopt, amend, and rescind such rules, conduct such inspections, 4511
require annual registration of underground storage tanks, issue 4512
such citations and orders to enforce those rules, enter into 4513
environmental covenants in accordance with sections 5301.80 to 4514
5301.92 of the Revised Code, and perform such other duties, as are 4515
consistent with those programs. The fire marshal, by rule, may 4516
delegate the authority to conduct inspections of underground 4517
storage tanks to certified fire safety inspectors. 4518

(2) In the place of any rules regarding release containment 4519
and release detection for underground storage tanks adopted under 4520
division (A)(1) of this section, the fire marshal, by rule, shall 4521
designate areas as being sensitive for the protection of human 4522
health and the environment and adopt alternative rules regarding 4523

release containment and release detection methods for new and 4524
upgraded underground storage tank systems located in those areas. 4525
In designating such areas, the fire marshal shall take into 4526
consideration such factors as soil conditions, hydrogeology, water 4527
use, and the location of public and private water supplies. Not 4528
later than July 11, 1990, the fire marshal shall file the rules 4529
required under this division with the secretary of state, director 4530
of the legislative service commission, and joint committee on 4531
agency rule review in accordance with divisions (B) and (H) of 4532
section 119.03 of the Revised Code. 4533

(3) Notwithstanding sections 3737.87 to 3737.89 of the 4534
Revised Code, a person who is not a responsible person, as 4535
determined by the fire marshal pursuant to this chapter, may 4536
conduct a voluntary action in accordance with Chapter 3746. of the 4537
Revised Code and rules adopted under it for ~~a~~ either of the 4538
following: 4539

(a) A class C release; 4540

(b) A release, other than a class C release, that is subject 4541
to the rules adopted by the fire marshal under division (B) of 4542
section 3737.882 of the Revised Code pertaining to a corrective 4543
action, provided that both of the following apply: 4544

(i) The voluntary action also addresses hazardous substances 4545
or petroleum that is not subject to the rules adopted under 4546
division (B) of section 3737.882 of the Revised Code pertaining to 4547
a corrective action. 4548

(ii) The fire marshal has not issued an administrative order 4549
concerning the release or referred the release to the attorney 4550
general for enforcement. The 4551

The director of environmental protection, pursuant to section 4552
3746.12 of the Revised Code, may issue a covenant not to sue to 4553
any person who properly completes a voluntary action with respect 4554

to ~~a class C~~ any such release in accordance with Chapter 3746. of 4555
the Revised Code and rules adopted under it. 4556

(B) Before adopting any rule under this section or section 4557
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 4558
file written notice of the proposed rule with the chairperson of 4559
the state fire council, and, within sixty days after notice is 4560
filed, the council may file responses to or comments on and may 4561
recommend alternative or supplementary rules to the fire marshal. 4562
At the end of the sixty-day period or upon the filing of 4563
responses, comments, or recommendations by the council, the fire 4564
marshal may adopt the rule filed with the council or any 4565
alternative or supplementary rule recommended by the council. 4566

(C) The state fire council may recommend courses of action to 4567
be taken by the fire marshal in carrying out the fire marshal's 4568
duties under this section. The council shall file its 4569
recommendations in the office of the fire marshal, and, within 4570
sixty days after the recommendations are filed, the fire marshal 4571
shall file with the chairperson of the council comments on, and 4572
proposed action in response to, the recommendations. 4573

(D) For the purpose of sections 3737.87 to 3737.89 of the 4574
Revised Code, the fire marshal shall adopt, and may amend and 4575
rescind, rules identifying or listing hazardous substances. The 4576
rules shall be consistent with and equivalent in scope, coverage, 4577
and content to regulations identifying or listing hazardous 4578
substances adopted under the "Comprehensive Environmental 4579
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 4580
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 4581
not identify or list as a hazardous substance any hazardous waste 4582
identified or listed in rules adopted under division (A) of 4583
section 3734.12 of the Revised Code. 4584

(E) Except as provided in division (A)(3) of this section, 4585
the fire marshal shall have exclusive jurisdiction to regulate the 4586

storage, treatment, and disposal of petroleum contaminated soil 4587
generated from corrective actions undertaken in response to 4588
releases of petroleum from underground storage tank systems. The 4589
fire marshal may adopt, amend, or rescind such rules as the fire 4590
marshal considers to be necessary or appropriate to regulate the 4591
storage, treatment, or disposal of petroleum contaminated soil so 4592
generated. 4593

(F) The fire marshal shall adopt, amend, and rescind rules 4594
under sections 3737.88 to 3737.882 of the Revised Code in 4595
accordance with Chapter 119. of the Revised Code. 4596

Sec. 3745.017. (A) As used in this section: 4597

(1) "Environmental law" means a law that is administered by 4598
the environmental protection agency. 4599

(2) "Regulated entity" means an entity that is regulated 4600
under an environmental law. 4601

(B)(1) The director of environmental protection may establish 4602
within the agency a program for providing compliance and pollution 4603
prevention assistance to regulated entities. Services provided 4604
under the program may include all of the following: 4605

(a) Establishment of a statewide toll-free telephone hotline 4606
to respond to questions about environmental requirements and 4607
pollution prevention; 4608

(b) Development and distribution of educational materials 4609
regarding environmental requirements and pollution prevention; 4610

(c) Provision of outreach and training on environmental 4611
requirements and pollution prevention; 4612

(d) Provision of on-site assistance to regulated entities to 4613
help them identify applicable requirements and opportunities for 4614
pollution prevention and waste reduction; 4615

(e) Provision of assistance to regulated entities that are 4616
small businesses in completing forms and permit applications, 4617
including assistance with permit applications pursuant to section 4618
3704.18 of the Revised Code; 4619

(f) Conducting annual surveys to solicit comments and gauge 4620
satisfaction from regulated entities that have sought assistance 4621
under the program. The director shall utilize solicited comments 4622
for the purpose of improving outreach and assistance. 4623

(g) Additional services that the director determines are 4624
necessary to assist regulated entities. 4625

(2) The director may assign employees of the agency to 4626
administer the program and assist in providing the services 4627
specified in division (B)(1) of this section. 4628

(C) Except as provided in division (D) of this section, 4629
information obtained or created by employees of the agency who 4630
administer the program when providing any of the services 4631
specified in division (B)(1) of this section shall be held 4632
confidential unless any of the following applies: 4633

(1) The information reveals a clear and immediate danger to 4634
the environment and to the health, safety, or welfare of the 4635
public. 4636

(2) The information is obtained independently by the director 4637
or the director's authorized representatives as part of a 4638
compliance inspection, record review, investigation, or 4639
enforcement proceeding by the agency. 4640

(3) The information is emissions data or other information 4641
concerning which holding the information as either confidential 4642
business information or trade secrets is expressly prohibited 4643
pursuant to the federal Clean Air Act as defined in section 4644
3704.01 of the Revised Code, the federal Water Pollution Control 4645
Act as defined in section 6111.01 of the Revised Code, or another 4646

applicable federal law. 4647

(4) The information is otherwise required by state or federal law to be disclosed publicly or made available to a government agency. 4648
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(D) When information has been submitted by a regulated entity to a division or office of the agency as part of a permit application, required report, or notification or to comply with any other regulatory reporting requirement, that information shall not be considered confidential by other divisions or offices of the agency unless it is determined to be a trade secret as defined in section 1333.61 of the Revised Code. 4651
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(E) No information that is submitted to, acquired by, or exchanged with employees of the agency who administer or provide services under the program that is authorized to be established under this section and that is confidential pursuant to division (C) of this section shall be used in any manner for the purpose of the enforcement of any requirement established in an environmental law or used as evidence in any judicial or administrative enforcement proceeding. 4658
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(F) Nothing in this section confers immunity on persons from enforcement that is based on information that is obtained by the director or the director's authorized representatives who are not employees of the agency who administer or provide services under the program that is authorized to be established under this section. 4666
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Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No 4672
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fee shall be charged for any issuance for which no application has 4678
been submitted to the director. 4679

(B) Each person who is issued a permit to install prior to 4680
July 1, 2003, pursuant to rules adopted under division (F) of 4681
section 3704.03 of the Revised Code shall pay the fees specified 4682
in the following schedules: 4683

(1) Fuel-burning equipment (boilers) 4684
Input capacity (maximum) 4685
(million British thermal units per hour) Permit to install 4686
Greater than 0, but less than 10 \$ 200 4687
10 or more, but less than 100 400 4688
100 or more, but less than 300 800 4689
300 or more, but less than 500 1500 4690
500 or more, but less than 1000 2500 4691
1000 or more, but less than 5000 4000 4692
5000 or more 6000 4693

Units burning exclusively natural gas, number two fuel oil, 4694
or both shall be assessed a fee that is one-half of the applicable 4695
amount established in division (F)(1) of this section. 4696

(2) Incinerators 4697
Input capacity (pounds per hour) Permit to install 4698
0 to 100 \$ 100 4699
101 to 500 400 4700
501 to 2000 750 4701
2001 to 20,000 1000 4702
more than 20,000 2500 4703

(3)(a) Process 4704
Process weight rate (pounds per hour) Permit to install 4705
0 to 1000 \$ 200 4706
1001 to 5000 400 4707
5001 to 10,000 600 4708

10,001 to 50,000	800	4709
more than 50,000	1000	4710

In any process where process weight rate cannot be 4711
ascertained, the minimum fee shall be assessed. 4712

(b) Notwithstanding division (B)(3)(a) of this section, any 4713
person issued a permit to install pursuant to rules adopted under 4714
division (F) of section 3704.03 of the Revised Code shall pay the 4715
fees established in division (B)(3)(c) of this section for a 4716
process used in any of the following industries, as identified by 4717
the applicable four-digit standard industrial classification code 4718
according to the Standard Industrial Classification Manual 4719
published by the United States office of management and budget in 4720
the executive office of the president, 1972, as revised: 4721

1211 Bituminous coal and lignite mining; 4722

1213 Bituminous coal and lignite mining services; 4723

1411 Dimension stone; 4724

1422 Crushed and broken limestone; 4725

1427 Crushed and broken stone, not elsewhere classified; 4726

1442 Construction sand and gravel; 4727

1446 Industrial sand; 4728

3281 Cut stone and stone products; 4729

3295 Minerals and earth, ground or otherwise treated. 4730

(c) The fees established in the following schedule apply to 4731
the issuance of a permit to install pursuant to rules adopted 4732
under division (F) of section 3704.03 of the Revised Code for a 4733
process listed in division (B)(3)(b) of this section: 4734

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	4736
10,001 to 50,000	300	4737

50,001 to 100,000	400	4738
100,001 to 200,000	500	4739
200,001 to 400,000	600	4740
400,001 or more	700	4741
(4) Storage tanks		4742
Gallons (maximum useful capacity)	Permit to install	4743
0 to 20,000	\$ 100	4744
20,001 to 40,000	150	4745
40,001 to 100,000	200	4746
100,001 to 250,000	250	4747
250,001 to 500,000	350	4748
500,001 to 1,000,000	500	4749
1,000,001 or greater	750	4750
(5) Gasoline/fuel dispensing facilities		4751
For each gasoline/fuel dispensing facility	Permit to install	4752
	\$ 100	4753
(6) Dry cleaning facilities		4754
For each dry cleaning facility (includes all units at the facility)	Permit to install	4755
	\$ 100	4756
(7) Registration status		4757
For each source covered by registration status	Permit to install	4758
	\$ 75	4759
(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.		4760 4761 4762 4763 4764 4765 4766 4767 4768

The following fees shall be assessed on the total actual 4769
emissions from a source in tons per year of the regulated 4770
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 4771
organic compounds, and lead: 4772

(a) Fifteen dollars per ton on the total actual emissions of 4773
each such regulated pollutant during the period July through 4774
December 1993, to be collected no sooner than July 1, 1994; 4775

(b) Twenty dollars per ton on the total actual emissions of 4776
each such regulated pollutant during calendar year 1994, to be 4777
collected no sooner than April 15, 1995; 4778

(c) Twenty-five dollars per ton on the total actual emissions 4779
of each such regulated pollutant in calendar year 1995, and each 4780
subsequent calendar year, to be collected no sooner than the 4781
fifteenth day of April of the year next succeeding the calendar 4782
year in which the emissions occurred. 4783

The fees levied under division (C)(1) of this section do not 4784
apply to that portion of the emissions of a regulated pollutant at 4785
a facility that exceed four thousand tons during a calendar year. 4786

(2) The fees assessed under division (C)(1) of this section 4787
are for the purpose of providing funding for the Title V permit 4788
program. 4789

(3) The fees assessed under division (C)(1) of this section 4790
do not apply to emissions from any electric generating unit 4791
designated as a Phase I unit under Title IV of the federal Clean 4792
Air Act prior to calendar year 2000. Those fees shall be assessed 4793
on the emissions from such a generating unit commencing in 4794
calendar year 2001 based upon the total actual emissions from the 4795
generating unit during calendar year 2000 and shall continue to be 4796
assessed each subsequent calendar year based on the total actual 4797
emissions from the generating unit during the preceding calendar 4798
year. 4799

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay

a single fee based upon the sum of the actual annual emissions 4832
from the facility of the regulated pollutants particulate matter, 4833
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 4834
accordance with the following schedule: 4835

Total tons per year 4836		
of regulated pollutants 4837	Annual fee	
emitted 4838	per facility	
More than 0, but less than 10 4839	\$ 100	
10 or more, but less than 50 4840	200	
50 or more, but less than 100 4841	300	
100 or more 4842	700	

(3)(a) As used in division (D) of this section, "synthetic 4843
minor facility" means a facility for which one or more permits to 4844
install or permits to operate have been issued for the air 4845
contaminant sources at the facility that include terms and 4846
conditions that lower the facility's potential to emit air 4847
contaminants below the major source thresholds established in 4848
rules adopted under section 3704.036 of the Revised Code. 4849

(b) Beginning January 1, 2000, through June 30, 2014, each 4850
person who owns or operates a synthetic minor facility shall pay 4851
an annual fee based on the sum of the actual annual emissions from 4852
the facility of particulate matter, sulfur dioxide, nitrogen 4853
dioxide, organic compounds, and lead in accordance with the 4854
following schedule: 4855

Combined total tons 4856		
per year of all regulated 4857	Annual fee	
pollutants emitted 4858	per facility	
Less than 10 4859	\$ 170	
10 or more, but less than 20 4860	340	
20 or more, but less than 30 4861	670	
30 or more, but less than 40 4862	1,010	
40 or more, but less than 50 4863	1,340	

50 or more, but less than 60	1,680	4864
60 or more, but less than 70	2,010	4865
70 or more, but less than 80	2,350	4866
80 or more, but less than 90	2,680	4867
90 or more, but less than 100	3,020	4868
100 or more	3,350	4869

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees

assessed under that division and to the public. 4897

(2) For the purposes of division (E)(1) of this section: 4898

(a) The consumer price index for any year is the average of 4899
the consumer price index for all urban consumers published by the 4900
United States department of labor as of the close of the 4901
twelve-month period ending on the thirty-first day of August of 4902
that year. 4903

(b) If the 1989 consumer price index is revised, the director 4904
shall use the revision of the consumer price index that is most 4905
consistent with that for calendar year 1989. 4906

(F) Each person who is issued a permit to install pursuant to 4907
rules adopted under division (F) of section 3704.03 of the Revised 4908
Code on or after July 1, 2003, shall pay the fees specified in the 4909
following schedules: 4910

(1) Fuel-burning equipment (boilers, furnaces, or process 4911
heaters used in the process of burning fuel for the primary 4912
purpose of producing heat or power by indirect heat transfer) 4913

Input capacity (maximum) 4914

(million British thermal units per hour) Permit to install 4915

Greater than 0, but less than 10 \$ 200 4916

10 or more, but less than 100 400 4917

100 or more, but less than 300 1000 4918

300 or more, but less than 500 2250 4919

500 or more, but less than 1000 3750 4920

1000 or more, but less than 5000 6000 4921

5000 or more 9000 4922

Units burning exclusively natural gas, number two fuel oil, 4923
or both shall be assessed a fee that is one-half the applicable 4924
amount shown in division (F)(1) of this section. 4925

(2) Combustion turbines and stationary internal combustion 4926
engines designed to generate electricity 4927

Generating capacity (mega watts)	Permit to install	4928
0 or more, but less than 10	\$ 25	4929
10 or more, but less than 25	150	4930
25 or more, but less than 50	300	4931
50 or more, but less than 100	500	4932
100 or more, but less than 250	1000	4933
250 or more	2000	4934

(3) Incinerators 4935

Input capacity (pounds per hour)	Permit to install	4936
0 to 100	\$ 100	4937
101 to 500	500	4938
501 to 2000	1000	4939
2001 to 20,000	1500	4940
more than 20,000	3750	4941

(4)(a) Process 4942

Process weight rate (pounds per hour)	Permit to install	4943
0 to 1000	\$ 200	4944
1001 to 5000	500	4945
5001 to 10,000	750	4946
10,001 to 50,000	1000	4947
more than 50,000	1250	4948

In any process where process weight rate cannot be 4949
ascertained, the minimum fee shall be assessed. A boiler, furnace, 4950
combustion turbine, stationary internal combustion engine, or 4951
process heater designed to provide direct heat or power to a 4952
process not designed to generate electricity shall be assessed a 4953
fee established in division (F)(4)(a) of this section. A 4954
combustion turbine or stationary internal combustion engine 4955
designed to generate electricity shall be assessed a fee 4956
established in division (F)(2) of this section. 4957

(b) Notwithstanding division (F)(4)(a) of this section, any 4958
person issued a permit to install pursuant to rules adopted under 4959

division (F) of section 3704.03 of the Revised Code shall pay the 4960
fees set forth in division (F)(4)(c) of this section for a process 4961
used in any of the following industries, as identified by the 4962
applicable two-digit, three-digit, or four-digit standard 4963
industrial classification code according to the Standard 4964
Industrial Classification Manual published by the United States 4965
office of management and budget in the executive office of the 4966
president, 1987, as revised: 4967

Major group 10, metal mining; 4968

Major group 12, coal mining; 4969

Major group 14, mining and quarrying of nonmetallic minerals; 4970

Industry group 204, grain mill products; 4971

2873 Nitrogen fertilizers; 4972

2874 Phosphatic fertilizers; 4973

3281 Cut stone and stone products; 4974

3295 Minerals and earth, ground or otherwise treated; 4975

4221 Grain elevators (storage only); 4976

5159 Farm related raw materials; 4977

5261 Retail nurseries and lawn and garden supply stores. 4978

(c) The fees set forth in the following schedule apply to the 4979
issuance of a permit to install pursuant to rules adopted under 4980
division (F) of section 3704.03 of the Revised Code for a process 4981
identified in division (F)(4)(b) of this section: 4982

Process weight rate (pounds per 4983 hour)	Permit to install	
0 to 10,000	\$ 200	4984
10,001 to 50,000	400	4985
50,001 to 100,000	500	4986
100,001 to 200,000	600	4987

200,001 to 400,000	750	4988
400,001 or more	900	4989
(5) Storage tanks		4990
Gallons (maximum useful capacity)	Permit to install	4991
0 to 20,000	\$ 100	4992
20,001 to 40,000	150	4993
40,001 to 100,000	250	4994
100,001 to 500,000	400	4995
500,001 or greater	750	4996
(6) Gasoline/fuel dispensing facilities		4997
For each gasoline/fuel		4998
dispensing facility (includes all	Permit to install	4999
units at the facility)	\$ 100	5000
(7) Dry cleaning facilities		5001
For each dry cleaning		5002
facility (includes all units	Permit to install	5003
at the facility)	\$ 100	5004
(8) Registration status		5005
For each source covered	Permit to install	5006
by registration status	\$ 75	5007
(G) An owner or operator who is responsible for an asbestos		5008
demolition or renovation project pursuant to rules adopted under		5009
section 3704.03 of the Revised Code shall pay the fees set forth		5010
in the following schedule:		5011
Action	Fee	5012
Each notification	\$75	5013
Asbestos removal	\$3/unit	5014
Asbestos cleanup	\$4/cubic yard	5015
For purposes of this division, "unit" means any combination of		5016
linear feet or square feet equal to fifty.		5017
(H) A person who is issued an extension of time for a permit		5018

to install an air contaminant source pursuant to rules adopted 5019
under division (F) of section 3704.03 of the Revised Code shall 5020
pay a fee equal to one-half the fee originally assessed for the 5021
permit to install under this section, except that the fee for such 5022
an extension shall not exceed two hundred dollars. 5023

(I) A person who is issued a modification to a permit to 5024
install an air contaminant source pursuant to rules adopted under 5025
section 3704.03 of the Revised Code shall pay a fee equal to 5026
one-half of the fee that would be assessed under this section to 5027
obtain a permit to install the source. The fee assessed by this 5028
division only applies to modifications that are initiated by the 5029
owner or operator of the source and shall not exceed two thousand 5030
dollars. 5031

(J) Notwithstanding division (B) or (F) of this section, a 5032
person who applies for or obtains a permit to install pursuant to 5033
rules adopted under division (F) of section 3704.03 of the Revised 5034
Code after the date actual construction of the source began shall 5035
pay a fee for the permit to install that is equal to twice the fee 5036
that otherwise would be assessed under the applicable division 5037
unless the applicant received authorization to begin construction 5038
under division (W) of section 3704.03 of the Revised Code. This 5039
division only applies to sources for which actual construction of 5040
the source begins on or after July 1, 1993. The imposition or 5041
payment of the fee established in this division does not preclude 5042
the director from taking any administrative or judicial 5043
enforcement action under this chapter, Chapter 3704., 3714., 5044
3734., or 6111. of the Revised Code, or a rule adopted under any 5045
of them, in connection with a violation of rules adopted under 5046
division (F) of section 3704.03 of the Revised Code. 5047

As used in this division, "actual construction of the source" 5048
means the initiation of physical on-site construction activities 5049
in connection with improvements to the source that are permanent 5050

in nature, including, without limitation, the installation of 5051
building supports and foundations and the laying of underground 5052
pipework. 5053

(K) Fifty cents per ton of each fee assessed under division 5054
(C) of this section on actual emissions from a source and received 5055
by the environmental protection agency pursuant to that division 5056
shall be deposited into the state treasury to the credit of the 5057
small business assistance fund created in section 3706.19 of the 5058
Revised Code. The remainder of the moneys received by the division 5059
pursuant to that division and moneys received by the agency 5060
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 5061
section shall be deposited in the state treasury to the credit of 5062
the clean air fund created in section 3704.035 of the Revised 5063
Code. 5064

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 5065
or (c) of this section, a person issued a water discharge permit 5066
or renewal of a water discharge permit pursuant to Chapter 6111. 5067
of the Revised Code shall pay a fee based on each point source to 5068
which the issuance is applicable in accordance with the following 5069
schedule: 5070

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	5072
1,001 to 5000	100	5073
5,001 to 50,000	200	5074
50,001 to 100,000	300	5075
100,001 to 300,000	525	5076
over 300,000	750	5077

(b) Notwithstanding the fee schedule specified in division 5078
(L)(1)(a) of this section, the fee for a water discharge permit 5079
that is applicable to coal mining operations regulated under 5080
Chapter 1513. of the Revised Code shall be two hundred fifty 5081
dollars per mine. 5082

(c) Notwithstanding the fee schedule specified in division 5083
(L)(1)(a) of this section, the fee for a water discharge permit 5084
for a public discharger identified by I in the third character of 5085
the permittee's NPDES permit number shall not exceed seven hundred 5086
fifty dollars. 5087

(2) A person applying for a plan approval for a wastewater 5088
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 5089
of the Revised Code shall pay a fee of one hundred dollars plus 5090
sixty-five one-hundredths of one per cent of the estimated project 5091
cost through June 30, 2014, and one hundred dollars plus 5092
two-tenths of one per cent of the estimated project cost on and 5093
after July 1, 2014, except that the total fee shall not exceed 5094
fifteen thousand dollars through June 30, 2014, and five thousand 5095
dollars on and after July 1, 2014. The fee shall be paid at the 5096
time the application is submitted. 5097

(3) A person issued a modification of a water discharge 5098
permit shall pay a fee equal to one-half the fee that otherwise 5099
would be charged for a water discharge permit, except that the fee 5100
for the modification shall not exceed four hundred dollars. 5101

(4) A person who has entered into an agreement with the 5102
director under section 6111.14 of the Revised Code shall pay an 5103
administrative service fee for each plan submitted under that 5104
section for approval that shall not exceed the minimum amount 5105
necessary to pay administrative costs directly attributable to 5106
processing plan approvals. The director annually shall calculate 5107
the fee and shall notify all persons who have entered into 5108
agreements under that section, or who have applied for agreements, 5109
of the amount of the fee. 5110

(5)(a)(i) Not later than January 30, 2012, and January 30, 5111
2013, a person holding an NPDES discharge permit issued pursuant 5112
to Chapter 6111. of the Revised Code with an average daily 5113
discharge flow of five thousand gallons or more shall pay a 5114

nonrefundable annual discharge fee. Any person who fails to pay 5115
the fee at that time shall pay an additional amount that equals 5116
ten per cent of the required annual discharge fee. 5117

(ii) The billing year for the annual discharge fee 5118
established in division (L)(5)(a)(i) of this section shall consist 5119
of a twelve-month period beginning on the first day of January of 5120
the year preceding the date when the annual discharge fee is due. 5121
In the case of an existing source that permanently ceases to 5122
discharge during a billing year, the director shall reduce the 5123
annual discharge fee, including the surcharge applicable to 5124
certain industrial facilities pursuant to division (L)(5)(c) of 5125
this section, by one-twelfth for each full month during the 5126
billing year that the source was not discharging, but only if the 5127
person holding the NPDES discharge permit for the source notifies 5128
the director in writing, not later than the first day of October 5129
of the billing year, of the circumstances causing the cessation of 5130
discharge. 5131

(iii) The annual discharge fee established in division 5132
(L)(5)(a)(i) of this section, except for the surcharge applicable 5133
to certain industrial facilities pursuant to division (L)(5)(c) of 5134
this section, shall be based upon the average daily discharge flow 5135
in gallons per day calculated using first day of May through 5136
thirty-first day of October flow data for the period two years 5137
prior to the date on which the fee is due. In the case of NPDES 5138
discharge permits for new sources, the fee shall be calculated 5139
using the average daily design flow of the facility until actual 5140
average daily discharge flow values are available for the time 5141
period specified in division (L)(5)(a)(iii) of this section. The 5142
annual discharge fee may be prorated for a new source as described 5143
in division (L)(5)(a)(ii) of this section. 5144

(b) An NPDES permit holder that is a public discharger shall 5145
pay the fee specified in the following schedule: 5146

Average daily	Fee due by	5147
discharge flow	January 30,	5148
	2012, and	5149
	January 30, 2013	5150
5,000 to 49,999	\$ 200	5151
50,000 to 100,000	500	5152
100,001 to 250,000	1,050	5153
250,001 to 1,000,000	2,600	5154
1,000,001 to 5,000,000	5,200	5155
5,000,001 to 10,000,000	10,350	5156
10,000,001 to 20,000,000	15,550	5157
20,000,001 to 50,000,000	25,900	5158
50,000,001 to 100,000,000	41,400	5159
100,000,001 or more	62,100	5160

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily	Fee due by	5173
discharge flow	January 30,	5174
	2012, and	5175
	January 30, 2013	5176
5,000 to 49,999	\$ 250	5177
50,000 to 250,000	1,200	5178

250,001 to 1,000,000	2,950	5179
1,000,001 to 5,000,000	5,850	5180
5,000,001 to 10,000,000	8,800	5181
10,000,001 to 20,000,000	11,700	5182
20,000,001 to 100,000,000	14,050	5183
100,000,001 to 250,000,000	16,400	5184
250,000,001 or more	18,700	5185

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the

fee on the date specified in division (L)(6) of this section shall 5211
pay an additional amount per year equal to ten per cent of the 5212
annual fee that is unpaid. 5213

(7) The director shall transmit all moneys collected under 5214
division (L) of this section to the treasurer of state for deposit 5215
into the state treasury to the credit of the surface water 5216
protection fund created in section 6111.038 of the Revised Code. 5217

(8) As used in division (L) of this section: 5218

(a) "NPDES" means the federally approved national pollutant 5219
discharge elimination system program for issuing, modifying, 5220
revoking, reissuing, terminating, monitoring, and enforcing 5221
permits and imposing and enforcing pretreatment requirements under 5222
Chapter 6111. of the Revised Code and rules adopted under it. 5223

(b) "Public discharger" means any holder of an NPDES permit 5224
identified by P in the second character of the NPDES permit number 5225
assigned by the director. 5226

(c) "Industrial discharger" means any holder of an NPDES 5227
permit identified by I in the second character of the NPDES permit 5228
number assigned by the director. 5229

(d) "Major discharger" means any holder of an NPDES permit 5230
classified as major by the regional administrator of the United 5231
States environmental protection agency in conjunction with the 5232
director. 5233

(M) Through June 30, 2014, a person applying for a license or 5234
license renewal to operate a public water system under section 5235
6109.21 of the Revised Code shall pay the appropriate fee 5236
established under this division at the time of application to the 5237
director. Any person who fails to pay the fee at that time shall 5238
pay an additional amount that equals ten per cent of the required 5239
fee. The director shall transmit all moneys collected under this 5240
division to the treasurer of state for deposit into the drinking 5241

water protection fund created in section 6109.30 of the Revised Code. 5242
5243

Except as provided in division (M)(4) of this section, fees 5244
required under this division shall be calculated and paid in 5245
accordance with the following schedule: 5246

(1) For the initial license required under division (A)(1) of 5247
section 6109.21 of the Revised Code for any public water system 5248
that is a community water system as defined in section 6109.01 of 5249
the Revised Code, and for each license renewal required for such a 5250
system prior to January 31, 2014, the fee is: 5251

Number of service connections	Fee amount	
Not more than 49	\$ 112	5253
50 to 99	176	5254
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	5256
2,500 to 4,999	1.48	5257
5,000 to 7,499	1.42	5258
7,500 to 9,999	1.34	5259
10,000 to 14,999	1.16	5260
15,000 to 24,999	1.10	5261
25,000 to 49,999	1.04	5262
50,000 to 99,999	.92	5263
100,000 to 149,999	.86	5264
150,000 to 199,999	.80	5265
200,000 or more	.76	5266

A public water system may determine how it will pay the total 5267
amount of the fee calculated under division (M)(1) of this 5268
section, including the assessment of additional user fees that may 5269
be assessed on a volumetric basis. 5270

As used in division (M)(1) of this section, "service 5271
connection" means the number of active or inactive pipes, 5272
goosenecks, pigtails, and any other fittings connecting a water 5273

main to any building outlet. 5274

(2) For the initial license required under division (A)(2) of 5275
section 6109.21 of the Revised Code for any public water system 5276
that is not a community water system and serves a nontransient 5277
population, and for each license renewal required for such a 5278
system prior to January 31, 2014, the fee is: 5279

Population served	Fee amount	
Fewer than 150	\$ 112	5281
150 to 299	176	5282
300 to 749	384	5283
750 to 1,499	628	5284
1,500 to 2,999	1,268	5285
3,000 to 7,499	2,816	5286
7,500 to 14,999	5,510	5287
15,000 to 22,499	9,048	5288
22,500 to 29,999	12,430	5289
30,000 or more	16,820	5290

As used in division (M)(2) of this section, "population 5291
served" means the total number of individuals having access to the 5292
water supply during a twenty-four-hour period for at least sixty 5293
days during any calendar year. In the absence of a specific 5294
population count, that number shall be calculated at the rate of 5295
three individuals per service connection. 5296

(3) For the initial license required under division (A)(3) of 5297
section 6109.21 of the Revised Code for any public water system 5298
that is not a community water system and serves a transient 5299
population, and for each license renewal required for such a 5300
system prior to January 31, 2014, the fee is: 5301

Number of wells or sources, other than surface water, supplying system	Fee amount	
1	\$112	5303
2	112	5304

3	176	5305
4	278	5306
5	568	5307
System designated as using a		5308
surface water source	792	5309
As used in division (M)(3) of this section, "number of wells		5310
or sources, other than surface water, supplying system" means		5311
those wells or sources that are physically connected to the		5312
plumbing system serving the public water system.		5313
(4) A public water system designated as using a surface water		5314
source shall pay a fee of seven hundred ninety-two dollars or the		5315
amount calculated under division (M)(1) or (2) of this section,		5316
whichever is greater.		5317
(N)(1) A person applying for a plan approval for a public		5318
water supply system under section 6109.07 of the Revised Code		5319
shall pay a fee of one hundred fifty dollars plus thirty-five		5320
hundredths of one per cent of the estimated project cost, except		5321
that the total fee shall not exceed twenty thousand dollars		5322
through June 30, 2014, and fifteen thousand dollars on and after		5323
July 1, 2014. The fee shall be paid at the time the application is		5324
submitted.		5325
(2) A person who has entered into an agreement with the		5326
director under division (A)(2) of section 6109.07 of the Revised		5327
Code shall pay an administrative service fee for each plan		5328
submitted under that section for approval that shall not exceed		5329
the minimum amount necessary to pay administrative costs directly		5330
attributable to processing plan approvals. The director annually		5331
shall calculate the fee and shall notify all persons that have		5332
entered into agreements under that division, or who have applied		5333
for agreements, of the amount of the fee.		5334
(3) Through June 30, 2014, the following fee, on a per survey		5335
basis, shall be charged any person for services rendered by the		5336

state in the evaluation of laboratories and laboratory personnel		5337
for compliance with accepted analytical techniques and procedures		5338
established pursuant to Chapter 6109. of the Revised Code for		5339
determining the qualitative characteristics of water:		5340
microbiological		5341
MMO-MUG	\$2,000	5342
MF	2,100	5343
MMO-MUG and MF	2,550	5344
organic chemical	5,400	5345
trace metals	5,400	5346
standard chemistry	2,800	5347
limited chemistry	1,550	5348

On and after July 1, 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	5351
organic chemicals	3,500	5352
trace metals	3,500	5353
standard chemistry	1,800	5354
limited chemistry	1,000	5355

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration. 5364
- (b) "MMO" means minimal medium ONPG. 5365
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 5366
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 5367

The director shall transmit all moneys collected under this 5368
division to the treasurer of state for deposit into the drinking 5369
water protection fund created in section 6109.30 of the Revised 5370
Code. 5371

(O) Any person applying to the director ~~for~~ to take an 5372
examination for certification as an operator of a water supply 5373
system or wastewater system under Chapter 6109. or 6111. of the 5374
Revised Code that is administered by the director, at the time the 5375
application is submitted, shall pay ~~an application fee of~~ 5376
~~forty five dollars through November 30, 2014, and twenty five~~ 5377
~~dollars on and after December 1, 2014. Upon approval from the~~ 5378
~~director that the applicant is eligible to take the examination~~ 5379
~~therefor, the applicant shall pay~~ a fee in accordance with the 5380
following schedule through November 30, 2014: 5381

Class A operator	\$35 <u>80</u>	5382
Class I operator	60 <u>105</u>	5383
Class II operator	75 <u>120</u>	5384
Class III operator	85 <u>130</u>	5385
Class IV operator	100 <u>145</u>	5386

On and after December 1, 2014, the applicant shall pay a fee 5387
in accordance with the following schedule: 5388

Class A operator	\$25 <u>50</u>	5389
Class I operator	\$45 <u>70</u>	5390
Class II operator	55 <u>80</u>	5391
Class III operator	65 <u>90</u>	5392
Class IV operator	75 <u>100</u>	5393

Any person applying to the director for certification as an 5394
operator of a water supply system or wastewater system who has 5395
passed an examination administered by an examination provider 5396
approved by the director shall pay a certification fee of 5397
forty-five dollars. 5398

A person shall pay a biennial certification renewal fee for 5399

each applicable class of certification in accordance with the 5400
following schedule: 5401

Class A operator	\$25	5402
Class I operator	35	5403
Class II operator	45	5404
Class III operator	55	5405
Class IV operator	65	5406

If a certification renewal fee is received by the director 5407
more than thirty days, but not more than one year after the 5408
expiration date of the certification, the person shall pay a 5409
certification renewal fee in accordance with the following 5410
schedule: 5411

Class A operator	\$45	5412
Class I operator	55	5413
Class II operator	65	5414
Class III operator	75	5415
Class IV operator	85	5416

A person who requests a replacement certificate shall pay a 5417
fee of twenty-five dollars at the time the request is made. 5418

Any person applying to be a water supply system or wastewater 5419
treatment system examination provider shall pay an application fee 5420
of five hundred dollars. Any person approved by the director as a 5421
water supply system or wastewater treatment system examination 5422
provider shall pay an annual fee that is equal to ten per cent of 5423
the fees that the provider assesses and collects for administering 5424
water supply system or wastewater treatment system certification 5425
examinations in this state for the calendar year. The fee shall be 5426
paid not later than forty-five days after the end of a calendar 5427
year. 5428

The director shall transmit all moneys collected under this 5429
division to the treasurer of state for deposit into the drinking 5430
water protection fund created in section 6109.30 of the Revised 5431

Code. 5432

(P) Any person submitting an application for an industrial 5433
water pollution control certificate under section 6111.31 of the 5434
Revised Code, as that section existed before its repeal by H.B. 95 5435
of the 125th general assembly, shall pay a nonrefundable fee of 5436
five hundred dollars at the time the application is submitted. The 5437
director shall transmit all moneys collected under this division 5438
to the treasurer of state for deposit into the surface water 5439
protection fund created in section 6111.038 of the Revised Code. A 5440
person paying a certificate fee under this division shall not pay 5441
an application fee under division (S)(1) of this section. On and 5442
after June 26, 2003, persons shall file such applications and pay 5443
the fee as required under sections 5709.20 to 5709.27 of the 5444
Revised Code, and proceeds from the fee shall be credited as 5445
provided in section 5709.212 of the Revised Code. 5446

(Q) Except as otherwise provided in division (R) of this 5447
section, a person issued a permit by the director for a new solid 5448
waste disposal facility other than an incineration or composting 5449
facility, a new infectious waste treatment facility other than an 5450
incineration facility, or a modification of such an existing 5451
facility that includes an increase in the total disposal or 5452
treatment capacity of the facility pursuant to Chapter 3734. of 5453
the Revised Code shall pay a fee of ten dollars per thousand cubic 5454
yards of disposal or treatment capacity, or one thousand dollars, 5455
whichever is greater, except that the total fee for any such 5456
permit shall not exceed eighty thousand dollars. A person issued a 5457
modification of a permit for a solid waste disposal facility or an 5458
infectious waste treatment facility that does not involve an 5459
increase in the total disposal or treatment capacity of the 5460
facility shall pay a fee of one thousand dollars. A person issued 5461
a permit to install a new, or modify an existing, solid waste 5462
transfer facility under that chapter shall pay a fee of two 5463

thousand five hundred dollars. A person issued a permit to install 5464
a new or to modify an existing solid waste incineration or 5465
composting facility, or an existing infectious waste treatment 5466
facility using incineration as its principal method of treatment, 5467
under that chapter shall pay a fee of one thousand dollars. The 5468
increases in the permit fees under this division resulting from 5469
the amendments made by Amended Substitute House Bill 592 of the 5470
117th general assembly do not apply to any person who submitted an 5471
application for a permit to install a new, or modify an existing, 5472
solid waste disposal facility under that chapter prior to 5473
September 1, 1987; any such person shall pay the permit fee 5474
established in this division as it existed prior to June 24, 1988. 5475
In addition to the applicable permit fee under this division, a 5476
person issued a permit to install or modify a solid waste facility 5477
or an infectious waste treatment facility under that chapter who 5478
fails to pay the permit fee to the director in compliance with 5479
division (V) of this section shall pay an additional ten per cent 5480
of the amount of the fee for each week that the permit fee is 5481
late. 5482

Permit and late payment fees paid to the director under this 5483
division shall be credited to the general revenue fund. 5484

(R)(1) A person issued a registration certificate for a scrap 5485
tire collection facility under section 3734.75 of the Revised Code 5486
shall pay a fee of two hundred dollars, except that if the 5487
facility is owned or operated by a motor vehicle salvage dealer 5488
licensed under Chapter 4738. of the Revised Code, the person shall 5489
pay a fee of twenty-five dollars. 5490

(2) A person issued a registration certificate for a new 5491
scrap tire storage facility under section 3734.76 of the Revised 5492
Code shall pay a fee of three hundred dollars, except that if the 5493
facility is owned or operated by a motor vehicle salvage dealer 5494
licensed under Chapter 4738. of the Revised Code, the person shall 5495

pay a fee of twenty-five dollars. 5496

(3) A person issued a permit for a scrap tire storage 5497
facility under section 3734.76 of the Revised Code shall pay a fee 5498
of one thousand dollars, except that if the facility is owned or 5499
operated by a motor vehicle salvage dealer licensed under Chapter 5500
4738. of the Revised Code, the person shall pay a fee of fifty 5501
dollars. 5502

(4) A person issued a permit for a scrap tire monocell or 5503
monofill facility under section 3734.77 of the Revised Code shall 5504
pay a fee of ten dollars per thousand cubic yards of disposal 5505
capacity or one thousand dollars, whichever is greater, except 5506
that the total fee for any such permit shall not exceed eighty 5507
thousand dollars. 5508

(5) A person issued a registration certificate for a scrap 5509
tire recovery facility under section 3734.78 of the Revised Code 5510
shall pay a fee of one hundred dollars. 5511

(6) A person issued a permit for a scrap tire recovery 5512
facility under section 3734.78 of the Revised Code shall pay a fee 5513
of one thousand dollars. 5514

(7) In addition to the applicable registration certificate or 5515
permit fee under divisions (R)(1) to (6) of this section, a person 5516
issued a registration certificate or permit for any such scrap 5517
tire facility who fails to pay the registration certificate or 5518
permit fee to the director in compliance with division (V) of this 5519
section shall pay an additional ten per cent of the amount of the 5520
fee for each week that the fee is late. 5521

(8) The registration certificate, permit, and late payment 5522
fees paid to the director under divisions (R)(1) to (7) of this 5523
section shall be credited to the scrap tire management fund 5524
created in section 3734.82 of the Revised Code. 5525

(S)(1) Except as provided by divisions (L), (M), (N), (O), 5526

(P), and (S)(2) of this section, division (A)(2) of section 5527
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 5528
and rules adopted under division (T)(1) of this section, any 5529
person applying for a registration certificate under section 5530
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 5531
variance, or plan approval under Chapter 3734. of the Revised Code 5532
shall pay a nonrefundable fee of fifteen dollars at the time the 5533
application is submitted. 5534

Except as otherwise provided, any person applying for a 5535
permit, variance, or plan approval under Chapter 6109. or 6111. of 5536
the Revised Code shall pay a nonrefundable fee of one hundred 5537
dollars at the time the application is submitted through June 30, 5538
2014, and a nonrefundable fee of fifteen dollars at the time the 5539
application is submitted on and after July 1, 2014. Except as 5540
provided in division (S)(3) of this section, through June 30, 5541
2014, any person applying for a national pollutant discharge 5542
elimination system permit under Chapter 6111. of the Revised Code 5543
shall pay a nonrefundable fee of two hundred dollars at the time 5544
of application for the permit. On and after July 1, 2014, such a 5545
person shall pay a nonrefundable fee of fifteen dollars at the 5546
time of application. 5547

In addition to the application fee established under division 5548
(S)(1) of this section, any person applying for a national 5549
pollutant discharge elimination system general storm water 5550
construction permit shall pay a nonrefundable fee of twenty 5551
dollars per acre for each acre that is permitted above five acres 5552
at the time the application is submitted. However, the per acreage 5553
fee shall not exceed three hundred dollars. In addition, any 5554
person applying for a national pollutant discharge elimination 5555
system general storm water industrial permit shall pay a 5556
nonrefundable fee of one hundred fifty dollars at the time the 5557
application is submitted. 5558

The director shall transmit all moneys collected under 5559
division (S)(1) of this section pursuant to Chapter 6109. of the 5560
Revised Code to the treasurer of state for deposit into the 5561
drinking water protection fund created in section 6109.30 of the 5562
Revised Code. 5563

The director shall transmit all moneys collected under 5564
division (S)(1) of this section pursuant to Chapter 6111. of the 5565
Revised Code and under division (S)(3) of this section to the 5566
treasurer of state for deposit into the surface water protection 5567
fund created in section 6111.038 of the Revised Code. 5568

If a registration certificate is issued under section 5569
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 5570
the application fee paid shall be deducted from the amount of the 5571
registration certificate fee due under division (R)(1), (2), or 5572
(5) of this section, as applicable. 5573

If a person submits an electronic application for a 5574
registration certificate, permit, variance, or plan approval for 5575
which an application fee is established under division (S)(1) of 5576
this section, the person shall pay the applicable application fee 5577
as expeditiously as possible after the submission of the 5578
electronic application. An application for a registration 5579
certificate, permit, variance, or plan approval for which an 5580
application fee is established under division (S)(1) of this 5581
section shall not be reviewed or processed until the applicable 5582
application fee, and any other fees established under this 5583
division, are paid. 5584

(2) Division (S)(1) of this section does not apply to an 5585
application for a registration certificate for a scrap tire 5586
collection or storage facility submitted under section 3734.75 or 5587
3734.76 of the Revised Code, as applicable, if the owner or 5588
operator of the facility or proposed facility is a motor vehicle 5589
salvage dealer licensed under Chapter 4738. of the Revised Code. 5590

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from

taxation by section 5709.07 or 5709.12 of the Revised Code, from 5622
any fee required by this section; 5623

(3) Provide for the waiver of any fee, or any part thereof, 5624
otherwise required by this section whenever the director 5625
determines that the imposition of the fee would constitute an 5626
unreasonable cost of doing business for any applicant, class of 5627
applicants, or other person subject to the fee; 5628

(4) Prescribe measures that the director considers necessary 5629
to carry out this section. 5630

(U) When the director reasonably demonstrates that the direct 5631
cost to the state associated with the issuance of a permit to 5632
install, license, variance, plan approval, or certification 5633
exceeds the fee for the issuance or review specified by this 5634
section, the director may condition the issuance or review on the 5635
payment by the person receiving the issuance or review of, in 5636
addition to the fee specified by this section, the amount, or any 5637
portion thereof, in excess of the fee specified under this 5638
section. The director shall not so condition issuances for which 5639
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 5640
section. 5641

(V) Except as provided in divisions (L), (M), and (P) of this 5642
section or unless otherwise prescribed by a rule of the director 5643
adopted pursuant to Chapter 119. of the Revised Code, all fees 5644
required by this section are payable within thirty days after the 5645
issuance of an invoice for the fee by the director or the 5646
effective date of the issuance of the license, permit, variance, 5647
plan approval, or certification. If payment is late, the person 5648
responsible for payment of the fee shall pay an additional ten per 5649
cent of the amount due for each month that it is late. 5650

(W) As used in this section, "fuel-burning equipment," 5651
"fuel-burning equipment input capacity," "incinerator," 5652

"incinerator input capacity," "process," "process weight rate," 5653
"storage tank," "gasoline dispensing facility," "dry cleaning 5654
facility," "design flow discharge," and "new source treatment 5655
works" have the meanings ascribed to those terms by applicable 5656
rules or standards adopted by the director under Chapter 3704. or 5657
6111. of the Revised Code. 5658

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 5659
and (J) of this section, and in any other provision of this 5660
section pertaining to fees paid pursuant to Chapter 3704. of the 5661
Revised Code: 5662

(1) "Facility," "federal Clean Air Act," "person," and "Title 5663
V permit" have the same meanings as in section 3704.01 of the 5664
Revised Code. 5665

(2) "Title V permit program" means the following activities 5666
as necessary to meet the requirements of Title V of the federal 5667
Clean Air Act and 40 C.F.R. part 70, including at least: 5668

(a) Preparing and adopting, if applicable, generally 5669
applicable rules or guidance regarding the permit program or its 5670
implementation or enforcement; 5671

(b) Reviewing and acting on any application for a Title V 5672
permit, permit revision, or permit renewal, including the 5673
development of an applicable requirement as part of the processing 5674
of a permit, permit revision, or permit renewal; 5675

(c) Administering the permit program, including the 5676
supporting and tracking of permit applications, compliance 5677
certification, and related data entry; 5678

(d) Determining which sources are subject to the program and 5679
implementing and enforcing the terms of any Title V permit, not 5680
including any court actions or other formal enforcement actions; 5681

(e) Emission and ambient monitoring; 5682

(f) Modeling, analyses, or demonstrations;	5683
(g) Preparing inventories and tracking emissions;	5684
(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.	5685 5686 5687 5688 5689 5690 5691
(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.	5692 5693 5694 5695 5696 5697 5698 5699 5700 5701
(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.	5702 5703 5704
(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:	5705 5706 5707 5708 5709 5710
(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one	5711 5712 5713

hundred dollars. 5714

(ii) A sewage sludge facility that treats or disposes of 5715
exceptional quality sludge shall not be required to pay the annual 5716
sludge fee for treatment or disposal in this state of exceptional 5717
quality sludge generated outside of this state and contained in 5718
bags or other containers not greater than one hundred pounds in 5719
capacity. 5720

A thirty-five per cent reduction for exceptional quality 5721
sludge applies to the maximum annual fees established under 5722
division (Y)(3) of this section. 5723

(c) A sewage sludge facility that transfers sewage sludge to 5724
another sewage sludge facility in this state for further treatment 5725
prior to disposal in this state shall not be required to pay the 5726
annual sludge fee for the tons of sewage sludge that have been 5727
transferred. In such a case, the sewage sludge facility that 5728
disposes of the sewage sludge shall pay the annual sludge fee. 5729
However, the facility transferring the sewage sludge shall pay the 5730
one-hundred-dollar minimum fee required under division (Y)(2)(a) 5731
of this section. 5732

In the case of a sewage sludge facility that treats sewage 5733
sludge in this state and transfers it out of this state to another 5734
entity for disposal, the sewage sludge facility in this state 5735
shall be required to pay the annual sludge fee for the tons of 5736
sewage sludge that have been transferred. 5737

(d) A sewage sludge facility that generates sewage sludge 5738
resulting from an average daily discharge flow of less than five 5739
thousand gallons per day is not subject to the fees assessed under 5740
division (Y) of this section. 5741

(3) No sewage sludge facility required to pay the annual 5742
sludge fee shall be required to pay more than the maximum annual 5743
fee for each disposal method that the sewage sludge facility uses. 5744

The maximum annual fee does not include the additional amount that
may be charged under division (Y)(5) of this section for late
payment of the annual sludge fee. The maximum annual fee for the
following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a
landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or
any other disposal method not specified in division (Y)(3)(a) or
(b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge
or a sewage sludge facility that treats sewage sludge and
transfers the sewage sludge to an incineration facility for
disposal, the incineration facility, and not the entity generating
the sewage sludge or the sewage sludge facility treating the
sewage sludge, shall pay the annual sludge fee for the tons of
sewage sludge that are transferred. However, the entity or
facility generating or treating the sewage sludge shall pay the
one-hundred-dollar minimum fee required under division (Y)(2)(a)
of this section.

(b) In the case of an entity that generates sewage sludge and
transfers the sewage sludge to a landfill for disposal or to a
sewage sludge facility for land reclamation or surface disposal,
the entity generating the sewage sludge, and not the landfill or
sewage sludge facility, shall pay the annual sludge fee for the
tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar
year following March 17, 2000, and each first day of April
thereafter, the director shall issue invoices to persons who are
required to pay the annual sludge fee. The invoice shall identify
the nature and amount of the annual sludge fee assessed and state

the first day of May as the deadline for receipt by the director 5776
of objections regarding the amount of the fee and the first day of 5777
July as the deadline for payment of the fee. 5778

Not later than the first day of May following receipt of an 5779
invoice, a person required to pay the annual sludge fee may submit 5780
objections to the director concerning the accuracy of information 5781
regarding the number of dry tons of sewage sludge used to 5782
calculate the amount of the annual sludge fee or regarding whether 5783
the sewage sludge qualifies for the exceptional quality sludge 5784
discount established in division (Y)(2)(b) of this section. The 5785
director may consider the objections and adjust the amount of the 5786
fee to ensure that it is accurate. 5787

If the director does not adjust the amount of the annual 5788
sludge fee in response to a person's objections, the person may 5789
appeal the director's determination in accordance with Chapter 5790
119. of the Revised Code. 5791

Not later than the first day of June, the director shall 5792
notify the objecting person regarding whether the director has 5793
found the objections to be valid and the reasons for the finding. 5794
If the director finds the objections to be valid and adjusts the 5795
amount of the annual sludge fee accordingly, the director shall 5796
issue with the notification a new invoice to the person 5797
identifying the amount of the annual sludge fee assessed and 5798
stating the first day of July as the deadline for payment. 5799

Not later than the first day of July, any person who is 5800
required to do so shall pay the annual sludge fee. Any person who 5801
is required to pay the fee, but who fails to do so on or before 5802
that date shall pay an additional amount that equals ten per cent 5803
of the required annual sludge fee. 5804

(6) The director shall transmit all moneys collected under 5805
division (Y) of this section to the treasurer of state for deposit 5806

into the surface water protection fund created in section 6111.038 5807
of the Revised Code. The moneys shall be used to defray the costs 5808
of administering and enforcing provisions in Chapter 6111. of the 5809
Revised Code and rules adopted under it that govern the use, 5810
storage, treatment, or disposal of sewage sludge. 5811

(7) Beginning in fiscal year 2001, and every two years 5812
thereafter, the director shall review the total amount of moneys 5813
generated by the annual sludge fees to determine if that amount 5814
exceeded six hundred thousand dollars in either of the two 5815
preceding fiscal years. If the total amount of moneys in the fund 5816
exceeded six hundred thousand dollars in either fiscal year, the 5817
director, after review of the fee structure and consultation with 5818
affected persons, shall issue an order reducing the amount of the 5819
fees levied under division (Y) of this section so that the 5820
estimated amount of moneys resulting from the fees will not exceed 5821
six hundred thousand dollars in any fiscal year. 5822

If, upon review of the fees under division (Y)(7) of this 5823
section and after the fees have been reduced, the director 5824
determines that the total amount of moneys collected and 5825
accumulated is less than six hundred thousand dollars, the 5826
director, after review of the fee structure and consultation with 5827
affected persons, may issue an order increasing the amount of the 5828
fees levied under division (Y) of this section so that the 5829
estimated amount of moneys resulting from the fees will be 5830
approximately six hundred thousand dollars. Fees shall never be 5831
increased to an amount exceeding the amount specified in division 5832
(Y)(7) of this section. 5833

Notwithstanding section 119.06 of the Revised Code, the 5834
director may issue an order under division (Y)(7) of this section 5835
without the necessity to hold an adjudicatory hearing in 5836
connection with the order. The issuance of an order under this 5837
division is not an act or action for purposes of section 3745.04 5838

of the Revised Code.	5839
(8) As used in division (Y) of this section:	5840
(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.	5841 5842
(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.	5843 5844 5845 5846 5847 5848 5849 5850 5851 5852
(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:	5853 5854
(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);	5855 5856
(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	5857 5858
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	5859 5860
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	5861 5862
(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.	5863 5864 5865
(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.	5866 5867 5868

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.31. (A) As used in this section, "environmental law" means sections 903.08, 903.17, and 3737.87 to 3737.882 and Chapters 3704., 3714., 3734., 3745., 3750., 3751., 3752., 3753., 6109., and 6111. of the Revised Code; any rule adopted under those sections or chapters or adopted for the purpose of implementing those sections or chapters; and any applicable provisions of Chapter 3767. of the Revised Code when an environmentally related nuisance action is brought.

(B)(1) Except as provided in division (B)(2) of this section, any action under any environmental law for civil or administrative penalties of any kind brought by any agency or department of the state or by any other governmental authority charged with enforcing environmental laws shall be commenced within five years of the time when the agency, department, or governmental authority actually knew or was informed of the occurrence, omission, or facts on which the cause of action is based.

(2) If an agency, department, or governmental authority actually knew or was informed of an occurrence, omission, or facts on which a cause of action is based prior to ~~the effective date of this section~~ July 23, 2002, the cause of action for civil or administrative penalties of any kind for the alleged violation shall be commenced not later than five years after ~~the effective date of this section~~ July 23, 2002.

(C) Division (B) of this section applies only if, during the time periods established in that division, proper service of process can be given in accordance with the Rules of Civil Procedure and jurisdiction of a court in this state can be obtained.

(D) The time periods established in division (B) of this section may be tolled by mutual agreement between the enforcing agency, department, or authority and the person who is subject to

a civil or administrative penalty of any kind under an 5930
environmental law. 5931

(E) When an action seeks injunctive relief or another remedy 5932
in addition to a remedy of civil or administrative penalties of 5933
any kind under an environmental law, division (B) of this section 5934
applies only to the remedy of civil or administrative penalties of 5935
any kind. 5936

~~(F) Beginning on the first anniversary of the effective date 5937
of this section and for four years thereafter, the director of 5938
environmental protection and the fire marshal shall each annually 5939
submit a report concerning the aggregate number of enforcement 5940
eases that are based on occurrences, omissions, or facts about 5941
which the director or the fire marshal actually knew or was 5942
informed prior to the effective date of this section for which a 5943
cause of action has not been brought pursuant to division (B)(2) 5944
of this section as of the date of the report. The respective 5945
reports submitted by the director and the fire marshal shall only 5946
address the aggregate number of occurrences, omissions, or facts 5947
under environmental laws concerning which the director or fire 5948
marshal has regulatory authority. The respective reports submitted 5949
by the director and the fire marshal shall not include any names, 5950
addresses, or other identifying information. The report shall be 5951
submitted to the speaker of the house of representatives, the 5952
president of the senate, and the chairpersons of the standing 5953
committees of the house of representatives and the senate that are 5954
primarily responsible for considering environmental issues. 5955~~

Sec. 3746.02. (A) Nothing in this chapter applies to any of 5956
the following: 5957

(1) Property for which a voluntary action under this chapter 5958
is precluded by federal law or regulations adopted under federal 5959
law, including, without limitation, any of the following federal 5960

laws or regulations adopted thereunder:	5961
(a) The "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended;	5962 5963
(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;	5964 5965
(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;	5966 5967
(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;	5968 5969 5970
(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.	5971 5972
(2) Those portions of property where closure of a hazardous waste facility or solid waste facility is required under Chapter 3734. of the Revised Code or rules adopted under it;	5973 5974 5975
(3) Except for a class C release as defined <u>provided</u> in <u>division (A)(3) of section 3737.87 3737.88</u> of the Revised Code, properties regardless of ownership that are subject to remediation rules adopted under the authority of <u>by</u> the division of fire marshal in the department of commerce, including remediation rules adopted under sections 3737.88, 3737.882, and 3737.889 <u>Chapter 3737. of the Revised Code pertaining to corrective actions as defined in section 3737.87 of the Revised Code;</u>	5976 5977 5978 5979 5980 5981 5982 5983
(4) Property that is subject to Chapter 1509. of the Revised Code;	5984 5985
(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that the director will issue an enforcement order under Chapter 3704., 3734., or 6111. of the Revised Code, a release or threatened release of a hazardous substance or	5986 5987 5988 5989 5990

petroleum from or at the property poses a substantial threat to 5991
public health or safety or the environment, and the person subject 5992
to the ~~order~~ letter does not present sufficient evidence to the 5993
director that the person has entered into the voluntary action 5994
program under this chapter and is proceeding expeditiously to 5995
address that threat. For the purposes of this division, the 5996
evidence constituting sufficient evidence of entry into the 5997
voluntary action program under this chapter shall be defined by 5998
the director by rules adopted under section 3746.04 of the Revised 5999
Code. ~~Until such time as the director has adopted those rules, the~~ 6000
~~director, at a minimum, shall consider the existence of a contract~~ 6001
~~with a certified professional to appropriately respond to the~~ 6002
~~threat named in the director's letter informing the person of the~~ 6003
~~director's intent to issue an enforcement order and the~~ 6004
~~availability of financial resources to complete the contract to be~~ 6005
~~sufficient evidence of entry into the program.~~ 6006

(B) The application of any provision of division (A) of this 6007
section to a portion of property does not preclude participation 6008
in the voluntary action program under this chapter in connection 6009
with other portions of the property where those provisions do not 6010
apply. 6011

(C) As used in this section, "property" means any parcel of 6012
real property, or portion thereof, and any improvements thereto. 6013

Sec. 6109.31. (A) No person shall violate this chapter, ~~any a~~ 6014
rule adopted under it, or any order or term or condition of a 6015
license, license renewal, variance, or exemption granted by the 6016
director of environmental protection under it. Each day of 6017
noncompliance is a separate violation. 6018

(B) No person shall make a false material statement or 6019
representation in an application, license, record, report, or 6020
other document that is required to be submitted to the director or 6021

to the attorney general under this chapter, a rule adopted under 6022
it, or any order or term or condition of a license, license 6023
renewal, variance, or exemption granted by the director under it. 6024

(C) No person shall alter, substitute, falsify, conceal, or 6025
purposefully omit a sample that is required to be collected 6026
pursuant to any reporting requirement that is established under 6027
this chapter or a rule adopted under it. 6028

(D) No person shall tamper with, alter, or interfere with the 6029
operation of a public water system without the authorization of 6030
the owner or operator of the system or of the director. 6031

Sec. 6109.32. The director of environmental protection may on 6032
his the director's own initiative investigate or make inquiries 6033
into any suspected violation of section 6109.31 of the Revised 6034
Code. 6035

The attorney general, upon written request by the director, 6036
shall bring an action for injunction or other appropriate civil 6037
action or criminal prosecution against any person violating or 6038
threatening to violate ~~such~~ that section. In an action for 6039
injunction to enforce any final order of the director, the finding 6040
by the director, after hearing, is prima-facie evidence of the 6041
facts found therein. 6042

Sec. 6109.99. (A) Except as provided in division (C) of this 6043
section, whoever recklessly violates section 6109.31 of the 6044
Revised Code is guilty of a misdemeanor and, notwithstanding 6045
section 2929.28 of the Revised Code, shall be fined not more than 6046
ten thousand dollars or imprisoned for not more than four years, 6047
or both. Each day of violation constitutes a separate offense. 6048

(B) Whoever knowingly violates division (B), (C), or (D) of 6049
section 6109.31 of the Revised Code is guilty of a felony and, 6050
notwithstanding section 2929.18 of the Revised Code, shall be 6051

fined not more than twenty-five thousand dollars or imprisoned for 6052
not more than four years, or both. Each day of violation 6053
constitutes a separate offense. 6054

(C) Whoever recklessly or knowingly violates division (A) of 6055
section 6109.31 of the Revised Code is guilty of a felony if the 6056
violation poses a significant threat to or causes significant harm 6057
to public health and, notwithstanding section 2929.18 of the 6058
Revised Code, shall be fined not more than twenty-five thousand 6059
dollars or imprisoned for not more than four years, or both. Each 6060
day of violation constitutes a separate offense. 6061

Sec. 6111.02. As used in this section and sections 6111.021 6062
to 6111.028 of the Revised Code: 6063

(A) "Category 1 wetland," "category 2 wetland," or "category 6064
3 wetland" means a category 1 wetland, category 2 wetland, or 6065
category 3 wetland, respectively, as described in rule 3745-1-54 6066
of the Administrative Code, as that rule existed on ~~the effective~~ 6067
~~date of this section~~ July 17, 2001, and as determined to be a 6068
category 1, category 2, or category 3 wetland, respectively, 6069
through application of the "Ohio rapid assessment method for 6070
wetlands version 5.0," including the Ohio rapid assessment method 6071
for wetlands version 5.0 quantitative score calibration dated 6072
August 15, 2000, unless an application for a section 401 water 6073
quality certification was submitted prior to February 28, 2001, in 6074
which case the applicant for the permit may elect to proceed in 6075
accordance with Ohio rapid assessment method for wetlands version 6076
4.1. 6077

(B) "Creation" means the establishment of a wetland where one 6078
did not formerly exist and that involves wetland construction on 6079
nonhydric soils. 6080

(C) "Enhancement" means activities conducted in an existing 6081
wetland to improve or repair existing or natural wetland functions 6082

and values of that wetland. 6083

(D) "Fill material" means any material that is used to fill 6084
an aquatic area, to replace an aquatic area with dry land, or to 6085
change the bottom elevation of a wetland for any purpose and that 6086
consists of suitable material that is free from toxic contaminants 6087
in other than trace quantities. "Fill material" does not include 6088
either of the following: 6089

(1) Material resulting from normal farming, silviculture, and 6090
ranching activities, such as plowing, cultivating, seeding, and 6091
harvesting, for the production of food, fiber, and forest 6092
products; 6093

(2) Material placed for the purpose of maintenance of 6094
existing structures, including emergency reconstruction of 6095
recently damaged parts of currently serviceable structures such as 6096
dikes, dams, levees, groins, riprap, breakwaters, causeways, and 6097
bridge abutments or approaches, and transportation structures. 6098

(E) "Filling" means the addition of fill material into a 6099
wetland for the purpose of creating upland, changing the bottom 6100
elevation of the wetland, or creating impoundments of water. 6101
"Filling" includes, without limitation, the placement of the 6102
following in wetlands: fill material that is necessary for the 6103
construction of any structure; structures or impoundments 6104
requiring rock, sand, dirt, or other material for its 6105
construction; site-development fills for recreational, industrial, 6106
commercial, residential, or other uses; causeways or road fills; 6107
dams and dikes; artificial islands, property protection, or 6108
reclamation devices such as riprap, groins, seawalls, breakwalls, 6109
and bulkheads and fills; beach nourishment; levees; sanitary 6110
landfills; fill material for structures such as sewage treatment 6111
facilities, intake and outfall pipes associated with power plants, 6112
and underwater utility lines; and artificial reefs. 6113

(F) "Isolated wetland" means a wetland that is not subject to regulation under the Federal Water Pollution Control Act.

(G) "Mitigation" means the restoration, creation, enhancement, or, in exceptional circumstances, preservation of wetlands expressly for the purpose of compensating for wetland impacts.

(H) "Mitigation bank service area" means the designated area where a mitigation bank can reasonably be expected to provide appropriate compensation for impacts to wetlands and other aquatic resources and that is designated as such in accordance with the process established in ~~the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (1995)," 60 FR 58605~~ 33 C.F.R. 332.8 and 40 C.F.R. 230.98.

(I) "Off-site mitigation" means wetland restoration, creation, enhancement, or preservation occurring farther than one mile from a project boundary, but within the same watershed.

(J) "On-site mitigation" means wetland restoration, creation, enhancement, or preservation occurring within and not more than one mile from the project boundary and within the same watershed.

(K) "Practicable" means available and capable of being executed with existing technology and without significant adverse effect on the economic feasibility of the project in light of the overall project purposes and in consideration of the relative environmental benefit.

(L) "Preservation" means the protection of ecologically important wetlands in perpetuity through the implementation of appropriate legal mechanisms to prevent harm to the wetlands. "Preservation" may include protection of adjacent upland areas as necessary to ensure protection of a wetland.

(M) "Restoration" means the reestablishment of a previously existing wetland at a site where it has ceased to exist.

(N) "State isolated wetland permit" means a permit issued in accordance with sections 6111.02 to 6111.027 of the Revised Code authorizing the filling of an isolated wetland.

(O) "Watershed" means ~~a common surface drainage area corresponding to one from the list of thirty seven adapted from the forty four cataloging units as depicted on the hydrologic unit map of Ohio, United States geological survey, 1988, and as described in division (F)(2) of rule 3745-1-54 of the Administrative Code or as otherwise shown on map number 1 found in rule 3745-1-54 of the Administrative Code.~~ "Watershed" is limited to those parts of the cataloging units that geographically lie within the borders of this state an eight-digit hydrologic unit.

(P) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" includes swamps, marshes, bogs, and similar areas that are delineated in accordance with the 1987 United States army corps of engineers wetland delineation manual and any other procedures and requirements adopted by the United States army corps of engineers for delineating wetlands.

(Q) "Wetland mitigation bank" means a site where wetlands have been restored, created, enhanced, or, in exceptional circumstances, preserved expressly for the purpose of providing mitigation for impacts to wetlands and that has been approved in accordance with the process established in ~~the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (1995)," 60 FR 58605~~ 33 C.F.R. 332.8 and 40 C.F.R. 230.98.

(R) "Eight-digit hydrologic unit" means a common surface drainage area corresponding to one from the list of thirty-seven adapted from the forty-four cataloging units as depicted on the

hydrologic unit map of Ohio, United States geological survey, 6177
1988, and as described in division (F)(2) of rule 3745-1-54 of the 6178
Administrative Code or as otherwise shown on map number 1 found in 6179
rule 3745-1-54 of the Administrative Code. "Eight-digit hydrologic 6180
unit" is limited to those parts of the cataloging units that 6181
geographically lie within the borders of this state. 6182

(S) "In-lieu fee mitigation" means a payment made by an 6183
applicant to satisfy a wetland mitigation requirement established 6184
in sections 6111.02 to 6111.027 of the Revised Code. 6185

Sec. 6111.022. (A) A proposed filling of a category 1 or a 6186
category 2 isolated wetland of one-half acre or less shall require 6187
a general state isolated wetland permit and be subject to level 6188
one review requirements established under division (B) of this 6189
section. 6190

(B) Level one review shall apply only to the filling of a 6191
category 1 or a category 2 isolated wetland as described in 6192
division (A) of this section requiring a general state isolated 6193
wetland permit. A level one review shall require the submission of 6194
a pre-activity notice that includes an application, an acceptable 6195
wetland delineation, a wetland categorization, a description of 6196
the project, a description of the acreage of the isolated wetland 6197
that will be subject to filling, site photographs, and a 6198
mitigation proposal for the impact to the isolated wetland. 6199

(C) The proposed filling of an isolated wetland that is 6200
subject to level one review is authorized by a general state 6201
isolated wetland permit unless the director of environmental 6202
protection notifies the applicant within thirty days after receipt 6203
of a pre-activity notice that the filling of the isolated wetland 6204
will result in a significant negative impact on state water 6205
quality. An applicant that receives such a notice may apply for an 6206
individual state isolated wetland permit in accordance with the 6207

procedures and requirements established under section 6111.023 of 6208
the Revised Code. 6209

(D) ~~Required mitigation~~ Mitigation for the proposed filling 6210
of an isolated wetland that is subject to level one review shall 6211
be conducted ~~by the applicant. Without the objection of the~~ 6212
~~director and at the discretion of the applicant, the applicant~~ 6213
~~shall conduct either~~ in the following preferred order: 6214

(1) Without the objection of the director and at the 6215
discretion of the applicant, either on site mitigation, mitigation 6216
at a wetland mitigation bank within the same United States army 6217
corps of engineers district as the location of the proposed 6218
filling of the isolated wetland, or off-site mitigation; 6219

(2) In-lieu fee mitigation. 6220

The director, at the director's discretion, may allow an 6221
applicant to deviate from the preferred order established in 6222
division (D) of this section. If the proposed filling of an 6223
isolated wetland will be mitigated by in-lieu fee mitigation, an 6224
applicant shall provide documentation to the director that 6225
demonstrates that the applicant evaluated the mitigation 6226
alternatives established in division (D)(1) of this section. 6227

(E) A person that has submitted a pre-activity notice for 6228
coverage under a general state isolated wetland permit under this 6229
section shall complete the filling within two years after the end 6230
of the thirty-day period following the receipt of the pre-activity 6231
notice by the director. If the person does not complete the 6232
filling within that two-year period, the person shall submit a new 6233
pre-activity notice in accordance with this section. 6234

Sec. 6111.023. (A) A proposed filling of a category 1 6235
isolated wetland of greater than one-half acre or the proposed 6236
filling of a category 2 isolated wetland of greater than one-half 6237

acre, but less than or equal to three acres shall require an 6238
individual state isolated wetland permit and be subject to level 6239
two review requirements established under division (B) of this 6240
section. 6241

(B) Level two review shall apply to the filling of a category 6242
1 or a category 2 isolated wetland described in division (A) of 6243
this section and shall require all of the following: 6244

(1) All of the information required to be submitted with a 6245
pre-activity notice as described in division (B) of section 6246
6111.022 of the Revised Code; 6247

(2) The submission of an analysis of practicable on-site 6248
alternatives to the proposed filling of the isolated wetland that 6249
would have a less adverse impact on the isolated wetland 6250
ecosystem; 6251

(3) The submission of information indicating whether high 6252
quality waters, as defined in rule 3745-1-05 of the Administrative 6253
Code, are to be avoided by the proposed filling of the isolated 6254
wetland. 6255

(C) The director of environmental protection shall issue or 6256
deny an individual state isolated wetland permit for the proposed 6257
filling of an isolated wetland that is subject to level two review 6258
not later than ninety days after the receipt of an application for 6259
the permit. The director shall issue an individual state isolated 6260
wetland permit for the proposed filling of an isolated wetland 6261
that is subject to level two review unless the director determines 6262
that the applicant for the permit has failed to demonstrate all of 6263
the following: 6264

(1) There is no practicable on-site alternative to the 6265
proposed filling of the isolated wetland that would have a less 6266
adverse impact on the isolated wetland ecosystem. 6267

(2) Reasonable buffers have been provided for any isolated 6268

wetland that will be avoided at the site where the proposed 6269
filling of the isolated wetland will take place. 6270

(3) The isolated wetland that will be subject to filling is 6271
not locally or regionally scarce within the watershed in which it 6272
is located and does not contain rare, threatened, or endangered 6273
species. 6274

(4) The impact would not result in significant degradation to 6275
the aquatic ecosystem. 6276

(5) Appropriate mitigation has been proposed for any 6277
unavoidable impacts. 6278

(6) Storm water and water quality controls will be installed 6279
to ensure that peak post-development rates of surface water runoff 6280
from the impacted isolated wetland do not exceed the peak 6281
pre-development rates of runoff from the on-site isolated wetland. 6282
Water quality improvement measures shall be incorporated into the 6283
design of the storm water control measures to the maximum extent 6284
practicable. Examples of these measures include, but are not 6285
limited to, incorporating vegetated areas in a storm water control 6286
plan. 6287

(7) Any additional, practicable, site-specific requirements 6288
that are determined necessary by the director to protect water 6289
quality have been satisfied. 6290

(D)(1) Notwithstanding an applicant's demonstration under 6291
division (C) of this section, the director may deny an application 6292
for an individual state isolated wetland permit submitted under 6293
this section if the director determines that the proposed filling 6294
of the isolated wetland will result in an adverse short-term or 6295
long-term impact on water quality. 6296

(2) The director may impose any practicable terms and 6297
conditions on an individual state isolated wetland permit issued 6298
under this section that are appropriate or necessary to ensure 6299

adequate protection of state water quality and to ensure 6300
compliance with this chapter and rules adopted under it. 6301

(3) Prior to the issuance of an individual state isolated 6302
wetland permit under this section, or prior to, during, or after 6303
the filling of the isolated wetland that is the subject of the 6304
permit, the director may require that the applicant or permit 6305
holder perform various environmental quality tests, including, 6306
without limitation, chemical analyses of water, sediment, or fill 6307
material and bioassays, in order to ensure adequate protection of 6308
water quality. 6309

(E)(1) Mitigation for the proposed filling of a category 1 6310
isolated wetland that is subject to level two review shall be 6311
conducted ~~by the applicant. Without~~ in the following preferred 6312
order: 6313

(a) Without the objection of the director and at the 6314
discretion of the applicant, ~~the applicant shall conduct~~ either 6315
on-site mitigation, mitigation at a wetland mitigation bank within 6316
the same United States army corps of engineers district as the 6317
location of the proposed filling of the isolated wetland, or 6318
off-site mitigation; 6319

(b) In-lieu fee mitigation. 6320

The director, at the director's discretion, may allow an 6321
applicant to deviate from the preferred order established in 6322
division (E)(1) of this section. If the proposed filling of an 6323
isolated wetland will be mitigated by in-lieu fee mitigation, an 6324
applicant shall provide documentation to the director that 6325
demonstrates that the applicant evaluated the mitigation 6326
alternatives established in division (E)(1)(a) of this section. 6327

(2) Mitigation for the proposed filling of a category 2 6328
isolated wetland that is subject to level two review shall be 6329
conducted ~~by the applicant and shall occur~~ in the following 6330

preferred order: 6331

(a) ~~Practicable on-site mitigation;~~ 6332

~~(b) Mitigation at a wetland mitigation bank with a service area that includes the location of the proposed filling of the isolated wetland.~~ 6333
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(b) Mitigation at a wetland mitigation bank with a service area that is adjacent to the watershed in which the proposed filling of the isolated wetland is located, provided that the watershed is located within the same United States army corps of engineers district. If mitigation occurs in accordance with division (E)(2)(b) of this section, the applicable mitigation ratio calculated under section 6111.027 of the Revised Code shall be multiplied by one and one-half. 6336
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(c) In-lieu fee mitigation; 6344

(d) Reasonably identifiable, available, and practicable off-site mitigation within the same watershed; 6345
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~~(c) If the proposed filling of the isolated wetland will take place within a mitigation bank service area, within that mitigation bank service area;~~ 6347
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6349

~~(d) If there is a significant ecological reason that the mitigation location should not be limited to the watershed in which the isolated wetland is located and if the proposed mitigation will result in a substantially greater ecological benefit, in a watershed that is adjacent to the watershed in which the isolated wetland is located.~~ 6350
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The director, at the director's discretion, may allow an applicant to deviate from the preferred order established in division (E)(2) of this section. If the proposed filling of an isolated wetland will be mitigated by in-lieu fee mitigation, an applicant shall provide documentation to the director that 6356
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demonstrates that the applicant evaluated the mitigation 6361
alternatives established in divisions (E)(2)(a) and (b) of this 6362
section. 6363

Sec. 6111.024. (A) A proposed filling of a category 2 6364
isolated wetland of greater than three acres or a category 3 6365
isolated wetland shall require an individual state isolated 6366
wetland permit and be subject to level three review requirements 6367
established under division (B) of this section. 6368

(B) Level three review shall apply to the filling of a 6369
category 2 or a category 3 isolated wetland described in division 6370
(A) of this section and shall require all of the following: 6371

(1) All of the information required to be submitted with a 6372
pre-activity notice as described in division (B) of section 6373
6111.022 of the Revised Code; 6374

(2) A full antidegradation review conducted in accordance 6375
with rules adopted under section 6111.12 of the Revised Code; 6376

(3) The submission of information indicating whether high 6377
quality waters, as defined in rule 3745-1-05 of the Administrative 6378
Code, are to be avoided by the proposed filling of the isolated 6379
wetland. 6380

(C) The director of environmental protection shall issue or 6381
deny an individual state isolated wetland permit for the proposed 6382
filling of an isolated wetland that is subject to level three 6383
review not later than one hundred eighty days after the receipt of 6384
an application for the permit. The director shall not issue an 6385
individual state isolated wetland permit for the proposed filling 6386
of an isolated wetland that is subject to level three review 6387
unless the director determines that the applicant for the permit 6388
has demonstrated that the proposed filling will not prevent or 6389
interfere with the attainment or maintenance of applicable state 6390

water quality standards. 6391

(D)(1) Notwithstanding division (C) of this section, the 6392
director also may deny an application for an individual state 6393
isolated wetland permit submitted under this section if the 6394
director determines that the proposed filling of the isolated 6395
wetland will result in an adverse short-term or long-term impact 6396
on water quality. 6397

(2) The director may impose terms and conditions on an 6398
individual state isolated wetland permit issued under this section 6399
that are appropriate or necessary to ensure adequate protection of 6400
state water quality and to ensure compliance with this chapter and 6401
rules adopted under it. 6402

(3) Prior to the issuance of an individual state isolated 6403
wetland permit under this section, or prior to, during, or after 6404
the filling of the isolated wetland that is the subject of the 6405
permit, the director may require that the applicant or permit 6406
holder perform various environmental quality tests, including, 6407
without limitation, chemical analyses of water, sediment, or fill 6408
material and bioassays, in order to ensure adequate protection of 6409
water quality. 6410

(E) Mitigation for the proposed filling of a category 2 or a 6411
category 3 isolated wetland that is subject to level three review 6412
shall ~~occur~~ be conducted in the following preferred order: 6413

~~(1) Practicable on-site mitigation;~~ 6414

~~(2) Reasonably identifiable, available, and practicable 6415
off-site mitigation within the same watershed;~~ 6416

~~(3) If the proposed filling of the isolated wetland will take 6417
place within a mitigation bank service area, within that 6418
mitigation bank service area;~~ 6419

(2) Mitigation at a wetland mitigation bank with a service 6420

area that includes the location of the proposed filling of the 6421
isolated wetland. 6422

(3) Mitigation at a wetland mitigation bank with a service 6423
area that is adjacent to the watershed in which the proposed 6424
filling of the isolated wetland is located, provided that the 6425
watershed is located within the same United States army corps of 6426
engineers district. If mitigation occurs in accordance with 6427
division (E)(3) of this section, the applicable mitigation ratio 6428
calculated under section 6111.027 of the Revised Code shall be 6429
multiplied by one and one-half. 6430

(4) In-lieu fee mitigation; 6431

(5) If there is a significant ecological reason that the 6432
mitigation location should not be limited to the watershed in 6433
which the isolated wetland is located and if the proposed 6434
mitigation will result in a substantially greater ecological 6435
benefit, in a watershed that is adjacent to the watershed in which 6436
the isolated wetland is located. 6437

The director, at the director's discretion, may allow an 6438
applicant to deviate from the preferred order established in 6439
division (E) of this section. If the proposed filling of an 6440
isolated wetland will be mitigated by in-lieu fee mitigation, an 6441
applicant shall provide documentation to the director that 6442
demonstrates that the applicant evaluated the mitigation 6443
alternatives established in divisions (E)(1),(2), and (3) of this 6444
section. 6445

Sec. 6111.025. (A) The department of natural resources, the 6446
division of wildlife in that department, or any other division in 6447
that department that is designated by the director of natural 6448
resources may establish and operate a wetland mitigation bank for 6449
purposes of sections 6111.02 to 6111.027 of the Revised Code. A 6450
mitigation bank so established may be used by any individual or 6451

entity, including any agency or department of the state, for 6452
mitigation purposes under those sections. Nothing in this division 6453
precludes any other private or public entity from developing a 6454
mitigation bank, provided that it is approved by the director of 6455
environmental protection under division (C) of this section. 6456

(B) The environmental protection agency, the department of 6457
natural resources, the division of wildlife in that department, or 6458
any other division in that department that is designated by the 6459
director of natural resources may establish and operate an in-lieu 6460
fee mitigation program for purposes of sections 6111.02 to 6461
6111.027 of the Revised Code. An in-lieu fee mitigation program so 6462
established may be used by any individual or entity, including any 6463
agency or department of the state, for mitigation purposes under 6464
those sections. 6465

Nothing in this division precludes any other private or 6466
public entity from developing an in-lieu fee mitigation program, 6467
provided that it is approved by the director of environmental 6468
protection under division (C) of this section. 6469

(C) The director of ~~natural resources~~ environmental 6470
protection in consultation with the director of environmental 6471
protection natural resources shall ~~establish~~ approve and publish a 6472
list of approved wetland mitigation banks and in-lieu fee 6473
mitigation programs that shall be used by applicants for state 6474
isolated wetland permits for mitigation purposes ~~and shall submit~~ 6475
~~the list to the director of environmental protection.~~ In 6476
establishing the approved list, the director of ~~natural resources~~ 6477
environmental protection shall give preference to wetland 6478
mitigation banks that are comprised of areas involving the 6479
restoration of previously existing wetlands. ~~The list established~~ 6480
~~under this division shall not exclude state or local agencies from~~ 6481
~~developing wetland mitigation banks~~ Applicants for isolated 6482
wetland permits shall not use mitigation from a mitigation bank or 6483

an in-lieu fee mitigation program that has not been approved under 6484
this section. 6485

~~(B) The department of natural resources, the division of~~ 6486
~~wildlife in that department, or any other division in that~~ 6487
~~department that is designated by the director of natural resources~~ 6488
~~may establish and operate a wetland mitigation bank for purposes~~ 6489
~~of sections 6111.02 to 6111.027 of the Revised Code. A mitigation~~ 6490
~~bank so established may be used by any individual or entity,~~ 6491
~~including any agency or department of the state, for mitigation~~ 6492
~~purposes under those sections.~~ 6493

~~(C)~~(D) The director of environmental protection annually 6494
shall issue a report to the members of the general assembly on the 6495
total number of acres of ~~isolated~~ wetlands and lineal feet of 6496
stream that were subject to filling during the immediately 6497
preceding fiscal year as well as. The report also shall include 6498
the total number of acres of ~~isolated~~ wetlands that were restored, 6499
created, enhanced, or preserved through compensatory mitigation 6500
that same year as a result of state isolated wetland permits 6501
issued under sections 6111.02 to 6111.027 of the Revised Code and 6502
the state section 401 water quality certification program 6503
administered under section 6111.30 of the Revised Code. 6504

(E) Any wetland category determined through the use of the 6505
appropriate Ohio rapid assessment method and verified by the 6506
environmental protection agency for purposes of an isolated 6507
wetlands permit issued under sections 6111.02 to 6111.027 of the 6508
Revised Code is valid for a period of five years following 6509
verification. 6510

Sec. 6111.027. (A) Mitigation for impacts to isolated 6511
wetlands under sections 6111.02 to 6111.027 shall be conducted in 6512
accordance with the following ratios: 6513

(1) For category 1 and category 2 isolated wetlands, other 6514

than forested category 2 isolated wetlands, mitigation located at 6515
an approved wetland mitigation bank shall be conducted, or 6516
mitigation shall be paid for under an in-lieu fee mitigation 6517
program, at a rate of two times the size of the area of isolated 6518
wetland that is being impacted. 6519

(2) For forested category 2 isolated wetlands, mitigation 6520
located at an approved wetland mitigation bank shall be conducted, 6521
or mitigation shall be paid for under an in-lieu fee mitigation 6522
program, at a rate of two and one-half times the size of the area 6523
of isolated wetland that is being impacted. 6524

(3) All other mitigation shall be subject to mitigation 6525
ratios established in division (F) of rule 3745-1-54 of the 6526
Administrative Code. 6527

(B) Mitigation that involves the enhancement or preservation 6528
of isolated wetlands shall be calculated and performed in 6529
accordance with rule 3745-1-54 of the Administrative Code. 6530

(C) An applicant for coverage under a general state isolated 6531
wetland permit or for an individual state isolated wetland permit 6532
under sections 6111.022 to 6111.024 of the Revised Code shall 6533
demonstrate that the mitigation site will be protected in 6534
perpetuity and that appropriate practicable management measures 6535
are, or will be, in place to restrict harmful activities that 6536
jeopardize the mitigation. 6537

Sec. 6111.03. The director of environmental protection may do 6538
any of the following: 6539

(A) Develop plans and programs for the prevention, control, 6540
and abatement of new or existing pollution of the waters of the 6541
state; 6542

(B) Advise, consult, and cooperate with other agencies of the 6543
state, the federal government, other states, and interstate 6544

agencies and with affected groups, political subdivisions, and 6545
industries in furtherance of the purposes of this chapter. Before 6546
adopting, amending, or rescinding a standard or rule pursuant to 6547
division (G) of this section or section 6111.041 or 6111.042 of 6548
the Revised Code, the director shall do all of the following: 6549

(1) Mail notice to each statewide organization that the 6550
director determines represents persons who would be affected by 6551
the proposed standard or rule, amendment thereto, or rescission 6552
thereof at least thirty-five days before any public hearing 6553
thereon; 6554

(2) Mail a copy of each proposed standard or rule, amendment 6555
thereto, or rescission thereof to any person who requests a copy, 6556
within five days after receipt of the request therefor; 6557

(3) Consult with appropriate state and local government 6558
agencies or their representatives, including statewide 6559
organizations of local government officials, industrial 6560
representatives, and other interested persons. 6561

Although the director is expected to discharge these duties 6562
diligently, failure to mail any such notice or copy or to so 6563
consult with any person shall not invalidate any proceeding or 6564
action of the director. 6565

(C) Administer grants from the federal government and from 6566
other sources, public or private, for carrying out any of its 6567
functions, all such moneys to be deposited in the state treasury 6568
and kept by the treasurer of state in a separate fund subject to 6569
the lawful orders of the director; 6570

(D) Administer state grants for the construction of sewage 6571
and waste collection and treatment works; 6572

(E) Encourage, participate in, or conduct studies, 6573
investigations, research, and demonstrations relating to water 6574
pollution, and the causes, prevention, control, and abatement 6575

thereof, that are advisable and necessary for the discharge of the 6576
director's duties under this chapter; 6577

(F) Collect and disseminate information relating to water 6578
pollution and prevention, control, and abatement thereof; 6579

(G) Adopt, amend, and rescind rules in accordance with 6580
Chapter 119. of the Revised Code governing the procedure for 6581
hearings, the filing of reports, the issuance of permits, the 6582
issuance of industrial water pollution control certificates, and 6583
all other matters relating to procedure; 6584

(H) Issue, modify, or revoke orders to prevent, control, or 6585
abate water pollution by such means as the following: 6586

(1) Prohibiting or abating discharges of sewage, industrial 6587
waste, or other wastes into the waters of the state; 6588

(2) Requiring the construction of new disposal systems or any 6589
parts thereof, or the modification, extension, or alteration of 6590
existing disposal systems or any parts thereof; 6591

(3) Prohibiting additional connections to or extensions of a 6592
sewerage system when the connections or extensions would result in 6593
an increase in the polluting properties of the effluent from the 6594
system when discharged into any waters of the state; 6595

(4) Requiring compliance with any standard or rule adopted 6596
under sections 6111.01 to 6111.05 of the Revised Code or term or 6597
condition of a permit. 6598

In the making of those orders, wherever compliance with a 6599
rule adopted under section 6111.042 of the Revised Code is not 6600
involved, consistent with the Federal Water Pollution Control Act, 6601
the director shall give consideration to, and base the 6602
determination on, evidence relating to the technical feasibility 6603
and economic reasonableness of complying with those orders and to 6604
evidence relating to conditions calculated to result from 6605

compliance with those orders, and their relation to benefits to 6606
the people of the state to be derived from such compliance in 6607
accomplishing the purposes of this chapter. 6608

(I) Review plans, specifications, or other data relative to 6609
disposal systems or any part thereof in connection with the 6610
issuance of orders, permits, and industrial water pollution 6611
control certificates under this chapter; 6612

(J)(1) Issue, revoke, modify, or deny sludge management 6613
permits and permits for the discharge of sewage, industrial waste, 6614
or other wastes into the waters of the state, and for the 6615
installation or modification of disposal systems or any parts 6616
thereof in compliance with all requirements of the Federal Water 6617
Pollution Control Act and mandatory regulations adopted 6618
thereunder, including regulations adopted under section 405 of the 6619
Federal Water Pollution Control Act, and set terms and conditions 6620
of permits, including schedules of compliance, where necessary. 6621
Any person who discharges, transports, or handles storm water from 6622
an animal feeding facility, as defined in section 903.01 of the 6623
Revised Code, or pollutants from a concentrated animal feeding 6624
operation, as both terms are defined in that section, is not 6625
required to obtain a permit under division (J)(1) of this section 6626
for the installation or modification of a disposal system 6627
involving pollutants or storm water or any parts of such a system 6628
on and after the date on which the director of agriculture has 6629
finalized the program required under division (A)(1) of section 6630
903.02 of the Revised Code. In addition, any person who 6631
discharges, transports, or handles storm water from an animal 6632
feeding facility, as defined in section 903.01 of the Revised 6633
Code, or pollutants from a concentrated animal feeding operation, 6634
as both terms are defined in that section, is not required to 6635
obtain a permit under division (J)(1) of this section for the 6636
discharge of storm water from an animal feeding facility or 6637

pollutants from a concentrated animal feeding operation on and 6638
after the date on which the United States environmental protection 6639
agency approves the NPDES program submitted by the director of 6640
agriculture under section 903.08 of the Revised Code. 6641

Any permit terms and conditions set by the director shall be 6642
designed to achieve and maintain full compliance with the national 6643
effluent limitations, national standards of performance for new 6644
sources, and national toxic and pretreatment effluent standards 6645
set under that act, and any other mandatory requirements of that 6646
act that are imposed by regulation of the administrator of the 6647
United States environmental protection agency. If an applicant for 6648
a sludge management permit also applies for a related permit for 6649
the discharge of sewage, industrial waste, or other wastes into 6650
the waters of the state, the director may combine the two permits 6651
and issue one permit to the applicant. 6652

A sludge management permit is not required for an entity that 6653
treats or transports sewage sludge or for a sanitary landfill when 6654
all of the following apply: 6655

(a) The entity or sanitary landfill does not generate the 6656
sewage sludge. 6657

(b) Prior to receipt at the sanitary landfill, the entity has 6658
ensured that the sewage sludge meets the requirements established 6659
in rules adopted by the director under section 3734.02 of the 6660
Revised Code concerning disposal of municipal solid waste in a 6661
sanitary landfill. 6662

(c) Disposal of the sewage sludge occurs at a sanitary 6663
landfill that complies with rules adopted by the director under 6664
section 3734.02 of the Revised Code. 6665

As used in division (J)(1) of this section, "sanitary 6666
landfill" means a sanitary landfill facility, as defined in rules 6667
adopted under section 3734.02 of the Revised Code, that is 6668

licensed as a solid waste facility under section 3734.05 of the Revised Code. 6669
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(2) An application for a permit or renewal thereof shall be denied if any of the following applies: 6671
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(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby; 6673
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(b) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act; 6675
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(c) The administrator of the United States environmental protection agency objects in writing to the issuance or renewal of the permit in accordance with section 402 (d) of the Federal Water Pollution Control Act; 6679
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(d) The application is for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the United States. 6683
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(3) To achieve and maintain applicable standards of quality for the waters of the state adopted pursuant to section 6111.041 of the Revised Code, the director shall impose, where necessary and appropriate, as conditions of each permit, water quality related effluent limitations in accordance with sections 301, 302, 306, 307, and 405 of the Federal Water Pollution Control Act and, to the extent consistent with that act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of removing the polluting properties from those wastes and to evidence relating to conditions calculated to result from that action and their relation to benefits to the people of the state and to accomplishment of the purposes of this chapter. 6686
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(4) Where a discharge having a thermal component from a 6699

source that is constructed or modified on or after October 18, 6700
1972, meets national or state effluent limitations or more 6701
stringent permit conditions designed to achieve and maintain 6702
compliance with applicable standards of quality for the waters of 6703
the state, which limitations or conditions will ensure protection 6704
and propagation of a balanced, indigenous population of shellfish, 6705
fish, and wildlife in or on the body of water into which the 6706
discharge is made, taking into account the interaction of the 6707
thermal component with sewage, industrial waste, or other wastes, 6708
the director shall not impose any more stringent limitation on the 6709
thermal component of the discharge, as a condition of a permit or 6710
renewal thereof for the discharge, during a ten-year period 6711
beginning on the date of completion of the construction or 6712
modification of the source, or during the period of depreciation 6713
or amortization of the source for the purpose of section 167 or 6714
169 of the Internal Revenue Code of 1954, whichever period ends 6715
first. 6716

(5) The director shall specify in permits for the discharge 6717
of sewage, industrial waste, and other wastes, the net volume, net 6718
weight, duration, frequency, and, where necessary, concentration 6719
of the sewage, industrial waste, and other wastes that may be 6720
discharged into the waters of the state. The director shall 6721
specify in those permits and in sludge management permits that the 6722
permit is conditioned upon payment of applicable fees as required 6723
by section 3745.11 of the Revised Code and upon the right of the 6724
director's authorized representatives to enter upon the premises 6725
of the person to whom the permit has been issued for the purpose 6726
of determining compliance with this chapter, rules adopted 6727
thereunder, or the terms and conditions of a permit, order, or 6728
other determination. The director shall issue or deny an 6729
application for a sludge management permit or a permit for a new 6730
discharge, for the installation or modification of a disposal 6731
system, or for the renewal of a permit, within one hundred eighty 6732

days of the date on which a complete application with all plans, 6733
specifications, construction schedules, and other pertinent 6734
information required by the director is received. 6735

(6) The director may condition permits upon the installation 6736
of discharge or water quality monitoring equipment or devices and 6737
the filing of periodic reports on the amounts and contents of 6738
discharges and the quality of receiving waters that the director 6739
prescribes. The director shall condition each permit for a 6740
government-owned disposal system or any other "treatment works" as 6741
defined in the Federal Water Pollution Control Act upon the 6742
reporting of new introductions of industrial waste or other wastes 6743
and substantial changes in volume or character thereof being 6744
introduced into those systems or works from "industrial users" as 6745
defined in section 502 of that act, as necessary to comply with 6746
section 402(b)(8) of that act; upon the identification of the 6747
character and volume of pollutants subject to pretreatment 6748
standards being introduced into the system or works; and upon the 6749
existence of a program to ensure compliance with pretreatment 6750
standards by "industrial users" of the system or works. In 6751
requiring monitoring devices and reports, the director, to the 6752
extent consistent with the Federal Water Pollution Control Act, 6753
shall give consideration to technical feasibility and economic 6754
reasonableness and shall allow reasonable time for compliance. 6755

(7) A permit may be issued for a period not to exceed five 6756
years and may be renewed upon application for renewal ~~and upon a~~ 6757
~~finding by the director.~~ In renewing a permit, the director shall 6758
consider the compliance history of the permit holder and may deny 6759
the renewal if the director determines that the permit holder ~~is~~ 6760
~~making satisfactory progress toward the achievement of all~~ 6761
~~applicable standards and has not~~ complied with the terms and 6762
conditions of the existing permit. A permit may be modified, 6763
suspended, or revoked for cause, including, but not limited to, 6764

violation of any condition of the permit, obtaining a permit by 6765
misrepresentation or failure to disclose fully all relevant facts 6766
of the permitted discharge or of the sludge use, storage, 6767
treatment, or disposal practice, or changes in any condition that 6768
requires either a temporary or permanent reduction or elimination 6769
of the permitted activity. No application shall be denied or 6770
permit revoked or modified without a written order stating the 6771
findings upon which the denial, revocation, or modification is 6772
based. A copy of the order shall be sent to the applicant or 6773
permit holder by certified mail. 6774

(K) Institute or cause to be instituted in any court of 6775
competent jurisdiction proceedings to compel compliance with this 6776
chapter or with the orders of the director issued under this 6777
chapter, or to ensure compliance with sections 204(b), 307, 308, 6778
and 405 of the Federal Water Pollution Control Act; 6779

(L) Issue, deny, revoke, or modify industrial water pollution 6780
control certificates; 6781

(M) Certify to the government of the United States or any 6782
agency thereof that an industrial water pollution control facility 6783
is in conformity with the state program or requirements for the 6784
control of water pollution whenever the certification may be 6785
required for a taxpayer under the Internal Revenue Code of the 6786
United States, as amended; 6787

(N) Issue, modify, and revoke orders requiring any 6788
"industrial user" of any publicly owned "treatment works" as 6789
defined in sections 212(2) and 502(18) of the Federal Water 6790
Pollution Control Act to comply with pretreatment standards; 6791
establish and maintain records; make reports; install, use, and 6792
maintain monitoring equipment or methods, including, where 6793
appropriate, biological monitoring methods; sample discharges in 6794
accordance with methods, at locations, at intervals, and in a 6795
manner that the director determines; and provide other information 6796

that is necessary to ascertain whether or not there is compliance 6797
with toxic and pretreatment effluent standards. In issuing, 6798
modifying, and revoking those orders, the director, to the extent 6799
consistent with the Federal Water Pollution Control Act, shall 6800
give consideration to technical feasibility and economic 6801
reasonableness and shall allow reasonable time for compliance. 6802

(O) Exercise all incidental powers necessary to carry out the 6803
purposes of this chapter; 6804

(P) Certify or deny certification to any applicant for a 6805
federal license or permit to conduct any activity that may result 6806
in any discharge into the waters of the state that the discharge 6807
will comply with the Federal Water Pollution Control Act; 6808

(Q) Administer and enforce the publicly owned treatment works 6809
pretreatment program in accordance with the Federal Water 6810
Pollution Control Act. In the administration of that program, the 6811
director may do any of the following: 6812

(1) Apply and enforce pretreatment standards; 6813

(2) Approve and deny requests for approval of publicly owned 6814
treatment works pretreatment programs, oversee those programs, and 6815
implement, in whole or in part, those programs under any of the 6816
following conditions: 6817

(a) The director has denied a request for approval of the 6818
publicly owned treatment works pretreatment program; 6819

(b) The director has revoked the publicly owned treatment 6820
works pretreatment program; 6821

(c) There is no pretreatment program currently being 6822
implemented by the publicly owned treatment works; 6823

(d) The publicly owned treatment works has requested the 6824
director to implement, in whole or in part, the pretreatment 6825
program. 6826

(3) Require that a publicly owned treatment works 6827
pretreatment program be incorporated in a permit issued to a 6828
publicly owned treatment works as required by the Federal Water 6829
Pollution Control Act, require compliance by publicly owned 6830
treatment works with those programs, and require compliance by 6831
industrial users with pretreatment standards; 6832

(4) Approve and deny requests for authority to modify 6833
categorical pretreatment standards to reflect removal of 6834
pollutants achieved by publicly owned treatment works; 6835

(5) Deny and recommend approval of requests for fundamentally 6836
different factors variances submitted by industrial users; 6837

(6) Make determinations on categorization of industrial 6838
users; 6839

(7) Adopt, amend, or rescind rules and issue, modify, or 6840
revoke orders necessary for the administration and enforcement of 6841
the publicly owned treatment works pretreatment program. 6842

Any approval of a publicly owned treatment works pretreatment 6843
program may contain any terms and conditions, including schedules 6844
of compliance, that are necessary to achieve compliance with this 6845
chapter. 6846

(R) Except as otherwise provided in this division, adopt 6847
rules in accordance with Chapter 119. of the Revised Code 6848
establishing procedures, methods, and equipment and other 6849
requirements for equipment to prevent and contain discharges of 6850
oil and hazardous substances into the waters of the state. The 6851
rules shall be consistent with and equivalent in scope, content, 6852
and coverage to section 311(j)(1)(c) of the Federal Water 6853
Pollution Control Act and regulations adopted under it. The 6854
director shall not adopt rules under this division relating to 6855
discharges of oil from oil production facilities and oil drilling 6856
and workover facilities as those terms are defined in that act and 6857

regulations adopted under it. 6858

(S)(1) Administer and enforce a program for the regulation of 6859
sludge management in this state. In administering the program, the 6860
director, in addition to exercising the authority provided in any 6861
other applicable sections of this chapter, may do any of the 6862
following: 6863

(a) Develop plans and programs for the disposal and 6864
utilization of sludge and sludge materials; 6865

(b) Encourage, participate in, or conduct studies, 6866
investigations, research, and demonstrations relating to the 6867
disposal and use of sludge and sludge materials and the impact of 6868
sludge and sludge materials on land located in the state and on 6869
the air and waters of the state; 6870

(c) Collect and disseminate information relating to the 6871
disposal and use of sludge and sludge materials and the impact of 6872
sludge and sludge materials on land located in the state and on 6873
the air and waters of the state; 6874

(d) Issue, modify, or revoke orders to prevent, control, or 6875
abate the use and disposal of sludge and sludge materials or the 6876
effects of the use of sludge and sludge materials on land located 6877
in the state and on the air and waters of the state; 6878

(e) Adopt and enforce, modify, or rescind rules necessary for 6879
the implementation of division (S) of this section. The rules 6880
reasonably shall protect public health and the environment, 6881
encourage the beneficial reuse of sludge and sludge materials, and 6882
minimize the creation of nuisance odors. 6883

The director may specify in sludge management permits the net 6884
volume, net weight, quality, and pollutant concentration of the 6885
sludge or sludge materials that may be used, stored, treated, or 6886
disposed of, and the manner and frequency of the use, storage, 6887
treatment, or disposal, to protect public health and the 6888

environment from adverse effects relating to those activities. The 6889
director shall impose other terms and conditions to protect public 6890
health and the environment, minimize the creation of nuisance 6891
odors, and achieve compliance with this chapter and rules adopted 6892
under it and, in doing so, shall consider whether the terms and 6893
conditions are consistent with the goal of encouraging the 6894
beneficial reuse of sludge and sludge materials. 6895

The director may condition permits on the implementation of 6896
treatment, storage, disposal, distribution, or application 6897
management methods and the filing of periodic reports on the 6898
amounts, composition, and quality of sludge and sludge materials 6899
that are disposed of, used, treated, or stored. 6900

An approval of a treatment works sludge disposal program may 6901
contain any terms and conditions, including schedules of 6902
compliance, necessary to achieve compliance with this chapter and 6903
rules adopted under it. 6904

(2) As a part of the program established under division 6905
(S)(1) of this section, the director has exclusive authority to 6906
regulate sewage sludge management in this state. For purposes of 6907
division (S)(2) of this section, that program shall be consistent 6908
with section 405 of the Federal Water Pollution Control Act and 6909
regulations adopted under it and with this section, except that 6910
the director may adopt rules under division (S) of this section 6911
that establish requirements that are more stringent than section 6912
405 of the Federal Water Pollution Control Act and regulations 6913
adopted under it with regard to monitoring sewage sludge and 6914
sewage sludge materials and establishing acceptable sewage sludge 6915
management practices and pollutant levels in sewage sludge and 6916
sewage sludge materials. 6917

This chapter authorizes the state to participate in any 6918
national sludge management program and the national pollutant 6919
discharge elimination system, to administer and enforce the 6920

publicly owned treatment works pretreatment program, and to issue 6921
permits for the discharge of dredged or fill materials, in 6922
accordance with the Federal Water Pollution Control Act. This 6923
chapter shall be administered, consistent with the laws of this 6924
state and federal law, in the same manner that the Federal Water 6925
Pollution Control Act is required to be administered. 6926

This section does not apply to animal waste disposal systems 6927
and related management and conservation practices subject to rules 6928
adopted pursuant to division (E)(4) of section 1511.02 of the 6929
Revised Code. However, until the date on which the United States 6930
environmental protection agency approves the NPDES program 6931
submitted by the director of agriculture under section 903.08 of 6932
the Revised Code, this exclusion does not apply to animal waste 6933
treatment works having a controlled direct discharge to the waters 6934
of the state or any concentrated animal feeding operation, as 6935
defined in 40 C.F.R. 122.23(b)(2). On and after the date on which 6936
the United States environmental protection agency approves the 6937
NPDES program submitted by the director of agriculture under 6938
section 903.08 of the Revised Code, this section does not apply to 6939
storm water from an animal feeding facility, as defined in section 6940
903.01 of the Revised Code, or to pollutants discharged from a 6941
concentrated animal feeding operation, as both terms are defined 6942
in that section. Neither of these exclusions applies to the 6943
discharge of animal waste into a publicly owned treatment works. 6944

Sec. 6111.035. (A) The director of environmental protection, 6945
consistent with the Federal Water Pollution Control Act and the 6946
regulations adopted thereunder, without application therefor, may 6947
issue, modify, revoke, or terminate a general permit under this 6948
chapter for both of the following: 6949

(1) Discharge of stormwater; the discharge of liquids, 6950
sediments, solids, or water-borne mining related waste, such as, 6951

but not limited to, acids, metallic cations, or their salts, from 6952
coal mining and reclamation operations ~~as defined in section~~ 6953
~~1513.01 of the Revised Code~~; or treatment works whose discharge 6954
would have de minimis impact on the waters of the state receiving 6955
the discharge; 6956

(2) Installation or modification of disposal systems or any 6957
parts thereof, including disposal systems for stormwater or for 6958
coal mining and reclamation operations ~~as defined in section~~ 6959
~~1513.01 of the Revised Code~~. 6960

A general permit shall apply to a class or category of 6961
discharges or disposal systems or to persons conducting similar 6962
activities, within any area of the state, including the entire 6963
state. 6964

A general permit shall not be issued unless the director 6965
determines that the discharges authorized by the permit will have 6966
only minimal cumulative adverse effects on the environment when 6967
the discharges are considered collectively and individually and 6968
if, in the opinion of the director, the discharges, installations, 6969
or modifications authorized by the permit are more appropriately 6970
authorized by a general permit than by an individual permit. 6971

A general permit shall be issued subject to applicable 6972
mandatory provisions and may be issued subject to any applicable 6973
permissive provision of the Federal Water Pollution Control Act 6974
and the regulations adopted thereunder. 6975

The director, at the director's discretion, may require any 6976
person authorized to discharge or to install or modify a disposal 6977
system under a general permit to apply for and obtain an 6978
individual permit for the discharge, installation, or 6979
modification. When a particular discharge, installation, or 6980
modification is subject to an individual permit, a general permit 6981
shall not apply to that discharge, installation, or modification 6982

until the individual permit is revoked, terminated, or modified to 6983
exclude the discharge, installation, or modification. 6984

In the case of a general permit issued by the director under 6985
this section for coal mining and reclamation operations, a person 6986
seeking coverage under such a general permit shall submit a notice 6987
of intent to be covered by the general permit and to be subject to 6988
the terms and conditions of the general permit. The notice of 6989
intent shall be submitted in accordance with the forms and 6990
deadlines specified for the applicable general permit for which 6991
coverage is sought. If the director has not granted or denied 6992
coverage under the general permit within forty-five days after 6993
receipt of the notice of intent, the person seeking coverage shall 6994
submit written notice to the director restating the person's 6995
request for coverage under the general permit. The director shall 6996
grant or deny coverage under the general permit not later than 6997
sixty days after receipt of the notice of intent. If, not later 6998
than fifteen days after receipt of the person's written notice 6999
restating the person's request for coverage, but not earlier than 7000
sixty days after receipt of the original notice of intent for 7001
coverage under the general permit, the director fails to act on 7002
the notice of intent, the discharge that is the subject of the 7003
notice of intent is deemed to be permitted and covered by the 7004
general permit related to coal mining and reclamation operations. 7005
Nothing in this section alters or limits the authority of the 7006
director to enforce the terms and conditions of the general permit 7007
or limits the director's authority to issue or deny other required 7008
permits. 7009

As used in this division, "coal mining and reclamation 7010
operations" has the same meaning as in section 1513.01 of the 7011
Revised Code. 7012

(B) Notwithstanding any requirement under Chapter 119. of the 7013
Revised Code concerning the manner in which notice of a permit 7014

action is provided, the director shall not be required to provide 7015
certified mail notice to persons subject to the issuance, 7016
modification, revocation, or termination of a general permit under 7017
division (A) of this section. 7018

Notwithstanding section 3745.07 of the Revised Code 7019
concerning the location of newspapers in which notices of permit 7020
actions are published, the director shall cause notice of the 7021
issuance, modification, revocation, or termination of a general 7022
permit to be published in the newspapers of general circulation 7023
determined by the director to provide reasonable notice to persons 7024
affected by the permit action in the geographic area covered by 7025
the general permit within the time periods prescribed by section 7026
3745.07 of the Revised Code. Any notice under this section or 7027
section 3745.07 of the Revised Code concerning the issuance, 7028
modification, revocation, or termination of a general permit shall 7029
include a summary of the permit action and instructions on how to 7030
obtain a copy of the full text of the permit action. The director 7031
may take other appropriate measures, such as press releases and 7032
notice to trade journals, associations, and other persons known to 7033
the director to desire notification, in order to provide notice of 7034
the director's actions concerning the issuance, modification, 7035
revocation, or termination of a general permit; however, the 7036
failure to provide such notice shall not invalidate any general 7037
permit. 7038

(C) Notwithstanding any other provision of the Revised Code, 7039
a person subject to the proposed issuance, modification, 7040
revocation, or termination of a general permit under division (A) 7041
of this section may request an adjudication hearing pursuant to 7042
section 119.07 of the Revised Code concerning the proposed action 7043
within thirty days after publication of the notice of the proposed 7044
action in newspapers of general circulation pursuant to division 7045
(B) of this section. This division shall not be interpreted to 7046

affect the authority of the director to take actions on general 7047
permits in forms other than proposed general permits. 7048

(D) The director may exercise all incidental powers required 7049
to carry out this section, including, without limitation, the 7050
adoption, amendment, and rescission of rules to implement a 7051
general permit program for classes or categories of dischargers or 7052
disposal systems. 7053

(E) On and after the date on which the United States 7054
environmental protection agency approves the NPDES program 7055
submitted by the director of agriculture under section 903.08 of 7056
the Revised Code, this section does not apply to storm water from 7057
an animal feeding facility, as defined in section 903.01 of the 7058
Revised Code, or to manure, as defined in that section. 7059

(F) As used in this section, "Federal Water Pollution Control 7060
Act" means the "Federal Water Pollution Control Act Amendments of 7061
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean 7062
Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of 7063
October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal 7064
Wastewater Treatment Construction Grant Amendments of 1981," 95 7065
Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 7066
101 Stat. 7, 33 U.S.C.A. 1251. 7067

Sec. 6111.0382. (A) There is hereby created in the state 7068
treasury the surface water improvement fund. The fund shall 7069
include, but is not limited to, money derived from any of the 7070
following: 7071

(1) Payments, contributions, and donations made to the 7072
environmental protection agency for water quality restoration and 7073
protection projects; 7074

(2) Payments made under an in-lieu fee mitigation program 7075
established by the agency under section 6111.025 of the Revised 7076

Code; 7077

(3) Funds for supplemental environmental projects for water 7078
quality improvements required by orders of the director of 7079
environmental protection, settlement agreements, consent decrees, 7080
or court orders; 7081

(4) Mitigation fees for impacts to waters of the state for 7082
mitigation not required by the United States environmental 7083
protection agency or the United States army corps of engineers. 7084

(B) Money in the fund shall be used by the director to 7085
complete water quality protection and restoration projects. The 7086
director may enter into contracts and agreements, including grant 7087
agreements with federal, state, or local government agencies, 7088
environmental nonprofit organizations, and universities, for 7089
purposes of those projects. 7090

(C) If the agency becomes an approved sponsor of a federal 7091
in-lieu fee mitigation program in accordance with 33 C.F.R. 332, 7092
money for the federally approved program may be maintained in the 7093
fund, provided that the money is segregated from all other money 7094
in the fund. 7095

Sec. 6111.30. (A) Applications for a section 401 water 7096
quality certification required under division (P) of section 7097
6111.03 of the Revised Code shall be submitted on forms provided 7098
by the director of environmental protection and shall include all 7099
information required on those forms as well as all of the 7100
following: 7101

(1) A copy of a letter from the United States army corps of 7102
engineers documenting its jurisdiction over the wetlands, streams, 7103
or other waters of the state that are the subject of the section 7104
401 water quality certification application; 7105

(2) If the project involves impacts to a wetland, a wetland 7106

characterization analysis consistent with the Ohio rapid assessment method; 7107
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(3) If the project involves a stream for which a specific aquatic life use designation has not been made, a use attainability analysis; 7109
7110
7111

(4) A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity; 7112
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(5) Applicable fees; 7115

(6) Site photographs; 7116

(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat; 7117
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(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project; 7122
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(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project; 7126
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(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project. 7129
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(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the 7132
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applicant within fifteen business days regarding the completeness 7137
of the application, the application is considered complete. If the 7138
director determines that the application is not complete, the 7139
director shall include with the written notification an itemized 7140
list of the information or materials that are necessary to 7141
complete the application. If the applicant fails to provide the 7142
information or materials within sixty days after the director's 7143
receipt of the application, the director may return the incomplete 7144
application to the applicant and take no further action on the 7145
application. If the application is returned to the applicant 7146
because it is incomplete, the director shall return the review fee 7147
levied under division (A)(1), (2), or (3) of section 3745.114 of 7148
the Revised Code to the applicant, but shall retain the 7149
application fee levied under that section. 7150

(C) Not later than twenty-one days after a determination that 7151
an application is complete under division (B) of this section, the 7152
applicant shall publish public notice of the director's receipt of 7153
the complete application in a newspaper of general circulation in 7154
the county in which the project that is the subject of the 7155
application is located. The public notice shall be in a form 7156
acceptable to the director. The applicant shall promptly provide 7157
the director with proof of publication. The applicant may choose, 7158
subject to review by and approval of the director, to include in 7159
the public notice an advertisement for an antidegradation public 7160
hearing on the application pursuant to section 6111.12 of the 7161
Revised Code. There shall be a public comment period of thirty 7162
days following the publication of the public notice. 7163

(D) If the director determines that there is significant 7164
public interest in a public hearing as evidenced by the public 7165
comments received concerning the application and by other requests 7166
for a public hearing on the application, the director or the 7167
director's representative shall conduct a public hearing 7168

concerning the application. Notice of the public hearing shall be 7169
published by the applicant, subject to review and approval by the 7170
director, at least thirty days prior to the date of the hearing in 7171
a newspaper of general circulation in the county in which the 7172
project that is the subject of the application is to take place. 7173
If a public hearing is requested concerning an application, the 7174
director shall accept comments concerning the application until 7175
five business days after the public hearing. A public hearing 7176
conducted under this division shall take place not later than one 7177
hundred days after the application is determined to be complete. 7178

(E) The director shall forward all public comments concerning 7179
an application submitted under this section that are received 7180
through the public involvement process required by rules adopted 7181
under this chapter to the applicant not later than five business 7182
days after receipt of the comments by the director. 7183

(F) The applicant shall respond in writing to written 7184
comments or to deficiencies identified by the director during the 7185
course of reviewing the application not later than fifteen days 7186
after receiving or being notified of them. 7187

(G) The director shall issue or deny a section 401 water 7188
quality certification not later than one hundred eighty days after 7189
the complete application for the certification is received. The 7190
director shall provide an applicant for a section 401 water 7191
quality certification with an opportunity to review the 7192
certification prior to its issuance. 7193

(H) The director shall maintain an accessible database that 7194
includes environmentally beneficial water restoration and 7195
protection projects that may serve as potential mitigation 7196
projects for projects in the state for which a section 401 water 7197
quality certification is required. A project's inclusion in the 7198
database does not constitute an approval of the project. 7199

(I) <u>Mitigation required by a section 401 water quality certification may be accomplished by any of the following:</u>	7200
	7201
<u>(1) Purchasing credits at a mitigation bank approved in accordance with 33 C.F.R. 332.8;</u>	7202
	7203
<u>(2) Participating in an in-lieu fee mitigation program approved in accordance with 33 C.F.R. 332.8;</u>	7204
	7205
<u>(3) Constructing individual mitigation projects.</u>	7206
<u>Notwithstanding the mitigation hierarchy specified in section 3745-1-54 of the Administrative Code, mitigation projects shall be approved in accordance with the hierarchy specified in 33 C.F.R. 332.3 unless the director determines that the size or quality of the impacted resource necessitates reasonably identifiable, available, and practicable mitigation conducted by the applicant. The director shall adopt rules in accordance with Chapter 119. of the Revised Code consistent with the mitigation hierarchy specified in 33 C.F.R. 332.3.</u>	7207
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<u>(J) As used in this section and sections section 6111.31 and 6111.32 of the Revised Code, "section 401 water quality certification" means certification pursuant to section 401 of the Federal Water Pollution Control Act and this chapter and rules adopted under it that any discharge, as set forth in section 401, will comply with sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.</u>	7216
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Section 2. That existing sections 3714.07, 3714.073, 3734.01, 3734.02, 3734.021, 3734.027, 3734.05, 3734.06, 3734.12, 3734.121, 3734.41, 3734.42, 3734.57, 3734.573, 3734.85, 3737.87, 3737.88, 3745.11, 3745.31, 3746.02, 6109.31, 6109.32, 6111.02, 6111.022, 6111.023, 6111.024, 6111.025, 6111.027, 6111.03, 6111.035, and 6111.30 and sections 3734.022, 3734.131, 3734.132, and 3734.133 of the Revised Code are hereby repealed.	7223
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Section 3. The Surface Water Improvement Fund created in 7230
section 6111.0382 of the Revised Code, as enacted by this act, is 7231
a continuation of the Surface Water Improvement Fund (5Y30) 7232
established by the Controlling Board on August 18, 2008, and 7233
continued in Section 277.10 of Am. Sub. H.B. 1 of the 128th 7234
General Assembly. 7235

Section 4. (A) The owner or operator of a sanitary landfill 7236
who, on the effective date of this act, is authorized to dispose 7237
of secondary aluminum waste in a monocell or monofill in 7238
accordance with the terms and conditions of a valid license issued 7239
under Chapter 3734. of the Revised Code and rules adopted under it 7240
and who seeks to continue to dispose of secondary aluminum waste 7241
after the effective date of this act shall submit to the 7242
Environmental Protection Agency an application to modify the 7243
permit for the sanitary landfill in accordance with division 7244
(A)(2)(a) of section 3734.05 of the Revised Code not later than 7245
ninety days after the effective date of this act. An owner or 7246
operator who has submitted an application to modify the permit for 7247
a sanitary landfill in accordance with this section may continue 7248
to dispose of the secondary aluminum waste after the effective 7249
date of this act in accordance with the terms and conditions of 7250
the effective license for the sanitary landfill until the Director 7251
of Environmental Protection issues a final action regarding the 7252
application to modify the permit for the landfill pursuant to 7253
Chapter 3734. of the Revised Code, provided that the owner or 7254
operator is in compliance with the terms and conditions of the 7255
license related to secondary aluminum waste and those terms and 7256
conditions remain in effect. 7257

(B) As used in this section, "secondary aluminum waste" has 7258
the same meaning as in division (O) of section 3734.02 of the 7259
Revised Code, as amended by this act. 7260

Section 5. Section 3737.88 of the Revised Code is presented 7261
in this act as a composite of the section as amended by both Am. 7262
Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. The 7263
General Assembly, applying the principle stated in division (B) of 7264
section 1.52 of the Revised Code that amendments are to be 7265
harmonized if reasonably capable of simultaneous operation, finds 7266
that the composite is the resulting version of the section in 7267
effect prior to the effective date of the section as presented in 7268
this act. 7269