

**As Reported by the Senate Agriculture, Environment and Natural
Resources Committee**

**129th General Assembly
Regular Session
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Sub. S. B. No. 294

Senator Schaffer

Cosponsors: Senators Balderson, Hite, Jones, Eklund, Bacon, LaRose

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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 365

regulation as hazardous waste under the "Resource Conservation and 366
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 367
amended, and does not include any substance that is subject to the 368
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 369
amended. 370

(K) "Treat" or "treatment," when used in connection with 371
hazardous waste, means any method, technique, or process designed 372
to change the physical, chemical, or biological characteristics or 373
composition of any hazardous waste; to neutralize the waste; to 374
recover energy or material resources from the waste; to render the 375
waste nonhazardous or less hazardous, safer to transport, store, 376
or dispose of, or amenable for recovery, storage, further 377
treatment, or disposal; or to reduce the volume of the waste. When 378
used in connection with infectious wastes, "treat" or "treatment" 379
means any method, technique, or process designed to render the 380
wastes noninfectious, including, without limitation, steam 381
sterilization and incineration, ~~or~~ and, in the instance of wastes 382
identified in division (R)(7) of this section, to substantially 383
reduce or eliminate the potential for the wastes to cause 384
lacerations or puncture wounds. 385

(L) "Manifest" means the form used for identifying the 386
quantity, composition, origin, routing, and destination of 387
hazardous waste during its transportation from the point of 388
generation to the point of disposal, treatment, or storage. 389

(M) "Storage," when used in connection with hazardous waste, 390
means the holding of hazardous waste for a temporary period in 391
such a manner that it remains retrievable and substantially 392
unchanged physically and chemically and, at the end of the period, 393
is treated; disposed of; stored elsewhere; or reused, recycled, or 394
reclaimed in a beneficial manner. When used in connection with 395
solid wastes that consist of scrap tires, "storage" means the 396
holding of scrap tires for a temporary period in such a manner 397

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

(N) "Facility" means any site, location, tract of land, 410
installation, or building used for incineration, composting, 411
sanitary landfilling, or other methods of disposal of solid wastes 412
or, if the solid wastes consist of scrap tires, for the 413
collection, storage, or processing of the solid wastes; for the 414
transfer of solid wastes; for the treatment of infectious wastes; 415
or for the storage, treatment, or disposal of hazardous waste. 416

(O) "Closure" means the time at which a hazardous waste 417
facility will no longer accept hazardous waste for treatment, 418
storage, or disposal, the time at which a solid waste facility 419
will no longer accept solid wastes for transfer or disposal or, if 420
the solid wastes consist of scrap tires, for storage or 421
processing, or the effective date of an order revoking the permit 422
for a hazardous waste facility or the registration certificate, 423
permit, or license for a solid waste facility, as applicable. 424
"Closure" includes measures performed to protect public health or 425
safety, to prevent air or water pollution, or to make the facility 426
suitable for other uses, if any, including, but not limited to, 427
the removal of processing residues resulting from solid wastes 428
that consist of scrap tires; the establishment and maintenance of 429

a suitable cover of soil and vegetation over cells in which 430
hazardous waste or solid wastes are buried; minimization of 431
erosion, the infiltration of surface water into such cells, the 432
production of leachate, and the accumulation and runoff of 433
contaminated surface water; the final construction of facilities 434
for the collection and treatment of leachate and contaminated 435
surface water runoff, except as otherwise provided in this 436
division; the final construction of air and water quality 437
monitoring facilities, except as otherwise provided in this 438
division; the final construction of methane gas extraction and 439
treatment systems; or the removal and proper disposal of hazardous 440
waste or solid wastes from a facility when necessary to protect 441
public health or safety or to abate or prevent air or water 442
pollution. With regard to a solid waste facility that is a scrap 443
tire facility, "closure" includes the final construction of 444
facilities for the collection and treatment of leachate and 445
contaminated surface water runoff and the final construction of 446
air and water quality monitoring facilities only if those actions 447
are determined to be necessary. 448

(P) "Premises" means either of the following: 449

(1) Geographically contiguous property owned by a generator; 450

(2) Noncontiguous property that is owned by a generator and 451
connected by a right-of-way that the generator controls and to 452
which the public does not have access. Two or more pieces of 453
property that are geographically contiguous and divided by public 454
or private right-of-way or rights-of-way are a single premises. 455

(Q) "Post-closure" means that period of time following 456
closure during which a hazardous waste facility is required to be 457
monitored and maintained under this chapter and rules adopted 458
under it, including, without limitation, operation and maintenance 459
of methane gas extraction and treatment systems, or the period of 460
time after closure during which a scrap tire monocell or monofill 461

facility licensed under section 3734.81 of the Revised Code is 462
required to be monitored and maintained under this chapter and 463
rules adopted under it. 464

(R) "Infectious wastes" ~~includes all of the following~~ 465
~~substances or categories of substances:~~ 466

~~(1) Cultures means any wastes or combination of wastes that~~ 467
~~include cultures~~ and stocks of infectious agents and associated 468
biologicals, ~~including, without limitation, specimen cultures,~~ 469
~~cultures and stocks of infectious agents, wastes from production~~ 470
~~of biologicals, and discarded live and attenuated vaccines;~~ 471

~~(2) human blood and blood products, and substances that were~~ 472
~~or are likely to have been exposed to or contaminated with or are~~ 473
~~likely to transmit an infectious agent or zoonotic agent,~~ 474
~~including all of the following:~~ 475

~~(1) Laboratory wastes that were, or are likely to have been,~~ 476
~~in contact with infectious agents that may present a substantial~~ 477
~~threat to public health if improperly managed;~~ 478

~~(3)(2) Pathological wastes, including, without limitation,~~ 479
~~human and animal tissues, organs, and body parts, and body fluids~~ 480
~~and excreta that are contaminated with or are likely to be~~ 481
~~contaminated with infectious agents, removed or obtained during~~ 482
~~surgery or autopsy or for diagnostic evaluation, provided that,~~ 483
~~with regard to pathological wastes from animals, the animals have~~ 484
~~or are likely to have been exposed to a zoonotic or infectious~~ 485
~~agent;~~ 486

(3) Animal blood and blood products; 487

(4) Animal carcasses and parts; 488

(5) Waste materials from the rooms of humans, or the 489
enclosures of animals, that have been isolated because of 490
diagnosed communicable disease that are likely to transmit 491

infectious agents. Such waste materials from the rooms of humans 492
do not include any wastes of patients who have been placed on 493
blood and body fluid precautions under the universal precaution 494
system established by the centers for disease control in the 495
public health service of the United States department of health 496
and human services, except to the extent specific wastes generated 497
under the universal precautions system have been identified as 498
infectious wastes by rules adopted under division (R)~~(8)~~(7) of 499
this section. 500

~~(5) Human and animal blood specimens and blood products that 501
are being disposed of, provided that, with regard to blood 502
specimens and blood products from animals, the animals were or are 503
likely to have been exposed to a zoonotic or infectious agent. 504
"Blood products" does not include patient care waste such as 505
bandages or disposable gowns that are lightly soiled with blood or 506
other body fluids unless those wastes are soiled to the extent 507
that the generator of the wastes determines that they should be 508
managed as infectious wastes. 509~~

~~(6) Contaminated carcasses, body parts, and bedding of 510
animals that were intentionally exposed to infectious agents from 511
zoonotic or human diseases during research, production of 512
biologicals, or testing of pharmaceuticals, and carcasses and 513
bedding of animals otherwise infected by zoonotic or infectious 514
agents that may present a substantial threat to public health if 515
improperly managed; 516~~

~~(7) Sharp wastes used in the treatment, diagnosis, or 517
inoculation of human beings or animals or that have, or are likely 518
to have, come in contact with infectious agents in medical, 519
research, or industrial laboratories, including, without 520
limitation, hypodermic needles and syringes, scalpel blades, and 521
glass articles that have been broken; 522~~

~~(8)~~(7) Any other waste materials generated in the diagnosis, 523

treatment, or immunization of human beings or animals, in research 524
pertaining thereto, or in the production or testing of 525
biologicals, that the public health council created in section 526
3701.33 of the Revised Code, by rules adopted in accordance with 527
Chapter 119. of the Revised Code, identifies as infectious wastes 528
after determining that the wastes present a substantial threat to 529
human health when improperly managed because they are contaminated 530
with, or are likely to be contaminated with, infectious agents. 531

As used in this division, "blood products" does not include 532
patient care waste such as bandages or disposable gowns that are 533
lightly soiled with blood or other body fluids unless those wastes 534
are soiled to the extent that the generator of the wastes 535
determines that they should be managed as infectious wastes. 536

(S) "Infectious agent" means a type of microorganism, 537
~~helminth, or pathogen, virus, or proteinaceous infectious particle~~ 538
that ~~causes,~~ can cause or significantly ~~contributes~~ contribute to 539
~~the cause of, increased morbidity~~ disease in or ~~mortality~~ death of 540
human beings. 541

(T) "Zoonotic agent" means a type of microorganism, ~~helminth~~ 542
pathogen, or virus that causes disease in vertebrate animals ~~and~~ 543
~~that,~~ is transmissible to human beings, ~~and causes~~ can cause or 544
significantly ~~contributes~~ contribute to ~~the cause of increased~~ 545
~~morbidity~~ disease in or ~~mortality~~ death of human beings. 546

(U) "Solid waste transfer facility" means any site, location, 547
tract of land, installation, or building that is used or intended 548
to be used primarily for the purpose of transferring solid wastes 549
that were generated off the premises of the facility from vehicles 550
or containers into other vehicles for transportation to a solid 551
waste disposal facility. "Solid waste transfer facility" does not 552
include any facility that consists solely of portable containers 553
that have an aggregate volume of fifty cubic yards or less nor any 554
facility where legitimate recycling activities are conducted. 555

(V) "Beneficially use" means to use a scrap tire in a manner 556
that results in a commodity for sale or exchange or in any other 557
manner authorized as a beneficial use in rules adopted by the 558
director in accordance with Chapter 119. of the Revised Code. 559

(W) "Commercial car," "commercial tractor," "farm machinery," 560
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 561
the same meanings as in section 4501.01 of the Revised Code. 562

(X) "Construction equipment" means road rollers, traction 563
engines, power shovels, power cranes, and other equipment used in 564
construction work, or in mining or producing or processing 565
aggregates, and not designed for or used in general highway 566
transportation. 567

(Y) "Motor vehicle salvage dealer" has the same meaning as in 568
section 4738.01 of the Revised Code. 569

(Z) "Scrap tire" means an unwanted or discarded tire. 570

(AA) "Scrap tire collection facility" means any facility that 571
meets all of the following qualifications: 572

(1) The facility is used for the receipt and storage of whole 573
scrap tires from the public prior to their transportation to a 574
scrap tire storage, monocell, monofill, or recovery facility 575
licensed under section 3734.81 of the Revised Code; a solid waste 576
incineration or energy recovery facility subject to regulation 577
under this chapter; a premises within the state where the scrap 578
tires will be beneficially used; or a scrap tire storage, 579
monocell, monofill, or recovery facility, any other solid waste 580
disposal facility authorized to dispose of scrap tires, or a 581
facility that will beneficially use the scrap tires, that is 582
located in another state, and that is operating in compliance with 583
the laws of the state in which the facility is located. 584

(2) The facility exclusively stores scrap tires in portable 585
containers. 586

(3) The aggregate storage of the portable containers in which 587
the scrap tires are stored does not exceed five thousand cubic 588
feet. 589

(BB) "Scrap tire monocell facility" means an individual site 590
within a solid waste landfill that is used exclusively for the 591
environmentally sound storage or disposal of whole scrap tires or 592
scrap tires that have been shredded, chipped, or otherwise 593
mechanically processed. 594

(CC) "Scrap tire monofill facility" means an engineered 595
facility used or intended to be used exclusively for the storage 596
or disposal of scrap tires, including at least facilities for the 597
submergence of whole scrap tires in a body of water. 598

(DD) "Scrap tire recovery facility" means any facility, or 599
portion thereof, for the processing of scrap tires for the purpose 600
of extracting or producing usable products, materials, or energy 601
from the scrap tires through a controlled combustion process, 602
mechanical process, or chemical process. "Scrap tire recovery 603
facility" includes any facility that uses the controlled 604
combustion of scrap tires in a manufacturing process to produce 605
process heat or steam or any facility that produces usable heat or 606
electric power through the controlled combustion of scrap tires in 607
combination with another fuel, but does not include any solid 608
waste incineration or energy recovery facility that is designed, 609
constructed, and used for the primary purpose of incinerating 610
mixed municipal solid wastes and that burns scrap tires in 611
conjunction with mixed municipal solid wastes, or any tire 612
retreading business, tire manufacturing finishing center, or tire 613
adjustment center having on the premises of the business a single, 614
covered scrap tire storage area at which not more than four 615
thousand scrap tires are stored. 616

(EE) "Scrap tire storage facility" means any facility where 617
whole scrap tires are stored prior to their transportation to a 618

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

(FF) "Used oil" means any oil that has been refined from 629
crude oil, or any synthetic oil, that has been used and, as a 630
result of that use, is contaminated by physical or chemical 631
impurities. "Used oil" includes only those substances identified 632
as used oil by the United States environmental protection agency 633
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 634
U.S.C.A. 6901a, as amended. 635

(GG) "Accumulated speculatively" has the same meaning as in 636
rules adopted by the director under section 3734.12 of the Revised 637
Code. 638

Sec. 3734.02. (A) The director of environmental protection, 639
in accordance with Chapter 119. of the Revised Code, shall adopt 640
and may amend, suspend, or rescind rules having uniform 641
application throughout the state governing solid waste facilities 642
and the inspections of and issuance of permits and licenses for 643
all solid waste facilities in order to ensure that the facilities 644
will be located, maintained, and operated, and will undergo 645
closure and post-closure care, in a sanitary manner so as not to 646
create a nuisance, cause or contribute to water pollution, create 647
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 648
257.3-8, as amended. The rules may include, without limitation, 649

financial assurance requirements for closure and post-closure care 650
and corrective action and requirements for taking corrective 651
action in the event of the surface or subsurface discharge or 652
migration of explosive gases or leachate from a solid waste 653
facility, or of ground water contamination resulting from the 654
transfer or disposal of solid wastes at a facility, beyond the 655
boundaries of any area within a facility that is operating or is 656
undergoing closure or post-closure care where solid wastes were 657
disposed of or are being disposed of. The rules shall not concern 658
or relate to personnel policies, salaries, wages, fringe benefits, 659
or other conditions of employment of employees of persons owning 660
or operating solid waste facilities. The director, in accordance 661
with Chapter 119. of the Revised Code, shall adopt and may amend, 662
suspend, or rescind rules governing the issuance, modification, 663
revocation, suspension, or denial of variances from the director's 664
solid waste rules, including, without limitation, rules adopted 665
under this chapter governing the management of scrap tires. 666

Variances shall be issued, modified, revoked, suspended, or 667
rescinded in accordance with this division, rules adopted under 668
it, and Chapter 3745. of the Revised Code. The director may order 669
the person to whom a variance is issued to take such action within 670
such time as the director may determine to be appropriate and 671
reasonable to prevent the creation of a nuisance or a hazard to 672
the public health or safety or the environment. Applications for 673
variances shall contain such detail plans, specifications, and 674
information regarding objectives, procedures, controls, and other 675
pertinent data as the director may require. The director shall 676
grant a variance only if the applicant demonstrates to the 677
director's satisfaction that construction and operation of the 678
solid waste facility in the manner allowed by the variance and any 679
terms or conditions imposed as part of the variance will not 680
create a nuisance or a hazard to the public health or safety or 681
the environment. In granting any variance, the director shall 682

state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or by another type of mail accompanied by a receipt and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. 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 and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the

applicant or variance holder by certified mail or by another type 716
of mail accompanied by a receipt. 717

(B) The director shall prescribe and furnish the forms 718
necessary to administer and enforce this chapter. The director may 719
cooperate with and enter into agreements with other state, local, 720
or federal agencies to carry out the purposes of this chapter. The 721
director may exercise all incidental powers necessary to carry out 722
the purposes of this chapter. 723

The director may use moneys in the infectious waste 724
management fund created in section 3734.021 of the Revised Code 725
exclusively for administering and enforcing the provisions of this 726
chapter governing the management of infectious wastes. ~~Of each~~ 727
~~registration and renewal fee collected under rules adopted under~~ 728
~~division (A)(2)(a) of section 3734.021 or under section 3734.022~~ 729
~~of the Revised Code, the director, within forty five days of its~~ 730
~~receipt, shall remit from the fund one half of the fee received to~~ 731
~~the board of health of the health district in which the registered~~ 732
~~premises is located, or, in the instance of an infectious wastes~~ 733
~~transporter, to the board of health of the health district in~~ 734
~~which the transporter's principal place of business is located.~~ 735
~~However, if the board of health having jurisdiction over a~~ 736
~~registrant's premises or principal place of business is not on the~~ 737
~~approved list under section 3734.08 of the Revised Code, the~~ 738
~~director shall not make that payment to the board of health.~~ 739

(C) Except as provided in this division and divisions (N)(2) 740
and (3) of this section, no person shall establish a new solid 741
waste facility or infectious waste treatment facility, or modify 742
an existing solid waste facility or infectious waste treatment 743
facility, without submitting an application for a permit with 744
accompanying detail plans, specifications, and information 745
regarding the facility and method of operation and receiving a 746
permit issued by the director, except that no permit shall be 747

required under this division to install or operate a solid waste 748
facility for sewage sludge treatment or disposal when the 749
treatment or disposal is authorized by a current permit issued 750
under Chapter 3704. or 6111. of the Revised Code. 751

No person shall continue to operate a solid waste facility 752
for which the director has denied a permit for which an 753
application was required under division (A)(3) of section 3734.05 754
of the Revised Code, or for which the director has disapproved 755
plans and specifications required to be filed by an order issued 756
under division (A)(5) of that section, after the date prescribed 757
for commencement of closure of the facility in the order issued 758
under division (A)(6) of section 3734.05 of the Revised Code 759
denying the permit application or approval. 760

On and after the effective date of the rules adopted under 761
division (A) of this section and division (D) of section 3734.12 762
of the Revised Code governing solid waste transfer facilities, no 763
person shall establish a new, or modify an existing, solid waste 764
transfer facility without first submitting an application for a 765
permit with accompanying engineering detail plans, specifications, 766
and information regarding the facility and its method of operation 767
to the director and receiving a permit issued by the director. 768

No person shall establish a new compost facility or continue 769
to operate an existing compost facility that accepts exclusively 770
source separated yard wastes without submitting a completed 771
registration for the facility to the director in accordance with 772
rules adopted under divisions (A) and (N)(3) of this section. 773

This division does not apply to ~~an a generator of~~ infectious 774
~~waste treatment facility wastes~~ that ~~meets~~ does any of the 775
following ~~conditions~~: 776

(1) ~~Is owned or operated by the generator of the wastes and~~ 777
~~exclusively treats~~ Treats, by methods, techniques, and practices 778

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

(a) Infectious wastes that are generated on any premises that 788
are owned or operated by the generator; 789

(b) Infectious wastes that are generated by a generator who 790
has staff privileges at a hospital as defined in section 3727.01 791
of the Revised Code; 792

(c) Infectious wastes that are generated in providing care to 793
a patient by an emergency medical services organization as defined 794
in section 4765.01 of the Revised Code. 795

(2) Holds a license or renewal of a license to operate a 796
crematory facility issued under Chapter 4717. and a permit issued 797
under Chapter 3704. of the Revised Code; 798

(3) Treats or disposes of dead animals or parts thereof, or 799
the blood of animals, and is subject to any of the following: 800

(a) Inspection under the "Federal Meat Inspection Act," 81 801
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 802

(b) Chapter 918. of the Revised Code; 803

(c) Chapter 953. of the Revised Code. 804

(D) Neither this chapter nor any rules adopted under it apply 805
to single-family residential premises; to infectious wastes 806
generated by individuals for purposes of their own care or 807
treatment ~~that are disposed of with solid wastes from the~~ 808

~~individual's residence~~; to the temporary storage of solid wastes, 809
other than scrap tires, prior to their collection for disposal; to 810
the storage of one hundred or fewer scrap tires unless they are 811
stored in such a manner that, in the judgment of the director or 812
the board of health of the health district in which the scrap 813
tires are stored, the storage causes a nuisance, a hazard to 814
public health or safety, or a fire hazard; or to the collection of 815
solid wastes, other than scrap tires, by a political subdivision 816
or a person holding a franchise or license from a political 817
subdivision of the state; to composting, as defined in section 818
1511.01 of the Revised Code, conducted in accordance with section 819
1511.022 of the Revised Code; or to any person who is licensed to 820
transport raw rendering material to a compost facility pursuant to 821
section 953.23 of the Revised Code. 822

(E)(1) As used in this division: 823

(a) "On-site facility" means a facility that stores, treats, 824
or disposes of hazardous waste that is generated on the premises 825
of the facility. 826

(b) "Off-site facility" means a facility that stores, treats, 827
or disposes of hazardous waste that is generated off the premises 828
of the facility and includes such a facility that is also an 829
on-site facility. 830

(c) "Satellite facility" means any of the following: 831

(i) An on-site facility that also receives hazardous waste 832
from other premises owned by the same person who generates the 833
waste on the facility premises; 834

(ii) An off-site facility operated so that all of the 835
hazardous waste it receives is generated on one or more premises 836
owned by the person who owns the facility; 837

(iii) An on-site facility that also receives hazardous waste 838
that is transported uninterruptedly and directly to the facility 839

through a pipeline from a generator who is not the owner of the 840
facility. 841

(2) Except as provided in division (E)(3) of this section, no 842
person shall establish or operate a hazardous waste facility, or 843
use a solid waste facility for the storage, treatment, or disposal 844
of any hazardous waste, without a hazardous waste facility 845
installation and operation permit issued in accordance with 846
section 3734.05 of the Revised Code and subject to the payment of 847
an application fee not to exceed one thousand five hundred 848
dollars, payable upon application for a hazardous waste facility 849
installation and operation permit and upon application for a 850
renewal permit issued under division (H) of section 3734.05 of the 851
Revised Code, to be credited to the hazardous waste facility 852
management fund created in section 3734.18 of the Revised Code. 853
The term of a hazardous waste facility installation and operation 854
permit shall not exceed ten years. 855

In addition to the application fee, there is hereby levied an 856
annual permit fee to be paid by the permit holder upon the 857
anniversaries of the date of issuance of the hazardous waste 858
facility installation and operation permit and of any subsequent 859
renewal permits and to be credited to the hazardous waste facility 860
management fund. Annual permit fees totaling forty thousand 861
dollars or more for any one facility may be paid on a quarterly 862
basis with the first quarterly payment each year being due on the 863
anniversary of the date of issuance of the hazardous waste 864
facility installation and operation permit and of any subsequent 865
renewal permits. The annual permit fee shall be determined for 866
each permit holder by the director in accordance with the 867
following schedule: 868

TYPE OF BASIC				869
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	870
Storage facility using:				871

Containers	On-site, off-site, and		872
	satellite	\$ 500	873
Tanks	On-site, off-site, and		874
	satellite	500	875
Waste pile	On-site, off-site, and		876
	satellite	3,000	877
Surface impoundment	On-site and satellite	8,000	878
	Off-site	10,000	879
Disposal facility using:			880
Deep well injection	On-site and satellite	15,000	881
	Off-site	25,000	882
Landfill	On-site and satellite	25,000	883
	Off-site	40,000	884
Land application	On-site and satellite	2,500	885
	Off-site	5,000	886
Surface impoundment	On-site and satellite	10,000	887
	Off-site	20,000	888
Treatment facility using:			889
Tanks	On-site, off-site, and		890
	satellite	700	891
Surface impoundment	On-site and satellite	8,000	892
	Off-site	10,000	893
Incinerator	On-site and satellite	5,000	894
	Off-site	10,000	895
Other forms			896
of treatment	On-site, off-site, and		897
	satellite	1,000	898

A hazardous waste disposal facility that disposes of 899
hazardous waste by deep well injection and that pays the annual 900
permit fee established in section 6111.046 of the Revised Code is 901
not subject to the permit fee established in this division for 902
disposal facilities using deep well injection unless the director 903
determines that the facility is not in compliance with applicable 904

requirements established under this chapter and rules adopted 905
under it. 906

In determining the annual permit fee required by this 907
section, the director shall not require additional payments for 908
multiple units of the same method of storage, treatment, or 909
disposal or for individual units that are used for both storage 910
and treatment. A facility using more than one method of storage, 911
treatment, or disposal shall pay the permit fee indicated by the 912
schedule for each such method. 913

The director shall not require the payment of that portion of 914
an annual permit fee of any permit holder that would apply to a 915
hazardous waste management unit for which a permit has been 916
issued, but for which construction has not yet commenced. Once 917
construction has commenced, the director shall require the payment 918
of a part of the appropriate fee indicated by the schedule that 919
bears the same relationship to the total fee that the number of 920
days remaining until the next anniversary date at which payment of 921
the annual permit fee is due bears to three hundred sixty-five. 922

The director, by rules adopted in accordance with Chapters 923
119. and 3745. of the Revised Code, shall prescribe procedures for 924
collecting the annual permit fee established by this division and 925
may prescribe other requirements necessary to carry out this 926
division. 927

(3) The prohibition against establishing or operating a 928
hazardous waste facility without a hazardous waste facility 929
installation and operation permit does not apply to either of the 930
following: 931

(a) A facility that is operating in accordance with a permit 932
renewal issued under division (H) of section 3734.05 of the 933
Revised Code, a revision issued under division (I) of that section 934
as it existed prior to August 20, 1996, or a modification issued 935

by the director under division (I) of that section on and after 936
August 20, 1996; 937

(b) Except as provided in division (J) of section 3734.05 of 938
the Revised Code, a facility that will operate or is operating in 939
accordance with a permit by rule, or that is not subject to permit 940
requirements, under rules adopted by the director. In accordance 941
with Chapter 119. of the Revised Code, the director shall adopt, 942
and subsequently may amend, suspend, or rescind, rules for the 943
purposes of division (E)(3)(b) of this section. Any rules so 944
adopted shall be consistent with and equivalent to regulations 945
pertaining to interim status adopted under the "Resource 946
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 947
6921, as amended, except as otherwise provided in this chapter. 948

If a modification is requested or proposed for a facility 949
described in division (E)(3)(a) or (b) of this section, division 950
(I)(7) of section 3734.05 of the Revised Code applies. 951

(F) No person shall store, treat, or dispose of hazardous 952
waste identified or listed under this chapter and rules adopted 953
under it, regardless of whether generated on or off the premises 954
where the waste is stored, treated, or disposed of, or transport 955
or cause to be transported any hazardous waste identified or 956
listed under this chapter and rules adopted under it to any other 957
premises, except at or to any of the following: 958

(1) A hazardous waste facility operating under a permit 959
issued in accordance with this chapter; 960

(2) A facility in another state operating under a license or 961
permit issued in accordance with the "Resource Conservation and 962
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 963
amended; 964

(3) A facility in another nation operating in accordance with 965
the laws of that nation; 966

(4) A facility holding a permit issued pursuant to Title I of 967
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 968
Stat. 1052, 33 U.S.C.A. 1401, as amended; 969

(5) A hazardous waste facility as described in division 970
(E)(3)(a) or (b) of this section. 971

(G) The director, by order, may exempt any person generating, 972
collecting, storing, treating, disposing of, or transporting solid 973
wastes, infectious wastes, or hazardous waste, or processing solid 974
wastes that consist of scrap tires, in such quantities or under 975
such circumstances that, in the determination of the director, are 976
unlikely to adversely affect the public health or safety or the 977
environment from any requirement to obtain a registration 978
certificate, permit, or license or comply with the manifest system 979
or other requirements of this chapter. Such an exemption shall be 980
consistent with and equivalent to any regulations adopted by the 981
administrator of the United States environmental protection agency 982
under the "Resource Conservation and Recovery Act of 1976," 90 983
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 984
provided in this chapter. 985

(H) No person shall engage in filling, grading, excavating, 986
building, drilling, or mining on land where a hazardous waste 987
facility, or a solid waste facility, was operated without prior 988
authorization from the director, who shall establish the procedure 989
for granting such authorization by rules adopted in accordance 990
with Chapter 119. of the Revised Code. 991

A public utility that has main or distribution lines above or 992
below the land surface located on an easement or right-of-way 993
across land where a solid waste facility was operated may engage 994
in any such activity within the easement or right-of-way without 995
prior authorization from the director for purposes of performing 996
emergency repair or emergency replacement of its lines; of the 997
poles, towers, foundations, or other structures supporting or 998

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

(I) No owner or operator of a hazardous waste facility, in 1018
the operation of the facility, shall cause, permit, or allow the 1019
emission therefrom of any particulate matter, dust, fumes, gas, 1020
mist, smoke, vapor, or odorous substance that, in the opinion of 1021
the director, unreasonably interferes with the comfortable 1022
enjoyment of life or property by persons living or working in the 1023
vicinity of the facility, or that is injurious to public health. 1024
Any such action is hereby declared to be a public nuisance. 1025

(J) Notwithstanding any other provision of this chapter, in 1026
the event the director finds an imminent and substantial danger to 1027
public health or safety or the environment that creates an 1028
emergency situation requiring the immediate treatment, storage, or 1029
disposal of hazardous waste, the director may issue a temporary 1030

emergency permit to allow the treatment, storage, or disposal of 1031
the hazardous waste at a facility that is not otherwise authorized 1032
by a hazardous waste facility installation and operation permit to 1033
treat, store, or dispose of the waste. The emergency permit shall 1034
not exceed ninety days in duration and shall not be renewed. The 1035
director shall adopt, and may amend, suspend, or rescind, rules in 1036
accordance with Chapter 119. of the Revised Code governing the 1037
issuance, modification, revocation, and denial of emergency 1038
permits. 1039

(K) ~~No Except for infectious wastes generated by a person who 1040
produces fewer than fifty pounds of infectious wastes at a 1041
premises during any one month, no owner or operator of a sanitary 1042
landfill shall knowingly accept for disposal, or dispose of, any 1043
infectious wastes, ~~other than those subject to division (A)(1)(c)~~ 1044
~~of section 3734.021 of the Revised Code,~~ that have not been 1045
treated to render them noninfectious. ~~For the purposes of this~~ 1046
~~division, certification by the owner or operator of the treatment~~ 1047
~~facility where the wastes were treated on the shipping paper~~ 1048
~~required by rules adopted under division (D)(2) of that section~~ 1049
~~creates a rebuttable presumption that the wastes have been so~~ 1050
~~treated.~~ 1051~~

(L) The director, in accordance with Chapter 119. of the 1052
Revised Code, shall adopt, and may amend, suspend, or rescind, 1053
rules having uniform application throughout the state establishing 1054
a training and certification program that shall be required for 1055
employees of boards of health who are responsible for enforcing 1056
the solid waste and infectious waste provisions of this chapter 1057
and rules adopted under them and for persons who are responsible 1058
for the operation of solid waste facilities or infectious waste 1059
treatment facilities. The rules shall provide all of the 1060
following, without limitation: 1061

(1) The program shall be administered by the director and 1062

shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

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

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

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

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

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

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

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

(M) The director shall not issue a permit under section

3734.05 of the Revised Code to establish a solid waste facility, 1093
or to modify a solid waste facility operating on December 21, 1094
1988, in a manner that expands the disposal capacity or geographic 1095
area covered by the facility, that is or is to be located within 1096
the boundaries of a state park established or dedicated under 1097
Chapter 1541. of the Revised Code, a state park purchase area 1098
established under section 1541.02 of the Revised Code, any unit of 1099
the national park system, or any property that lies within the 1100
boundaries of a national park or recreation area, but that has not 1101
been acquired or is not administered by the secretary of the 1102
United States department of the interior, located in this state, 1103
or any candidate area located in this state and identified for 1104
potential inclusion in the national park system in the edition of 1105
the "national park system plan" submitted under paragraph (b) of 1106
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 1107
U.S.C.A. 1a-5, as amended, current at the time of filing of the 1108
application for the permit, unless the facility or proposed 1109
facility is or is to be used exclusively for the disposal of solid 1110
wastes generated within the park or recreation area and the 1111
director determines that the facility or proposed facility will 1112
not degrade any of the natural or cultural resources of the park 1113
or recreation area. The director shall not issue a variance under 1114
division (A) of this section and rules adopted under it, or issue 1115
an exemption order under division (G) of this section, that would 1116
authorize any such establishment or expansion of a solid waste 1117
facility within the boundaries of any such park or recreation 1118
area, state park purchase area, or candidate area, other than a 1119
solid waste facility exclusively for the disposal of solid wastes 1120
generated within the park or recreation area when the director 1121
determines that the facility will not degrade any of the natural 1122
or cultural resources of the park or recreation area. 1123

(N)(1) The rules adopted under division (A) of this section, 1124
other than those governing variances, do not apply to scrap tire 1125

collection, storage, monocell, monofill, and recovery facilities. 1126
Those facilities are subject to and governed by rules adopted 1127
under sections 3734.70 to 3734.73 of the Revised Code, as 1128
applicable. 1129

(2) Division (C) of this section does not apply to scrap tire 1130
collection, storage, monocell, monofill, and recovery facilities. 1131
The establishment and modification of those facilities are subject 1132
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 1133
Code, as applicable. 1134

(3) The director may adopt, amend, suspend, or rescind rules 1135
under division (A) of this section creating an alternative system 1136
for authorizing the establishment, operation, or modification of a 1137
solid waste compost facility in lieu of the requirement that a 1138
person seeking to establish, operate, or modify a solid waste 1139
compost facility apply for and receive a permit under division (C) 1140
of this section and section 3734.05 of the Revised Code and a 1141
license under division (A)(1) of that section. The rules may 1142
include requirements governing, without limitation, the 1143
classification of solid waste compost facilities, the submittal of 1144
operating records for solid waste compost facilities, and the 1145
creation of a registration or notification system in lieu of the 1146
issuance of permits and licenses for solid waste compost 1147
facilities. The rules shall specify the applicability of divisions 1148
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 1149
Code to a solid waste compost facility. 1150

(O) No owner or operator of a sanitary landfill shall dispose 1151
of commingled municipal solid waste and aluminum production wastes 1152
at the landfill. 1153

Sec. 3734.021. (A) Infectious wastes shall be segregated, 1154
~~packaged~~ managed, treated, ~~transported~~, and disposed of in 1155
accordance with rules adopted under this section. 1156

(B) The director of environmental protection, in accordance 1157
with Chapter 119. of the Revised Code, shall adopt, ~~and may amend~~ 1158
~~and rescind,~~ rules necessary or appropriate to protect human 1159
health or safety or the environment that do both of the following: 1160

~~(A) Establishing~~ (1) Establish standards for generators of 1161
infectious wastes that include, without limitation, the following 1162
requirements and authorizations that: 1163

~~(1)(a)~~ (a) All generators of infectious wastes: 1164

~~(a) Place all infectious wastes identified in division (R)(7)~~ 1165
~~of section 3734.01 of the Revised Code, and all unused, discarded~~ 1166
~~hypodermic needles, syringes, and scalpel blades, in rigid,~~ 1167
~~tightly closed, puncture resistant containers on the premises~~ 1168
~~where they are generated before they are transported off that~~ 1169
~~premises. Containers containing such wastes shall be labeled~~ 1170
~~"sharps" and, if the wastes have not been treated to render them~~ 1171
~~noninfectious, shall be conspicuously labeled with the~~ 1172
~~international biohazard symbol.~~ 1173

~~(b)(i)~~ (i) Either treat all specimen cultures and cultures of 1174
viable infectious agents on the premises where they are generated 1175
to render them noninfectious by methods, techniques, or practices 1176
prescribed by rules adopted under division ~~(C)(1)(B)(2)(a)~~ of this 1177
section before they are transported off that premises for disposal 1178
or ensure that such wastes are treated to render them 1179
noninfectious at an infectious waste treatment facility off that 1180
premises ~~that is owned or operated by the generator, an infectious~~ 1181
~~waste treatment facility that holds a license issued under~~ 1182
~~division (B) of section 3734.05 of the Revised Code, an infectious~~ 1183
~~waste treatment facility that is located in another state that is~~ 1184
~~in compliance with applicable state and federal laws, or a~~ 1185
~~treatment facility that is authorized by rules adopted under~~ 1186
~~division (C)(6) of this section, prior to disposal of the wastes-~~ 1187

~~(c) Except as otherwise provided in division (A)(1)(c) of this section, wastes generated by a generator who;~~ 1188
1189

~~(ii) Transport and dispose of infectious wastes, if a generator produces fewer than fifty pounds of infectious wastes during any one month that are subject to and packaged and labeled in accordance with rules adopted under division (A)(1)(a) of this section shall be transported and disposed of federal requirements,~~ 1190
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~~(d) Wastes~~ 1200

~~(iii) Dispose of infectious wastes subject to and treated in accordance with rules adopted under division (A)(1)(b)(B)(1)(a)(i) of this section shall be transported and disposed of in the same manner as solid wastes.~~ 1201
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~~(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:~~ 1205
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~~(i) Were not intentionally exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;~~ 1210
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~~(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.~~ 1213
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~~(f) For the purposes of this section and rules adopted under it, no blood, blood products, other body fluids, or embalming~~ 1217
1218

~~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;~~

(iv) May take wastes generated in providing care to a patient by an emergency medical services organization, as defined in section 4765.01 of the Revised Code, ~~may be taken to and left~~ leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility regardless of whether the wastes were generated in providing care to the patient at the scene of an emergency or during the transportation of the patient to a hospital. ~~An emergency medical services organization that transports infectious wastes that are so generated to a hospital for that purpose is not a transporter for the purposes of this section or section 3734.022 of the~~

Revised Code.	1251
(i) Wastes;	1252
(v) <u>May take wastes</u> generated by an individual for purposes	1253
of the individual's own care or treatment <u>may be taken</u> to and <u>left</u>	1254
<u>leave them</u> at a hospital, as defined in section 3727.01 of the	1255
Revised Code, for treatment at a treatment facility owned or	1256
operated by the hospital or, in conjunction with infectious wastes	1257
generated by the hospital, at another treatment facility. <u>An</u>	1258
individual or member of an individual's household who transports	1259
wastes so generated by the individual to a hospital for that	1260
purpose is not a transporter for the purposes of this section or	1261
section 3734.022 of the Revised Code.	1262
(2)(b) Each generator of fifty pounds or more of infectious	1263
wastes during any one month:	1264
(a) <u>Register with</u> (i) <u>Notify</u> the environmental protection	1265
agency <u>as to the generator's status</u> as a generator of infectious	1266
wastes and <u>obtain a registration certificate</u>. <u>The fee for issuance</u>	1267
<u>of a generator registration certificate is three hundred dollars</u>	1268
<u>payable at the time of application</u>. <u>The registration certificate</u>	1269
<u>applies to notification shall include</u> all the premises owned or	1270
operated by the generator in this state where infectious wastes	1271
are generated and <u>shall list the address of each such premises or</u>	1272
<u>treated</u>. <u>A generator shall submit with the notification a fee of</u>	1273
<u>fifty dollars for each premises identified in the notification</u>. If	1274
a generator owns or operates <u>facilities for the treatment of a</u>	1275
<u>facility that treats the infectious wastes</u> it <u>that the generator</u>	1276
generates, the <u>certificate notification</u> shall list the address and	1277
method of treatment used at each such <u>the</u> facility.	1278
	1279
A generator <u>registration certificate is valid for three years</u>	1280
<u>from the date of issuance and shall be renewed for a term of three</u>	1281

~~update the notification that is required by division (B)(1)(b)(i) 1282
of this section every two years upon the generator's submission of 1283
an application for renewal and payment of a three hundred dollar 1284
renewal fee. 1285~~

~~The rules may establish a system of staggered renewal dates 1286
with approximately one third of such certificates subject to 1287
renewal each year. The applicable renewal date shall be prescribed 1288
on each registration certificate. Registration fees shall be 1289
prorated according to the time remaining in the registration cycle 1290
to the nearest year. A generator shall submit with the updated 1291
notification a notification renewal fee of fifty dollars for each 1292
premises owned or operated by the generator in this state where 1293
infectious wastes are generated or treated. 1294~~

~~The registration and renewal fees collected under division 1295
(B)(1)(b)(i) of this section shall be credited to the infectious 1296
wastes management fund, hereby created in the state treasury. 1297~~

~~(b)(ii) Segregate infectious wastes from other wastes at the 1298
point of generation. Nothing in this section and rules adopted 1299
under it prohibits a generator of infectious wastes from 1300
designating and managing any wastes, in addition to those defined 1301
as infectious wastes under section 3734.01 of the Revised Code, as 1302
infectious wastes when, in the judgment of the generator, those 1303
other wastes should be managed as infectious wastes because they 1304
are, or are likely to be, contaminated with infectious agents. 1305
After designating any such other wastes as infectious, the 1306
generator shall manage those wastes in compliance with the 1307
requirements of this chapter and rules adopted under it applicable 1308
to the management of infectious wastes. 1309~~

~~(c) For purposes of containment, place infectious wastes, 1310
other than those subject to rules adopted under division (A)(1)(a) 1311
of this section, in plastic bags that are impervious to moisture 1312
and are sufficiently strong to preclude ripping, tearing, or 1313~~

~~bursting under normal conditions of handling and ensure that the
filled bags are securely tied to prevent leakage or expulsion of
the wastes from them during storage, handling, or transport. The
generator shall ensure that, prior to transportation off the
premises where generated, infectious wastes that have not been
treated to render them noninfectious, other than those subject to
division (A)(1)(a) of this section, are contained in bags that
either are red in color or conspicuously labeled with the
international biohazard symbol.~~

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

~~(e)(iv)~~ Not ~~grind any infectious wastes identified in
division (R)(7) of section 3734.01 of the Revised Code, not
compact any such wastes until after the wastes have been treated
in accordance with rules adopted under divisions (C)(1) and (3) of
this section, and not compact or grind any other type of
infectious wastes until after the wastes have been treated~~ prior

to treatment in accordance with rules adopted under division 1346

~~(C)(1)(B)(2)(a)~~ of this section; 1347

~~(f)(v)~~ May discharge untreated liquid or semiliquid 1348

infectious wastes consisting of blood, blood products, body 1349

fluids, and excreta into a disposal system, as defined in section 1350

6111.01 of the Revised Code, unless the discharge of those wastes 1351

into a disposal system is inconsistent with the terms and 1352

conditions of the permit for the system issued under Chapter 6111. 1353

of the Revised Code; 1354

~~(g)~~ ~~Employ only transporters who are registered under section~~ 1355

~~3734.022 of the Revised Code to transport off the premises where~~ 1356

~~they were generated infectious wastes that have not been treated~~ 1357

~~to render them noninfectious;~~ 1358

~~(h)~~ ~~Cause all infectious wastes that have not been treated to~~ 1359

~~render them noninfectious, and those subject to rules adopted~~ 1360

~~under division (A)(1)(a) of this section that have not also been~~ 1361

~~treated in accordance with rules adopted under division (C)(3) of~~ 1362

~~this section, to be transported in shipments consisting only of~~ 1363

~~untreated infectious wastes;~~ 1364

~~(i)(vi)~~ May transport or cause to be transported infectious 1365

wastes that have been treated to render them noninfectious, ~~and~~ 1366

~~those wastes subject to rules adopted under division (A)(1)(a) of~~ 1367

~~this section that have also been treated in accordance with rules~~ 1368

~~adopted under division (C)(3) of this section, in the same manner~~ 1369

~~as solid wastes are transported;~~ 1370

~~(j)~~ ~~Provide information on the composition of its infectious~~ 1371

~~wastes, the treatment of the wastes to render them noninfectious,~~ 1372

~~and the generator's system for distinguishing between waste~~ 1373

~~packages that contain treated and untreated wastes to persons with~~ 1374

~~whom the generator has entered into a contract or agreement to~~ 1375

~~transport, treat, or dispose of the wastes upon receiving a~~ 1376

~~written request from those persons;~~ 1377

~~(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.~~ 1378
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~~(B) Establishing standards for transporters of infectious wastes that include, without limitation, the following requirements that the transporters:~~ 1383
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~~(1) Transport only properly packaged and labeled wastes;~~ 1386

~~(2) Transport wastes that have not been treated to render them noninfectious only in a leak resistant, fully covered vehicle compartment;~~ 1387
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~~(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;~~ 1390
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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;~~ 1395
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~~(5) Transport infectious wastes that have been treated to render them noninfectious, and, in the case of wastes subject to rules adopted under division (A)(1)(a) of this section, have also been treated in accordance with rules adopted under division (C)(3) of this section, in the same manner as solid wastes;~~ 1401
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~~(6) Promptly disinfect surfaces of transport vehicles that~~ 1406

have had untreated infectious wastes leaked or spilled onto them, 1407
in accordance with methods prescribed by the director by rule; 1408

~~(7) Transport infectious wastes that have not been treated to 1409
render them noninfectious only to an infectious waste treatment 1410
facility holding an operating license issued under division (B) of 1411
section 3734.05 of the Revised Code, to an infectious waste 1412
treatment facility that is located in another state that is in 1413
compliance with applicable state and federal laws, to a treatment 1414
facility authorized by rules adopted under division (C)(6) of this 1415
section, or to an infectious waste treatment facility owned or 1416
operated by the generator of the wastes. If the generator 1417
designates a treatment facility on the shipping paper accompanying 1418
the wastes, the transporter shall deliver the wastes to that 1419
treatment facility. 1420~~

~~(8) Comply with the shipping paper system established by 1421
rules adopted under division (D) of this section. 1422~~

~~(C) Establishing~~ (2) Establish standards for owners and 1423
operators of infectious waste treatment facilities that include, 1424
without limitation, the following requirements and authorizations 1425
that: 1426

~~(1) Treatment~~ (a) Require treatment of all wastes received to 1427
be performed in accordance with methods, techniques, and practices 1428
approved by the director; 1429

~~(2)(b)~~ Govern the location, design, construction, and 1430
operation of infectious waste treatment facilities. The rules 1431
adopted under division ~~(C)(2)~~ (B)(2)(b) of this section shall 1432
require that a new infectious waste incineration facility be 1433
located so that the incinerator unit and all areas where 1434
infectious wastes are handled on the premises where the facility 1435
is proposed to be located are at least three hundred feet inside 1436
the property line of the tract of land on which the facility is 1437

proposed to be located and are at least one thousand feet from any 1438
domicile, school, prison, or jail that is in existence on the date 1439
on which the application for the permit to establish the 1440
incinerator is submitted under division (B)(2)(b) of section 1441
3734.05 of the Revised Code. 1442

~~(3) Establish methods, techniques, and practices for 1443
treatment of wastes subject to rules adopted under division 1444
(A)(1)(a) of this section that may be used to substantially reduce 1445
or eliminate the potential of those wastes to cause lacerations or 1446
puncture wounds during handling, transportation, and disposal;~~ 1447

~~(4)(c) Establish quality control and testing procedures to 1448
ensure compliance with the rules adopted under divisions (C)(2) 1449
and (3) division (B)(2)(b) of this section;~~ 1450

~~(5) Owners and operators of such facilities comply with the 1451
shipping paper system established by rules adopted under division 1452
(D) of this section;~~ 1453

~~(6) Infectious (d) Authorize infectious wastes may to be 1454
treated at a facility that holds a license or renewal of a license 1455
to operate a crematory facility issued under Chapter 4717., and a 1456
permit issued under Chapter 3704., of the Revised Code to the 1457
extent that the treatment of those wastes is consistent with that 1458
permit and its terms and conditions. The rules adopted under 1459
divisions ~~(C)(2)~~(B)(2)(b) and ~~(4)(c)~~ of this section do not apply 1460
to a facility holding such a license and permit. 1461~~

In adopting the rules required by divisions ~~(C)(1)~~(B)(2)(a) 1462
to ~~(4)(d)~~ of this section, the director shall consider and, to the 1463
maximum feasible extent, utilize existing standards and guidelines 1464
established by professional and governmental organizations having 1465
expertise in the fields of infection control and infectious wastes 1466
management. 1467

~~(D) Establishing a system of shipping papers to accompany 1468~~

~~shipments of infectious wastes that are transported off the premises where they are generated, including the following requirements:~~

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

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

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

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

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

~~(e) A certification by the person causing the wastes to be transported that the wastes are packaged and labeled in accordance~~

~~with the rules adopted under this section and that the description
of the wastes is accurate.~~ 1500
1501

~~(2) Shipping papers that accompany shipments of wastes that
have been treated to render them noninfectious shall include only
the following elements:~~ 1502
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~~(a) The name of the owner or operator of the facility where
the wastes were treated and the address of the treatment facility;~~ 1505
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~~(b) A certification by the owner or operator of the treatment
facility where the wastes were treated that the wastes have been
treated by methods, techniques, and practices prescribed by rules
adopted under division (C)(1) of this section. If the treated
wastes are to be compacted prior to transportation and contain any
wastes subject to rules adopted under division (A)(1)(a) of this
section, the shipping paper shall include an additional
certification by the owner or operator of the treatment facility
where the wastes were treated that they also have been treated in
accordance with rules adopted under division (C)(3) of this
section.~~ 1507
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~~(E)(C) This section and rules adopted under it do not apply
to the treatment or disposal of wastes consisting of dead animals
or parts thereof, or the blood of animals:~~ 1518
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~~(1) By the owner of the animal after slaughter by the owner
on the owner's premises to obtain meat for consumption by the
owner and the members of the owner's household;~~ 1521
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~~(2) In accordance with Chapter 941. of the Revised Code; or~~ 1524

~~(3) By persons who are subject to any of the following:~~ 1525

~~(a) Inspection under the "Federal Meat Inspection Act," 81
Stat. 584 (1967), 21 U.S.C.A. 603, as amended;~~ 1526
1527

~~(b) Chapter 918. of the Revised Code;~~ 1528

~~(c) Chapter 953. of the Revised Code.~~ 1529

~~(F)~~(D) As used in this section, "generator" means a person 1530
who produces infectious wastes at a specific premises. 1531

~~(G)~~(E) Rules adopted under this section shall not concern or 1532
relate to personnel policies, salaries, wages, fringe benefits, or 1533
other conditions of employment of employees of persons owning or 1534
operating infectious waste treatment facilities. 1535

~~(H) The director shall not issue any variance from the rules~~ 1536
~~adopted under this section~~ (F)(1) The director, in accordance with 1537
Chapter 119. of the Revised Code, shall adopt rules governing the 1538
issuance, modification, revocation, suspension, and denial of 1539
variances from the rules adopted under division (B) of this 1540
section. Variances shall be issued, modified, revoked, suspended, 1541
or denied in accordance with division (F) of this section, rules 1542
adopted under it, and Chapter 3745. of the Revised Code. 1543

(2) A person who desires to obtain a variance or renew a 1544
variance from the rules adopted under division (B) of this section 1545
shall submit to the director an application as prescribed by the 1546
director. The application shall contain detail plans, 1547
specifications, and information regarding objectives, procedures, 1548
controls, and any other information that the director may require. 1549
The director shall issue, renew, or deny a variance or renewal of 1550
a variance within six months of the date on which the director 1551
receives a complete application with all required information and 1552
data. 1553

(3) The director may hold a public hearing on an application 1554
submitted under division (F) of this section for a variance at a 1555
location in the county in which the operations that are the 1556
subject of the application for a variance or renewal of variance 1557
are conducted. Not less than twenty days before the hearing, the 1558
director shall provide to the applicant notice of the hearing by 1559
certified mail or by another type of mail that is accompanied by a 1560
receipt and shall publish notice of the hearing at least one time 1561

in a newspaper of general circulation in the county in which the 1562
hearing is to be held. The director shall make a complete 1563
stenographic record of testimony and other evidence submitted at 1564
the hearing. Not later than ten days after the hearing, the 1565
director shall make a written determination to issue, renew, or 1566
deny the variance and shall enter the determination and the basis 1567
for it into the record of the hearing. 1568

(4) A variance shall not be issued, modified, revoked, or 1569
denied under division (F) of this section until the director has 1570
considered the relative interests of the applicant, other persons 1571
and property that will be affected by the variance, and the 1572
general public. The director shall grant a variance only if the 1573
applicant demonstrates to the director's satisfaction that the 1574
requested action will not create a nuisance or a hazard to the 1575
health or safety of the public or to the environment. In granting 1576
a variance, the director shall state the specific provision or 1577
provisions whose terms are to be varied and also shall state 1578
specific terms or conditions imposed on the applicant in place of 1579
the provision or provisions. 1580

(5) A variance granted under division (F) of this section 1581
shall be for a period specified by the director and may be renewed 1582
from time to time on terms and for periods that the director 1583
determines to be appropriate. The director may order the person to 1584
whom a variance has been issued to take action within the time 1585
that the director determines to be appropriate and reasonable to 1586
prevent the creation of a nuisance or a hazard to the health or 1587
safety of the public or to the environment. 1588

(6) An application submitted under division (F) of this 1589
section shall not be denied and a variance shall not be revoked or 1590
modified under that division without a written order of the 1591
director stating the findings on which the denial, revocation, or 1592
modification is based. A copy of the order shall be sent to the 1593

applicant or holder of a variance by certified mail or by another 1594
type of mail that is accompanied by a receipt. 1595

(7) The director shall make available for public inspection 1596
at the principal office of the environmental protection agency a 1597
current list of pending applications for variances submitted under 1598
division (F) of this section and a current schedule of pending 1599
variance hearings under it. 1600

Sec. 3734.027. (A) No person shall commingle with any type of 1601
solid wastes, hazardous waste, or infectious wastes any low-level 1602
radioactive waste whose treatment, recycling, storage, or disposal 1603
is governed under division (B) of section 3748.10 of the Revised 1604
Code. 1605

(B) ~~No~~ Except as authorized by the director of health under 1606
Chapter 3748. of the Revised Code and rules adopted under it, no 1607
owner or operator of a solid waste facility, infectious waste 1608
treatment facility, or hazardous waste facility shall accept for 1609
transfer, storage, treatment, or disposal or shall transfer, 1610
store, treat, or dispose of, ~~as applicable,~~ any ~~such~~ radioactive 1611
waste specified in division (A) of this section. 1612

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 1613
(8), and (9) of this section, no person shall operate or maintain 1614
a solid waste facility without a license issued under this 1615
division by the board of health of the health district in which 1616
the facility is located or by the director of environmental 1617
protection when the health district in which the facility is 1618
located is not on the approved list under section 3734.08 of the 1619
Revised Code. 1620

During the month of December, but before the first day of 1621
January of the next year, every person proposing to continue to 1622
operate an existing solid waste facility shall procure a license 1623

under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and

(9) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the

application for an annual license is submitted to a board of 1689
health on the approved list under section 3734.08 of the Revised 1690
Code, the application fee shall be credited to the special fund of 1691
the health district created in division (B) of section 3734.06 of 1692
the Revised Code. If the application for an annual license is 1693
submitted to the director, the application fee shall be credited 1694
to the general revenue fund. If a permit or license is issued, the 1695
amount of the application fee paid shall be deducted from the 1696
amount of the permit fee due under division (Q) of section 3745.11 1697
of the Revised Code or the amount of the license fee due under 1698
division (A)(1), (2), (3), (4), or (5) of section 3734.06 of the 1699
Revised Code. 1700

(d) As used in divisions (A)(2)(d), (e), and (f) of this 1701
section, "modify" means any of the following: 1702

(i) Any increase of more than ten per cent in the total 1703
capacity of a solid waste facility; 1704

(ii) Any expansion of the limits of solid waste placement at 1705
a solid waste facility; 1706

(iii) Any increase in the depth of excavation at a solid 1707
waste facility; 1708

(iv) Any change in the technique of waste receipt or type of 1709
waste received at a solid waste facility that may endanger human 1710
health, as determined by the director by rules adopted in 1711
accordance with Chapter 119. of the Revised Code. 1712

Not later than forty-five days after submitting an 1713
application under division (A)(2)(a) or (b) of this section for a 1714
permit to open a new or modify an existing solid waste facility, 1715
the applicant, in conjunction with an officer or employee of the 1716
environmental protection agency, shall hold a public meeting on 1717
the application within the county in which the new or modified 1718
solid waste facility is or is proposed to be located or within a 1719

contiguous county. Not less than thirty days before holding the 1720
public meeting on the application, the applicant shall publish 1721
notice of the meeting in each newspaper of general circulation 1722
that is published in the county in which the facility is or is 1723
proposed to be located. If no newspaper of general circulation is 1724
published in the county, the applicant shall publish the notice in 1725
a newspaper of general circulation in the county. The notice shall 1726
contain the date, time, and location of the public meeting and a 1727
general description of the proposed new or modified facility. Not 1728
later than five days after publishing the notice, the applicant 1729
shall send by certified mail a copy of the notice and the date the 1730
notice was published to the director and the legislative authority 1731
of each municipal corporation, township, and county, and to the 1732
chief executive officer of each municipal corporation, in which 1733
the facility is or is proposed to be located. At the public 1734
meeting, the applicant shall provide information and describe the 1735
application and respond to comments or questions concerning the 1736
application, and the officer or employee of the agency shall 1737
describe the permit application process. At the public meeting, 1738
any person may submit written or oral comments on or objections to 1739
the application. Not more than thirty days after the public 1740
meeting, the applicant shall provide the director with a copy of a 1741
transcript of the full meeting, copies of any exhibits, displays, 1742
or other materials presented by the applicant at the meeting, and 1743
the original copy of any written comments submitted at the 1744
meeting. 1745

(e) Except as provided in division (A)(2)(f) of this section, 1746
prior to taking an action, other than a proposed or final denial, 1747
upon an application submitted under division (A)(2)(a) of this 1748
section for a permit to open a new or modify an existing solid 1749
waste facility, the director shall hold a public information 1750
session and a public hearing on the application within the county 1751
in which the new or modified solid waste facility is or is 1752

proposed to be located or within a contiguous county. If the 1753
application is for a permit to open a new solid waste facility, 1754
the director shall hold the hearing not less than fourteen days 1755
after the information session. If the application is for a permit 1756
to modify an existing solid waste facility, the director may hold 1757
both the information session and the hearing on the same day 1758
unless any individual affected by the application requests in 1759
writing that the information session and the hearing not be held 1760
on the same day, in which case the director shall hold the hearing 1761
not less than fourteen days after the information session. The 1762
director shall publish notice of the public information session or 1763
public hearing not less than thirty days before holding the 1764
information session or hearing, as applicable. The notice shall be 1765
published in each newspaper of general circulation that is 1766
published in the county in which the facility is or is proposed to 1767
be located. If no newspaper of general circulation is published in 1768
the county, the director shall publish the notice in a newspaper 1769
of general circulation in the county. The notice shall contain the 1770
date, time, and location of the information session or hearing, as 1771
applicable, and a general description of the proposed new or 1772
modified facility. At the public information session, an officer 1773
or employee of the environmental protection agency shall describe 1774
the status of the permit application and be available to respond 1775
to comments or questions concerning the application. At the public 1776
hearing, any person may submit written or oral comments on or 1777
objections to the approval of the application. The applicant, or a 1778
representative of the applicant who has knowledge of the location, 1779
construction, and operation of the facility, shall attend the 1780
information session and public hearing to respond to comments or 1781
questions concerning the facility directed to the applicant or 1782
representative by the officer or employee of the environmental 1783
protection agency presiding at the information session and 1784
hearing. 1785

(f) The solid waste management policy committee of a county 1786
or joint solid waste management district may adopt a resolution 1787
requesting expeditious consideration of a specific application 1788
submitted under division (A)(2)(a) of this section for a permit to 1789
modify an existing solid waste facility within the district. The 1790
resolution shall make the finding that expedited consideration of 1791
the application without the public information session and public 1792
hearing under division (A)(2)(e) of this section is in the public 1793
interest and will not endanger human health, as determined by the 1794
director by rules adopted in accordance with Chapter 119. of the 1795
Revised Code. Upon receiving such a resolution, the director, at 1796
the director's discretion, may issue a final action upon the 1797
application without holding a public information session or public 1798
hearing pursuant to division (A)(2)(e) of this section. 1799

(3) Except as provided in division (A)(10) of this section, 1800
and unless the owner or operator of any solid waste facility, 1801
other than a solid waste transfer facility or a compost facility 1802
that accepts exclusively source separated yard wastes, that 1803
commenced operation on or before July 1, 1968, has obtained an 1804
exemption from the requirements of division (A)(3) of this section 1805
in accordance with division (G) of section 3734.02 of the Revised 1806
Code, the owner or operator shall submit to the director an 1807
application for a permit with accompanying engineering detail 1808
plans, specifications, and information regarding the facility and 1809
its method of operation for approval under rules adopted under 1810
division (A) of section 3734.02 of the Revised Code and applicable 1811
rules adopted under division (D) of section 3734.12 of the Revised 1812
Code in accordance with the following schedule: 1813

(a) Not later than September 24, 1988, if the facility is 1814
located in the city of Garfield Heights or Parma in Cuyahoga 1815
county; 1816

(b) Not later than December 24, 1988, if the facility is 1817

located in Delaware, Greene, Guernsey, Hamilton, Madison, 1818
Mahoning, Ottawa, or Vinton county; 1819

(c) Not later than March 24, 1989, if the facility is located 1820
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 1821
Washington county, or is located in the city of Brooklyn or 1822
Cuyahoga Heights in Cuyahoga county; 1823

(d) Not later than June 24, 1989, if the facility is located 1824
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 1825
Summit county or is located in Cuyahoga county outside the cities 1826
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 1827

(e) Not later than September 24, 1989, if the facility is 1828
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 1829
county; 1830

(f) Not later than December 24, 1989, if the facility is 1831
located in a county not listed in divisions (A)(3)(a) to (e) of 1832
this section; 1833

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 1834
section, not later than December 31, 1990, if the facility is a 1835
solid waste facility owned by a generator of solid wastes when the 1836
solid waste facility exclusively disposes of solid wastes 1837
generated at one or more premises owned by the generator 1838
regardless of whether the facility is located on a premises where 1839
the wastes are generated and if the facility disposes of more than 1840
one hundred thousand tons of solid wastes per year, provided that 1841
any such facility shall be subject to division (A)(5) of this 1842
section. 1843

(4) Except as provided in divisions (A)(8), (9), and (10) of 1844
this section, unless the owner or operator of any solid waste 1845
facility for which a permit was issued after July 1, 1968, but 1846
before January 1, 1980, has obtained an exemption from the 1847
requirements of division (A)(4) of this section under division (G) 1848

of section 3734.02 of the Revised Code, the owner or operator 1849
shall submit to the director an application for a permit with 1850
accompanying engineering detail plans, specifications, and 1851
information regarding the facility and its method of operation for 1852
approval under those rules. 1853

(5) The director may issue an order in accordance with 1854
Chapter 3745. of the Revised Code to the owner or operator of a 1855
solid waste facility requiring the person to submit to the 1856
director updated engineering detail plans, specifications, and 1857
information regarding the facility and its method of operation for 1858
approval under rules adopted under division (A) of section 3734.02 1859
of the Revised Code and applicable rules adopted under division 1860
(D) of section 3734.12 of the Revised Code if, in the director's 1861
judgment, conditions at the facility constitute a substantial 1862
threat to public health or safety or are causing or contributing 1863
to or threatening to cause or contribute to air or water pollution 1864
or soil contamination. Any person who receives such an order shall 1865
submit the updated engineering detail plans, specifications, and 1866
information to the director within one hundred eighty days after 1867
the effective date of the order. 1868

(6) The director shall act upon an application submitted 1869
under division (A)(3) or (4) of this section and any updated 1870
engineering plans, specifications, and information submitted under 1871
division (A)(5) of this section within one hundred eighty days 1872
after receiving them. If the director denies any such permit 1873
application, the order denying the application or disapproving the 1874
plans shall include the requirements that the owner or operator 1875
submit a plan for closure and post-closure care of the facility to 1876
the director for approval within six months after issuance of the 1877
order, cease accepting solid wastes for disposal or transfer at 1878
the facility, and commence closure of the facility not later than 1879
one year after issuance of the order. If the director determines 1880

that closure of the facility within that one-year period would 1881
result in the unavailability of sufficient solid waste management 1882
facility capacity within the county or joint solid waste 1883
management district in which the facility is located to dispose of 1884
or transfer the solid waste generated within the district, the 1885
director in the order of denial or disapproval may postpone 1886
commencement of closure of the facility for such period of time as 1887
the director finds necessary for the board of county commissioners 1888
or directors of the district to secure access to or for there to 1889
be constructed within the district sufficient solid waste 1890
management facility capacity to meet the needs of the district, 1891
provided that the director shall certify in the director's order 1892
that postponing the date for commencement of closure will not 1893
endanger ground water or any property surrounding the facility, 1894
allow methane gas migration to occur, or cause or contribute to 1895
any other type of environmental damage. 1896

If an emergency need for disposal capacity that may affect 1897
public health and safety exists as a result of closure of a 1898
facility under division (A)(6) of this section, the director may 1899
issue an order designating another solid waste facility to accept 1900
the wastes that would have been disposed of at the facility to be 1901
closed. 1902

(7) If the director determines that standards more stringent 1903
than those applicable in rules adopted under division (A) of 1904
section 3734.02 of the Revised Code and division (D) of section 1905
3734.12 of the Revised Code, or standards pertaining to subjects 1906
not specifically addressed by those rules, are necessary to ensure 1907
that a solid waste facility constructed at the proposed location 1908
will not cause a nuisance, cause or contribute to water pollution, 1909
or endanger public health or safety, the director may issue a 1910
permit for the facility with such terms and conditions as the 1911
director finds necessary to protect public health and safety and 1912

the environment. If a permit is issued, the director shall state 1913
in the order issuing it the specific findings supporting each such 1914
term or condition. 1915

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 1916
not apply to a solid waste compost facility that accepts 1917
exclusively source separated yard wastes and that is registered 1918
under division (C) of section 3734.02 of the Revised Code or, 1919
unless otherwise provided in rules adopted under division (N)(3) 1920
of section 3734.02 of the Revised Code, to a solid waste compost 1921
facility if the director has adopted rules establishing an 1922
alternative system for authorizing the establishment, operation, 1923
or modification of a solid waste compost facility under that 1924
division. 1925

(9) Divisions (A)(1) to (7) of this section do not apply to 1926
scrap tire collection, storage, monocell, monofill, and recovery 1927
facilities. The approval of plans and specifications, as 1928
applicable, and the issuance of registration certificates, 1929
permits, and licenses for those facilities are subject to sections 1930
3734.75 to 3734.78 of the Revised Code, as applicable, and section 1931
3734.81 of the Revised Code. 1932

(10) Divisions (A)(3) and (4) of this section do not apply to 1933
a solid waste incinerator that was placed into operation on or 1934
before October 12, 1994, and that is not authorized to accept and 1935
treat infectious wastes pursuant to division (B) of this section. 1936

~~(B)(1) Each person who is engaged in the business of treating 1937
infectious wastes for profit at a treatment facility located off 1938
the premises where the wastes are generated that is in operation 1939
on August 10, 1988, and who proposes to continue operating the 1940
facility shall submit to the board of health of the health 1941
district in which the facility is located an application for a 1942
license to operate the facility. 1943~~

~~Thereafter, no~~ No person shall operate or maintain an 1944
infectious waste treatment facility without a license issued by 1945
the board of health of the health district in which the facility 1946
is located or by the director when the health district in which 1947
the facility is located is not on the approved list under section 1948
3734.08 of the Revised Code. 1949

(2)(a) During the month of December, but before the first day 1950
of January of the next year, every person proposing to continue to 1951
operate an existing infectious waste treatment facility shall 1952
procure a license to operate the facility for that year from the 1953
board of health of the health district in which the facility is 1954
located or, if the health district is not on the approved list 1955
under section 3734.08 of the Revised Code, from the director. The 1956
application for such a license shall be submitted to the board of 1957
health or to the director, as appropriate, on or before the last 1958
day of September of the year preceding that for which the license 1959
is sought. In addition to the application fee prescribed in 1960
division (B)(2)(c) of this section, a person who submits an 1961
application after that date shall pay an additional ten per cent 1962
of the amount of the application fee for each week that the 1963
application is late. Late payment fees accompanying an application 1964
submitted to the board of health shall be credited to the special 1965
infectious waste fund of the health district created in division 1966
(C) of section 3734.06 of the Revised Code, and late payment fees 1967
accompanying an application submitted to the director shall be 1968
credited to the general revenue fund. A person who has received a 1969
license, upon sale or disposition of an infectious waste treatment 1970
facility and upon consent of the board of health and the director, 1971
may have the license transferred to another person. The board of 1972
health or the director may include such terms and conditions in a 1973
license or revision to a license as are appropriate to ensure 1974
compliance with the infectious waste provisions of this chapter 1975
and rules adopted under them. 1976

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a ~~completed~~ complete application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a ~~completed~~ complete application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director 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

hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (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	2042
Code in accordance with the following schedule:	2043
(i) Not later than December 24, 1988, if the facility is	2044
located in Delaware, Greene, Guernsey, Hamilton, Madison,	2045
Mahoning, Ottawa, or Vinton county;	2046
(ii) Not later than March 24, 1989, if the facility is	2047
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark,	2048
or Washington county, or is located in the city of Brooklyn,	2049
Cuyahoga Heights, or Parma in Cuyahoga county;	2050
(iii) Not later than June 24, 1989, if the facility is	2051
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain,	2052
Lucas, or Summit county or is located in Cuyahoga county outside	2053
the cities of Brooklyn, Cuyahoga Heights, and Parma;	2054
(iv) Not later than September 24, 1989, if the facility is	2055
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross	2056
county;	2057
(v) Not later than December 24, 1989, if the facility is	2058
located in a county not listed in divisions (B)(2)(d)(i) to (iv)	2059
of this section.	2060
The owner or operator of an infectious waste treatment	2061
facility required to submit a permit application under division	2062
(B)(2)(d) of this section is not required to pay any permit	2063
application fee under division (B)(2)(c) of this section, or	2064
permit fee under division (Q) of section 3745.11 of the Revised	2065
Code, with respect thereto unless the owner or operator also	2066
proposes to modify the facility.	2067
(e) The director may issue an order in accordance with	2068
Chapter 3745. of the Revised Code to the owner or operator of an	2069
infectious waste treatment facility requiring the person to submit	2070
to the director updated engineering detail plans, specifications,	2071
and information regarding the facility and its method of operation	2072

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.

~~(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.

(3) Division (B) of this section does not apply to ~~an a~~ generator of infectious waste treatment facility wastes that meets any of the following conditions:

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

Revised Code;	2105
<u>(i) Infectious wastes that are generated on any premises that are owned or operated by the generator;</u>	2106
<u>(ii) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;</u>	2108
<u>(iii) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of the Revised Code.</u>	2109
(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;	2110
(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:	2111
(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	2112
(ii) Chapter 918. of the Revised Code;	2113
(iii) Chapter 953. of the Revised Code.	2114
Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.	2115
On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the <u>The</u> director shall	2117
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not issue a permit to open a new solid waste incineration facility 2135
unless the proposed facility complies with the requirements for 2136
the location of new infectious waste incineration facilities 2137
established in ~~the required amendments to those rules adopted~~ 2138
under division (B)(2)(b) of section 3734.021 of the Revised Code. 2139

(C) Except for a facility or activity described in division 2140
(E)(3) of section 3734.02 of the Revised Code, a person who 2141
proposes to establish or operate a hazardous waste facility shall 2142
submit a complete application for a hazardous waste facility 2143
installation and operation permit and accompanying detail plans, 2144
specifications, and such information as the director may require 2145
to the environmental protection agency at least one hundred eighty 2146
days before the proposed beginning of operation of the facility. 2147
The applicant shall notify by certified mail the legislative 2148
authority of each municipal corporation, township, and county in 2149
which the facility is proposed to be located of the submission of 2150
the application within ten days after the submission or at such 2151
earlier time as the director may establish by rule. If the 2152
application is for a proposed new hazardous waste disposal or 2153
thermal treatment facility, the applicant also shall give actual 2154
notice of the general design and purpose of the facility to the 2155
legislative authority of each municipal corporation, township, and 2156
county in which the facility is proposed to be located at least 2157
ninety days before the permit application is submitted to the 2158
environmental protection agency. 2159

In accordance with rules adopted under section 3734.12 of the 2160
Revised Code, prior to the submission of a complete application 2161
for a hazardous waste facility installation and operation permit, 2162
the applicant shall hold at least one meeting in the township or 2163
municipal corporation in which the facility is proposed to be 2164
located, whichever is geographically closer to the proposed 2165
location of the facility. The meeting shall be open to the public 2166

and shall be held to inform the community of the proposed 2167
hazardous waste management activities and to solicit questions 2168
from the community concerning the activities. 2169

(D)(1) Except as provided in section 3734.123 of the Revised 2170
Code, upon receipt of a complete application for a hazardous waste 2171
facility installation and operation permit under division (C) of 2172
this section, the director shall consider the application and 2173
accompanying information to determine whether the application 2174
complies with agency rules and the requirements of division (D)(2) 2175
of this section. After making a determination, the director shall 2176
issue either a draft permit or a notice of intent to deny the 2177
permit. The director, in accordance with rules adopted under 2178
section 3734.12 of the Revised Code or with rules adopted to 2179
implement Chapter 3745. of the Revised Code, shall provide public 2180
notice of the application and the draft permit or the notice of 2181
intent to deny the permit, provide an opportunity for public 2182
comments, and, if significant interest is shown, schedule a public 2183
meeting in the county in which the facility is proposed to be 2184
located and give public notice of the date, time, and location of 2185
the public meeting in a newspaper of general circulation in that 2186
county. 2187

(2) The director shall not approve an application for a 2188
hazardous waste facility installation and operation permit or an 2189
application for a modification under division (I)(3) of this 2190
section unless the director finds and determines as follows: 2191

(a) The nature and volume of the waste to be treated, stored, 2192
or disposed of at the facility; 2193

(b) That the facility complies with the director's hazardous 2194
waste standards adopted pursuant to section 3734.12 of the Revised 2195
Code; 2196

(c) That the facility represents the minimum adverse 2197

environmental impact, considering the state of available 2198
technology and the nature and economics of various alternatives, 2199
and other pertinent considerations; 2200

(d) That the facility represents the minimum risk of all of 2201
the following: 2202

(i) Fires or explosions from treatment, storage, or disposal 2203
methods; 2204

(ii) Release of hazardous waste during transportation of 2205
hazardous waste to or from the facility; 2206

(iii) Adverse impact on the public health and safety. 2207

(e) That the facility will comply with this chapter and 2208
Chapters 3704. and 6111. of the Revised Code and all rules and 2209
standards adopted under them; 2210

(f) That if the owner of the facility, the operator of the 2211
facility, or any other person in a position with the facility from 2212
which the person may influence the installation and operation of 2213
the facility has been involved in any prior activity involving 2214
transportation, treatment, storage, or disposal of hazardous 2215
waste, that person has a history of compliance with this chapter 2216
and Chapters 3704. and 6111. of the Revised Code and all rules and 2217
standards adopted under them, the "Resource Conservation and 2218
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2219
amended, and all regulations adopted under it, and similar laws 2220
and rules of other states if any such prior operation was located 2221
in another state that demonstrates sufficient reliability, 2222
expertise, and competency to operate a hazardous waste facility 2223
under the applicable provisions of this chapter and Chapters 3704. 2224
and 6111. of the Revised Code, the applicable rules and standards 2225
adopted under them, and terms and conditions of a hazardous waste 2226
facility installation and operation permit, given the potential 2227
for harm to the public health and safety and the environment that 2228

could result from the irresponsible operation of the facility. For 2229
off-site facilities, as defined in section 3734.41 of the Revised 2230
Code, the director may use the investigative reports of the 2231
attorney general prepared pursuant to section 3734.42 of the 2232
Revised Code as a basis for making a finding and determination 2233
under division (D)(2)(f) of this section. 2234

(g) That the active areas within a new hazardous waste 2235
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 2236
(e), as amended, or organic waste that is toxic and is listed 2237
under 40 C.F.R. 261, as amended, is being stored, treated, or 2238
disposed of and where the aggregate of the storage design capacity 2239
and the disposal design capacity of all hazardous waste in those 2240
areas is greater than two hundred fifty thousand gallons, are not 2241
located or operated within any of the following: 2242

(i) Two thousand feet of any residence, school, hospital, 2243
jail, or prison; 2244

(ii) Any naturally occurring wetland; 2245

(iii) Any flood hazard area if the applicant cannot show that 2246
the facility will be designed, constructed, operated, and 2247
maintained to prevent washout by a one-hundred-year flood. 2248

Division (D)(2)(g) of this section does not apply to the 2249
facility of any applicant who demonstrates to the director that 2250
the limitations specified in that division are not necessary 2251
because of the nature or volume of the waste and the manner of 2252
management applied, the facility will impose no substantial danger 2253
to the health and safety of persons occupying the structures 2254
listed in division (D)(2)(g)(i) of this section, and the facility 2255
is to be located or operated in an area where the proposed 2256
hazardous waste activities will not be incompatible with existing 2257
land uses in the area. 2258

(h) That the facility will not be located within the 2259

boundaries of a state park established or dedicated under Chapter 2260
1541. of the Revised Code, a state park purchase area established 2261
under section 1541.02 of the Revised Code, any unit of the 2262
national park system, or any property that lies within the 2263
boundaries of a national park or recreation area, but that has not 2264
been acquired or is not administered by the secretary of the 2265
United States department of the interior, located in this state, 2266
or any candidate area located in this state identified for 2267
potential inclusion in the national park system in the edition of 2268
the "national park system plan" submitted under paragraph (b) of 2269
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 2270
U.S.C.A. 1a-5, as amended, current at the time of filing of the 2271
application for the permit, unless the facility will be used 2272
exclusively for the storage of hazardous waste generated within 2273
the park or recreation area in conjunction with the operation of 2274
the park or recreation area. Division (D)(2)(h) of this section 2275
does not apply to the facility of any applicant for modification 2276
of a permit unless the modification application proposes to 2277
increase the land area included in the facility or to increase the 2278
quantity of hazardous waste that will be treated, stored, or 2279
disposed of at the facility. 2280

(3) Not later than one hundred eighty days after the end of 2281
the public comment period, the director, without prior hearing, 2282
shall issue or deny the permit in accordance with Chapter 3745. of 2283
the Revised Code. If the director approves an application for a 2284
hazardous waste facility installation and operation permit, the 2285
director shall issue the permit, upon such terms and conditions as 2286
the director finds are necessary to ensure the construction and 2287
operation of the hazardous waste facility in accordance with the 2288
standards of this section. 2289

(E) No political subdivision of this state shall require any 2290
additional zoning or other approval, consent, permit, certificate, 2291

or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

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

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

(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 2324
permit and rules adopted by the director under this chapter, and 2325
such other information as is relevant to the operation of the 2326
facility and shall issue a draft renewal permit or a notice of 2327
intent to deny the renewal permit. The director, in accordance 2328
with rules adopted under this section or with rules adopted to 2329
implement Chapter 3745. of the Revised Code, shall give public 2330
notice of the application and draft renewal permit or notice of 2331
intent to deny the renewal permit, provide for the opportunity for 2332
public comments within a specified time period, schedule a public 2333
meeting in the county in which the facility is located if 2334
significant interest is shown, and give public notice of the 2335
public meeting. 2336

(2) Within sixty days after the public meeting or close of 2337
the public comment period, the director, without prior hearing, 2338
shall issue or deny the renewal permit in accordance with Chapter 2339
3745. of the Revised Code. The director shall not issue a renewal 2340
permit unless the director determines that the facility under the 2341
existing permit has a history of compliance with this chapter, 2342
rules adopted under it, the existing permit, or orders entered to 2343
enforce such requirements that demonstrates sufficient 2344
reliability, expertise, and competency to operate the facility 2345
henceforth under this chapter, rules adopted under it, and the 2346
renewal permit. If the director approves an application for a 2347
renewal permit, the director shall issue the permit subject to the 2348
payment of the annual permit fee required under division (E) of 2349
section 3734.02 of the Revised Code and upon such terms and 2350
conditions as the director finds are reasonable to ensure that 2351
continued operation, maintenance, closure, and post-closure care 2352
of the hazardous waste facility are in accordance with the rules 2353
adopted under section 3734.12 of the Revised Code. 2354

(3) An installation and operation permit renewal application 2355

submitted to the director that also contains or would constitute 2356
an application for a modification shall be acted upon by the 2357
director in accordance with division (I) of this section in the 2358
same manner as an application for a modification. In approving or 2359
disapproving the renewal portion of a permit renewal application 2360
containing an application for a modification, the director shall 2361
apply the criteria established under division (H)(2) of this 2362
section. 2363

(4) An application for renewal or modification of a permit 2364
that does not contain an application for a modification as 2365
described in divisions (I)(3)(a) to (d) of this section shall not 2366
be subject to division (D)(2) of this section. 2367

(I)(1) As used in this section, "modification" means a change 2368
or alteration to a hazardous waste facility or its operations that 2369
is inconsistent with or not authorized by its existing permit or 2370
authorization to operate. Modifications shall be classified as 2371
Class 1, 2, or 3 modifications in accordance with rules adopted 2372
under division (K) of this section. Modifications classified as 2373
Class 3 modifications, in accordance with rules adopted under that 2374
division, shall be further classified by the director as either 2375
Class 3 modifications that are to be approved or disapproved by 2376
the director under divisions (I)(3)(a) to (d) of this section or 2377
as Class 3 modifications that are to be approved or disapproved by 2378
the director under division (I)(5) of this section. Not later than 2379
thirty days after receiving a request for a modification under 2380
division (I)(4) of this section that is not listed in Appendix I 2381
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 2382
section, the director shall classify the modification and shall 2383
notify the owner or operator of the facility requesting the 2384
modification of the classification. Notwithstanding any other law 2385
to the contrary, a modification that involves the transfer of a 2386
hazardous waste facility installation and operation permit to a 2387

new owner or operator for any off-site facility as defined in 2388
section 3734.41 of the Revised Code shall be classified as a Class 2389
3 modification. The transfer of a hazardous waste facility 2390
installation and operation permit to a new owner or operator for a 2391
facility that is not an off-site facility shall be classified as a 2392
Class 1 modification requiring prior approval of the director. 2393

(2) Except as provided in section 3734.123 of the Revised 2394
Code, a hazardous waste facility installation and operation permit 2395
may be modified at the request of the director or upon the written 2396
request of the permittee only if any of the following applies: 2397

(a) The permittee desires to accomplish alterations, 2398
additions, or deletions to the permitted facility or to undertake 2399
alterations, additions, deletions, or activities that are 2400
inconsistent with or not authorized by the existing permit; 2401

(b) New information or data justify permit conditions in 2402
addition to or different from those in the existing permit; 2403

(c) The standards, criteria, or rules upon which the existing 2404
permit is based have been changed by new, amended, or rescinded 2405
standards, criteria, or rules, or by judicial decision after the 2406
existing permit was issued, and the change justifies permit 2407
conditions in addition to or different from those in the existing 2408
permit; 2409

(d) The permittee proposes to transfer the permit to another 2410
person. 2411

(3) The director shall approve or disapprove an application 2412
for a modification in accordance with division (D)(2) of this 2413
section and rules adopted under division (K) of this section for 2414
all of the following categories of Class 3 modifications: 2415

(a) Authority to conduct treatment, storage, or disposal at a 2416
site, location, or tract of land that has not been authorized for 2417
the proposed category of treatment, storage, or disposal activity 2418

by the facility's permit; 2419

(b) Modification or addition of a hazardous waste management 2420
unit, as defined in rules adopted under section 3734.12 of the 2421
Revised Code, that results in an increase in a facility's storage 2422
capacity of more than twenty-five per cent over the capacity 2423
authorized by the facility's permit, an increase in a facility's 2424
treatment rate of more than twenty-five per cent over the rate so 2425
authorized, or an increase in a facility's disposal capacity over 2426
the capacity so authorized. The authorized disposal capacity for a 2427
facility shall be calculated from the approved design plans for 2428
the disposal units at that facility. In no case during a five-year 2429
period shall a facility's storage capacity or treatment rate be 2430
modified to increase by more than twenty-five per cent in the 2431
aggregate without the director's approval in accordance with 2432
division (D)(2) of this section. Notwithstanding any provision of 2433
division (I) of this section to the contrary, a request for 2434
modification of a facility's annual total waste receipt limit 2435
shall be classified and approved or disapproved by the director 2436
under division (I)(5) of this section. 2437

(c) Authority to add any of the following categories of 2438
regulated activities not previously authorized at a facility by 2439
the facility's permit: storage at a facility not previously 2440
authorized to store hazardous waste, treatment at a facility not 2441
previously authorized to treat hazardous waste, or disposal at a 2442
facility not previously authorized to dispose of hazardous waste; 2443
or authority to add a category of hazardous waste management unit 2444
not previously authorized at the facility by the facility's 2445
permit. Notwithstanding any provision of division (I) of this 2446
section to the contrary, a request for authority to add or to 2447
modify an activity or a hazardous waste management unit for the 2448
purposes of performing a corrective action shall be classified and 2449
approved or disapproved by the director under division (I)(5) of 2450

this section. 2451

(d) Authority to treat, store, or dispose of waste types 2452
listed or characterized as reactive or explosive, in rules adopted 2453
under section 3734.12 of the Revised Code, or any acute hazardous 2454
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 2455
previously authorized to treat, store, or dispose of those types 2456
of wastes by the facility's permit unless the requested authority 2457
is limited to wastes that no longer exhibit characteristics 2458
meeting the criteria for listing or characterization as reactive 2459
or explosive wastes, or for listing as acute hazardous waste, but 2460
still are required to carry those waste codes as established in 2461
rules adopted under section 3734.12 of the Revised Code because of 2462
the requirements established in 40 C.F.R. 261(a) and (e), as 2463
amended, that is, the "mixture," "derived-from," or "contained-in" 2464
regulations. 2465

(4) A written request for a modification from the permittee 2466
shall be submitted to the director and shall contain such 2467
information as is necessary to support the request. Requests for 2468
modifications shall be acted upon by the director in accordance 2469
with this section and rules adopted under it. 2470

(5) Class 1 modification applications that require prior 2471
approval of the director, as provided in division (I)(1) of this 2472
section or as determined in accordance with rules adopted under 2473
division (K) of this section, Class 2 modification applications, 2474
and Class 3 modification applications that are not described in 2475
divisions (I)(3)(a) to (d) of this section shall be approved or 2476
disapproved by the director in accordance with rules adopted under 2477
division (K) of this section. The board of county commissioners of 2478
the county, the board of township trustees of the township, and 2479
the city manager or mayor of the municipal corporation in which a 2480
hazardous waste facility is located shall receive notification of 2481
any application for a modification for that facility and shall be 2482

considered as interested persons with respect to the director's 2483
consideration of the application. 2484

As used in division (I) of this section: 2485

(a) "Owner" means the person who owns a majority or 2486
controlling interest in a facility. 2487

(b) "Operator" means the person who is responsible for the 2488
overall operation of a facility. 2489

The director shall approve or disapprove an application for a 2490
Class 1 modification that requires the director's approval within 2491
sixty days after receiving the request for modification. The 2492
director shall approve or disapprove an application for a Class 2 2493
modification within three hundred days after receiving the request 2494
for modification. The director shall approve or disapprove an 2495
application for a Class 3 modification within three hundred 2496
sixty-five days after receiving the request for modification. 2497

(6) The approval or disapproval by the director of a Class 1 2498
modification application is not a final action that is appealable 2499
under Chapter 3745. of the Revised Code. The approval or 2500
disapproval by the director of a Class 2 modification or a Class 3 2501
modification is a final action that is appealable under that 2502
chapter. In approving or disapproving a request for a 2503
modification, the director shall consider all comments pertaining 2504
to the request that are received during the public comment period 2505
and the public meetings. The administrative record for appeal of a 2506
final action by the director in approving or disapproving a 2507
request for a modification shall include all comments received 2508
during the public comment period relating to the request for 2509
modification, written materials submitted at the public meetings 2510
relating to the request, and any other documents related to the 2511
director's action. 2512

(7) Notwithstanding any other provision of law to the 2513

contrary, a change or alteration to a hazardous waste facility 2514
described in division (E)(3)(a) or (b) of section 3734.02 of the 2515
Revised Code, or its operations, is a modification for the 2516
purposes of this section. An application for a modification at 2517
such a facility shall be submitted, classified, and approved or 2518
disapproved in accordance with divisions (I)(1) to (6) of this 2519
section in the same manner as a modification to a hazardous waste 2520
facility installation and operation permit. 2521

(J)(1) Except as provided in division (J)(2) of this section, 2522
an owner or operator of a hazardous waste facility that is 2523
operating in accordance with a permit by rule under rules adopted 2524
by the director under division (E)(3)(b) of section 3734.02 of the 2525
Revised Code shall submit either a hazardous waste facility 2526
installation and operation permit application for the facility or 2527
a modification application, whichever is required under division 2528
(J)(1)(a) or (b) of this section, within one hundred eighty days 2529
after the director has requested the application or upon a later 2530
date if the owner or operator demonstrates to the director good 2531
cause for the late submittal. 2532

(a) If the owner or operator does not have a hazardous waste 2533
facility installation and operation permit for any hazardous waste 2534
treatment, storage, or disposal activities at the facility, the 2535
owner or operator shall submit an application for such a permit to 2536
the director for the activities authorized by the permit by rule. 2537
Notwithstanding any other provision of law to the contrary, the 2538
director shall approve or disapprove the application for the 2539
permit in accordance with the procedures governing the approval or 2540
disapproval of permit renewals under division (H) of this section. 2541

(b) If the owner or operator has a hazardous waste facility 2542
installation and operation permit for hazardous waste treatment, 2543
storage, or disposal activities at the facility other than those 2544
authorized by the permit by rule, the owner or operator shall 2545

submit to the director a request for modification in accordance 2546
with division (I) of this section. Notwithstanding any other 2547
provision of law to the contrary, the director shall approve or 2548
disapprove the modification application in accordance with 2549
division (I)(5) of this section. 2550

(2) The owner or operator of a boiler or industrial furnace 2551
that is conducting thermal treatment activities in accordance with 2552
a permit by rule under rules adopted by the director under 2553
division (E)(3)(b) of section 3734.02 of the Revised Code shall 2554
submit a hazardous waste facility installation and operation 2555
permit application if the owner or operator does not have such a 2556
permit for any hazardous waste treatment, storage, or disposal 2557
activities at the facility or, if the owner or operator has such a 2558
permit for hazardous waste treatment, storage, or disposal 2559
activities at the facility other than thermal treatment activities 2560
authorized by the permit by rule, a modification application to 2561
add those activities authorized by the permit by rule, whichever 2562
is applicable, within one hundred eighty days after the director 2563
has requested the submission of the application or upon a later 2564
date if the owner or operator demonstrates to the director good 2565
cause for the late submittal. The application shall be accompanied 2566
by information necessary to support the request. The director 2567
shall approve or disapprove an application for a hazardous waste 2568
facility installation and operation permit in accordance with 2569
division (D) of this section and approve or disapprove an 2570
application for a modification in accordance with division (I)(3) 2571
of this section, except that the director shall not disapprove an 2572
application for the thermal treatment activities on the basis of 2573
the criteria set forth in division (D)(2)(g) or (h) of this 2574
section. 2575

(3) As used in division (J) of this section: 2576

(a) "Modification application" means a request for a 2577

modification submitted in accordance with division (I) of this 2578
section. 2579

(b) "Thermal treatment," "boiler," and "industrial furnace" 2580
have the same meanings as in rules adopted under section 3734.12 2581
of the Revised Code. 2582

(K) The director shall adopt, and may amend, suspend, or 2583
rescind, rules in accordance with Chapter 119. of the Revised Code 2584
in order to implement divisions (H) and (I) of this section. 2585
Except when in actual conflict with this section, rules governing 2586
the classification of and procedures for the modification of 2587
hazardous waste facility installation and operation permits shall 2588
be substantively and procedurally identical to the regulations 2589
governing hazardous waste facility permitting and permit 2590
modifications adopted under the "Resource Conservation and 2591
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2592
amended. 2593

Sec. 3734.06. (A)(1) Except as provided in divisions (A)(2), 2594
(3), (4), and (5) of this section and in section 3734.82 of the 2595
Revised Code, the annual fee for a solid waste facility license 2596
shall be in accordance with the following schedule: 2597

AUTHORIZED MAXIMUM	ANNUAL	2598
DAILY WASTE	LICENSE	2599
RECEIPT (TONS)	FEE	2600
100 or less	\$ 5,000	2601
101 to 200	12,500	2602
201 to 500	30,000	2603
501 or more	60,000	2604

For the purpose of determining the applicable license fee 2605
under divisions (A)(1), (2), and (3) of this section, the 2606
authorized maximum daily waste receipt shall be the maximum amount 2607
of wastes the facility is authorized to receive daily that is 2608

established in the permit for the facility, and any modifications 2609
to that permit, issued under division (A)(2) or (3) of section 2610
3734.05 of the Revised Code; the annual license for the facility, 2611
and any revisions to that license, issued under division (A)(1) of 2612
section 3734.05 of the Revised Code; the approved operating plan 2613
or operational report for which submission and approval are 2614
required by rules adopted by the director of environmental 2615
protection under section 3734.02 of the Revised Code; an order 2616
issued by the director as authorized by rule; or the updated 2617
engineering plans, specifications, and facility and operation 2618
information approved under division (A)(4) of section 3734.05 of 2619
the Revised Code. If no authorized maximum daily waste receipt is 2620
so established, the annual license fee is sixty thousand dollars 2621
under division (A)(1) of this section and thirty thousand dollars 2622
under divisions (A)(2) and (3) of this section. 2623

The authorized maximum daily waste receipt set forth in any 2624
such document shall be stated in terms of cubic yards of volume 2625
for the purpose of regulating the design, construction, and 2626
operation of a solid waste facility. For the purpose of 2627
determining applicable license fees under this section, the 2628
authorized maximum daily waste receipt so stated shall be 2629
converted from cubic yards to tons as the unit of measurement 2630
based upon a conversion factor of three cubic yards per ton for 2631
compacted wastes generally and one cubic yard per ton for baled 2632
wastes. 2633

(2) The annual license fee for a facility that is an 2634
incinerator facility is one-half the amount shown in division 2635
(A)(1) of this section. When a municipal corporation, county, or 2636
township owns and operates more than one incinerator within its 2637
boundaries, the municipal corporation, county, or township shall 2638
pay one fee for the licenses for all of its incinerators. The fee 2639
shall be determined on the basis of the aggregate maximum daily 2640

waste receipt for all the incinerators owned and operated by the 2641
municipal corporation, county, or township in an amount that is 2642
one-half the amount shown in division (A)(1) of this section. 2643

(3) The annual fee for a solid waste compost facility license 2644
shall be in accordance with the following schedule: 2645

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
12 or less	\$ 300	2649
13 to 25	600	2650
26 to 50	1,200	2651
51 to 75	1,800	2652
76 to 100	2,500	2653
101 to 150	3,750	2654
151 to 200	5,000	2655
201 to 250	6,250	2656
251 to 300	7,500	2657
301 to 400	10,000	2658
401 to 500	12,500	2659
501 or more	30,000	2660

(4) The annual license fee for a solid waste facility, 2661
regardless of its authorized maximum daily waste receipt, is five 2662
thousand dollars for a facility meeting either of the following 2663
qualifications: 2664

(a) The facility is owned by a generator of solid wastes when 2665
the solid waste facility exclusively disposes of solid wastes 2666
generated at one or more premises owned by the generator 2667
regardless of whether the facility is located on a premises where 2668
the wastes are generated. 2669

(b) The facility exclusively disposes of wastes that are 2670
generated from the combustion of coal, or from the combustion of 2671
primarily coal in combination with scrap tires, that is not 2672

combined in any way with garbage at one or more premises owned by 2673
the generator. 2674

(5) The annual license fee for a facility that is a transfer 2675
facility is seven hundred fifty dollars. 2676

(6) The same fees shall apply to private operators and to the 2677
state and its political subdivisions and shall be paid within 2678
thirty days after issuance of a license. The fee includes the cost 2679
of licensing, all inspections, and other costs associated with the 2680
administration of the solid waste provisions of this chapter and 2681
rules adopted under them, excluding the provisions governing scrap 2682
tires. Each such license shall specify that it is conditioned upon 2683
payment of the applicable fee to the board of health or the 2684
director, as appropriate, within thirty days after issuance of the 2685
license. 2686

(B) The board of health shall retain two thousand five 2687
hundred dollars of each license fee collected by the board under 2688
divisions (A)(1), (2), (3), and (4) of this section or the entire 2689
amount of any such fee that is less than two thousand five hundred 2690
dollars. The moneys retained shall be paid into a special fund, 2691
which is hereby created in each health district, and used solely 2692
to administer and enforce the solid waste provisions of this 2693
chapter and the rules adopted under them, excluding the provisions 2694
governing scrap tires. The remainder of each license fee collected 2695
by the board shall be transmitted to the director within 2696
forty-five days after receipt of the fee. The director shall 2697
transmit these moneys to the treasurer of state to be credited to 2698
the general revenue fund. The board of health shall retain the 2699
entire amount of each fee collected under division (A)(5) of this 2700
section, which moneys shall be paid into the special fund of the 2701
health district. 2702

(C)(1) Except as provided in divisions (C)(2) and (3) of this 2703
section, the annual fee for an infectious waste treatment facility 2704

license shall be in accordance with the following schedule:		2705
<u>AVERAGE</u> <u>MAXIMUM</u>	ANNUAL	2706
DAILY WASTE	LICENSE	2707
RECEIPT (TONS)	FEE	2708
100 or less	\$ 5,000	2709
101 to 200	12,500	2710
201 to 500	30,000	2711
501 or more	60,000	2712

For the purpose of determining the applicable license fee 2713
 under divisions (C)(1) and (2) of this section, the ~~average~~ 2714
maximum daily waste receipt shall be the ~~average~~ maximum amount of 2715
 infectious wastes the facility is authorized to receive daily that 2716
 is established in the permit for the facility, and any 2717
 modifications to that permit, issued under division (B)(2)(b) ~~or~~ 2718
~~(d)~~ of section 3734.05 of the Revised Code; or the annual license 2719
 for the facility, and any revisions to that license, issued under 2720
 division (B)(2)(a) of section 3734.05 of the Revised Code. If no 2721
~~average~~ maximum daily waste receipt is so established, the annual 2722
 license fee is sixty thousand dollars under division (C)(1) of 2723
 this section and thirty thousand dollars under division (C)(2) of 2724
 this section. 2725

(2) The annual license fee for an infectious waste treatment 2726
 facility that is an incinerator is one-half the amount shown in 2727
 division (C)(1) of this section. 2728

(3) Fees levied under divisions (C)(1) and (2) of this 2729
 section shall apply to private operators and to the state and its 2730
 political subdivisions and shall be paid within thirty days after 2731
 issuance of a license. The fee includes the cost of licensing, all 2732
 inspections, and other costs associated with the administration of 2733
 the infectious waste provisions of this chapter and rules adopted 2734
 under them. Each such license shall specify that it is conditioned 2735
 upon payment of the applicable fee to the board of health or the 2736

director, as appropriate, within thirty days after issuance of the license. 2737
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(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. 2739
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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. 2750
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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 ~~amended,~~ except for rules adopted under divisions (D) and (F) of this section governing solid waste facilities and except as otherwise provided in this chapter, doing all of the following: 2753
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(A) Adopting the criteria and procedures established under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous waste. The director shall prepare, revise when appropriate, and publish a list of substances or categories of substances identified to be hazardous using the criteria specified in 40 C.F.R. 261, as amended, which shall be composed of at least those 2761
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substances identified as hazardous pursuant to section 3001(B) of 2768
that act. The director shall not list any waste that the 2769
administrator of the United States environmental protection agency 2770
delisted or excluded by an amendment to the federal regulations, 2771
any waste that the administrator declined to list by publishing a 2772
denial of a rulemaking petition or by withdrawal of a proposed 2773
listing in the United States federal register after May 18, 1980, 2774
or any waste oil or polychlorinated biphenyl not listed by the 2775
administrator. 2776

(B) Establishing standards for generators of hazardous waste 2777
necessary to protect human health or safety or the environment in 2778
accordance with this chapter, including, but not limited to, 2779
requirements respecting all of the following: 2780

(1) Record-keeping practices that accurately identify the 2781
quantities of hazardous waste generated, the constituents that are 2782
significant in quantity or in potential harm to human health or 2783
safety or the environment, and the disposition of the waste; 2784

(2) Labeling of containers used for storage, transportation, 2785
or disposal of hazardous waste to identify the waste accurately; 2786

(3) Use of appropriate containers for hazardous waste; 2787

(4) Providing information on the general chemical composition 2788
of hazardous waste to persons transporting, treating, storing, or 2789
disposing of the waste; 2790

(5) A manifest system requiring a manifest consistent with 2791
that prescribed under the "Resource Conservation and Recovery Act 2792
of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a 2793
manifest for any hazardous waste transported off the premises 2794
where generated and assuring that all hazardous waste that is 2795
transported off the premises where generated is designated for 2796
treatment, storage, or disposal in facilities for which a permit 2797
has been issued or in the other facilities specified in division 2798

(F) of section 3734.02 of the Revised Code;	2799
(6) Submission of such reports to the director as the	2800
director determines necessary;	2801
(7) Establishment of quality control and testing procedures	2802
that ensure compliance with the rules adopted under this section;	2803
(8) Obtainment of a United States environmental protection	2804
agency identification number.	2805
(C) Establishing standards for transporters of hazardous	2806
waste necessary to protect human health or safety or the	2807
environment in accordance with this chapter, including, but not	2808
limited to, requirements respecting all of the following:	2809
(1) Record-keeping concerning hazardous waste transported,	2810
including source and delivery points;	2811
(2) Submission of such reports to the director as the	2812
director determines necessary;	2813
(3) Transportation of only properly labeled waste;	2814
(4) Compliance with the manifest system required by division	2815
(B) of this section;	2816
(5) Transportation of hazardous waste only to the treatment,	2817
storage, or disposal facility that the shipper designates on the	2818
manifest to be a facility holding a permit or another facility	2819
specified in division (F) of section 3734.02 of the Revised Code;	2820
(6) Contingency plans to minimize unanticipated damage from	2821
transportation of hazardous waste;	2822
(7) Financial responsibility, including, but not limited to,	2823
provisions requiring a financial mechanism to cover the costs of	2824
spill cleanup and liability for sudden accidental occurrences that	2825
result in damage to persons, property, or the environment;	2826
(8) Obtainment of a United States environmental protection	2827

agency identification number. 2828

In the case of any hazardous waste that is subject to the 2829
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 2830
U.S.C.A. 1801, as amended, the rules shall be consistent with that 2831
act and regulations adopted under it. 2832

(D) Establishing performance standards for owners and 2833
operators of hazardous waste facilities and owners and operators 2834
of solid waste facilities, necessary to protect human health or 2835
safety or the environment in accordance with this chapter, 2836
including, but not limited to, requirements respecting all of the 2837
following: 2838

(1) Maintaining records of all hazardous waste that is 2839
treated, stored, or disposed of and of the manner in which the 2840
waste was treated, stored, or disposed of or records of all solid 2841
wastes transferred or disposed of and of the manner in which the 2842
wastes were disposed of; 2843

(2) Submission of such reports to the director as the 2844
director determines necessary; 2845

(3) Reporting, monitoring, inspection, and, except with 2846
respect to solid waste facilities, compliance with the manifest 2847
system referred to in division (B) of this section; 2848

(4) Treatment, storage, or disposal of all hazardous waste 2849
received by methods, techniques, and practices approved by the 2850
director and disposal or transfer of all solid wastes received by 2851
methods, techniques, and practices approved by the director; 2852

(5) Location, design, and construction of hazardous waste 2853
facilities and location, design, and construction of solid waste 2854
facilities; 2855

(6) Contingency plans for effective action to minimize 2856
unanticipated damage from treatment, storage, or disposal of 2857

hazardous waste and the disposal or transfer of solid wastes;	2858
(7) Ownership, continuity of operation, training for	2859
personnel, and financial responsibility, including the filing of	2860
closure and post-closure financial assurance, if applicable. No	2861
private entity shall be precluded by reason of these requirements	2862
from the ownership or operation of facilities providing hazardous	2863
waste treatment, storage, or disposal services if the entity can	2864
provide assurances of financial responsibility and continuity of	2865
operation consistent with the degree and duration of risks	2866
associated with the treatment, storage, or disposal of specified	2867
hazardous waste.	2868
(8) Closure and post-closure care of a hazardous waste	2869
facility where hazardous waste will no longer be treated, stored,	2870
or disposed of and of a solid waste facility where solid wastes	2871
will no longer be disposed of or transferred;	2872
(9) Establishment of quality control and testing procedures	2873
that ensure compliance with the rules adopted under this section;	2874
(10) Obtainment of a United States environmental protection	2875
agency identification number for each hazardous waste treatment,	2876
storage, or disposal facility;	2877
(11) Trial burns and land treatment demonstrations.	2878
The rules adopted under divisions (D) and (F) of this section	2879
pertaining to solid waste facilities do not apply to scrap tire	2880
collection, storage, monocell, monofill, and recovery facilities.	2881
Those facilities are subject to and governed by rules adopted	2882
under sections 3734.70 to 3734.73 of the Revised Code, as	2883
applicable.	2884
(E) Governing the issuance, modification, revocation,	2885
suspension, withdrawal, and denial of installation and operation	2886
permits, draft permits, and transportation certificates of	2887
registration;	2888

(F) Specifying information required to be included in 2889
applications for hazardous waste facility installation and 2890
operation permits and solid waste permits, including, but not 2891
limited to, detail plans, specifications, and information 2892
respecting all of the following: 2893

(1) The composition, quantities, and concentrations of 2894
hazardous waste and solid wastes to be stored, treated, 2895
transported, or disposed of and such other information as the 2896
director may require regarding the method of operation; 2897

(2) The facility to which the waste will be transported or 2898
where it will be stored, treated, or disposed of; 2899

(3) The closure and post-closure care of a facility where 2900
hazardous waste will no longer be treated, stored, or disposed of 2901
and of a solid waste facility where solid wastes will no longer be 2902
disposed of or transferred. 2903

(G) Establishing procedures ensuring that all information 2904
entitled to protection as trade secrets disclosed to the director 2905
or the director's authorized representative is not disclosed 2906
without the consent of the owner, except that such information may 2907
be disclosed, upon request, to authorized representatives of the 2908
United States environmental protection agency, or as required by 2909
law. As used in this section, "trade secrets" means any formula, 2910
plan, pattern, process, tool, mechanism, compound, procedure, 2911
production date, or compilation of information that is not 2912
patented, that is known only to certain individuals within a 2913
commercial concern who are using it to fabricate, produce, or 2914
compound an article, trade, or service having commercial value, 2915
and that gives its user an opportunity to obtain a business 2916
advantage over competitors who do not know or use it. 2917

(H) Prohibiting the disposal of specified hazardous wastes in 2918
this state if the director has determined both of the following: 2919

(1) The potential impacts on human health or safety or the environment are such that disposal of those wastes should not be allowed. 2920
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(2) A technically feasible and environmentally sound alternative is reasonably available, either within or outside this state, for processing, recycling, fixation of, neutralization of, or other treatment of those wastes. Such reasonable availability shall not be determined without a consideration of the costs to the generator of implementing the alternatives. 2923
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The director shall adopt, and may amend, suspend, or rescind, rules to specify hazardous wastes that shall not be disposed of in accordance with this division. Nothing in this division, either prior to or after adoption of those rules, shall preclude the director from prohibiting the disposal of specified hazardous wastes at particular facilities under the terms or conditions of a permit or by order. 2929
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(I)(1)(a) Governing the following that may be more stringent than the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, when the director determines that such more stringent rules are reasonable in order to protect human health or safety or the environment: 2936
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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; 2942
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(ii) The use of only properly designed, operated, and approved transfer facilities; 2947
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(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including 2949
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record-keeping, reporting, and manifest requirements. 2951

(b) In adopting such more stringent rules, the director shall 2952
give consideration to and base the rules on evidence concerning 2953
factors including, but not limited to, the following insofar as 2954
pertinent: 2955

(i) Geography of the state; 2956

(ii) Geology of the state; 2957

(iii) Hydrogeology of the state; 2958

(iv) Climate of the state; 2959

(v) Engineering and technical feasibility; 2960

(vi) Availability of alternative technologies or methods of 2961
storage, treatment, or disposal. 2962

(2) The director may require from generators and transporters 2963
of hazardous waste and from owners or operators of treatment, 2964
storage, or disposal facilities, the submission of reports in 2965
addition to those required under regulations adopted under the 2966
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 2967
~~42 U.S.C.A. 6921, as amended,~~ to the extent that such reports 2968
contain information that the generator, transporter, or facility 2969
owner or operator is required to obtain in order to comply with 2970
the regulations adopted by the administrator of the United States 2971
environmental protection agency under the "Resource Conservation 2972
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2973
~~amended,~~ or to the extent that such reports are required by the 2974
director to meet the requirements of division (B)(7), (D)(9), or 2975
(H) of this section or section 3734.121 of the Revised Code. 2976

(J) Governing the storage, treatment, or disposal of 2977
hazardous waste in, and the permitting, design, construction, 2978
operation, monitoring, inspection, closure, and post-closure care 2979
of, hazardous waste underground injection wells, surface 2980

impoundments, waste piles other than those composed of materials removed from the ground as part of coal or mineral extraction or cleaning processes, land treatment facilities, thermal treatment facilities, and landfills that may be more stringent than the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended,	2981
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whenever the director reasonably determines that federal regulations will not adequately protect the public health or safety or the environment of this state with respect to the subject matter of the more stringent rules. Such more stringent rules shall be developed to achieve a degree of protection, as determined by the director, consistent with the degree of hazard potentially posed by the various wastes or categories of wastes to be treated, stored, or disposed of and the types of facilities at which they are to be treated, stored, or disposed of. 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:	2987
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(1) Geography of the state;	2999
(2) Geology of the state;	3000
(3) Hydrogeology of the state;	3001
(4) Climate of the state;	3002
(5) Engineering and technical feasibility;	3003
(6) Availability of alternative technologies or methods of storage, treatment, or disposal.	3004
	3005
(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:	3006
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(1) Material that is subject to regulation as used oil;	3010

(2) Generation of used oil;	3011
(3) Used oil collection centers and aggregation points;	3012
(4) Transportation of used oil;	3013
(5) Processing and re-refining of used oil;	3014
(6) Burning of used oil;	3015
(7) Marketing of used oil;	3016
(8) Disposal of used oil;	3017
(9) Use of used oil as a dust suppressant.	3018
<u>(L) Establishing any other requirements, standards, or</u>	3019
<u>criteria that are consistent with and equivalent to the Resource</u>	3020
<u>Conservation and Recovery Act governing any matter not</u>	3021
<u>specifically addressed by divisions (A) to (K) of this section.</u>	3022
Sec. 3734.121. (A) The director of environmental protection	3023
shall÷	3024
(1) No, <u>no</u> later than the first day of June <u>October</u> each	3025
<u>even-numbered</u> year, compile and make available to the extent	3026
allowed by rules adopted under division (G) of section 3734.12 of	3027
the Revised Code a list of hazardous wastes generated within the	3028
state during the preceding calendar year by any person who is not	3029
exempt from regulation under this chapter and rules adopted under	3030
it. The list shall contain at least:	3031
(a) <u>(1)</u> The name and address of each person generating	3032
hazardous waste;	3033
(b) <u>(2)</u> The waste description of each waste generated and the	3034
United States environmental protection agency hazardous waste	3035
number assigned to each waste under regulations promulgated under	3036
the "Resource Conservation and Recovery Act of 1976," 90 Stat.	3037
2806, 42 U.S.C.A. 6921, as amended; and	3038

~~(e)(3) The quantity of waste generated during the reporting period preceding calendar year.~~ 3039
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~~(2) No later than December 31, 1986, compile and make available a list of technically feasible and environmentally sound alternatives reasonably available within and outside this state for processing, recycling, fixating, neutralizing, or otherwise treating hazardous wastes identified in the lists compiled under division (A)(1) of this section.~~ 3041
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(B) The director of environmental protection may: 3047

(1) From funds made available by the general assembly, make grants on a fifty per cent matching basis to a municipal corporation or county for the purposes of: 3048
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(a) Providing training for local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous waste facilities in their jurisdictions; 3051
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(b) Providing special clothing and equipment needed by local public health and public safety officers for dealing with emergencies involving hazardous waste facilities in their jurisdictions; and 3055
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(c) Reviewing materials provided to them by the director relating to applications for a hazardous waste facility installation and operation permit. 3059
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(2) From funds made available by the general assembly, make grants to any generator wishing to conduct applied research on technically feasible and environmentally sound alternatives for waste reduction, processing, recycling, fixating, neutralizing, or otherwise treating its own hazardous waste. 3062
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Sec. 3734.41. As used in sections 3734.41 to 3734.47 of the Revised Code: 3067
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(A) "Applicant" means any person seeking a permit or license 3069
for an off-site facility. 3070

(B) "Application" means the forms and accompanying documents 3071
filed in connection with the applicant's request for a permit. 3072

(C) "Business concern" means any corporation, association, 3073
firm, partnership, trust, or other form of commercial 3074
organization. 3075

(D) "Disclosure statement" means a statement submitted to the 3076
director of environmental protection and the attorney general by 3077
an applicant. The statement shall include all of the following: 3078

(1) The full name, business address, and social security 3079
number of the applicant or, if the applicant is a business 3080
concern, of all officers, directors, partners, or key employees 3081
thereof and all individuals or business concerns holding any 3082
equity in or debt liability of that business concern or, if the 3083
business concern is a publicly traded corporation, all individuals 3084
or business concerns holding more than five per cent of the equity 3085
in or debt liability of that business concern, except that when 3086
the debt liability is held by a chartered lending institution, the 3087
applicant need supply only the name and business address of the 3088
lending institution; 3089

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

(3) The full name and business address of any company in 3100
which the applicant holds an equity interest and that collects, 3101
transfers, transports, treats, stores, or disposes of solid 3102
wastes, infectious wastes, or hazardous waste or processes solid 3103
wastes that consist of scrap tires; 3104

(4) A description of the experience and credentials, 3105
including any past or present permits or licenses, for the 3106
collection, transfer, transportation, treatment, storage, or 3107
disposal of solid wastes, infectious wastes, or hazardous waste, 3108
or the processing of solid wastes that consist of scrap tires, 3109
possessed by the applicant or, if the applicant is a business 3110
concern, by the officers, directors, partners, or key employees 3111
thereof; 3112

(5) A listing and explanation of any civil or criminal 3113
prosecution by government agencies, administrative enforcement 3114
actions resulting in the imposition of sanctions, or license 3115
revocations or denials issued by any state or federal authority in 3116
the ten years immediately preceding the filing of the application, 3117
that are pending or have resulted in a finding or a settlement of 3118
a violation of any law or rule or regulation relating to the 3119
collection, transfer, transportation, treatment, storage, or 3120
disposal of solid wastes, infectious wastes, or hazardous waste, 3121
or the processing of solid wastes that consist of scrap tires, or 3122
of any other environmental protection statute, by the applicant 3123
or, if the applicant is a business concern, by the business 3124
concern or any officer, director, partner, or key employee 3125
thereof. For the purposes of division (D)(5) of this section, 3126
violations of any law or rule relating to the transportation of 3127
solid wastes, infectious wastes, or hazardous waste do not include 3128
violations that also apply to the transportation of commodities 3129
that are not wastes. 3130

(6) A listing and explanation of any judgment of liability or 3131

conviction that was rendered pursuant to any state or federal law 3132
or local ordinance resulting in the imposition of a sanction 3133
against the applicant or, if the applicant is a business concern, 3134
against the business concern or any officer, director, partner, or 3135
key employee thereof; 3136

(7) A listing of any agency outside this state that has or 3137
has had regulatory responsibility over the applicant in connection 3138
with its collection, transfer, transportation, treatment, storage, 3139
or disposal of solid wastes, infectious wastes, or hazardous waste 3140
or processing of solid wastes that consist of scrap tires; 3141

(8) Any other information the attorney general or the 3142
director may require that relates to the competency, reliability, 3143
or good character of the applicant. 3144

(E) "Key employee" means any individual, other than a public 3145
official or employee as defined in division (B) of section 102.01 3146
of the Revised Code who is required to file a statement under 3147
section 102.02 of the Revised Code, employed by the applicant or 3148
the licensee in a supervisory capacity or empowered to make 3149
discretionary decisions with respect to the solid waste, 3150
infectious waste, or hazardous waste operations of the business 3151
concern, but does not include any employee exclusively engaged in 3152
the physical or mechanical collection, transfer, transportation, 3153
treatment, storage, or disposal of solid wastes, infectious 3154
wastes, or hazardous waste or processing of solid wastes that 3155
consist of scrap tires. If the applicant or permittee has entered 3156
into a contract with another person to operate the facility that 3157
is the subject of the permit or license or application for a 3158
permit or license, "key employee" also includes those employees of 3159
the contractor who act in a supervisory capacity, or are empowered 3160
to make discretionary decisions, with respect to the operation of 3161
the solid, infectious, or hazardous waste facility. An officer or 3162
director of a business concern required to file a disclosure 3163

statement under section 3734.42 of the Revised Code who meets the 3164
definition of "key employee" shall be considered a key employee 3165
for purposes of the filing and disclosure requirements of sections 3166
3734.42 to 3734.47 of the Revised Code. 3167

(F) "License" means the annual license required by section 3168
3734.05 of the Revised Code for an off-site solid waste disposal 3169
or transfer facility or an off-site infectious waste treatment 3170
facility. 3171

(G) "Off-site facility" means a facility that is located off 3172
the premises where the solid wastes, infectious wastes, or 3173
hazardous waste is generated, but does not include any such 3174
facility that exclusively disposes of wastes that are generated 3175
from the combustion of coal, or from the combustion of primarily 3176
coal in combination with scrap tires, that is not combined in any 3177
way with garbage or any such facility that is owned and operated 3178
by the generator of the waste and that exclusively stores, 3179
processes, or disposes of or transfers solid wastes, exclusively 3180
treats infectious wastes, or exclusively disposes of hazardous 3181
waste, generated at one or more premises owned by the generator. 3182

(H) "Permit" means a permit to install ~~and any subsequent~~ 3183
~~modifications for an~~ a new off-site solid waste disposal facility, 3184
including an incineration facility, or a new transfer facility, 3185
issued under section 3734.05 of the Revised Code; a permit to 3186
install ~~and any subsequent modifications for an~~ a new off-site 3187
solid waste facility that is a scrap tire storage, monocell, 3188
monofill, or recovery facility issued under section 3734.76, 3189
3734.77, or 3734.78 of the Revised Code, as applicable; a permit 3190
to install ~~and any subsequent modifications for an~~ a new off-site 3191
infectious waste treatment facility issued under section 3734.05 3192
of the Revised Code; and a permit to install and operate ~~an~~ a new 3193
off-site hazardous waste treatment, storage, or disposal facility 3194
~~and the modification or renewal of a hazardous waste permit for~~ 3195

~~the treatment, storage, or disposal of hazardous waste issued~~ 3196
under section 3734.05 of the Revised Code. 3197

(I) "Permittee" means any person who has received a permit or 3198
license for an off-site facility. 3199

Sec. 3734.42. (A)(1) ~~Except as otherwise provided in division~~ 3200
~~(E)(2) of this section, every~~ Every applicant for a permit ~~other~~ 3201
~~than a permit modification or renewal~~ shall file a disclosure 3202
statement, on a form developed by the attorney general, with the 3203
director of environmental protection and the attorney general at 3204
the same time the applicant files an application for a the permit 3205
~~other than a permit modification or renewal~~ with the director. 3206
3207

(2) Any individual required to be listed in the disclosure 3208
statement shall be fingerprinted for identification and 3209
investigation purposes in accordance with procedures established 3210
by the attorney general. An individual required to be 3211
fingerprinted under this section shall not be required to be 3212
fingerprinted more than once under this section. 3213

(3) The attorney general, within one hundred eighty days 3214
after receipt of the disclosure statement from an applicant for a 3215
permit, shall prepare and transmit to the director an 3216
investigative report on the applicant, based in part upon the 3217
disclosure statement, except that this deadline may be extended 3218
for a reasonable period of time, for good cause, by the director 3219
or the attorney general. In preparing this report, the attorney 3220
general may request and receive criminal history information from 3221
the federal bureau of investigation and any other law enforcement 3222
agency or organization. The attorney general may provide such 3223
confidentiality regarding the information received from a law 3224
enforcement agency as may be imposed by that agency as a condition 3225
for providing that information to the attorney general. 3226

(4) The review of the application by the director shall 3227
include a review of the disclosure statement and investigative 3228
report. 3229

(B) All applicants and permittees shall provide any 3230
assistance or information requested by the director or the 3231
attorney general and shall cooperate in any inquiry or 3232
investigation conducted by the attorney general and any inquiry, 3233
investigation, or hearing conducted by the director. If, upon 3234
issuance of a formal request to answer any inquiry or produce 3235
information, evidence, or testimony, any applicant or permittee, 3236
any officer, director, or partner of any business concern, or any 3237
key employee of the applicant or permittee refuses to comply, the 3238
permit of the applicant or permittee may be denied or revoked by 3239
the director. 3240

(C) The attorney general may charge and collect such fees 3241
from applicants and permittees as are necessary to cover the costs 3242
of administering and enforcing the investigative procedures 3243
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 3244
attorney general shall transmit moneys collected under this 3245
division to the treasurer of state to be credited to the solid and 3246
hazardous waste background investigations fund, which is hereby 3247
created in the state treasury. Moneys in the fund shall be used 3248
solely for paying the attorney general's costs of administering 3249
and enforcing the investigative procedures authorized in sections 3250
3734.41 to 3734.47 of the Revised Code. 3251

(D) Annually on the anniversary date of the submission to the 3252
director by the attorney general of the investigative report for a 3253
specific facility, or annually on another date assigned by the 3254
attorney general, the appropriate applicant, permittee, or 3255
prospective owner shall submit to the attorney general, on a form 3256
provided by the attorney general, any and all information required 3257
to be included in a disclosure statement that has changed or been 3258

added in the immediately preceding year. If, in the immediately preceding year, there have been no changes in or additions to the information required to be included in a disclosure statement, the appropriate applicant, permittee, or prospective owner shall submit to the attorney general an affidavit stating that there have been no changes in or additions to that information during that time period.

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

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

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

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

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

Nothing in this division affects the rights of the director or the attorney general granted under sections 3734.40 to 3734.47

of the Revised Code to request information from a person at any 3290
other time. 3291

~~(E)(1) Except as otherwise provided in division (E)(2) of 3292
this section, every permittee who is not otherwise required to 3293
file a disclosure statement shall file a disclosure statement 3294
within five years after June 24, 1988, pursuant to a schedule for 3295
submissions of disclosure statements developed by the attorney 3296
general. The schedule shall provide all permittees and holders of 3297
a license with at least one hundred eighty days' notice prior to 3298
the date upon which the statement is to be submitted. All other 3299
terms of the schedule shall be established at the discretion of 3300
the attorney general and shall not be subject to judicial review. 3301~~

~~(2) An applicant for a permit for an off site solid waste 3302
facility that is a scrap tire storage, monocell, monofill, or 3303
recovery facility issued under section 3734.76, 3734.77, or 3304
3734.78 of the Revised Code, as applicable, shall file a 3305
disclosure statement within five years after October 29, 1993, 3306
pursuant to a schedule for submissions of disclosure statements 3307
developed by the attorney general. The schedule shall provide all 3308
such applicants with at least one hundred eighty days' notice 3309
prior to the date upon which the statement shall be submitted. All 3310
other terms of the schedule shall be established at the discretion 3311
of the attorney general and shall not be subject to judicial 3312
review. 3313~~

~~Beginning five years after October 29, 1993, an applicant for 3314
such a permit shall file a disclosure statement in accordance with 3315
division (A)(1) of this section. 3316~~

~~(3) When a permittee submits a disclosure statement at the 3317
time it submits an application for a renewal or modification of 3318
its permit, the attorney general shall remove the permittee from 3319
the submission schedule established pursuant to division (E)(1) or 3320
(2) of this section. 3321~~

~~(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.~~

~~(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 proposed change in ownership. In addition, whenever there is a change in ownership of any operating on-site solid waste facility, any operating on-site infectious waste facility, or any operating on-site hazardous waste facility and the prospective owner intends to operate the facility as an off-site facility by accepting wastes other than wastes generated by the facility owner, the prospective owner shall file a disclosure statement with the attorney general and the director. The prospective owner shall file the disclosure statement at least one hundred eighty days prior to the proposed change in ownership.~~

Upon receipt of the disclosure statement, the attorney 3354
general shall prepare an investigative report and transmit it to 3355
the director. The director shall review the disclosure statement 3356
and investigative report to determine whether the statement or 3357
report contains information that if submitted with a permit 3358
application would require a denial of the permit pursuant to 3359
section 3734.44 of the Revised Code. If the director determines 3360
that the statement or report contains such information, the 3361
director shall disapprove the change in ownership. 3362

(2) If the parties to a change in ownership decide to proceed 3363
with the change prior to the action of the director on the 3364
disclosure statement and investigative report, the parties shall 3365
include in all contracts or other documents reflecting the change 3366
in ownership language expressly making the change in ownership 3367
subject to the approval of the director and expressly negating the 3368
change if it is disapproved by the director pursuant to division 3369
(F)(E)(1) of this section. 3370

(3) As used in this section, "change in ownership" includes 3371
any a change in the names, other than those of the individuals or 3372
entities who own a solid waste facility, infectious waste 3373
facility, or hazardous waste facility. "Change in ownership" does 3374
not include a legal change in a business concern's name when its 3375
ownership otherwise remains the same. "Change in ownership" also 3376
does not include a personal name change of officers, directors, 3377
partners, or key employees, contained in ~~the~~ a disclosure 3378
statement. 3379

Sec. 3734.57. (A) The following fees are hereby levied on the 3380
transfer or disposal of solid wastes in this state: 3381

(1) One dollar per ton through June 30, 2014, one-half of the 3382
proceeds of which shall be deposited in the state treasury to the 3383
credit of the hazardous waste facility management fund created in 3384

section 3734.18 of the Revised Code and one-half of the proceeds 3385
of which shall be deposited in the state treasury to the credit of 3386
the hazardous waste clean-up fund created in section 3734.28 of 3387
the Revised Code; 3388

(2) An additional one dollar per ton through June 30, 2014, 3389
the proceeds of which shall be deposited in the state treasury to 3390
the credit of the solid waste fund, which is hereby created. The 3391
environmental protection agency shall use money in the solid waste 3392
fund to pay the costs of administering and enforcing the laws 3393
pertaining to solid wastes, infectious wastes, and construction 3394
and demolition debris, including, without limitation, ground water 3395
evaluations related to solid wastes, infectious wastes, and 3396
construction and demolition debris, under this chapter and Chapter 3397
3714. of the Revised Code and any rules adopted under them, 3398
providing compliance assistance to small businesses, and paying a 3399
share of the administrative costs of the environmental protection 3400
agency pursuant to section 3745.014 of the Revised Code. 3401

(3) An additional two dollars and fifty cents per ton through 3402
June 30, 2014, the proceeds of which shall be deposited in the 3403
state treasury to the credit of the environmental protection fund 3404
created in section 3745.015 of the Revised Code; 3405

(4) An additional twenty-five cents per ton through June 30, 3406
2013, the proceeds of which shall be deposited in the state 3407
treasury to the credit of the soil and water conservation district 3408
assistance fund created in section 1515.14 of the Revised Code. 3409

In the case of solid wastes that are taken to a solid waste 3410
transfer facility located in this state prior to being transported 3411
for disposal at a solid waste disposal facility located in this 3412
state or outside of this state, the fees levied under this 3413
division shall be collected by the owner or operator of the 3414
transfer facility as a trustee for the state. The amount of fees 3415
required to be collected under this division at such a transfer 3416

facility shall equal the total tonnage of solid wastes received at 3417
the facility multiplied by the fees levied under this division. In 3418
the case of solid wastes that are not taken to a solid waste 3419
transfer facility located in this state prior to being transported 3420
to a solid waste disposal facility, the fees shall be collected by 3421
the owner or operator of the solid waste disposal facility as a 3422
trustee for the state. The amount of fees required to be collected 3423
under this division at such a disposal facility shall equal the 3424
total tonnage of solid wastes received at the facility that was 3425
not previously taken to a solid waste transfer facility located in 3426
this state multiplied by the fees levied under this division. Fees 3427
levied under this division do not apply to materials separated 3428
from a mixed waste stream for recycling by a generator or 3429
materials removed from the solid waste stream through recycling, 3430
as "recycling" is defined in rules adopted under section 3734.02 3431
of the Revised Code. 3432

The owner or operator of a solid waste transfer facility or 3433
disposal facility, as applicable, shall prepare and file with the 3434
director of environmental protection each month a return 3435
indicating the total tonnage of solid wastes received at the 3436
facility during that month and the total amount of the fees 3437
required to be collected under this division during that month. In 3438
addition, the owner or operator of a solid waste disposal facility 3439
shall indicate on the return the total tonnage of solid wastes 3440
received from transfer facilities located in this state during 3441
that month for which the fees were required to be collected by the 3442
transfer facilities. The monthly returns shall be filed on a form 3443
prescribed by the director. Not later than thirty days after the 3444
last day of the month to which a return applies, the owner or 3445
operator shall mail to the director the return for that month 3446
together with the fees required to be collected under this 3447
division during that month as indicated on the return or may 3448
submit the return and fees electronically in a manner approved by 3449

the director. If the return is filed and the amount of the fees 3450
due is paid in a timely manner as required in this division, the 3451
owner or operator may retain a discount of three-fourths of one 3452
per cent of the total amount of the fees that are required to be 3453
paid as indicated on the return. 3454

The owner or operator may request an extension of not more 3455
than thirty days for filing the return and remitting the fees, 3456
provided that the owner or operator has submitted such a request 3457
in writing to the director together with a detailed description of 3458
why the extension is requested, the director has received the 3459
request not later than the day on which the return is required to 3460
be filed, and the director has approved the request. If the fees 3461
are not remitted within thirty days after the last day of the 3462
month to which the return applies or are not remitted by the last 3463
day of an extension approved by the director, the owner or 3464
operator shall not retain the three-fourths of one per cent 3465
discount and shall pay an additional ten per cent of the amount of 3466
the fees for each month that they are late. For purposes of 3467
calculating the late fee, the first month in which fees are late 3468
begins on the first day after the deadline has passed for timely 3469
submitting the return and fees, and one additional month shall be 3470
counted every thirty days thereafter. 3471

The owner or operator of a solid waste facility may request a 3472
refund or credit of fees levied under this division and remitted 3473
to the director that have not been paid to the owner or operator. 3474
Such a request shall be made only if the fees have not been 3475
collected by the owner or operator, have become a debt that has 3476
become worthless or uncollectable for a period of six months or 3477
more, and may be claimed as a deduction, including a deduction 3478
claimed if the owner or operator keeps accounts on an accrual 3479
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 3480
U.S.C. 166, as amended, and regulations adopted under it. Prior to 3481

making a request for a refund or credit, an owner or operator 3482
shall make reasonable efforts to collect the applicable fees. A 3483
request for a refund or credit shall not include any costs 3484
resulting from those efforts to collect unpaid fees. 3485

A request for a refund or credit of fees shall be made in 3486
writing, on a form prescribed by the director, and shall be 3487
supported by evidence that may be required in rules adopted by the 3488
director under this chapter. After reviewing the request, and if 3489
the request and evidence submitted with the request indicate that 3490
a refund or credit is warranted, the director shall grant a refund 3491
to the owner or operator or shall permit a credit to be taken by 3492
the owner or operator on a subsequent monthly return submitted by 3493
the owner or operator. The amount of a refund or credit shall not 3494
exceed an amount that is equal to ninety days' worth of fees owed 3495
to an owner or operator by a particular debtor of the owner or 3496
operator. A refund or credit shall not be granted by the director 3497
to an owner or operator more than once in any twelve-month period 3498
for fees owed to the owner or operator by a particular debtor. 3499

If, after receiving a refund or credit from the director, an 3500
owner or operator receives payment of all or part of the fees, the 3501
owner or operator shall remit the fees with the next monthly 3502
return submitted to the director together with a written 3503
explanation of the reason for the submittal. 3504

For purposes of computing the fees levied under this division 3505
or division (B) of this section, any solid waste transfer or 3506
disposal facility that does not use scales as a means of 3507
determining gate receipts shall use a conversion factor of three 3508
cubic yards per ton of solid waste or one cubic yard per ton for 3509
baled waste, as applicable. 3510

The fees levied under this division and divisions (B) and (C) 3511
of this section are in addition to all other applicable fees and 3512
taxes and shall be paid by the customer or a political subdivision 3513

to the owner or operator of a solid waste transfer or disposal 3514
facility. In the alternative, the fees shall be paid by a customer 3515
or political subdivision to a transporter of waste who 3516
subsequently transfers the fees to the owner or operator of such a 3517
facility. The fees shall be paid notwithstanding the existence of 3518
any provision in a contract that the customer or a political 3519
subdivision may have with the owner or operator or with a 3520
transporter of waste to the facility that would not require or 3521
allow such payment regardless of whether the contract was entered 3522
prior to or after ~~the effective date of this amendment~~ October 16, 3523
2009. For those purposes, "customer" means a person who contracts 3524
with, or utilizes the solid waste services of, the owner or 3525
operator of a solid waste transfer or disposal facility or a 3526
transporter of solid waste to such a facility. 3527

(B) For the purposes specified in division (G) of this 3528
section, the solid waste management policy committee of a county 3529
or joint solid waste management district may levy fees upon the 3530
following activities: 3531

(1) The disposal at a solid waste disposal facility located 3532
in the district of solid wastes generated within the district; 3533

(2) The disposal at a solid waste disposal facility within 3534
the district of solid wastes generated outside the boundaries of 3535
the district, but inside this state; 3536

(3) The disposal at a solid waste disposal facility within 3537
the district of solid wastes generated outside the boundaries of 3538
this state. 3539

The solid waste management plan of the county or joint 3540
district approved under section 3734.521 or 3734.55 of the Revised 3541
Code and any amendments to it, or the resolution adopted under 3542
this division, as appropriate, shall establish the rates of the 3543
fees levied under divisions (B)(1), (2), and (3) of this section, 3544

if any, and shall specify whether the fees are levied on the basis 3545
of tons or cubic yards as the unit of measurement. A solid waste 3546
management district that levies fees under this division on the 3547
basis of cubic yards shall do so in accordance with division (A) 3548
of this section. 3549

The fee levied under division (B)(1) of this section shall be 3550
not less than one dollar per ton nor more than two dollars per 3551
ton, the fee levied under division (B)(2) of this section shall be 3552
not less than two dollars per ton nor more than four dollars per 3553
ton, and the fee levied under division (B)(3) of this section 3554
shall be not more than the fee levied under division (B)(1) of 3555
this section. 3556

Prior to the approval of the solid waste management plan of a 3557
district under section 3734.55 of the Revised Code, the solid 3558
waste management policy committee of a district may levy fees 3559
under this division by adopting a resolution establishing the 3560
proposed amount of the fees. Upon adopting the resolution, the 3561
committee shall deliver a copy of the resolution to the board of 3562
county commissioners of each county forming the district and to 3563
the legislative authority of each municipal corporation and 3564
township under the jurisdiction of the district and shall prepare 3565
and publish the resolution and a notice of the time and location 3566
where a public hearing on the fees will be held. Upon adopting the 3567
resolution, the committee shall deliver written notice of the 3568
adoption of the resolution; of the amount of the proposed fees; 3569
and of the date, time, and location of the public hearing to the 3570
director and to the fifty industrial, commercial, or institutional 3571
generators of solid wastes within the district that generate the 3572
largest quantities of solid wastes, as determined by the 3573
committee, and to their local trade associations. The committee 3574
shall make good faith efforts to identify those generators within 3575
the district and their local trade associations, but the 3576

nonprovision of notice under this division to a particular 3577
generator or local trade association does not invalidate the 3578
proceedings under this division. The publication shall occur at 3579
least thirty days before the hearing. After the hearing, the 3580
committee may make such revisions to the proposed fees as it 3581
considers appropriate and thereafter, by resolution, shall adopt 3582
the revised fee schedule. Upon adopting the revised fee schedule, 3583
the committee shall deliver a copy of the resolution doing so to 3584
the board of county commissioners of each county forming the 3585
district and to the legislative authority of each municipal 3586
corporation and township under the jurisdiction of the district. 3587
Within sixty days after the delivery of a copy of the resolution 3588
adopting the proposed revised fees by the policy committee, each 3589
such board and legislative authority, by ordinance or resolution, 3590
shall approve or disapprove the revised fees and deliver a copy of 3591
the ordinance or resolution to the committee. If any such board or 3592
legislative authority fails to adopt and deliver to the policy 3593
committee an ordinance or resolution approving or disapproving the 3594
revised fees within sixty days after the policy committee 3595
delivered its resolution adopting the proposed revised fees, it 3596
shall be conclusively presumed that the board or legislative 3597
authority has approved the proposed revised fees. The committee 3598
shall determine if the resolution has been ratified in the same 3599
manner in which it determines if a draft solid waste management 3600
plan has been ratified under division (B) of section 3734.55 of 3601
the Revised Code. 3602

The committee may amend the schedule of fees levied pursuant 3603
to a resolution adopted and ratified under this division by 3604
adopting a resolution establishing the proposed amount of the 3605
amended fees. The committee may repeal the fees levied pursuant to 3606
such a resolution by adopting a resolution proposing to repeal 3607
them. Upon adopting such a resolution, the committee shall proceed 3608
to obtain ratification of the resolution in accordance with this 3609

division. 3610

Not later than fourteen days after declaring the new fees to 3611
be ratified or the fees to be repealed under this division, the 3612
committee shall notify by certified mail the owner or operator of 3613
each solid waste disposal facility that is required to collect the 3614
fees of the ratification and the amount of the fees or of the 3615
repeal of the fees. Collection of any fees shall commence or 3616
collection of repealed fees shall cease on the first day of the 3617
second month following the month in which notification is sent to 3618
the owner or operator. 3619

Fees levied under this division also may be established, 3620
amended, or repealed by a solid waste management policy committee 3621
through the adoption of a new district solid waste management 3622
plan, the adoption of an amended plan, or the amendment of the 3623
plan or amended plan in accordance with sections 3734.55 and 3624
3734.56 of the Revised Code or the adoption or amendment of a 3625
district plan in connection with a change in district composition 3626
under section 3734.521 of the Revised Code. 3627

Not later than fourteen days after the director issues an 3628
order approving a district's solid waste management plan, amended 3629
plan, or amendment to a plan or amended plan that establishes, 3630
amends, or repeals a schedule of fees levied by the district, the 3631
committee shall notify by certified mail the owner or operator of 3632
each solid waste disposal facility that is required to collect the 3633
fees of the approval of the plan or amended plan, or the amendment 3634
to the plan, as appropriate, and the amount of the fees, if any. 3635
In the case of an initial or amended plan approved under section 3636
3734.521 of the Revised Code in connection with a change in 3637
district composition, other than one involving the withdrawal of a 3638
county from a joint district, the committee, within fourteen days 3639
after the change takes effect pursuant to division (G) of that 3640
section, shall notify by certified mail the owner or operator of 3641

each solid waste disposal facility that is required to collect the 3642
fees that the change has taken effect and of the amount of the 3643
fees, if any. Collection of any fees shall commence or collection 3644
of repealed fees shall cease on the first day of the second month 3645
following the month in which notification is sent to the owner or 3646
operator. 3647

If, in the case of a change in district composition involving 3648
the withdrawal of a county from a joint district, the director 3649
completes the actions required under division (G)(1) or (3) of 3650
section 3734.521 of the Revised Code, as appropriate, forty-five 3651
days or more before the beginning of a calendar year, the policy 3652
committee of each of the districts resulting from the change that 3653
obtained the director's approval of an initial or amended plan in 3654
connection with the change, within fourteen days after the 3655
director's completion of the required actions, shall notify by 3656
certified mail the owner or operator of each solid waste disposal 3657
facility that is required to collect the district's fees that the 3658
change is to take effect on the first day of January immediately 3659
following the issuance of the notice and of the amount of the fees 3660
or amended fees levied under divisions (B)(1) to (3) of this 3661
section pursuant to the district's initial or amended plan as so 3662
approved or, if appropriate, the repeal of the district's fees by 3663
that initial or amended plan. Collection of any fees set forth in 3664
such a plan or amended plan shall commence on the first day of 3665
January immediately following the issuance of the notice. If such 3666
an initial or amended plan repeals a schedule of fees, collection 3667
of the fees shall cease on that first day of January. 3668

If, in the case of a change in district composition involving 3669
the withdrawal of a county from a joint district, the director 3670
completes the actions required under division (G)(1) or (3) of 3671
section 3734.521 of the Revised Code, as appropriate, less than 3672
forty-five days before the beginning of a calendar year, the 3673

director, on behalf of each of the districts resulting from the 3674
change that obtained the director's approval of an initial or 3675
amended plan in connection with the change proceedings, shall 3676
notify by certified mail the owner or operator of each solid waste 3677
disposal facility that is required to collect the district's fees 3678
that the change is to take effect on the first day of January 3679
immediately following the mailing of the notice and of the amount 3680
of the fees or amended fees levied under divisions (B)(1) to (3) 3681
of this section pursuant to the district's initial or amended plan 3682
as so approved or, if appropriate, the repeal of the district's 3683
fees by that initial or amended plan. Collection of any fees set 3684
forth in such a plan or amended plan shall commence on the first 3685
day of the second month following the month in which notification 3686
is sent to the owner or operator. If such an initial or amended 3687
plan repeals a schedule of fees, collection of the fees shall 3688
cease on the first day of the second month following the month in 3689
which notification is sent to the owner or operator. 3690

If the schedule of fees that a solid waste management 3691
district is levying under divisions (B)(1) to (3) of this section 3692
is amended or repealed, the fees in effect immediately prior to 3693
the amendment or repeal shall continue to be collected until 3694
collection of the amended fees commences or collection of the 3695
repealed fees ceases, as applicable, as specified in this 3696
division. In the case of a change in district composition, money 3697
so received from the collection of the fees of the former 3698
districts shall be divided among the resulting districts in 3699
accordance with division (B) of section 343.012 of the Revised 3700
Code and the agreements entered into under division (B) of section 3701
343.01 of the Revised Code to establish the former and resulting 3702
districts and any amendments to those agreements. 3703

For the purposes of the provisions of division (B) of this 3704
section establishing the times when newly established or amended 3705

fees levied by a district are required to commence and the 3706
collection of fees that have been amended or repealed is required 3707
to cease, "fees" or "schedule of fees" includes, in addition to 3708
fees levied under divisions (B)(1) to (3) of this section, those 3709
levied under section 3734.573 or 3734.574 of the Revised Code. 3710

(C) For the purposes of defraying the added costs to a 3711
municipal corporation or township of maintaining roads and other 3712
public facilities and of providing emergency and other public 3713
services, and compensating a municipal corporation or township for 3714
reductions in real property tax revenues due to reductions in real 3715
property valuations resulting from the location and operation of a 3716
solid waste disposal facility within the municipal corporation or 3717
township, a municipal corporation or township in which such a 3718
solid waste disposal facility is located may levy a fee of not 3719
more than twenty-five cents per ton on the disposal of solid 3720
wastes at a solid waste disposal facility located within the 3721
boundaries of the municipal corporation or township regardless of 3722
where the wastes were generated. 3723

The legislative authority of a municipal corporation or 3724
township may levy fees under this division by enacting an 3725
ordinance or adopting a resolution establishing the amount of the 3726
fees. Upon so doing the legislative authority shall mail a 3727
certified copy of the ordinance or resolution to the board of 3728
county commissioners or directors of the county or joint solid 3729
waste management district in which the municipal corporation or 3730
township is located or, if a regional solid waste management 3731
authority has been formed under section 343.011 of the Revised 3732
Code, to the board of trustees of that regional authority, the 3733
owner or operator of each solid waste disposal facility in the 3734
municipal corporation or township that is required to collect the 3735
fee by the ordinance or resolution, and the director of 3736
environmental protection. Although the fees levied under this 3737

division are levied on the basis of tons as the unit of 3738
measurement, the legislative authority, in its ordinance or 3739
resolution levying the fees under this division, may direct that 3740
the fees be levied on the basis of cubic yards as the unit of 3741
measurement based upon a conversion factor of three cubic yards 3742
per ton generally or one cubic yard per ton for baled wastes. 3743

Not later than five days after enacting an ordinance or 3744
adopting a resolution under this division, the legislative 3745
authority shall so notify by certified mail the owner or operator 3746
of each solid waste disposal facility that is required to collect 3747
the fee. Collection of any fee levied on or after March 24, 1992, 3748
shall commence on the first day of the second month following the 3749
month in which notification is sent to the owner or operator. 3750

(D)(1) The fees levied under divisions (A), (B), and (C) of 3751
this section do not apply to the disposal of solid wastes that: 3752

(a) Are disposed of at a facility owned by the generator of 3753
the wastes when the solid waste facility exclusively disposes of 3754
solid wastes generated at one or more premises owned by the 3755
generator regardless of whether the facility is located on a 3756
premises where the wastes are generated; 3757

(b) Are generated from the combustion of coal, or from the 3758
combustion of primarily coal ~~in combination with scrap tires~~, 3759
regardless of whether the disposal facility is located on the 3760
premises where the wastes are generated; 3761

(c) Are asbestos or asbestos-containing materials or products 3762
disposed of at a construction and demolition debris facility that 3763
is licensed under Chapter 3714. of the Revised Code or at a solid 3764
waste facility that is licensed under this chapter. 3765

(2) Except as provided in section 3734.571 of the Revised 3766
Code, any fees levied under division (B)(1) of this section apply 3767
to solid wastes originating outside the boundaries of a county or 3768

joint district that are covered by an agreement for the joint use 3769
of solid waste facilities entered into under section 343.02 of the 3770
Revised Code by the board of county commissioners or board of 3771
directors of the county or joint district where the wastes are 3772
generated and disposed of. 3773

(3) When solid wastes, other than solid wastes that consist 3774
of scrap tires, are burned in a disposal facility that is an 3775
incinerator or energy recovery facility, the fees levied under 3776
divisions (A), (B), and (C) of this section shall be levied upon 3777
the disposal of the fly ash and bottom ash remaining after burning 3778
of the solid wastes and shall be collected by the owner or 3779
operator of the sanitary landfill where the ash is disposed of. 3780

(4) When solid wastes are delivered to a solid waste transfer 3781
facility, the fees levied under divisions (B) and (C) of this 3782
section shall be levied upon the disposal of solid wastes 3783
transported off the premises of the transfer facility for disposal 3784
and shall be collected by the owner or operator of the solid waste 3785
disposal facility where the wastes are disposed of. 3786

(5) The fees levied under divisions (A), (B), and (C) of this 3787
section do not apply to sewage sludge that is generated by a waste 3788
water treatment facility holding a national pollutant discharge 3789
elimination system permit and that is disposed of through 3790
incineration, land application, or composting or at another 3791
resource recovery or disposal facility that is not a landfill. 3792

(6) The fees levied under divisions (A), (B), and (C) of this 3793
section do not apply to solid wastes delivered to a solid waste 3794
composting facility for processing. When any unprocessed solid 3795
waste or compost product is transported off the premises of a 3796
composting facility and disposed of at a landfill, the fees levied 3797
under divisions (A), (B), and (C) of this section shall be 3798
collected by the owner or operator of the landfill where the 3799
unprocessed waste or compost product is disposed of. 3800

(7) When solid wastes that consist of scrap tires are 3801
processed at a scrap tire recovery facility, the fees levied under 3802
divisions (A), (B), and (C) of this section shall be levied upon 3803
the disposal of the fly ash and bottom ash or other solid wastes 3804
remaining after the processing of the scrap tires and shall be 3805
collected by the owner or operator of the solid waste disposal 3806
facility where the ash or other solid wastes are disposed of. 3807

(8) The director of environmental protection may issue an 3808
order exempting from the fees levied under this section solid 3809
wastes, including, but not limited to, scrap tires, that are 3810
generated, transferred, or disposed of as a result of a contract 3811
providing for the expenditure of public funds entered into by the 3812
administrator or regional administrator of the United States 3813
environmental protection agency, the director of environmental 3814
protection, or the director of administrative services on behalf 3815
of the director of environmental protection for the purpose of 3816
remediating conditions at a hazardous waste facility, solid waste 3817
facility, or other location at which the administrator or regional 3818
administrator or the director of environmental protection has 3819
reason to believe that there is a substantial threat to public 3820
health or safety or the environment or that the conditions are 3821
causing or contributing to air or water pollution or soil 3822
contamination. An order issued by the director of environmental 3823
protection under division (D)(8) of this section shall include a 3824
determination that the amount of the fees not received by a solid 3825
waste management district as a result of the order will not 3826
adversely impact the implementation and financing of the 3827
district's approved solid waste management plan and any approved 3828
amendments to the plan. Such an order is a final action of the 3829
director of environmental protection. 3830

(E) The fees levied under divisions (B) and (C) of this 3831
section shall be collected by the owner or operator of the solid 3832

waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

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

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit

of the district. Moneys in the special fund of the county or joint 3865
district arising from the fees levied under division (B) of this 3866
section and the fee levied under division (A) of section 3734.573 3867
of the Revised Code shall be expended by the board of county 3868
commissioners or directors of the district in accordance with the 3869
district's solid waste management plan or amended plan approved 3870
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 3871
exclusively for the following purposes: 3872

(1) Preparation of the solid waste management plan of the 3873
district under section 3734.54 of the Revised Code, monitoring 3874
implementation of the plan, and conducting the periodic review and 3875
amendment of the plan required by section 3734.56 of the Revised 3876
Code by the solid waste management policy committee; 3877

(2) Implementation of the approved solid waste management 3878
plan or amended plan of the district, including, without 3879
limitation, the development and implementation of solid waste 3880
recycling or reduction programs; 3881

(3) Providing financial assistance to boards of health within 3882
the district, if solid waste facilities are located within the 3883
district, for enforcement of this chapter and rules, orders, and 3884
terms and conditions of permits, licenses, and variances adopted 3885
or issued under it, other than the hazardous waste provisions of 3886
this chapter and rules adopted and orders and terms and conditions 3887
of permits issued under those provisions; 3888

(4) Providing financial assistance to each county within the 3889
district to defray the added costs of maintaining roads and other 3890
public facilities and of providing emergency and other public 3891
services resulting from the location and operation of a solid 3892
waste facility within the county under the district's approved 3893
solid waste management plan or amended plan; 3894

(5) Pursuant to contracts entered into with boards of health 3895

within the district, if solid waste facilities contained in the 3896
district's approved plan or amended plan are located within the 3897
district, for paying the costs incurred by those boards of health 3898
for collecting and analyzing samples from public or private water 3899
wells on lands adjacent to those facilities; 3900

(6) Developing and implementing a program for the inspection 3901
of solid wastes generated outside the boundaries of this state 3902
that are disposed of at solid waste facilities included in the 3903
district's approved solid waste management plan or amended plan; 3904

(7) Providing financial assistance to boards of health within 3905
the district for the enforcement of section 3734.03 of the Revised 3906
Code or to local law enforcement agencies having jurisdiction 3907
within the district for enforcing anti-littering laws and 3908
ordinances; 3909

(8) Providing financial assistance to boards of health of 3910
health districts within the district that are on the approved list 3911
under section 3734.08 of the Revised Code to defray the costs to 3912
the health districts for the participation of their employees 3913
responsible for enforcement of the solid waste provisions of this 3914
chapter and rules adopted and orders and terms and conditions of 3915
permits, licenses, and variances issued under those provisions in 3916
the training and certification program as required by rules 3917
adopted under division (L) of section 3734.02 of the Revised Code; 3918

(9) Providing financial assistance to individual municipal 3919
corporations and townships within the district to defray their 3920
added costs of maintaining roads and other public facilities and 3921
of providing emergency and other public services resulting from 3922
the location and operation within their boundaries of a 3923
composting, energy or resource recovery, incineration, or 3924
recycling facility that either is owned by the district or is 3925
furnishing solid waste management facility or recycling services 3926
to the district pursuant to a contract or agreement with the board 3927

of county commissioners or directors of the district; 3928

(10) Payment of any expenses that are agreed to, awarded, or 3929
ordered to be paid under section 3734.35 of the Revised Code and 3930
of any administrative costs incurred pursuant to that section. In 3931
the case of a joint solid waste management district, if the board 3932
of county commissioners of one of the counties in the district is 3933
negotiating on behalf of affected communities, as defined in that 3934
section, in that county, the board shall obtain the approval of 3935
the board of directors of the district in order to expend moneys 3936
for administrative costs incurred. 3937

Prior to the approval of the district's solid waste 3938
management plan under section 3734.55 of the Revised Code, moneys 3939
in the special fund of the district arising from the fees shall be 3940
expended for those purposes in the manner prescribed by the solid 3941
waste management policy committee by resolution. 3942

Notwithstanding division (G)(6) of this section as it existed 3943
prior to October 29, 1993, or any provision in a district's solid 3944
waste management plan prepared in accordance with division 3945
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 3946
prior to that date, any moneys arising from the fees levied under 3947
division (B)(3) of this section prior to January 1, 1994, may be 3948
expended for any of the purposes authorized in divisions (G)(1) to 3949
(10) of this section. 3950

(H) The director shall adopt rules in accordance with Chapter 3951
119. of the Revised Code prescribing procedures for collecting and 3952
forwarding the fees levied under divisions (B) and (C) of this 3953
section to the boards of county commissioners or directors of 3954
county or joint solid waste management districts and to the 3955
treasurers or other officers of municipal corporations and the 3956
fiscal officers of townships. The rules also shall prescribe the 3957
dates for forwarding the fees to the boards and officials and may 3958
prescribe any other requirements the director considers necessary 3959

or appropriate to implement and administer divisions (A), (B), and 3960
(C) of this section. 3961

Sec. 3734.573. (A) For the purposes specified in division (G) 3962
of section 3734.57 of the Revised Code, the solid waste management 3963
policy committee of a county or joint solid waste management 3964
district may levy a fee on the generation of solid wastes within 3965
the district. 3966

The initial or amended solid waste management plan of the 3967
county or joint district approved under section 3734.521, 3734.55, 3968
or 3734.56 of the Revised Code, an amendment to the district's 3969
plan adopted under division (E) of section 3734.56 of the Revised 3970
Code, or the resolution adopted and ratified under division (B) of 3971
this section shall establish the rate of the fee levied under this 3972
division and shall specify whether the fee is levied on the basis 3973
of tons or cubic yards as the unit of measurement. 3974

(B) Prior to the approval under division (A) of section 3975
3734.56 of the Revised Code of the first amended plan that the 3976
district is required to submit for approval under that section, 3977
the approval of an initial plan under section 3734.521 of the 3978
Revised Code, the approval of an amended plan under section 3979
3734.521 or division (D) of section 3734.56 of the Revised Code, 3980
or the amendment of the district's plan under division (E) of 3981
section 3734.56 of the Revised Code, the solid waste management 3982
policy committee of a county or joint district that is operating 3983
under an initial plan approved under section 3734.55 of the 3984
Revised Code, or one for which approval of its initial plan is 3985
pending before the director of environmental protection on October 3986
29, 1993, under section 3734.55 of the Revised Code, may levy a 3987
fee under division (A) of this section by adopting and obtaining 3988
ratification of a resolution establishing the amount of the fee. A 3989
policy committee that, after December 1, 1993, concurrently 3990

proposes to levy a fee under division (A) of this section and to 3991
amend the fees levied by the district under divisions (B)(1) to 3992
(3) of section 3734.57 of the Revised Code may adopt and obtain 3993
ratification of one resolution proposing to do both. The 3994
requirements and procedures set forth in division (B) of section 3995
3734.57 of the Revised Code governing the adoption, amendment, and 3996
repeal of resolutions levying fees under divisions (B)(1) to (3) 3997
of that section, the ratification of those resolutions, and the 3998
notification of owners and operators of solid waste facilities 3999
required to collect fees levied under those divisions govern the 4000
adoption of the resolutions authorized to be adopted under this 4001
division, the ratification thereof, and the notification of owners 4002
and operators required to collect the fees, except as otherwise 4003
specifically provided in division (C) of this section. 4004

(C) Any initial or amended plan of a district adopted under 4005
section 3734.521 or 3734.56 of the Revised Code, or resolution 4006
adopted under division (B) of this section, that proposes to levy 4007
a fee under division (A) of this section that exceeds five dollars 4008
per ton shall be ratified in accordance with the provisions of 4009
section 3734.55 or division (B) of section 3734.57 of the Revised 4010
Code, as applicable, except that such an initial or amended plan 4011
or resolution shall be approved by a combination of municipal 4012
corporations and townships with a combined population within the 4013
boundaries of the district comprising at least seventy-five per 4014
cent, rather than at least sixty per cent, of the total population 4015
of the district. 4016

(D) The policy committee of a county or joint district may 4017
amend the fee levied by the district under division (A) of this 4018
section by adopting and obtaining ratification of a resolution 4019
establishing the amount of the amended fee. The policy committee 4020
may abolish the fee or an amended fee established under this 4021
division by adopting and obtaining ratification of a resolution 4022

proposing to repeal it. The requirements and procedures under 4023
division (B) and, if applicable, division (C) of this section 4024
govern the adoption and ratification of a resolution authorized to 4025
be adopted under this division and the notification of owners and 4026
operators of solid waste facilities required to collect the fees. 4027

(E) Collection of a fee or amended fee levied under division 4028
(A) or (D) of this section shall commence or cease in accordance 4029
with division (B) of section 3734.57 of the Revised Code. If a 4030
district is levying a fee under section 3734.572 of the Revised 4031
Code, collection of that fee shall cease on the date on which 4032
collection of the fee levied under division (A) of this section 4033
commences in accordance with division (B) of section 3734.57 of 4034
the Revised Code. 4035

(F) In the case of solid wastes that are taken to a solid 4036
waste transfer facility prior to being transported to a solid 4037
waste disposal facility for disposal, the fee levied under 4038
division (A) of this section shall be collected by the owner or 4039
operator of the transfer facility as a trustee for the district. 4040
In the case of solid wastes that are not taken to a solid waste 4041
transfer facility prior to being transported to a solid waste 4042
disposal facility, the fee shall be collected by the owner or 4043
operator of the solid waste disposal facility where the wastes are 4044
disposed of. An owner or operator of a solid waste transfer or 4045
disposal facility who is required to collect the fee shall collect 4046
and forward the fee to the district in accordance with section 4047
3734.57 of the Revised Code and rules adopted under division (H) 4048
of that section. 4049

If the owner or operator of a solid waste transfer or 4050
disposal facility who did not receive notice pursuant to division 4051
(B) of this section to collect the fee levied by a district under 4052
division (A) of this section receives solid wastes generated in 4053
the district, the owner or operator, within thirty days after 4054

receiving the wastes, shall send written notice of that fact to 4055
the board of county commissioners or directors of the district. 4056
Within thirty days after receiving such a notice, the board of 4057
county commissioners or directors shall send written notice to the 4058
owner or operator indicating whether the district is levying a fee 4059
under division (A) of this section and, if so, the amount of the 4060
fee. 4061

(G) Moneys received by a district levying a fee under 4062
division (A) of this section shall be credited to the special fund 4063
of the district created in division (G) of section 3734.57 of the 4064
Revised Code and shall be used exclusively for the purposes 4065
specified in that division. Prior to the approval under division 4066
(A) of section 3734.56 of the Revised Code of the first amended 4067
plan that the district is required to submit for approval under 4068
that section, the approval of an initial plan under section 4069
3734.521 of the Revised Code, the approval of an amended plan 4070
under that section or division (D) of section 3734.56 of the 4071
Revised Code, or the amendment of the district's plan under 4072
division (E) of section 3734.56 of the Revised Code, moneys 4073
credited to the special fund arising from the fee levied pursuant 4074
to a resolution adopted and ratified under division (B) of this 4075
section shall be expended for those purposes in the manner 4076
prescribed by the solid waste management policy committee by 4077
resolution. 4078

(H) The fee levied under division (A) of this section does 4079
not apply to the management of solid wastes that: 4080

(1) Are disposed of at a facility owned by the generator of 4081
the wastes when the solid waste facility exclusively disposes of 4082
solid wastes generated at one or more premises owned by the 4083
generator regardless of whether the facility is located on a 4084
premises where the wastes were generated; 4085

(2) Are ~~disposed of at facilities that exclusively dispose of~~ 4086

~~wastes that are generated from the combustion of coal, or from the~~ 4087
~~combustion of primarily coal in combination with scrap tires, that~~ 4088
~~is not combined in any way with garbage at one or more~~ regardless 4089
of whether the disposal facility is located on the premises owned 4090
by the generator where the wastes are generated; 4091

(3) Are asbestos or asbestos-containing materials or products 4092
disposed of at a construction and demolition debris facility that 4093
is licensed under Chapter 3714. of the Revised Code or at a solid 4094
waste facility that is licensed under this chapter. 4095

(I) When solid wastes that are burned in a disposal facility 4096
that is an incinerator or energy recovery facility are delivered 4097
to a solid waste transfer facility prior to being transported to 4098
the incinerator or energy recovery facility where they are burned, 4099
the fee levied under division (A) of this section shall be levied 4100
on the wastes delivered to the transfer facility. 4101

(J) When solid wastes that are burned in a disposal facility 4102
that is an incinerator or energy recovery facility are not 4103
delivered to a solid waste transfer facility prior to being 4104
transported to the incinerator or energy recovery facility where 4105
they are burned, the fee levied under division (A) of this section 4106
shall be levied on the wastes delivered to the incinerator or 4107
energy recovery facility. 4108

(K) The fee levied under division (A) of this section does 4109
not apply to sewage sludge that is generated by a waste water 4110
treatment facility holding a national pollutant discharge 4111
elimination system permit and that is disposed of through 4112
incineration, land application, or composting or at another 4113
resource recovery or disposal facility that is not a landfill. 4114

(L) The fee levied under division (A) of this section does 4115
not apply to solid waste delivered to a solid waste composting 4116
facility for processing. If any unprocessed solid waste or compost 4117

product is transported off the premises of a composting facility 4118
for disposal at a landfill, the fee levied under division (A) of 4119
this section applies and shall be collected by the owner or 4120
operator of the landfill. 4121

(M) The fee levied under division (A) of this section does 4122
not apply to materials separated from a mixed waste stream for 4123
recycling by the generator or materials removed from the solid 4124
waste stream as a result of recycling, as "recycling" is defined 4125
in rules adopted under section 3734.02 of the Revised Code. 4126

(N) The director of environmental protection may issue an 4127
order exempting from the fees levied under this section solid 4128
wastes, including, but not limited to, scrap tires, that are 4129
generated, transferred, or disposed of as a result of a contract 4130
providing for the expenditure of public funds entered into by the 4131
administrator or regional administrator of the United States 4132
environmental protection agency, the director of environmental 4133
protection, or the director of administrative services on behalf 4134
of the director of environmental protection for the purpose of 4135
remediating conditions at a hazardous waste facility, solid waste 4136
facility, or other location at which the administrator or regional 4137
administrator or the director of environmental protection has 4138
reason to believe that there is a substantial threat to public 4139
health or safety or the environment or that the conditions are 4140
causing or contributing to air or water pollution or soil 4141
contamination. An order issued by the director of environmental 4142
protection under this division shall include a determination that 4143
the amount of fees not received by a solid waste management 4144
district as a result of the order will not adversely impact the 4145
implementation and financing of the district's approved solid 4146
waste management plan and any approved amendments to the plan. 4147
Such an order is a final action of the director of environmental 4148
protection. 4149

Sec. 3734.85. (A) On and after the effective date of the 4150
rules adopted under sections 3734.70, 3734.71, 3734.72, and 4151
3734.73 of the Revised Code, the director of environmental 4152
protection may take action under this section to abate 4153
accumulations of scrap tires. If the director determines that an 4154
accumulation of scrap tires constitutes a danger to the public 4155
health or safety or to the environment, the director shall issue 4156
an order under section 3734.13 of the Revised Code to the person 4157
responsible for the accumulation of scrap tires directing that 4158
person, within one hundred twenty days after the issuance of the 4159
order, to remove the accumulation of scrap tires from the premises 4160
on which it is located and transport the tires to a scrap tire 4161
storage, monocell, monofill, or recovery facility licensed under 4162
section 3734.81 of the Revised Code, to such a facility in another 4163
state operating in compliance with the laws of the state in which 4164
it is located, or to any other solid waste disposal facility in 4165
another state that is operating in compliance with the laws of 4166
that state. If the person responsible for causing the accumulation 4167
of scrap tires is a person different from the owner of the land on 4168
which the accumulation is located, the director may issue such an 4169
order to the landowner. 4170

If the director is unable to ascertain immediately the 4171
identity of the person responsible for causing the accumulation of 4172
scrap tires, the director shall examine the records of the 4173
applicable board of health and law enforcement agencies to 4174
ascertain that person's identity. Before initiating any 4175
enforcement or removal actions under this division against the 4176
owner of the land on which the accumulation is located, the 4177
director shall initiate any such actions against the person that 4178
the director has identified as responsible for causing the 4179
accumulation of scrap tires. Failure of the director to make 4180
diligent efforts to ascertain the identity of the person 4181

responsible for causing the accumulation of scrap tires or to 4182
initiate an action against the person responsible for causing the 4183
accumulation shall not constitute an affirmative defense by a 4184
landowner to an enforcement action initiated by the director under 4185
this division requiring immediate removal of any accumulation of 4186
scrap tires. 4187

Upon the written request of the recipient of an order issued 4188
under this division, the director may extend the time for 4189
compliance with the order if the request demonstrates that the 4190
recipient has acted in good faith to comply with the order. If the 4191
recipient of an order issued under this division fails to comply 4192
with the order within one hundred twenty days after the issuance 4193
of the order or, if the time for compliance with the order was so 4194
extended, within that time, the director shall take such actions 4195
as the director considers reasonable and necessary to remove and 4196
properly manage the scrap tires located on the land named in the 4197
order. The director, through employees of the environmental 4198
protection agency or a contractor, may enter upon the land on 4199
which the accumulation of scrap tires is located and remove and 4200
transport them to a scrap tire recovery facility for processing, 4201
to a scrap tire storage facility for storage, or to a scrap tire 4202
monocell or monofill facility for storage or disposal. 4203

The director shall enter into contracts for the storage, 4204
disposal, or processing of scrap tires removed through removal 4205
operations conducted under this section. 4206

If a person to whom a removal order is issued under this 4207
division fails to comply with the order and if the director 4208
performs a removal action under this section, the person to whom 4209
the removal order is issued is liable to the director for the 4210
costs incurred by the director for conducting the removal 4211
operation, storage at a scrap tire storage facility, storage or 4212
disposal at a scrap tire monocell or monofill facility, or 4213

processing of the scrap tires so removed, the transportation of 4214
the scrap tires from the site of the accumulation to the scrap 4215
tire storage, monocell, monofill, or recovery facility where the 4216
scrap tires were stored, disposed of, or processed, and the 4217
administrative and legal expenses incurred by the director in 4218
connection with the removal operation. The director shall keep an 4219
itemized record of those costs. Upon completion of the actions for 4220
which the costs were incurred, the director shall record the costs 4221
at the office of the county recorder of the county in which the 4222
accumulation of scrap tires was located. The costs so recorded 4223
constitute a lien on the property on which the accumulation of 4224
scrap tires was located until discharged. Upon the written request 4225
of the director, the attorney general shall bring a civil action 4226
against the person responsible for the accumulation of the scrap 4227
tires that were the subject of the removal operation to recover 4228
the costs for which the person is liable under this division. Any 4229
money so received or recovered shall be credited to the scrap tire 4230
management fund created in section 3734.82 of the Revised Code. 4231

If, in a civil action brought under this division, an owner 4232
of real property is ordered to pay to the director the costs of a 4233
removal action that removed an accumulation of scrap tires from 4234
the person's land or if a lien is placed on the person's land for 4235
the costs of such a removal action, and, in either case, if the 4236
landowner was not the person responsible for causing the 4237
accumulation of scrap tires so removed, the landowner may bring a 4238
civil action against the person who was responsible for causing 4239
the accumulation to recover the amount of the removal costs that 4240
the court ordered the landowner to pay to the director or the 4241
amount of the removal costs certified to the county recorder as a 4242
lien on the landowner's property, whichever is applicable. If the 4243
landowner prevails in the civil action against the person who was 4244
responsible for causing the accumulation of scrap tires, the 4245
court, as it considers appropriate, may award to the landowner the 4246

reasonable attorney's fees incurred by the landowner for bringing 4247
the action, court costs, and other reasonable expenses incurred by 4248
the landowner in connection with the civil action. A landowner 4249
shall bring such a civil action within two years after making the 4250
final payment of the removal costs to the director pursuant to the 4251
judgment rendered against the landowner in the civil action 4252
brought under this division upon the director's request or within 4253
two years after the director certified the costs of the removal 4254
action to the county recorder, as appropriate. A person who, at 4255
the time that a removal action was conducted under this division, 4256
owned the land on which the removal action was performed may bring 4257
an action under this division to recover the costs of the removal 4258
action from the person responsible for causing the accumulation of 4259
scrap tires so removed regardless of whether the person owns the 4260
land at the time of bringing the action. 4261

Subject to the limitations set forth in division (G) of 4262
section 3734.82 of the Revised Code, the director may use moneys 4263
in the scrap tire management fund for conducting removal actions 4264
under this division. Any moneys recovered under this division 4265
shall be credited to the scrap tire management fund. 4266

(B) The director shall initiate enforcement and removal 4267
actions under division (A) of this section in accordance with the 4268
following descending listing of priorities: 4269

(1) Accumulations of scrap tires that the director finds 4270
constitute a fire hazard or threat to public health; 4271

(2) Accumulations of scrap tires determined by the director 4272
to contain more than one million scrap tires; 4273

(3) Accumulations of scrap tires in densely populated areas; 4274

(4) Other accumulations of scrap tires that the director or 4275
board of health of the health district in which the accumulation 4276
is located determines constitute a public nuisance; 4277

(5) Any other accumulations of scrap tires present on	4278
premises operating without a valid license issued under section	4279
3734.05 or 3734.81 of the Revised Code.	4280
(C) The director shall not take enforcement and removal	4281
actions under division (A) of this section against the owner or	4282
operator of, or the owner of the land on which is located, any of	4283
the following:	4284
(1) A premises where not more than one hundred scrap tires	4285
are present at any time;	4286
(2) The premises of a business engaging in the sale of tires	4287
at retail that meets either of the following criteria:	4288
(a) Not more than one thousand scrap tires are present on the	4289
premises at any time in an unsecured, uncovered outdoor location.	4290
(b) Any number of scrap tires are secured in a building or a	4291
covered, enclosed container, trailer, or installation.	4292
(3) The premises of a tire retreading business, a tire	4293
manufacturing finishing center, or a tire adjustment center on	4294
which is located a single, covered scrap tire storage area where	4295
not more than four thousand scrap tires are stored;	4296
(4) The premises of a business that removes tires from motor	4297
vehicles in the ordinary course of business and on which is	4298
located a single scrap tire storage area that occupies not more	4299
than twenty-five hundred square feet;	4300
(5) A solid waste facility licensed under section 3734.05 of	4301
the Revised Code that stores scrap tires on the surface of the	4302
ground if the total land area on which scrap tires are actually	4303
stored does not exceed ten thousand square feet;	4304
(6) A premises where not more than two hundred fifty scrap	4305
tires are stored or kept for agricultural use;	4306
(7) A construction site where scrap tires are stored for use	4307

or used in road resurfacing or the construction of embankments;	4308
(8) A scrap tire collection, storage, monocell, monofill, or	4309
recovery facility licensed under section 3734.81 of the Revised	4310
Code;	4311
(9) A solid waste incineration or energy recovery facility	4312
that is subject to regulation under this chapter and that burns	4313
scrap tires;	4314
(10) A premises where scrap tires are beneficially used and	4315
for which the notice required by rules adopted under section	4316
3734.84 of the Revised Code has been given;	4317
(11) A transporter registered under section 3734.83 of the	4318
Revised Code that collects and holds scrap tires in a covered	4319
trailer or vehicle for not longer than thirty days prior to	4320
transporting them to their final destination.	4321
(D) Nothing in this section restricts any right any person	4322
may have under statute or common law to enforce or seek	4323
enforcement of any law applicable to the management of scrap	4324
tires, abate a nuisance, or seek any other appropriate relief.	4325
(E) An owner of real property upon which there is located an	4326
accumulation of not more than two <u>five</u> thousand scrap tires is not	4327
liable under division (A) of this section for the cost of the	4328
removal of the scrap tires, and no lien shall attach to the	4329
property under this section, if all of the following conditions	4330
are met:	4331
(1) The tires were placed on the property after the owner	4332
acquired title to the property, or the tires were placed on the	4333
property before the owner acquired title to the property and the	4334
owner acquired title to the property by bequest or devise.	4335
(2) The owner of the property did not have knowledge that the	4336
tires were being placed on the property, or the owner posted on	4337

the property signs prohibiting dumping or took other action to 4338
prevent the placing of tires on the property. 4339

(3) The owner of the property did not participate in or 4340
consent to the placing of the tires on the property. 4341

(4) The owner of the property received no financial benefit 4342
from the placing of the tires on the property or otherwise having 4343
the tires on the property. 4344

(5) Title to the property was not transferred to the owner 4345
for the purpose of evading liability under division (A) of this 4346
section. 4347

(6) The person responsible for placing the tires on the 4348
property, in doing so, was not acting as an agent for the owner of 4349
the property. 4350

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the 4351
Revised Code: 4352

(A) "Accidental release" means any sudden or nonsudden 4353
release of petroleum that was neither expected nor intended by the 4354
owner or operator of the applicable underground storage tank 4355
system and that results in the need for corrective action or 4356
compensation for bodily injury or property damage. 4357

(B) "Corrective action" means any action necessary to protect 4358
human health and the environment in the event of a release of 4359
petroleum into the environment, including, without limitation, any 4360
action necessary to monitor, assess, and evaluate the release. In 4361
the instance of a suspected release, "corrective action" includes, 4362
without limitation, an investigation to confirm or disprove the 4363
occurrence of the release. In the instance of a confirmed release, 4364
"corrective action" includes, without limitation, the initial 4365
corrective action taken under section 3737.88 or 3737.882 of the 4366
Revised Code and rules adopted or orders issued under those 4367

sections and any action taken consistent with a remedial action to 4368
clean up contaminated ground water, surface water, soils, and 4369
subsurface material and to address the residual effects of a 4370
release after the initial corrective action is taken. 4371

(C) "Eligible lending institution" means a financial 4372
institution that is eligible to make commercial loans, is a public 4373
depository of state funds under section 135.03 of the Revised 4374
Code, and agrees to participate in the petroleum underground 4375
storage tank linked deposit program provided for in sections 4376
3737.95 to 3737.98 of the Revised Code. 4377

(D) "Eligible owner" means any person that owns six or fewer 4378
petroleum underground storage tanks comprising a petroleum 4379
underground storage tank or underground storage tank system. 4380

(E) "Installer" means a person who supervises the 4381
installation of, performance of major repairs on site to, 4382
abandonment of, or removal of underground storage tank systems. 4383

(F) "Major repair" means the restoration of a tank or an 4384
underground storage tank system component that has caused a 4385
release of a product from the underground storage tank system, ~~the~~ 4386
~~upgrading of a tank or an underground storage tank system~~ 4387
~~component, or the modification of a tank or an underground storage~~ 4388
~~tank system component.~~ "Major repair" does not include 4389
modifications, upgrades, or routine maintenance for normal 4390
operational upkeep to prevent an underground storage tank system 4391
from releasing a product. 4392

(G) "Operator" means the person in daily control of, or 4393
having responsibility for the daily operation of, an underground 4394
storage tank system. 4395

(H) "Owner" means: 4396

(1) In the instance of an underground storage tank system in 4397
use on November 8, 1984, or brought into use after that date, the 4398

person who owns the underground storage tank system; 4399

(2) In the instance of an underground storage tank system in 4400
use before November 8, 1984, that was no longer in use on that 4401
date, the person who owned the underground storage tank system 4402
immediately before the discontinuation of its use. 4403

"Owner" includes any person who holds, or, in the instance of 4404
an underground storage tank system in use before November 8, 1984, 4405
but no longer in use on that date, any person who held immediately 4406
before the discontinuation of its use, a legal, equitable, or 4407
possessory interest of any kind in an underground storage tank 4408
system or in the property on which the underground storage tank 4409
system is located, including, without limitation, a trust, vendor, 4410
vendee, lessor, or lessee. "Owner" does not include any person 4411
who, without participating in the management of an underground 4412
storage tank system and without otherwise being engaged in 4413
petroleum production, refining, or marketing, holds indicia of 4414
ownership in an underground storage tank system primarily to 4415
protect the person's security interest in it. 4416

(I) "Person," in addition to the meaning in section 3737.01 4417
of the Revised Code, means the United States and any department, 4418
agency, or instrumentality thereof. 4419

(J) "Petroleum" means petroleum, including crude oil or any 4420
fraction thereof, that is a liquid at the temperature of sixty 4421
degrees Fahrenheit and the pressure of fourteen and seven-tenths 4422
pounds per square inch absolute. "Petroleum" includes, without 4423
limitation, motor fuels, jet fuels, distillate fuel oils, residual 4424
fuel oils, lubricants, petroleum solvents, and used oils. 4425

(K) "Petroleum underground storage tank linked deposit" means 4426
a certificate of deposit placed by the treasurer of state with an 4427
eligible lending institution pursuant to sections 3737.95 to 4428
3737.98 of the Revised Code. 4429

(L) "Regulated substance" means petroleum or any substance 4430
identified or listed as a hazardous substance in rules adopted 4431
under division (D) of section 3737.88 of the Revised Code. 4432

(M) "Release" means any spilling, leaking, emitting, 4433
discharging, escaping, leaching, or disposing of from an 4434
underground storage tank system into ground or surface water or 4435
subsurface soils or otherwise into the environment. 4436

(N) Notwithstanding division (F) of section 3737.01 of the 4437
Revised Code, "responsible person" means the person who is the 4438
owner or operator of an underground storage tank system. 4439

(O) "Tank" means a stationary device designed to contain an 4440
accumulation of regulated substances that is constructed of 4441
manufactured materials. 4442

(P) "Underground storage tank" means one or any combination 4443
of tanks, including the underground pipes connected thereto, that 4444
are used to contain an accumulation of regulated substances the 4445
volume of which, including the volume of the underground pipes 4446
connected thereto, is ten per cent or more beneath the surface of 4447
the ground. 4448

"Underground storage tank" does not include any of the 4449
following or any pipes connected to any of the following: 4450

(1) Pipeline facilities, including gathering lines, regulated 4451
under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 4452
49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline 4453
Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended; 4454

(2) Farm or residential tanks of one thousand one hundred 4455
gallons or less capacity used for storing motor fuel for 4456
noncommercial purposes; 4457

(3) Tanks used for storing heating fuel for consumptive use 4458
on the premises where stored; 4459

(4) Surface impoundments, pits, ponds, or lagoons;	4460
(5) Storm or waste water collection systems;	4461
(6) Flow-through process tanks;	4462
(7) Storage tanks located in underground areas, including,	4463
without limitation, basements, cellars, mine workings, drifts,	4464
shafts, or tunnels, when the tanks are located on or above the	4465
surface of the floor;	4466
(8) Septic tanks;	4467
(9) Liquid traps or associated gathering lines directly	4468
related to oil or gas production and gathering operations.	4469
(Q) "Underground storage tank system" means an underground	4470
storage tank and the connected underground piping, underground	4471
ancillary equipment, and containment system, if any.	4472
(R) "Revenues" means all fees, premiums, and charges paid by	4473
owners and operators of petroleum underground storage tanks to the	4474
petroleum underground storage tank release compensation board	4475
created in section 3737.90 of the Revised Code; proceeds received	4476
by the board from any insurance, condemnation, or guaranty; the	4477
proceeds of petroleum underground storage tank revenue bonds; and	4478
the income and profits from the investment of any such revenues.	4479
(S) "Revenue bonds," unless the context indicates a different	4480
meaning or intent, means petroleum underground storage tank	4481
revenue bonds and petroleum underground storage tank revenue	4482
refunding bonds that are issued by the petroleum underground	4483
storage tank release compensation board pursuant to sections	4484
3737.90 to 3737.948 of the Revised Code.	4485
(T) "Class C release" means a release of petroleum occurring	4486
or identified from an underground storage tank system subject to	4487
sections 3737.87 to 3737.89 of the Revised Code for which the	4488
responsible person for the release is specifically determined by	4489

the fire marshal not to be a viable person capable of undertaking 4490
or completing the corrective actions required under those sections 4491
for the release. "Class C release" also includes any release 4492
designated as a "class C release" in accordance with rules adopted 4493
under section 3737.88 of the Revised Code. 4494

Sec. 3737.88. (A)(1) The fire marshal shall have 4495
responsibility for implementation of the underground storage tank 4496
program and corrective action program for releases of petroleum 4497
from underground storage tanks established by the "Resource 4498
Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 4499
6901, as amended. To implement the programs, the fire marshal may 4500
adopt, amend, and rescind such rules, conduct such inspections, 4501
require annual registration of underground storage tanks, issue 4502
such citations and orders to enforce those rules, enter into 4503
environmental covenants in accordance with sections 5301.80 to 4504
5301.92 of the Revised Code, and perform such other duties, as are 4505
consistent with those programs. The fire marshal, by rule, may 4506
delegate the authority to conduct inspections of underground 4507
storage tanks to certified fire safety inspectors. 4508

(2) In the place of any rules regarding release containment 4509
and release detection for underground storage tanks adopted under 4510
division (A)(1) of this section, the fire marshal, by rule, shall 4511
designate areas as being sensitive for the protection of human 4512
health and the environment and adopt alternative rules regarding 4513
release containment and release detection methods for new and 4514
upgraded underground storage tank systems located in those areas. 4515
In designating such areas, the fire marshal shall take into 4516
consideration such factors as soil conditions, hydrogeology, water 4517
use, and the location of public and private water supplies. Not 4518
later than July 11, 1990, the fire marshal shall file the rules 4519
required under this division with the secretary of state, director 4520
of the legislative service commission, and joint committee on 4521

agency rule review in accordance with divisions (B) and (H) of 4522
section 119.03 of the Revised Code. 4523

(3) Notwithstanding sections 3737.87 to 3737.89 of the 4524
Revised Code, a person who is not a responsible person, as 4525
determined by the fire marshal pursuant to this chapter, may 4526
conduct a voluntary action in accordance with Chapter 3746. of the 4527
Revised Code and rules adopted under it for ~~a~~ either of the 4528
following: 4529

(a) A class C release; 4530

(b) A release, other than a class C release, that is subject 4531
to the rules adopted by the fire marshal under division (B) of 4532
section 3737.882 of the Revised Code pertaining to a corrective 4533
action, provided that both of the following apply: 4534

(i) The voluntary action also addresses hazardous substances 4535
or petroleum that is not subject to the rules adopted under 4536
division (B) of section 3737.882 of the Revised Code pertaining to 4537
a corrective action. 4538

(ii) The fire marshal has not issued an administrative order 4539
concerning the release or referred the release to the attorney 4540
general for enforcement. ~~The~~ 4541

The director of environmental protection, pursuant to section 4542
3746.12 of the Revised Code, may issue a covenant not to sue to 4543
any person who properly completes a voluntary action with respect 4544
to ~~a class C~~ any such release in accordance with Chapter 3746. of 4545
the Revised Code and rules adopted under it. 4546

(B) Before adopting any rule under this section or section 4547
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 4548
file written notice of the proposed rule with the chairperson of 4549
the state fire council, and, within sixty days after notice is 4550
filed, the council may file responses to or comments on and may 4551
recommend alternative or supplementary rules to the fire marshal. 4552

At the end of the sixty-day period or upon the filing of 4553
responses, comments, or recommendations by the council, the fire 4554
marshal may adopt the rule filed with the council or any 4555
alternative or supplementary rule recommended by the council. 4556

(C) The state fire council may recommend courses of action to 4557
be taken by the fire marshal in carrying out the fire marshal's 4558
duties under this section. The council shall file its 4559
recommendations in the office of the fire marshal, and, within 4560
sixty days after the recommendations are filed, the fire marshal 4561
shall file with the chairperson of the council comments on, and 4562
proposed action in response to, the recommendations. 4563

(D) For the purpose of sections 3737.87 to 3737.89 of the 4564
Revised Code, the fire marshal shall adopt, and may amend and 4565
rescind, rules identifying or listing hazardous substances. The 4566
rules shall be consistent with and equivalent in scope, coverage, 4567
and content to regulations identifying or listing hazardous 4568
substances adopted under the "Comprehensive Environmental 4569
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 4570
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 4571
not identify or list as a hazardous substance any hazardous waste 4572
identified or listed in rules adopted under division (A) of 4573
section 3734.12 of the Revised Code. 4574

(E) Except as provided in division (A)(3) of this section, 4575
the fire marshal shall have exclusive jurisdiction to regulate the 4576
storage, treatment, and disposal of petroleum contaminated soil 4577
generated from corrective actions undertaken in response to 4578
releases of petroleum from underground storage tank systems. The 4579
fire marshal may adopt, amend, or rescind such rules as the fire 4580
marshal considers to be necessary or appropriate to regulate the 4581
storage, treatment, or disposal of petroleum contaminated soil so 4582
generated. 4583

(F) The fire marshal shall adopt, amend, and rescind rules 4584

under sections 3737.88 to 3737.882 of the Revised Code in 4585
accordance with Chapter 119. of the Revised Code. 4586

Sec. 3745.017. (A) As used in this section: 4587

(1) "Environmental law" means a law that is administered by 4588
the environmental protection agency. 4589

(2) "Regulated entity" means an entity that is regulated 4590
under an environmental law. 4591

(B)(1) The director of environmental protection may establish 4592
within the agency a program for providing compliance and pollution 4593
prevention assistance to regulated entities. Services provided 4594
under the program may include all of the following: 4595

(a) Establishment of a statewide toll-free telephone hotline 4596
to respond to questions about environmental requirements and 4597
pollution prevention; 4598

(b) Development and distribution of educational materials 4599
regarding environmental requirements and pollution prevention; 4600

(c) Provision of outreach and training on environmental 4601
requirements and pollution prevention; 4602

(d) Provision of on-site assistance to regulated entities to 4603
help them identify applicable requirements and opportunities for 4604
pollution prevention and waste reduction; 4605

(e) Provision of assistance to regulated entities that are 4606
small businesses in completing forms and permit applications, 4607
including assistance with permit applications pursuant to section 4608
3704.18 of the Revised Code; 4609

(f) Conducting annual surveys to solicit comments and gauge 4610
satisfaction from regulated entities that have sought assistance 4611
under the program. The director shall utilize solicited comments 4612
for the purpose of improving outreach and assistance. 4613

(g) Additional services that the director determines are 4614
necessary to assist regulated entities. 4615

(2) The director may assign employees of the agency to 4616
administer the program and assist in providing the services 4617
specified in division (B)(1) of this section. 4618

(C) Except as provided in division (D) of this section, 4619
information obtained or created by employees of the agency who 4620
administer the program when providing any of the services 4621
specified in division (B)(1) of this section shall be held 4622
confidential unless any of the following applies: 4623

(1) The information reveals a clear and immediate danger to 4624
the environment and to the health, safety, or welfare of the 4625
public. 4626

(2) The information is obtained independently by the director 4627
or the director's authorized representatives as part of a 4628
compliance inspection, record review, investigation, or 4629
enforcement proceeding by the agency. 4630

(3) The information is emissions data or other information 4631
concerning which holding the information as either confidential 4632
business information or trade secrets is expressly prohibited 4633
pursuant to the federal Clean Air Act as defined in section 4634
3704.01 of the Revised Code, the federal Water Pollution Control 4635
Act as defined in section 6111.01 of the Revised Code, or another 4636
applicable federal law. 4637

(4) The information is otherwise required by state or federal 4638
law to be disclosed publicly or made available to a government 4639
agency. 4640

(D) When information has been submitted by a regulated entity 4641
to a division or office of the agency as part of a permit 4642
application, required report, or notification or to comply with 4643
any other regulatory reporting requirement, that information shall 4644

not be considered confidential by other divisions or offices of 4645
the agency unless it is determined to be a trade secret as defined 4646
in section 1333.61 of the Revised Code. 4647

(E) No information that is submitted to, acquired by, or 4648
exchanged with employees of the agency who administer or provide 4649
services under the program that is authorized to be established 4650
under this section and that is confidential pursuant to division 4651
(C) of this section shall be used in any manner for the purpose of 4652
the enforcement of any requirement established in an environmental 4653
law or used as evidence in any judicial or administrative 4654
enforcement proceeding. 4655

(F) Nothing in this section confers immunity on persons from 4656
enforcement that is based on information that is obtained by the 4657
director or the director's authorized representatives who are not 4658
employees of the agency who administer or provide services under 4659
the program that is authorized to be established under this 4660
section. 4661

Sec. 3745.11. (A) Applicants for and holders of permits, 4662
licenses, variances, plan approvals, and certifications issued by 4663
the director of environmental protection pursuant to Chapters 4664
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 4665
to the environmental protection agency for each such issuance and 4666
each application for an issuance as provided by this section. No 4667
fee shall be charged for any issuance for which no application has 4668
been submitted to the director. 4669

(B) Each person who is issued a permit to install prior to 4670
July 1, 2003, pursuant to rules adopted under division (F) of 4671
section 3704.03 of the Revised Code shall pay the fees specified 4672
in the following schedules: 4673

(1) Fuel-burning equipment (boilers) 4674

Input capacity (maximum)		4675
(million British thermal units per hour)	Permit to install	4676
Greater than 0, but less than 10	\$ 200	4677
10 or more, but less than 100	400	4678
100 or more, but less than 300	800	4679
300 or more, but less than 500	1500	4680
500 or more, but less than 1000	2500	4681
1000 or more, but less than 5000	4000	4682
5000 or more	6000	4683

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

(2) Incinerators		4684
Input capacity (pounds per hour)	Permit to install	4685
0 to 100	\$ 100	4686
101 to 500	400	4687
501 to 2000	750	4688
2001 to 20,000	1000	4689
more than 20,000	2500	4690

(3)(a) Process		4691
Process weight rate (pounds per hour)	Permit to install	4692
0 to 1000	\$ 200	4693
1001 to 5000	400	4694
5001 to 10,000	600	4695
10,001 to 50,000	800	4696
more than 50,000	1000	4697

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

(b) Notwithstanding division (B)(3)(a) of this section, any
person issued a permit to install pursuant to rules adopted under
division (F) of section 3704.03 of the Revised Code shall pay the
fees established in division (B)(3)(c) of this section for a

process used in any of the following industries, as identified by 4707
the applicable four-digit standard industrial classification code 4708
according to the Standard Industrial Classification Manual 4709
published by the United States office of management and budget in 4710
the executive office of the president, 1972, as revised: 4711

- 1211 Bituminous coal and lignite mining; 4712
- 1213 Bituminous coal and lignite mining services; 4713
- 1411 Dimension stone; 4714
- 1422 Crushed and broken limestone; 4715
- 1427 Crushed and broken stone, not elsewhere classified; 4716
- 1442 Construction sand and gravel; 4717
- 1446 Industrial sand; 4718
- 3281 Cut stone and stone products; 4719
- 3295 Minerals and earth, ground or otherwise treated. 4720

(c) The fees established in the following schedule apply to 4721
the issuance of a permit to install pursuant to rules adopted 4722
under division (F) of section 3704.03 of the Revised Code for a 4723
process listed in division (B)(3)(b) of this section: 4724

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	4726
10,001 to 50,000	300	4727
50,001 to 100,000	400	4728
100,001 to 200,000	500	4729
200,001 to 400,000	600	4730
400,001 or more	700	4731

(4) Storage tanks 4732

Gallons (maximum useful capacity)	Permit to install	
0 to 20,000	\$ 100	4734
20,001 to 40,000	150	4735

40,001 to 100,000	200	4736
100,001 to 250,000	250	4737
250,001 to 500,000	350	4738
500,001 to 1,000,000	500	4739
1,000,001 or greater	750	4740
(5) Gasoline/fuel dispensing facilities		4741
For each gasoline/fuel dispensing	Permit to install	4742
facility	\$ 100	4743
(6) Dry cleaning facilities		4744
For each dry cleaning facility	Permit to install	4745
(includes all units at the facility)	\$ 100	4746
(7) Registration status		4747
For each source covered	Permit to install	4748
by registration status	\$ 75	4749
(C)(1) Except as otherwise provided in division (C)(2) of		4750
this section, beginning July 1, 1994, each person who owns or		4751
operates an air contaminant source and who is required to apply		4752
for and obtain a Title V permit under section 3704.036 of the		4753
Revised Code shall pay the fees set forth in division (C)(1) of		4754
this section. For the purposes of that division, total emissions		4755
of air contaminants may be calculated using engineering		4756
calculations, emissions factors, material balance calculations, or		4757
performance testing procedures, as authorized by the director.		4758
The following fees shall be assessed on the total actual		4759
emissions from a source in tons per year of the regulated		4760
pollutants particulate matter, sulfur dioxide, nitrogen oxides,		4761
organic compounds, and lead:		4762
(a) Fifteen dollars per ton on the total actual emissions of		4763
each such regulated pollutant during the period July through		4764
December 1993, to be collected no sooner than July 1, 1994;		4765
(b) Twenty dollars per ton on the total actual emissions of		4766

each such regulated pollutant during calendar year 1994, to be 4767
collected no sooner than April 15, 1995; 4768

(c) Twenty-five dollars per ton on the total actual emissions 4769
of each such regulated pollutant in calendar year 1995, and each 4770
subsequent calendar year, to be collected no sooner than the 4771
fifteenth day of April of the year next succeeding the calendar 4772
year in which the emissions occurred. 4773

The fees levied under division (C)(1) of this section do not 4774
apply to that portion of the emissions of a regulated pollutant at 4775
a facility that exceed four thousand tons during a calendar year. 4776

(2) The fees assessed under division (C)(1) of this section 4777
are for the purpose of providing funding for the Title V permit 4778
program. 4779

(3) The fees assessed under division (C)(1) of this section 4780
do not apply to emissions from any electric generating unit 4781
designated as a Phase I unit under Title IV of the federal Clean 4782
Air Act prior to calendar year 2000. Those fees shall be assessed 4783
on the emissions from such a generating unit commencing in 4784
calendar year 2001 based upon the total actual emissions from the 4785
generating unit during calendar year 2000 and shall continue to be 4786
assessed each subsequent calendar year based on the total actual 4787
emissions from the generating unit during the preceding calendar 4788
year. 4789

(4) The director shall issue invoices to owners or operators 4790
of air contaminant sources who are required to pay a fee assessed 4791
under division (C) or (D) of this section. Any such invoice shall 4792
be issued no sooner than the applicable date when the fee first 4793
may be collected in a year under the applicable division, shall 4794
identify the nature and amount of the fee assessed, and shall 4795
indicate that the fee is required to be paid within thirty days 4796
after the issuance of the invoice. 4797

(D)(1) Except as provided in division (D)(3) of this section, 4798
from January 1, 1994, through December 31, 2003, each person who 4799
owns or operates an air contaminant source; who is required to 4800
apply for a permit to operate pursuant to rules adopted under 4801
division (G), or a variance pursuant to division (H), of section 4802
3704.03 of the Revised Code; and who is not required to apply for 4803
and obtain a Title V permit under section 3704.036 of the Revised 4804
Code shall pay a single fee based upon the sum of the actual 4805
annual emissions from the facility of the regulated pollutants 4806
particulate matter, sulfur dioxide, nitrogen oxides, organic 4807
compounds, and lead in accordance with the following schedule: 4808

Total tons per year		4809
of regulated pollutants	Annual fee	4810
emitted	per facility	4811
More than 0, but less than 50	\$ 75	4812
50 or more, but less than 100	300	4813
100 or more	700	4814

(2) Except as provided in division (D)(3) of this section, 4815
beginning January 1, 2004, each person who owns or operates an air 4816
contaminant source; who is required to apply for a permit to 4817
operate pursuant to rules adopted under division (G), or a 4818
variance pursuant to division (H), of section 3704.03 of the 4819
Revised Code; and who is not required to apply for and obtain a 4820
Title V permit under section 3704.03 of the Revised Code shall pay 4821
a single fee based upon the sum of the actual annual emissions 4822
from the facility of the regulated pollutants particulate matter, 4823
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 4824
accordance with the following schedule: 4825

Total tons per year		4826
of regulated pollutants	Annual fee	4827
emitted	per facility	4828
More than 0, but less than 10	\$ 100	4829

10 or more, but less than 50	200	4830
50 or more, but less than 100	300	4831
100 or more	700	4832

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

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

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility	
Less than 10	\$ 170	4846
10 or more, but less than 20	340	4847
20 or more, but less than 30	670	4848
30 or more, but less than 40	1,010	4849
40 or more, but less than 50	1,340	4850
50 or more, but less than 60	1,680	4851
60 or more, but less than 70	2,010	4852
70 or more, but less than 80	2,350	4853
80 or more, but less than 90	2,680	4854
90 or more, but less than 100	3,020	4855
100 or more	3,350	4856

(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) 4862
of this section shall be collected annually no sooner than the 4863
fifteenth day of April, commencing in 2005. The fees assessed 4864
under division (D)(3) of this section shall be collected no sooner 4865
than the fifteenth day of April, commencing in 2000. The fees 4866
assessed under division (D) of this section in a calendar year 4867
shall be based upon the sum of the actual emissions of those 4868
regulated pollutants during the preceding calendar year. For the 4869
purpose of division (D) of this section, emissions of air 4870
contaminants may be calculated using engineering calculations, 4871
emission factors, material balance calculations, or performance 4872
testing procedures, as authorized by the director. The director, 4873
by rule, may require persons who are required to pay the fees 4874
assessed under division (D) of this section to pay those fees 4875
biennially rather than annually. 4876

(E)(1) Consistent with the need to cover the reasonable costs 4877
of the Title V permit program, the director annually shall 4878
increase the fees prescribed in division (C)(1) of this section by 4879
the percentage, if any, by which the consumer price index for the 4880
most recent calendar year ending before the beginning of a year 4881
exceeds the consumer price index for calendar year 1989. Upon 4882
calculating an increase in fees authorized by division (E)(1) of 4883
this section, the director shall compile revised fee schedules for 4884
the purposes of division (C)(1) of this section and shall make the 4885
revised schedules available to persons required to pay the fees 4886
assessed under that division and to the public. 4887

(2) For the purposes of division (E)(1) of this section: 4888

(a) The consumer price index for any year is the average of 4889
the consumer price index for all urban consumers published by the 4890
United States department of labor as of the close of the 4891
twelve-month period ending on the thirty-first day of August of 4892
that year. 4893

(b) If the 1989 consumer price index is revised, the director 4894
shall use the revision of the consumer price index that is most 4895
consistent with that for calendar year 1989. 4896

(F) Each person who is issued a permit to install pursuant to 4897
rules adopted under division (F) of section 3704.03 of the Revised 4898
Code on or after July 1, 2003, shall pay the fees specified in the 4899
following schedules: 4900

(1) Fuel-burning equipment (boilers, furnaces, or process 4901
heaters used in the process of burning fuel for the primary 4902
purpose of producing heat or power by indirect heat transfer) 4903

Input capacity (maximum) 4904

(million British thermal units per hour) Permit to install 4905

Greater than 0, but less than 10 \$ 200 4906

10 or more, but less than 100 400 4907

100 or more, but less than 300 1000 4908

300 or more, but less than 500 2250 4909

500 or more, but less than 1000 3750 4910

1000 or more, but less than 5000 6000 4911

5000 or more 9000 4912

Units burning exclusively natural gas, number two fuel oil, 4913

or both shall be assessed a fee that is one-half the applicable 4914

amount shown in division (F)(1) of this section. 4915

(2) Combustion turbines and stationary internal combustion 4916

engines designed to generate electricity 4917

Generating capacity (mega watts) Permit to install 4918

0 or more, but less than 10 \$ 25 4919

10 or more, but less than 25 150 4920

25 or more, but less than 50 300 4921

50 or more, but less than 100 500 4922

100 or more, but less than 250 1000 4923

250 or more 2000 4924

(3) Incinerators		4925
Input capacity (pounds per hour)	Permit to install	4926
0 to 100	\$ 100	4927
101 to 500	500	4928
501 to 2000	1000	4929
2001 to 20,000	1500	4930
more than 20,000	3750	4931

(4)(a) Process		4932
Process weight rate (pounds per hour)	Permit to install	4933
0 to 1000	\$ 200	4934
1001 to 5000	500	4935
5001 to 10,000	750	4936
10,001 to 50,000	1000	4937
more than 50,000	1250	4938

In any process where process weight rate cannot be 4939
ascertained, the minimum fee shall be assessed. A boiler, furnace, 4940
combustion turbine, stationary internal combustion engine, or 4941
process heater designed to provide direct heat or power to a 4942
process not designed to generate electricity shall be assessed a 4943
fee established in division (F)(4)(a) of this section. A 4944
combustion turbine or stationary internal combustion engine 4945
designed to generate electricity shall be assessed a fee 4946
established in division (F)(2) of this section. 4947

(b) Notwithstanding division (F)(4)(a) of this section, any 4948
person issued a permit to install pursuant to rules adopted under 4949
division (F) of section 3704.03 of the Revised Code shall pay the 4950
fees set forth in division (F)(4)(c) of this section for a process 4951
used in any of the following industries, as identified by the 4952
applicable two-digit, three-digit, or four-digit standard 4953
industrial classification code according to the Standard 4954
Industrial Classification Manual published by the United States 4955
office of management and budget in the executive office of the 4956

president, 1987, as revised:		4957
Major group 10, metal mining;		4958
Major group 12, coal mining;		4959
Major group 14, mining and quarrying of nonmetallic minerals;		4960
Industry group 204, grain mill products;		4961
2873 Nitrogen fertilizers;		4962
2874 Phosphatic fertilizers;		4963
3281 Cut stone and stone products;		4964
3295 Minerals and earth, ground or otherwise treated;		4965
4221 Grain elevators (storage only);		4966
5159 Farm related raw materials;		4967
5261 Retail nurseries and lawn and garden supply stores.		4968
(c) The fees set forth in the following schedule apply to the		4969
issuance of a permit to install pursuant to rules adopted under		4970
division (F) of section 3704.03 of the Revised Code for a process		4971
identified in division (F)(4)(b) of this section:		4972
Process weight rate (pounds per	Permit to install	4973
hour)		
0 to 10,000	\$ 200	4974
10,001 to 50,000	400	4975
50,001 to 100,000	500	4976
100,001 to 200,000	600	4977
200,001 to 400,000	750	4978
400,001 or more	900	4979
(5) Storage tanks		4980
Gallons (maximum useful capacity)	Permit to install	4981
0 to 20,000	\$ 100	4982
20,001 to 40,000	150	4983
40,001 to 100,000	250	4984

100,001 to 500,000	400	4985
500,001 or greater	750	4986
(6) Gasoline/fuel dispensing facilities		4987
For each gasoline/fuel		4988
dispensing facility (includes all	Permit to install	4989
units at the facility)	\$ 100	4990
(7) Dry cleaning facilities		4991
For each dry cleaning		4992
facility (includes all units	Permit to install	4993
at the facility)	\$ 100	4994
(8) Registration status		4995
For each source covered	Permit to install	4996
by registration status	\$ 75	4997
(G) An owner or operator who is responsible for an asbestos		4998
demolition or renovation project pursuant to rules adopted under		4999
section 3704.03 of the Revised Code shall pay the fees set forth		5000
in the following schedule:		5001
Action	Fee	5002
Each notification	\$75	5003
Asbestos removal	\$3/unit	5004
Asbestos cleanup	\$4/cubic yard	5005
For purposes of this division, "unit" means any combination of		5006
linear feet or square feet equal to fifty.		5007
(H) A person who is issued an extension of time for a permit		5008
to install an air contaminant source pursuant to rules adopted		5009
under division (F) of section 3704.03 of the Revised Code shall		5010
pay a fee equal to one-half the fee originally assessed for the		5011
permit to install under this section, except that the fee for such		5012
an extension shall not exceed two hundred dollars.		5013
(I) A person who is issued a modification to a permit to		5014
install an air contaminant source pursuant to rules adopted under		5015

section 3704.03 of the Revised Code shall pay a fee equal to 5016
one-half of the fee that would be assessed under this section to 5017
obtain a permit to install the source. The fee assessed by this 5018
division only applies to modifications that are initiated by the 5019
owner or operator of the source and shall not exceed two thousand 5020
dollars. 5021

(J) Notwithstanding division (B) or (F) of this section, a 5022
person who applies for or obtains a permit to install pursuant to 5023
rules adopted under division (F) of section 3704.03 of the Revised 5024
Code after the date actual construction of the source began shall 5025
pay a fee for the permit to install that is equal to twice the fee 5026
that otherwise would be assessed under the applicable division 5027
unless the applicant received authorization to begin construction 5028
under division (W) of section 3704.03 of the Revised Code. This 5029
division only applies to sources for which actual construction of 5030
the source begins on or after July 1, 1993. The imposition or 5031
payment of the fee established in this division does not preclude 5032
the director from taking any administrative or judicial 5033
enforcement action under this chapter, Chapter 3704., 3714., 5034
3734., or 6111. of the Revised Code, or a rule adopted under any 5035
of them, in connection with a violation of rules adopted under 5036
division (F) of section 3704.03 of the Revised Code. 5037

As used in this division, "actual construction of the source" 5038
means the initiation of physical on-site construction activities 5039
in connection with improvements to the source that are permanent 5040
in nature, including, without limitation, the installation of 5041
building supports and foundations and the laying of underground 5042
pipework. 5043

(K) Fifty cents per ton of each fee assessed under division 5044
(C) of this section on actual emissions from a source and received 5045
by the environmental protection agency pursuant to that division 5046
shall be deposited into the state treasury to the credit of the 5047

small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

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

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

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

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

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46

of the Revised Code shall pay a fee of one hundred dollars plus 5080
sixty-five one-hundredths of one per cent of the estimated project 5081
cost through June 30, 2014, and one hundred dollars plus 5082
two-tenths of one per cent of the estimated project cost on and 5083
after July 1, 2014, except that the total fee shall not exceed 5084
fifteen thousand dollars through June 30, 2014, and five thousand 5085
dollars on and after July 1, 2014. The fee shall be paid at the 5086
time the application is submitted. 5087

(3) A person issued a modification of a water discharge 5088
permit shall pay a fee equal to one-half the fee that otherwise 5089
would be charged for a water discharge permit, except that the fee 5090
for the modification shall not exceed four hundred dollars. 5091

(4) A person who has entered into an agreement with the 5092
director under section 6111.14 of the Revised Code shall pay an 5093
administrative service fee for each plan submitted under that 5094
section for approval that shall not exceed the minimum amount 5095
necessary to pay administrative costs directly attributable to 5096
processing plan approvals. The director annually shall calculate 5097
the fee and shall notify all persons who have entered into 5098
agreements under that section, or who have applied for agreements, 5099
of the amount of the fee. 5100

(5)(a)(i) Not later than January 30, 2012, and January 30, 5101
2013, a person holding an NPDES discharge permit issued pursuant 5102
to Chapter 6111. of the Revised Code with an average daily 5103
discharge flow of five thousand gallons or more shall pay a 5104
nonrefundable annual discharge fee. Any person who fails to pay 5105
the fee at that time shall pay an additional amount that equals 5106
ten per cent of the required annual discharge fee. 5107

(ii) The billing year for the annual discharge fee 5108
established in division (L)(5)(a)(i) of this section shall consist 5109
of a twelve-month period beginning on the first day of January of 5110
the year preceding the date when the annual discharge fee is due. 5111

In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

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

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

Average daily discharge flow	Fee due by	
	January 30,	
	2012, and	
	January 30, 2013	
5,000 to 49,999	\$ 200	
50,000 to 100,000	500	
100,001 to 250,000	1,050	

250,001 to 1,000,000	2,600	5144
1,000,001 to 5,000,000	5,200	5145
5,000,001 to 10,000,000	10,350	5146
10,000,001 to 20,000,000	15,550	5147
20,000,001 to 50,000,000	25,900	5148
50,000,001 to 100,000,000	41,400	5149
100,000,001 or more	62,100	5150

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 discharge flow	Fee due by January 30, 2012, and January 30, 2013	
5,000 to 49,999	\$ 250	5163
50,000 to 250,000	1,200	5164
250,001 to 1,000,000	2,950	5165
1,000,001 to 5,000,000	5,850	5166
5,000,001 to 10,000,000	8,800	5167
10,000,001 to 20,000,000	11,700	5170
20,000,001 to 100,000,000	14,050	5171
100,000,001 to 250,000,000	16,400	5172
250,000,001 or more	18,700	5174

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 pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

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

(8) As used in division (L) of this section:	5208
(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.	5209 5210 5211 5212 5213
(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.	5214 5215 5216
(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.	5217 5218 5219
(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.	5220 5221 5222 5223
(M) Through June 30, 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. 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. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.	5224 5225 5226 5227 5228 5229 5230 5231 5232 5233
Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:	5234 5235 5236
(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system	5237 5238

that is a community water system as defined in section 6109.01 of 5239
the Revised Code, and for each license renewal required for such a 5240
system prior to January 31, 2014, the fee is: 5241

Number of service connections	Fee amount	5242
Not more than 49	\$ 112	5243
50 to 99	176	5244

Number of service connections	Average cost per connection	5245
100 to 2,499	\$ 1.92	5246
2,500 to 4,999	1.48	5247
5,000 to 7,499	1.42	5248
7,500 to 9,999	1.34	5249
10,000 to 14,999	1.16	5250
15,000 to 24,999	1.10	5251
25,000 to 49,999	1.04	5252
50,000 to 99,999	.92	5253
100,000 to 149,999	.86	5254
150,000 to 199,999	.80	5255
200,000 or more	.76	5256

A public water system may determine how it will pay the total 5257
amount of the fee calculated under division (M)(1) of this 5258
section, including the assessment of additional user fees that may 5259
be assessed on a volumetric basis. 5260

As used in division (M)(1) of this section, "service 5261
connection" means the number of active or inactive pipes, 5262
goosenecks, pigtails, and any other fittings connecting a water 5263
main to any building outlet. 5264

(2) For the initial license required under division (A)(2) of 5265
section 6109.21 of the Revised Code for any public water system 5266
that is not a community water system and serves a nontransient 5267
population, and for each license renewal required for such a 5268
system prior to January 31, 2014, the fee is: 5269

Population served	Fee amount	5270
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Fewer than 150	\$ 112	5271
150 to 299	176	5272
300 to 749	384	5273
750 to 1,499	628	5274
1,500 to 2,999	1,268	5275
3,000 to 7,499	2,816	5276
7,500 to 14,999	5,510	5277
15,000 to 22,499	9,048	5278
22,500 to 29,999	12,430	5279
30,000 or more	16,820	5280

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

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

Number of wells or sources, other than surface water, supplying system	Fee amount	
1	\$112	5293
2	112	5294
3	176	5295
4	278	5296
5	568	5297
System designated as using a surface water source	792	5298

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means

those wells or sources that are physically connected to the 5302
plumbing system serving the public water system. 5303

(4) A public water system designated as using a surface water 5304
source shall pay a fee of seven hundred ninety-two dollars or the 5305
amount calculated under division (M)(1) or (2) of this section, 5306
whichever is greater. 5307

(N)(1) A person applying for a plan approval for a public 5308
water supply system under section 6109.07 of the Revised Code 5309
shall pay a fee of one hundred fifty dollars plus thirty-five 5310
hundredths of one per cent of the estimated project cost, except 5311
that the total fee shall not exceed twenty thousand dollars 5312
through June 30, 2014, and fifteen thousand dollars on and after 5313
July 1, 2014. The fee shall be paid at the time the application is 5314
submitted. 5315

(2) A person who has entered into an agreement with the 5316
director under division (A)(2) of section 6109.07 of the Revised 5317
Code shall pay an administrative service fee for each plan 5318
submitted under that section for approval that shall not exceed 5319
the minimum amount necessary to pay administrative costs directly 5320
attributable to processing plan approvals. The director annually 5321
shall calculate the fee and shall notify all persons that have 5322
entered into agreements under that division, or who have applied 5323
for agreements, of the amount of the fee. 5324

(3) Through June 30, 2014, the following fee, on a per survey 5325
basis, shall be charged any person for services rendered by the 5326
state in the evaluation of laboratories and laboratory personnel 5327
for compliance with accepted analytical techniques and procedures 5328
established pursuant to Chapter 6109. of the Revised Code for 5329
determining the qualitative characteristics of water: 5330

microbiological 5331

MMO-MUG \$2,000 5332

MF	2,100	5333
MMO-MUG and MF	2,550	5334
organic chemical	5,400	5335
trace metals	5,400	5336
standard chemistry	2,800	5337
limited chemistry	1,550	5338

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

microbiological	\$ 1,650	5341
organic chemicals	3,500	5342
trace metals	3,500	5343
standard chemistry	1,800	5344
limited chemistry	1,000	5345

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.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

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

(O) Any person applying to the director ~~for~~ to take an

examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay ~~an application fee of forty five dollars through November 30, 2014, and twenty five dollars on and after December 1, 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay~~ a fee in accordance with the following schedule through November 30, 2014:

Class A operator	\$35 <u>80</u>	5372
Class I operator	60 <u>105</u>	5373
Class II operator	75 <u>120</u>	5374
Class III operator	85 <u>130</u>	5375
Class IV operator	100 <u>145</u>	5376

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

Class A operator	\$25 <u>50</u>	5379
Class I operator	\$45 <u>70</u>	5380
Class II operator	55 <u>80</u>	5381
Class III operator	65 <u>90</u>	5382
Class IV operator	75 <u>100</u>	5383

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

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25	5392
Class I operator	35	5393
Class II operator	45	5394

Class III operator	55	5395
Class IV operator	65	5396

If a certification renewal fee is received by the director 5397
more than thirty days, but not more than one year after the 5398
expiration date of the certification, the person shall pay a 5399
certification renewal fee in accordance with the following 5400
schedule: 5401

Class A operator	\$45	5402
Class I operator	55	5403
Class II operator	65	5404
Class III operator	75	5405
Class IV operator	85	5406

A person who requests a replacement certificate shall pay a 5407
fee of twenty-five dollars at the time the request is made. 5408

Any person applying to be a water supply system or wastewater 5409
treatment system examination provider shall pay an application fee 5410
of five hundred dollars. Any person approved by the director as a 5411
water supply system or wastewater treatment system examination 5412
provider shall pay an annual fee that is equal to ten per cent of 5413
the fees that the provider assesses and collects for administering 5414
water supply system or wastewater treatment system certification 5415
examinations in this state for the calendar year. The fee shall be 5416
paid not later than forty-five days after the end of a calendar 5417
year. 5418

The director shall transmit all moneys collected under this 5419
division to the treasurer of state for deposit into the drinking 5420
water protection fund created in section 6109.30 of the Revised 5421
Code. 5422

(P) Any person submitting an application for an industrial 5423
water pollution control certificate under section 6111.31 of the 5424
Revised Code, as that section existed before its repeal by H.B. 95 5425
of the 125th general assembly, shall pay a nonrefundable fee of 5426

five hundred dollars at the time the application is submitted. The 5427
director shall transmit all moneys collected under this division 5428
to the treasurer of state for deposit into the surface water 5429
protection fund created in section 6111.038 of the Revised Code. A 5430
person paying a certificate fee under this division shall not pay 5431
an application fee under division (S)(1) of this section. On and 5432
after June 26, 2003, persons shall file such applications and pay 5433
the fee as required under sections 5709.20 to 5709.27 of the 5434
Revised Code, and proceeds from the fee shall be credited as 5435
provided in section 5709.212 of the Revised Code. 5436

(Q) Except as otherwise provided in division (R) of this 5437
section, a person issued a permit by the director for a new solid 5438
waste disposal facility other than an incineration or composting 5439
facility, a new infectious waste treatment facility other than an 5440
incineration facility, or a modification of such an existing 5441
facility that includes an increase in the total disposal or 5442
treatment capacity of the facility pursuant to Chapter 3734. of 5443
the Revised Code shall pay a fee of ten dollars per thousand cubic 5444
yards of disposal or treatment capacity, or one thousand dollars, 5445
whichever is greater, except that the total fee for any such 5446
permit shall not exceed eighty thousand dollars. A person issued a 5447
modification of a permit for a solid waste disposal facility or an 5448
infectious waste treatment facility that does not involve an 5449
increase in the total disposal or treatment capacity of the 5450
facility shall pay a fee of one thousand dollars. A person issued 5451
a permit to install a new, or modify an existing, solid waste 5452
transfer facility under that chapter shall pay a fee of two 5453
thousand five hundred dollars. A person issued a permit to install 5454
a new or to modify an existing solid waste incineration or 5455
composting facility, or an existing infectious waste treatment 5456
facility using incineration as its principal method of treatment, 5457
under that chapter shall pay a fee of one thousand dollars. The 5458
increases in the permit fees under this division resulting from 5459

the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

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

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

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

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

dollars. 5492

(4) A person issued a permit for a scrap tire monocell or 5493
monofill facility under section 3734.77 of the Revised Code shall 5494
pay a fee of ten dollars per thousand cubic yards of disposal 5495
capacity or one thousand dollars, whichever is greater, except 5496
that the total fee for any such permit shall not exceed eighty 5497
thousand dollars. 5498

(5) A person issued a registration certificate for a scrap 5499
tire recovery facility under section 3734.78 of the Revised Code 5500
shall pay a fee of one hundred dollars. 5501

(6) A person issued a permit for a scrap tire recovery 5502
facility under section 3734.78 of the Revised Code shall pay a fee 5503
of one thousand dollars. 5504

(7) In addition to the applicable registration certificate or 5505
permit fee under divisions (R)(1) to (6) of this section, a person 5506
issued a registration certificate or permit for any such scrap 5507
tire facility who fails to pay the registration certificate or 5508
permit fee to the director in compliance with division (V) of this 5509
section shall pay an additional ten per cent of the amount of the 5510
fee for each week that the fee is late. 5511

(8) The registration certificate, permit, and late payment 5512
fees paid to the director under divisions (R)(1) to (7) of this 5513
section shall be credited to the scrap tire management fund 5514
created in section 3734.82 of the Revised Code. 5515

(S)(1) Except as provided by divisions (L), (M), (N), (O), 5516
(P), and (S)(2) of this section, division (A)(2) of section 5517
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 5518
and rules adopted under division (T)(1) of this section, any 5519
person applying for a registration certificate under section 5520
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 5521
variance, or plan approval under Chapter 3734. of the Revised Code 5522

shall pay a nonrefundable fee of fifteen dollars at the time the 5523
application is submitted. 5524

Except as otherwise provided, any person applying for a 5525
permit, variance, or plan approval under Chapter 6109. or 6111. of 5526
the Revised Code shall pay a nonrefundable fee of one hundred 5527
dollars at the time the application is submitted through June 30, 5528
2014, and a nonrefundable fee of fifteen dollars at the time the 5529
application is submitted on and after July 1, 2014. Except as 5530
provided in division (S)(3) of this section, through June 30, 5531
2014, any person applying for a national pollutant discharge 5532
elimination system permit under Chapter 6111. of the Revised Code 5533
shall pay a nonrefundable fee of two hundred dollars at the time 5534
of application for the permit. On and after July 1, 2014, such a 5535
person shall pay a nonrefundable fee of fifteen dollars at the 5536
time of application. 5537

In addition to the application fee established under division 5538
(S)(1) of this section, any person applying for a national 5539
pollutant discharge elimination system general storm water 5540
construction permit shall pay a nonrefundable fee of twenty 5541
dollars per acre for each acre that is permitted above five acres 5542
at the time the application is submitted. However, the per acreage 5543
fee shall not exceed three hundred dollars. In addition, any 5544
person applying for a national pollutant discharge elimination 5545
system general storm water industrial permit shall pay a 5546
nonrefundable fee of one hundred fifty dollars at the time the 5547
application is submitted. 5548

The director shall transmit all moneys collected under 5549
division (S)(1) of this section pursuant to Chapter 6109. of the 5550
Revised Code to the treasurer of state for deposit into the 5551
drinking water protection fund created in section 6109.30 of the 5552
Revised Code. 5553

The director shall transmit all moneys collected under 5554

division (S)(1) of this section pursuant to Chapter 6111. of the 5555
Revised Code and under division (S)(3) of this section to the 5556
treasurer of state for deposit into the surface water protection 5557
fund created in section 6111.038 of the Revised Code. 5558

If a registration certificate is issued under section 5559
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 5560
the application fee paid shall be deducted from the amount of the 5561
registration certificate fee due under division (R)(1), (2), or 5562
(5) of this section, as applicable. 5563

If a person submits an electronic application for a 5564
registration certificate, permit, variance, or plan approval for 5565
which an application fee is established under division (S)(1) of 5566
this section, the person shall pay the applicable application fee 5567
as expeditiously as possible after the submission of the 5568
electronic application. An application for a registration 5569
certificate, permit, variance, or plan approval for which an 5570
application fee is established under division (S)(1) of this 5571
section shall not be reviewed or processed until the applicable 5572
application fee, and any other fees established under this 5573
division, are paid. 5574

(2) Division (S)(1) of this section does not apply to an 5575
application for a registration certificate for a scrap tire 5576
collection or storage facility submitted under section 3734.75 or 5577
3734.76 of the Revised Code, as applicable, if the owner or 5578
operator of the facility or proposed facility is a motor vehicle 5579
salvage dealer licensed under Chapter 4738. of the Revised Code. 5580

(3) A person applying for coverage under a national pollutant 5581
discharge elimination system general discharge permit for 5582
household sewage treatment systems shall pay the following fees: 5583

(a) A nonrefundable fee of two hundred dollars at the time of 5584
application for initial permit coverage; 5585

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage. 5586
5587

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following: 5588
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(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. 5591
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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. 5599
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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. 5604
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(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 any fee required by this section; 5609
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(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an 5614
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unreasonable cost of doing business for any applicant, class of 5617
applicants, or other person subject to the fee; 5618

(4) Prescribe measures that the director considers necessary 5619
to carry out this section. 5620

(U) When the director reasonably demonstrates that the direct 5621
cost to the state associated with the issuance of a permit to 5622
install, license, variance, plan approval, or certification 5623
exceeds the fee for the issuance or review specified by this 5624
section, the director may condition the issuance or review on the 5625
payment by the person receiving the issuance or review of, in 5626
addition to the fee specified by this section, the amount, or any 5627
portion thereof, in excess of the fee specified under this 5628
section. The director shall not so condition issuances for which 5629
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 5630
section. 5631

(V) Except as provided in divisions (L), (M), and (P) of this 5632
section or unless otherwise prescribed by a rule of the director 5633
adopted pursuant to Chapter 119. of the Revised Code, all fees 5634
required by this section are payable within thirty days after the 5635
issuance of an invoice for the fee by the director or the 5636
effective date of the issuance of the license, permit, variance, 5637
plan approval, or certification. If payment is late, the person 5638
responsible for payment of the fee shall pay an additional ten per 5639
cent of the amount due for each month that it is late. 5640

(W) As used in this section, "fuel-burning equipment," 5641
"fuel-burning equipment input capacity," "incinerator," 5642
"incinerator input capacity," "process," "process weight rate," 5643
"storage tank," "gasoline dispensing facility," "dry cleaning 5644
facility," "design flow discharge," and "new source treatment 5645
works" have the meanings ascribed to those terms by applicable 5646
rules or standards adopted by the director under Chapter 3704. or 5647
6111. of the Revised Code. 5648

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 5649
and (J) of this section, and in any other provision of this 5650
section pertaining to fees paid pursuant to Chapter 3704. of the 5651
Revised Code: 5652

(1) "Facility," "federal Clean Air Act," "person," and "Title 5653
V permit" have the same meanings as in section 3704.01 of the 5654
Revised Code. 5655

(2) "Title V permit program" means the following activities 5656
as necessary to meet the requirements of Title V of the federal 5657
Clean Air Act and 40 C.F.R. part 70, including at least: 5658

(a) Preparing and adopting, if applicable, generally 5659
applicable rules or guidance regarding the permit program or its 5660
implementation or enforcement; 5661

(b) Reviewing and acting on any application for a Title V 5662
permit, permit revision, or permit renewal, including the 5663
development of an applicable requirement as part of the processing 5664
of a permit, permit revision, or permit renewal; 5665

(c) Administering the permit program, including the 5666
supporting and tracking of permit applications, compliance 5667
certification, and related data entry; 5668

(d) Determining which sources are subject to the program and 5669
implementing and enforcing the terms of any Title V permit, not 5670
including any court actions or other formal enforcement actions; 5671

(e) Emission and ambient monitoring; 5672

(f) Modeling, analyses, or demonstrations; 5673

(g) Preparing inventories and tracking emissions; 5674

(h) Providing direct and indirect support to small business 5675
stationary sources to determine and meet their obligations under 5676
the federal Clean Air Act pursuant to the small business 5677
stationary source technical and environmental compliance 5678

assistance program required by section 507 of that act and 5679
established in sections 3704.18, 3704.19, and 3706.19 of the 5680
Revised Code. 5681

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 5682
of this section, each sewage sludge facility shall pay a 5683
nonrefundable annual sludge fee equal to three dollars and fifty 5684
cents per dry ton of sewage sludge, including the dry tons of 5685
sewage sludge in materials derived from sewage sludge, that the 5686
sewage sludge facility treats or disposes of in this state. The 5687
annual volume of sewage sludge treated or disposed of by a sewage 5688
sludge facility shall be calculated using the first day of January 5689
through the thirty-first day of December of the calendar year 5690
preceding the date on which payment of the fee is due. 5691

(2)(a) Except as provided in division (Y)(2)(d) of this 5692
section, each sewage sludge facility shall pay a minimum annual 5693
sewage sludge fee of one hundred dollars. 5694

(b) The annual sludge fee required to be paid by a sewage 5695
sludge facility that treats or disposes of exceptional quality 5696
sludge in this state shall be thirty-five per cent less per dry 5697
ton of exceptional quality sludge than the fee assessed under 5698
division (Y)(1) of this section, subject to the following 5699
exceptions: 5700

(i) Except as provided in division (Y)(2)(d) of this section, 5701
a sewage sludge facility that treats or disposes of exceptional 5702
quality sludge shall pay a minimum annual sewage sludge fee of one 5703
hundred dollars. 5704

(ii) A sewage sludge facility that treats or disposes of 5705
exceptional quality sludge shall not be required to pay the annual 5706
sludge fee for treatment or disposal in this state of exceptional 5707
quality sludge generated outside of this state and contained in 5708
bags or other containers not greater than one hundred pounds in 5709

capacity. 5710

A thirty-five per cent reduction for exceptional quality 5711
sludge applies to the maximum annual fees established under 5712
division (Y)(3) of this section. 5713

(c) A sewage sludge facility that transfers sewage sludge to 5714
another sewage sludge facility in this state for further treatment 5715
prior to disposal in this state shall not be required to pay the 5716
annual sludge fee for the tons of sewage sludge that have been 5717
transferred. In such a case, the sewage sludge facility that 5718
disposes of the sewage sludge shall pay the annual sludge fee. 5719
However, the facility transferring the sewage sludge shall pay the 5720
one-hundred-dollar minimum fee required under division (Y)(2)(a) 5721
of this section. 5722

In the case of a sewage sludge facility that treats sewage 5723
sludge in this state and transfers it out of this state to another 5724
entity for disposal, the sewage sludge facility in this state 5725
shall be required to pay the annual sludge fee for the tons of 5726
sewage sludge that have been transferred. 5727

(d) A sewage sludge facility that generates sewage sludge 5728
resulting from an average daily discharge flow of less than five 5729
thousand gallons per day is not subject to the fees assessed under 5730
division (Y) of this section. 5731

(3) No sewage sludge facility required to pay the annual 5732
sludge fee shall be required to pay more than the maximum annual 5733
fee for each disposal method that the sewage sludge facility uses. 5734
The maximum annual fee does not include the additional amount that 5735
may be charged under division (Y)(5) of this section for late 5736
payment of the annual sludge fee. The maximum annual fee for the 5737
following methods of disposal of sewage sludge is as follows: 5738

(a) Incineration: five thousand dollars; 5739

(b) Preexisting land reclamation project or disposal in a 5740

landfill: five thousand dollars; 5741

(c) Land application, land reclamation, surface disposal, or 5742
any other disposal method not specified in division (Y)(3)(a) or 5743
(b) of this section: twenty thousand dollars. 5744

(4)(a) In the case of an entity that generates sewage sludge 5745
or a sewage sludge facility that treats sewage sludge and 5746
transfers the sewage sludge to an incineration facility for 5747
disposal, the incineration facility, and not the entity generating 5748
the sewage sludge or the sewage sludge facility treating the 5749
sewage sludge, shall pay the annual sludge fee for the tons of 5750
sewage sludge that are transferred. However, the entity or 5751
facility generating or treating the sewage sludge shall pay the 5752
one-hundred-dollar minimum fee required under division (Y)(2)(a) 5753
of this section. 5754

(b) In the case of an entity that generates sewage sludge and 5755
transfers the sewage sludge to a landfill for disposal or to a 5756
sewage sludge facility for land reclamation or surface disposal, 5757
the entity generating the sewage sludge, and not the landfill or 5758
sewage sludge facility, shall pay the annual sludge fee for the 5759
tons of sewage sludge that are transferred. 5760

(5) Not later than the first day of April of the calendar 5761
year following March 17, 2000, and each first day of April 5762
thereafter, the director shall issue invoices to persons who are 5763
required to pay the annual sludge fee. The invoice shall identify 5764
the nature and amount of the annual sludge fee assessed and state 5765
the first day of May as the deadline for receipt by the director 5766
of objections regarding the amount of the fee and the first day of 5767
July as the deadline for payment of the fee. 5768

Not later than the first day of May following receipt of an 5769
invoice, a person required to pay the annual sludge fee may submit 5770
objections to the director concerning the accuracy of information 5771

regarding the number of dry tons of sewage sludge used to 5772
calculate the amount of the annual sludge fee or regarding whether 5773
the sewage sludge qualifies for the exceptional quality sludge 5774
discount established in division (Y)(2)(b) of this section. The 5775
director may consider the objections and adjust the amount of the 5776
fee to ensure that it is accurate. 5777

If the director does not adjust the amount of the annual 5778
sludge fee in response to a person's objections, the person may 5779
appeal the director's determination in accordance with Chapter 5780
119. of the Revised Code. 5781

Not later than the first day of June, the director shall 5782
notify the objecting person regarding whether the director has 5783
found the objections to be valid and the reasons for the finding. 5784
If the director finds the objections to be valid and adjusts the 5785
amount of the annual sludge fee accordingly, the director shall 5786
issue with the notification a new invoice to the person 5787
identifying the amount of the annual sludge fee assessed and 5788
stating the first day of July as the deadline for payment. 5789

Not later than the first day of July, any person who is 5790
required to do so shall pay the annual sludge fee. Any person who 5791
is required to pay the fee, but who fails to do so on or before 5792
that date shall pay an additional amount that equals ten per cent 5793
of the required annual sludge fee. 5794

(6) The director shall transmit all moneys collected under 5795
division (Y) of this section to the treasurer of state for deposit 5796
into the surface water protection fund created in section 6111.038 5797
of the Revised Code. The moneys shall be used to defray the costs 5798
of administering and enforcing provisions in Chapter 6111. of the 5799
Revised Code and rules adopted under it that govern the use, 5800
storage, treatment, or disposal of sewage sludge. 5801

(7) Beginning in fiscal year 2001, and every two years 5802

thereafter, the director shall review the total amount of moneys 5803
generated by the annual sludge fees to determine if that amount 5804
exceeded six hundred thousand dollars in either of the two 5805
preceding fiscal years. If the total amount of moneys in the fund 5806
exceeded six hundred thousand dollars in either fiscal year, the 5807
director, after review of the fee structure and consultation with 5808
affected persons, shall issue an order reducing the amount of the 5809
fees levied under division (Y) of this section so that the 5810
estimated amount of moneys resulting from the fees will not exceed 5811
six hundred thousand dollars in any fiscal year. 5812

If, upon review of the fees under division (Y)(7) of this 5813
section and after the fees have been reduced, the director 5814
determines that the total amount of moneys collected and 5815
accumulated is less than six hundred thousand dollars, the 5816
director, after review of the fee structure and consultation with 5817
affected persons, may issue an order increasing the amount of the 5818
fees levied under division (Y) of this section so that the 5819
estimated amount of moneys resulting from the fees will be 5820
approximately six hundred thousand dollars. Fees shall never be 5821
increased to an amount exceeding the amount specified in division 5822
(Y)(7) of this section. 5823

Notwithstanding section 119.06 of the Revised Code, the 5824
director may issue an order under division (Y)(7) of this section 5825
without the necessity to hold an adjudicatory hearing in 5826
connection with the order. The issuance of an order under this 5827
division is not an act or action for purposes of section 3745.04 5828
of the Revised Code. 5829

(8) As used in division (Y) of this section: 5830

(a) "Sewage sludge facility" means an entity that performs 5831
treatment on or is responsible for the disposal of sewage sludge. 5832

(b) "Sewage sludge" means a solid, semi-solid, or liquid 5833

residue generated during the treatment of domestic sewage in a 5834
treatment works as defined in section 6111.01 of the Revised Code. 5835
"Sewage sludge" includes, but is not limited to, scum or solids 5836
removed in primary, secondary, or advanced wastewater treatment 5837
processes. "Sewage sludge" does not include ash generated during 5838
the firing of sewage sludge in a sewage sludge incinerator, grit 5839
and screenings generated during preliminary treatment of domestic 5840
sewage in a treatment works, animal manure, residue generated 5841
during treatment of animal manure, or domestic septage. 5842

(c) "Exceptional quality sludge" means sewage sludge that 5843
meets all of the following qualifications: 5844

(i) Satisfies the class A pathogen standards in 40 C.F.R. 5845
503.32(a); 5846

(ii) Satisfies one of the vector attraction reduction 5847
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 5848

(iii) Does not exceed the ceiling concentration limitations 5849
for metals listed in table one of 40 C.F.R. 503.13; 5850

(iv) Does not exceed the concentration limitations for metals 5851
listed in table three of 40 C.F.R. 503.13. 5852

(d) "Treatment" means the preparation of sewage sludge for 5853
final use or disposal and includes, but is not limited to, 5854
thickening, stabilization, and dewatering of sewage sludge. 5855

(e) "Disposal" means the final use of sewage sludge, 5856
including, but not limited to, land application, land reclamation, 5857
surface disposal, or disposal in a landfill or an incinerator. 5858

(f) "Land application" means the spraying or spreading of 5859
sewage sludge onto the land surface, the injection of sewage 5860
sludge below the land surface, or the incorporation of sewage 5861
sludge into the soil for the purposes of conditioning the soil or 5862
fertilizing crops or vegetation grown in the soil. 5863

(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 5894
Chapter 3767. of the Revised Code when an environmentally related 5895
nuisance action is brought. 5896

(B)(1) Except as provided in division (B)(2) of this section, 5897
any action under any environmental law for civil or administrative 5898
penalties of any kind brought by any agency or department of the 5899
state or by any other governmental authority charged with 5900
enforcing environmental laws shall be commenced within five years 5901
of the time when the agency, department, or governmental authority 5902
actually knew or was informed of the occurrence, omission, or 5903
facts on which the cause of action is based. 5904

(2) If an agency, department, or governmental authority 5905
actually knew or was informed of an occurrence, omission, or facts 5906
on which a cause of action is based prior to ~~the effective date of~~ 5907
~~this section~~ July 23, 2002, the cause of action for civil or 5908
administrative penalties of any kind for the alleged violation 5909
shall be commenced not later than five years after ~~the effective~~ 5910
~~date of this section~~ July 23, 2002. 5911

(C) Division (B) of this section applies only if, during the 5912
time periods established in that division, proper service of 5913
process can be given in accordance with the Rules of Civil 5914
Procedure and jurisdiction of a court in this state can be 5915
obtained. 5916

(D) The time periods established in division (B) of this 5917
section may be tolled by mutual agreement between the enforcing 5918
agency, department, or authority and the person who is subject to 5919
a civil or administrative penalty of any kind under an 5920
environmental law. 5921

(E) When an action seeks injunctive relief or another remedy 5922
in addition to a remedy of civil or administrative penalties of 5923
any kind under an environmental law, division (B) of this section 5924

applies only to the remedy of civil or administrative penalties of 5925
any kind. 5926

~~(F) Beginning on the first anniversary of the effective date 5927
of this section and for four years thereafter, the director of 5928
environmental protection and the fire marshal shall each annually 5929
submit a report concerning the aggregate number of enforcement 5930
cases that are based on occurrences, omissions, or facts about 5931
which the director or the fire marshal actually knew or was 5932
informed prior to the effective date of this section for which a 5933
cause of action has not been brought pursuant to division (B)(2) 5934
of this section as of the date of the report. The respective 5935
reports submitted by the director and the fire marshal shall only 5936
address the aggregate number of occurrences, omissions, or facts 5937
under environmental laws concerning which the director or fire 5938
marshal has regulatory authority. The respective reports submitted 5939
by the director and the fire marshal shall not include any names, 5940
addresses, or other identifying information. The report shall be 5941
submitted to the speaker of the house of representatives, the 5942
president of the senate, and the chairpersons of the standing 5943
committees of the house of representatives and the senate that are 5944
primarily responsible for considering environmental issues. 5945~~

Sec. 3746.02. (A) Nothing in this chapter applies to any of 5946
the following: 5947

(1) Property for which a voluntary action under this chapter 5948
is precluded by federal law or regulations adopted under federal 5949
law, including, without limitation, any of the following federal 5950
laws or regulations adopted thereunder: 5951

(a) The "Federal Water Pollution Control Act Amendments of 5952
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 5953

(b) The "Resource Conservation and Recovery Act of 1976," 90 5954
Stat. 2806, 42 U.S.C.A. 6921, as amended; 5955

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976),	5956
15 U.S.C.A. 2601, as amended;	5957
(d) The "Comprehensive Environmental Response, Compensation,	5958
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as	5959
amended;	5960
(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42	5961
U.S.C.A. 300(f), as amended.	5962
(2) Those portions of property where closure of a hazardous	5963
waste facility or solid waste facility is required under Chapter	5964
3734. of the Revised Code or rules adopted under it;	5965
(3) Except for a class C release as defined <u>provided</u> in	5966
<u>division (A)(3) of section 3737.87 3737.88</u> of the Revised Code,	5967
properties regardless of ownership that are subject to remediation	5968
rules adopted under the authority of <u>by</u> the division of fire	5969
marshal in the department of commerce, including remediation rules	5970
adopted under sections 3737.88, 3737.882, and 3737.889 <u>Chapter</u>	5971
<u>3737.</u> of the Revised Code <u>pertaining to corrective actions as</u>	5972
<u>defined in section 3737.87 of the Revised Code;</u>	5973
(4) Property that is subject to Chapter 1509. of the Revised	5974
Code;	5975
(5) Any other property if the director of environmental	5976
protection has issued a letter notifying the owner or operator of	5977
the property that the director will issue an enforcement order	5978
under Chapter 3704., 3734., or 6111. of the Revised Code, a	5979
release or threatened release of a hazardous substance or	5980
petroleum from or at the property poses a substantial threat to	5981
public health or safety or the environment, and the person subject	5982
to the order <u>letter</u> does not present sufficient evidence to the	5983
director that the person has entered into the voluntary action	5984
program under this chapter and is proceeding expeditiously to	5985
address that threat. For the purposes of this division, the	5986

evidence constituting sufficient evidence of entry into the 5987
voluntary action program under this chapter shall be defined by 5988
the director by rules adopted under section 3746.04 of the Revised 5989
Code. ~~Until such time as the director has adopted those rules, the 5990
director, at a minimum, shall consider the existence of a contract 5991
with a certified professional to appropriately respond to the 5992
threat named in the director's letter informing the person of the 5993
director's intent to issue an enforcement order and the 5994
availability of financial resources to complete the contract to be 5995
sufficient evidence of entry into the program.~~ 5996

(B) The application of any provision of division (A) of this 5997
section to a portion of property does not preclude participation 5998
in the voluntary action program under this chapter in connection 5999
with other portions of the property where those provisions do not 6000
apply. 6001

(C) As used in this section, "property" means any parcel of 6002
real property, or portion thereof, and any improvements thereto. 6003

Sec. 6109.31. (A) No person shall violate this chapter, ~~any a~~ 6004
rule adopted under it, or any order or term or condition of a 6005
license, license renewal, variance, or exemption granted by the 6006
director of environmental protection under it. Each day of 6007
noncompliance is a separate violation. 6008

(B) No person shall make a false material statement or 6009
representation in an application, license, record, report, or 6010
other document that is required to be submitted to the director or 6011
to the attorney general under this chapter, a rule adopted under 6012
it, or any order or term or condition of a license, license 6013
renewal, variance, or exemption granted by the director under it. 6014

(C) No person shall alter, substitute, falsify, conceal, or 6015
purposefully omit a sample that is required to be collected 6016
pursuant to any reporting requirement that is established under 6017

this chapter or a rule adopted under it. 6018

(D) No person shall tamper with, alter, or interfere with the 6019
operation of a public water system without the authorization of 6020
the owner or operator of the system or of the director. 6021

Sec. 6109.32. The director of environmental protection may on 6022
~~his~~ the director's own initiative investigate or make inquiries 6023
into any suspected violation of section 6109.31 of the Revised 6024
Code. 6025

The attorney general, upon written request by the director, 6026
shall bring an action for injunction or other appropriate civil 6027
action or criminal prosecution against any person violating or 6028
threatening to violate ~~such~~ that section. In an action for 6029
injunction to enforce any final order of the director, the finding 6030
by the director, after hearing, is prima-facie evidence of the 6031
facts found therein. 6032

Sec. 6109.99. (A) Except as provided in division (C) of this 6033
section, whoever recklessly violates section 6109.31 of the 6034
Revised Code is guilty of a misdemeanor and, notwithstanding 6035
section 2929.28 of the Revised Code, shall be fined not more than 6036
ten thousand dollars or imprisoned for not more than four years, 6037
or both. Each day of violation constitutes a separate offense. 6038

(B) Whoever knowingly violates division (B), (C), or (D) of 6039
section 6109.31 of the Revised Code is guilty of a felony and, 6040
notwithstanding section 2929.18 of the Revised Code, shall be 6041
fined not more than twenty-five thousand dollars or imprisoned for 6042
not more than four years, or both. Each day of violation 6043
constitutes a separate offense. 6044

(C) Whoever recklessly or knowingly violates division (A) of 6045
section 6109.31 of the Revised Code is guilty of a felony if the 6046
violation poses a significant threat to or causes significant harm 6047

to public health and, notwithstanding section 2929.18 of the 6048
Revised Code, shall be fined not more than twenty-five thousand 6049
dollars or imprisoned for not more than four years, or both. Each 6050
day of violation constitutes a separate offense. 6051

Sec. 6111.02. As used in this section and sections 6111.021 6052
to 6111.028 of the Revised Code: 6053

(A) "Category 1 wetland," "category 2 wetland," or "category 6054
3 wetland" means a category 1 wetland, category 2 wetland, or 6055
category 3 wetland, respectively, as described in rule 3745-1-54 6056
of the Administrative Code, as that rule existed on ~~the effective~~ 6057
~~date of this section~~ July 17, 2001, and as determined to be a 6058
category 1, category 2, or category 3 wetland, respectively, 6059
through application of the "Ohio rapid assessment method for 6060
wetlands version 5.0," including the Ohio rapid assessment method 6061
for wetlands version 5.0 quantitative score calibration dated 6062
August 15, 2000, unless an application for a section 401 water 6063
quality certification was submitted prior to February 28, 2001, in 6064
which case the applicant for the permit may elect to proceed in 6065
accordance with Ohio rapid assessment method for wetlands version 6066
4.1. 6067

(B) "Creation" means the establishment of a wetland where one 6068
did not formerly exist and that involves wetland construction on 6069
nonhydric soils. 6070

(C) "Enhancement" means activities conducted in an existing 6071
wetland to improve or repair existing or natural wetland functions 6072
and values of that wetland. 6073

(D) "Fill material" means any material that is used to fill 6074
an aquatic area, to replace an aquatic area with dry land, or to 6075
change the bottom elevation of a wetland for any purpose and that 6076
consists of suitable material that is free from toxic contaminants 6077
in other than trace quantities. "Fill material" does not include 6078

either of the following: 6079

(1) Material resulting from normal farming, silviculture, and 6080
ranching activities, such as plowing, cultivating, seeding, and 6081
harvesting, for the production of food, fiber, and forest 6082
products; 6083

(2) Material placed for the purpose of maintenance of 6084
existing structures, including emergency reconstruction of 6085
recently damaged parts of currently serviceable structures such as 6086
dikes, dams, levees, groins, riprap, breakwaters, causeways, and 6087
bridge abutments or approaches, and transportation structures. 6088

(E) "Filling" means the addition of fill material into a 6089
wetland for the purpose of creating upland, changing the bottom 6090
elevation of the wetland, or creating impoundments of water. 6091
"Filling" includes, without limitation, the placement of the 6092
following in wetlands: fill material that is necessary for the 6093
construction of any structure; structures or impoundments 6094
requiring rock, sand, dirt, or other material for its 6095
construction; site-development fills for recreational, industrial, 6096
commercial, residential, or other uses; causeways or road fills; 6097
dams and dikes; artificial islands, property protection, or 6098
reclamation devices such as riprap, groins, seawalls, breakwalls, 6099
and bulkheads and fills; beach nourishment; levees; sanitary 6100
landfills; fill material for structures such as sewage treatment 6101
facilities, intake and outfall pipes associated with power plants, 6102
and underwater utility lines; and artificial reefs. 6103

(F) "Isolated wetland" means a wetland that is not subject to 6104
regulation under the Federal Water Pollution Control Act. 6105

(G) "Mitigation" means the restoration, creation, 6106
enhancement, or, in exceptional circumstances, preservation of 6107
wetlands expressly for the purpose of compensating for wetland 6108
impacts. 6109

(H) "Mitigation bank service area" means the designated area 6110
where a mitigation bank can reasonably be expected to provide 6111
appropriate compensation for impacts to wetlands and other aquatic 6112
resources and that is designated as such in accordance with the 6113
process established in the ~~"Federal Guidance for the~~ 6114
~~Establishment, Use and Operation of Mitigation Banks (1995)," 60~~ 6115
~~FR 58605~~ 33 C.F.R. 332.8 and 40 C.F.R. 230.98. 6116

(I) "Off-site mitigation" means wetland restoration, 6117
creation, enhancement, or preservation occurring farther than one 6118
mile from a project boundary, but within the same watershed. 6119

(J) "On-site mitigation" means wetland restoration, creation, 6120
enhancement, or preservation occurring within and not more than 6121
one mile from the project boundary and within the same watershed. 6122

(K) "Practicable" means available and capable of being 6123
executed with existing technology and without significant adverse 6124
effect on the economic feasibility of the project in light of the 6125
overall project purposes and in consideration of the relative 6126
environmental benefit. 6127

(L) "Preservation" means the protection of ecologically 6128
important wetlands in perpetuity through the implementation of 6129
appropriate legal mechanisms to prevent harm to the wetlands. 6130
"Preservation" may include protection of adjacent upland areas as 6131
necessary to ensure protection of a wetland. 6132

(M) "Restoration" means the reestablishment of a previously 6133
existing wetland at a site where it has ceased to exist. 6134

(N) "State isolated wetland permit" means a permit issued in 6135
accordance with sections 6111.02 to 6111.027 of the Revised Code 6136
authorizing the filling of an isolated wetland. 6137

(O) "Watershed" means ~~a common surface drainage area~~ 6138
~~corresponding to one from the list of thirty seven adapted from~~ 6139
~~the forty four cataloging units as depicted on the hydrologic unit~~ 6140

~~map of Ohio, United States geological survey, 1988, and as 6141
described in division (F)(2) of rule 3745-1-54 of the 6142
Administrative Code or as otherwise shown on map number 1 found in 6143
rule 3745-1-54 of the Administrative Code. "Watershed" is limited 6144
to those parts of the cataloging units that geographically lie 6145
within the borders of this state an eight-digit hydrologic unit. 6146~~

(P) "Wetlands" means those areas that are inundated or 6147
saturated by surface or ground water at a frequency and duration 6148
that are sufficient to support, and that under normal 6149
circumstances do support, a prevalence of vegetation typically 6150
adapted for life in saturated soil conditions. "Wetlands" includes 6151
swamps, marshes, bogs, and similar areas that are delineated in 6152
accordance with the 1987 United States army corps of engineers 6153
wetland delineation manual and any other procedures and 6154
requirements adopted by the United States army corps of engineers 6155
for delineating wetlands. 6156

(Q) "Wetland mitigation bank" means a site where wetlands 6157
have been restored, created, enhanced, or, in exceptional 6158
circumstances, preserved expressly for the purpose of providing 6159
mitigation for impacts to wetlands and that has been approved in 6160
accordance with the process established in ~~the "Federal Guidance 6161
for the Establishment, Use and Operation of Mitigation Banks 6162
(1995)," 60 FR 58605 33 C.F.R. 332.8 and 40 C.F.R. 230.98.~~ 6163

(R) "Eight-digit hydrologic unit" means a common surface 6164
drainage area corresponding to one from the list of thirty-seven 6165
adapted from the forty-four cataloging units as depicted on the 6166
hydrologic unit map of Ohio, United States geological survey, 6167
1988, and as described in division (F)(2) of rule 3745-1-54 of the 6168
Administrative Code or as otherwise shown on map number 1 found in 6169
rule 3745-1-54 of the Administrative Code. "Eight-digit hydrologic 6170
unit" is limited to those parts of the cataloging units that 6171
geographically lie within the borders of this state. 6172

(S) "Ten-digit hydrologic unit" means a fifth level watershed as defined in the United States geological survey and United States department of agriculture, natural resources conservation service, 2011, federal standards and procedures of the national watershed boundary dataset, second edition: United States geological survey techniques and methods 11-A3 62p. "Ten-digit hydrologic unit" is a subdivision of an eight-digit hydrologic unit.

(T) "Twelve-digit hydrologic unit" means a sixth level subwatershed as defined in the United States geological survey and United States department of agriculture, natural resources conservation service, 2011, federal standards and procedures of the national watershed boundary dataset, second edition: United States geological survey techniques and methods 11-A3 62p. "Twelve-digit hydrologic unit" is a subdivision of a ten-digit hydrologic unit.

(U) "In-lieu fee mitigation" means a payment made by an applicant to satisfy a wetland mitigation requirement established in sections 6111.02 to 6111.027 of the Revised Code.

Sec. 6111.022. (A) A proposed filling of a category 1 or a category 2 isolated wetland of one-half acre or less shall require a general state isolated wetland permit and be subject to level one review requirements established under division (B) of this section.

(B) Level one review shall apply only to the filling of a category 1 or a category 2 isolated wetland as described in division (A) of this section requiring a general state isolated wetland permit. A level one review shall require the submission of a pre-activity notice that includes an application, an acceptable wetland delineation, a wetland categorization, a description of the project, a description of the acreage of the isolated wetland

that will be subject to filling, site photographs, and a 6204
mitigation proposal for the impact to the isolated wetland. 6205

(C) The proposed filling of an isolated wetland that is 6206
subject to level one review is authorized by a general state 6207
isolated wetland permit unless the director of environmental 6208
protection notifies the applicant within thirty days after receipt 6209
of a pre-activity notice that the filling of the isolated wetland 6210
will result in a significant negative impact on state water 6211
quality. An applicant that receives such a notice may apply for an 6212
individual state isolated wetland permit in accordance with the 6213
procedures and requirements established under section 6111.023 of 6214
the Revised Code. 6215

(D) ~~Required mitigation~~ Mitigation for the proposed filling 6216
of an isolated wetland that is subject to level one review shall 6217
be conducted ~~by the applicant. Without the objection of the~~ 6218
~~director and at the discretion of the applicant, the applicant~~ 6219
~~shall conduct either~~ in the following preferred order: 6220

(1) Without the objection of the director and at the 6221
discretion of the applicant, either on site mitigation, mitigation 6222
at a wetland mitigation bank within the same United States army 6223
corps of engineers district as the location of the proposed 6224
filling of the isolated wetland, or off-site mitigation; 6225

(2) In-lieu fee mitigation. 6226

The director, at the director's discretion, may allow an 6227
applicant to deviate from the preferred order established in 6228
division (D) of this section. If the proposed filling of an 6229
isolated wetland will be mitigated by in-lieu fee mitigation, an 6230
applicant shall provide documentation to the director that 6231
demonstrates that the applicant evaluated the mitigation 6232
alternatives established in division (D)(1) of this section. 6233

(E) A person that has submitted a pre-activity notice for 6234

coverage under a general state isolated wetland permit under this 6235
section shall complete the filling within two years after the end 6236
of the thirty-day period following the receipt of the pre-activity 6237
notice by the director. If the person does not complete the 6238
filling within that two-year period, the person shall submit a new 6239
pre-activity notice in accordance with this section. 6240

Sec. 6111.023. (A) A proposed filling of a category 1 6241
isolated wetland of greater than one-half acre or the proposed 6242
filling of a category 2 isolated wetland of greater than one-half 6243
acre, but less than or equal to three acres shall require an 6244
individual state isolated wetland permit and be subject to level 6245
two review requirements established under division (B) of this 6246
section. 6247

(B) Level two review shall apply to the filling of a category 6248
1 or a category 2 isolated wetland described in division (A) of 6249
this section and shall require all of the following: 6250

(1) All of the information required to be submitted with a 6251
pre-activity notice as described in division (B) of section 6252
6111.022 of the Revised Code; 6253

(2) The submission of an analysis of practicable on-site 6254
alternatives to the proposed filling of the isolated wetland that 6255
would have a less adverse impact on the isolated wetland 6256
ecosystem; 6257

(3) The submission of information indicating whether high 6258
quality waters, as defined in rule 3745-1-05 of the Administrative 6259
Code, are to be avoided by the proposed filling of the isolated 6260
wetland. 6261

(C) The director of environmental protection shall issue or 6262
deny an individual state isolated wetland permit for the proposed 6263
filling of an isolated wetland that is subject to level two review 6264

not later than ninety days after the receipt of an application for 6265
the permit. The director shall issue an individual state isolated 6266
wetland permit for the proposed filling of an isolated wetland 6267
that is subject to level two review unless the director determines 6268
that the applicant for the permit has failed to demonstrate all of 6269
the following: 6270

(1) There is no practicable on-site alternative to the 6271
proposed filling of the isolated wetland that would have a less 6272
adverse impact on the isolated wetland ecosystem. 6273

(2) Reasonable buffers have been provided for any isolated 6274
wetland that will be avoided at the site where the proposed 6275
filling of the isolated wetland will take place. 6276

(3) The isolated wetland that will be subject to filling is 6277
not locally or regionally scarce within the watershed in which it 6278
is located and does not contain rare, threatened, or endangered 6279
species. 6280

(4) The impact would not result in significant degradation to 6281
the aquatic ecosystem. 6282

(5) Appropriate mitigation has been proposed for any 6283
unavoidable impacts. 6284

(6) Storm water and water quality controls will be installed 6285
to ensure that peak post-development rates of surface water runoff 6286
from the impacted isolated wetland do not exceed the peak 6287
pre-development rates of runoff from the on-site isolated wetland. 6288
Water quality improvement measures shall be incorporated into the 6289
design of the storm water control measures to the maximum extent 6290
practicable. Examples of these measures include, but are not 6291
limited to, incorporating vegetated areas in a storm water control 6292
plan. 6293

(7) Any additional, practicable, site-specific requirements 6294
that are determined necessary by the director to protect water 6295

quality have been satisfied. 6296

(D)(1) Notwithstanding an applicant's demonstration under 6297
division (C) of this section, the director may deny an application 6298
for an individual state isolated wetland permit submitted under 6299
this section if the director determines that the proposed filling 6300
of the isolated wetland will result in an adverse short-term or 6301
long-term impact on water quality. 6302

(2) The director may impose any practicable terms and 6303
conditions on an individual state isolated wetland permit issued 6304
under this section that are appropriate or necessary to ensure 6305
adequate protection of state water quality and to ensure 6306
compliance with this chapter and rules adopted under it. 6307

(3) Prior to the issuance of an individual state isolated 6308
wetland permit under this section, or prior to, during, or after 6309
the filling of the isolated wetland that is the subject of the 6310
permit, the director may require that the applicant or permit 6311
holder perform various environmental quality tests, including, 6312
without limitation, chemical analyses of water, sediment, or fill 6313
material and bioassays, in order to ensure adequate protection of 6314
water quality. 6315

(E)(1) Mitigation for the proposed filling of a category 1 6316
isolated wetland that is subject to level two review shall be 6317
conducted ~~by the applicant. Without~~ in the following preferred 6318
order: 6319

(a) Without the objection of the director and at the 6320
discretion of the applicant, ~~the applicant shall conduct~~ either 6321
on-site mitigation, mitigation at a wetland mitigation bank within 6322
the same United States army corps of engineers district as the 6323
location of the proposed filling of the isolated wetland, or 6324
off-site mitigation; 6325

(b) In-lieu fee mitigation. 6326

The director, at the director's discretion, may allow an applicant to deviate from the preferred order established in division (E)(1) 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 demonstrates that the applicant evaluated the mitigation alternatives established in division (E)(1)(a) of this section.

(2) Mitigation for the proposed filling of a category 2 isolated wetland that is subject to level two review shall be conducted ~~by the applicant and shall occur~~ in the following preferred order:

(a) ~~Practicable on-site mitigation;~~

~~(b) Mitigation at a wetland mitigation bank within the same watershed as the location of the proposed filling of the isolated wetland. When multiple mitigation banks are available within the same watershed, mitigation shall occur at a wetland mitigation bank that is located in the same twelve-digit hydrologic unit nearest to the location of the proposed filling of the isolated wetland. If a wetland mitigation bank is not available in that twelve-digit hydrologic unit, mitigation shall occur in a wetland mitigation bank in the ten-digit hydrologic unit nearest to the location of the proposed filling of the isolated wetland.~~

(b) Mitigation at a wetland mitigation bank located within a watershed 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. When multiple mitigation banks are available within the adjacent watershed, mitigation shall occur at the mitigation bank nearest to the location of the

proposed filling of the isolated wetlands. 6359

(c) In-lieu fee mitigation; 6360

(d) Reasonably identifiable, available, and practicable 6361

off-site mitigation within the same watershed; 6362

~~(c) If the proposed filling of the isolated wetland will take~~ 6363

~~place within a mitigation bank service area, within that~~ 6364

~~mitigation bank service area;~~ 6365

~~(d) If there is a significant ecological reason that the~~ 6366

~~mitigation location should not be limited to the watershed in~~ 6367

~~which the isolated wetland is located and if the proposed~~ 6368

~~mitigation will result in a substantially greater ecological~~ 6369

~~benefit, in a watershed that is adjacent to the watershed in which~~ 6370

~~the isolated wetland is located.~~ 6371

The director, at the director's discretion, may allow an 6372

applicant to deviate from the preferred order established in 6373

division (E)(2) of this section. If the proposed filling of an 6374

isolated wetland will be mitigated by in-lieu fee mitigation, an 6375

applicant shall provide documentation to the director that 6376

demonstrates that the applicant evaluated the mitigation 6377

alternatives established in divisions (E)(2)(a) and (b) of this 6378

section. 6379

Sec. 6111.024. (A) A proposed filling of a category 2 6380

isolated wetland of greater than three acres or a category 3 6381

isolated wetland shall require an individual state isolated 6382

wetland permit and be subject to level three review requirements 6383

established under division (B) of this section. 6384

(B) Level three review shall apply to the filling of a 6385

category 2 or a category 3 isolated wetland described in division 6386

(A) of this section and shall require all of the following: 6387

(1) All of the information required to be submitted with a 6388

pre-activity notice as described in division (B) of section 6389
6111.022 of the Revised Code; 6390

(2) A full antidegradation review conducted in accordance 6391
with rules adopted under section 6111.12 of the Revised Code; 6392

(3) The submission of information indicating whether high 6393
quality waters, as defined in rule 3745-1-05 of the Administrative 6394
Code, are to be avoided by the proposed filling of the isolated 6395
wetland. 6396

(C) The director of environmental protection shall issue or 6397
deny an individual state isolated wetland permit for the proposed 6398
filling of an isolated wetland that is subject to level three 6399
review not later than one hundred eighty days after the receipt of 6400
an application for the permit. The director shall not issue an 6401
individual state isolated wetland permit for the proposed filling 6402
of an isolated wetland that is subject to level three review 6403
unless the director determines that the applicant for the permit 6404
has demonstrated that the proposed filling will not prevent or 6405
interfere with the attainment or maintenance of applicable state 6406
water quality standards. 6407

(D)(1) Notwithstanding division (C) of this section, the 6408
director also may deny an application for an individual state 6409
isolated wetland permit submitted under this section if the 6410
director determines that the proposed filling of the isolated 6411
wetland will result in an adverse short-term or long-term impact 6412
on water quality. 6413

(2) The director may impose terms and conditions on an 6414
individual state isolated wetland permit issued under this section 6415
that are appropriate or necessary to ensure adequate protection of 6416
state water quality and to ensure compliance with this chapter and 6417
rules adopted under it. 6418

(3) Prior to the issuance of an individual state isolated 6419

wetland permit under this section, or prior to, during, or after 6420
the filling of the isolated wetland that is the subject of the 6421
permit, the director may require that the applicant or permit 6422
holder perform various environmental quality tests, including, 6423
without limitation, chemical analyses of water, sediment, or fill 6424
material and bioassays, in order to ensure adequate protection of 6425
water quality. 6426

(E) Mitigation for the proposed filling of a category 2 or a 6427
category 3 isolated wetland that is subject to level three review 6428
shall ~~occur~~ be conducted in the following preferred order: 6429

(1) ~~Practicable on-site mitigation;~~ 6430

~~(2) Reasonably identifiable, available, and practicable 6431
off-site mitigation within the same watershed;~~ 6432

~~(3) If the proposed filling of the isolated wetland will take 6433
place within a mitigation bank service area, within that 6434
mitigation bank service area;~~ 6435

(2) Mitigation at a wetland mitigation bank within the same 6436
watershed as the location of the proposed filling of the isolated 6437
wetland. When multiple mitigation banks are available within the 6438
same watershed, mitigation shall occur at a wetland mitigation 6439
bank that is located in the same twelve-digit hydrologic unit 6440
nearest to the location of the proposed filling of the isolated 6441
wetland. If a wetland mitigation bank is not available in that 6442
twelve-digit hydrologic unit, mitigation shall occur in a wetland 6443
mitigation bank in the ten-digit hydrologic unit nearest to the 6444
location of the proposed filling of the isolated wetland. 6445

(3) Mitigation at a wetland mitigation bank located within a 6446
watershed that is adjacent to the watershed in which the proposed 6447
filling of the isolated wetland is located, provided that the 6448
watershed is located within the same United States army corps of 6449
engineers district. If mitigation occurs in accordance with 6450

division (E)(3) of this section, the applicable mitigation ratio 6451
calculated under section 6111.027 of the Revised Code shall be 6452
multiplied by one and one-half. When multiple mitigation banks are 6453
available within the adjacent watershed, mitigation shall occur at 6454
the mitigation bank nearest to the location of the proposed 6455
filling of the isolated wetlands. 6456

(4) In-lieu fee mitigation; 6457

(5) If there is a significant ecological reason that the 6458
mitigation location should not be limited to the watershed in 6459
which the isolated wetland is located and if the proposed 6460
mitigation will result in a substantially greater ecological 6461
benefit, in a watershed that is adjacent to the watershed in which 6462
the isolated wetland is located. 6463

The director, at the director's discretion, may allow an 6464
applicant to deviate from the preferred order established in 6465
division (E) of this section. If the proposed filling of an 6466
isolated wetland will be mitigated by in-lieu fee mitigation, an 6467
applicant shall provide documentation to the director that 6468
demonstrates that the applicant evaluated the mitigation 6469
alternatives established in divisions (E)(1),(2), and (3) of this 6470
section. 6471

Sec. 6111.025. (A) The department of natural resources, the 6472
division of wildlife in that department, or any other division in 6473
that department that is designated by the director of natural 6474
resources may establish and operate a wetland mitigation bank for 6475
purposes of sections 6111.02 to 6111.027 of the Revised Code. A 6476
mitigation bank so established may be used by any individual or 6477
entity, including any agency or department of the state, for 6478
mitigation purposes under those sections. Nothing in this division 6479
precludes any other private or public entity from developing a 6480
mitigation bank, provided that it is approved by the director of 6481

environmental protection under division (C) of this section. 6482

(B) The environmental protection agency, the department of 6483
natural resources, the division of wildlife in that department, or 6484
any other division in that department that is designated by the 6485
director of natural resources may establish and operate an in-lieu 6486
fee mitigation program for purposes of sections 6111.02 to 6487
6111.027 of the Revised Code. An in-lieu fee mitigation program so 6488
established may be used by any individual or entity, including any 6489
agency or department of the state, for mitigation purposes under 6490
those sections. 6491

Nothing in this division precludes any other private or 6492
public entity from developing an in-lieu fee mitigation program, 6493
provided that it is approved by the director of environmental 6494
protection under division (C) of this section. 6495

(C) The director of ~~natural resources~~ environmental 6496
protection in consultation with the director of environmental 6497
protection natural resources shall ~~establish~~ approve and publish a 6498
list of approved wetland mitigation banks and in-lieu fee 6499
mitigation programs that shall be used by applicants for state 6500
isolated wetland permits for mitigation purposes ~~and shall submit~~ 6501
~~the list to the director of environmental protection.~~ In 6502
establishing the approved list, the director of ~~natural resources~~ 6503
environmental protection shall give preference to wetland 6504
mitigation banks that are comprised of areas involving the 6505
restoration of previously existing wetlands. ~~The list established~~ 6506
~~under this division shall not exclude state or local agencies from~~ 6507
~~developing wetland mitigation banks~~ Applicants for isolated 6508
wetland permits shall not use mitigation from a mitigation bank or 6509
an in-lieu fee mitigation program that has not been approved under 6510
this section. 6511

~~(B) The department of natural resources, the division of 6512~~
~~wildlife in that department, or any other division in that 6513~~

~~department that is designated by the director of natural resources 6514
may establish and operate a wetland mitigation bank for purposes 6515
of sections 6111.02 to 6111.027 of the Revised Code. A mitigation 6516
bank so established may be used by any individual or entity, 6517
including any agency or department of the state, for mitigation 6518
purposes under those sections. 6519~~

~~(C)(D) The director of environmental protection annually 6520
shall issue a report to the members of the general assembly on the 6521
total number of acres of ~~isolated~~ wetlands and lineal feet of 6522
stream that were subject to filling during the immediately 6523
preceding fiscal year as well as. The report also shall include 6524
the total number of acres of ~~isolated~~ wetlands that were restored, 6525
created, enhanced, or preserved through compensatory mitigation 6526
that same year as a result of state isolated wetland permits 6527
issued under sections 6111.02 to 6111.027 of the Revised Code and 6528
the state section 401 water quality certification program 6529
administered under section 6111.30 of the Revised Code. 6530~~

~~(E) Any wetland category determined through the use of the 6531
appropriate Ohio rapid assessment method and verified by the 6532
environmental protection agency for purposes of an isolated 6533
wetlands permit issued under sections 6111.02 to 6111.027 of the 6534
Revised Code is valid for a period of five years following 6535
verification. 6536~~

Sec. 6111.027. (A) Mitigation for impacts to isolated 6537
wetlands under sections 6111.02 to 6111.027 shall be conducted in 6538
accordance with the following ratios: 6539

(1) For category 1 and category 2 isolated wetlands, other 6540
than forested category 2 isolated wetlands, mitigation located at 6541
an approved wetland mitigation bank shall be conducted, or 6542
mitigation shall be paid for under an in-lieu fee mitigation 6543
program, at a rate of two times the size of the area of isolated 6544

wetland that is being impacted. 6545

(2) For forested category 2 isolated wetlands, mitigation 6546
located at an approved wetland mitigation bank shall be conducted, 6547
or mitigation shall be paid for under an in-lieu fee mitigation 6548
program, at a rate of two and one-half times the size of the area 6549
of isolated wetland that is being impacted. 6550

(3) All other mitigation shall be subject to mitigation 6551
ratios established in division (F) of rule 3745-1-54 of the 6552
Administrative Code. 6553

(B) Mitigation that involves the enhancement or preservation 6554
of isolated wetlands shall be calculated and performed in 6555
accordance with rule 3745-1-54 of the Administrative Code. 6556

(C) An applicant for coverage under a general state isolated 6557
wetland permit or for an individual state isolated wetland permit 6558
under sections 6111.022 to 6111.024 of the Revised Code shall 6559
demonstrate that the mitigation site will be protected in 6560
perpetuity and that appropriate practicable management measures 6561
are, or will be, in place to restrict harmful activities that 6562
jeopardize the mitigation. 6563

Sec. 6111.03. The director of environmental protection may do 6564
any of the following: 6565

(A) Develop plans and programs for the prevention, control, 6566
and abatement of new or existing pollution of the waters of the 6567
state; 6568

(B) Advise, consult, and cooperate with other agencies of the 6569
state, the federal government, other states, and interstate 6570
agencies and with affected groups, political subdivisions, and 6571
industries in furtherance of the purposes of this chapter. Before 6572
adopting, amending, or rescinding a standard or rule pursuant to 6573
division (G) of this section or section 6111.041 or 6111.042 of 6574

the Revised Code, the director shall do all of the following: 6575

(1) Mail notice to each statewide organization that the 6576
director determines represents persons who would be affected by 6577
the proposed standard or rule, amendment thereto, or rescission 6578
thereof at least thirty-five days before any public hearing 6579
thereon; 6580

(2) Mail a copy of each proposed standard or rule, amendment 6581
thereto, or rescission thereof to any person who requests a copy, 6582
within five days after receipt of the request therefor; 6583

(3) Consult with appropriate state and local government 6584
agencies or their representatives, including statewide 6585
organizations of local government officials, industrial 6586
representatives, and other interested persons. 6587

Although the director is expected to discharge these duties 6588
diligently, failure to mail any such notice or copy or to so 6589
consult with any person shall not invalidate any proceeding or 6590
action of the director. 6591

(C) Administer grants from the federal government and from 6592
other sources, public or private, for carrying out any of its 6593
functions, all such moneys to be deposited in the state treasury 6594
and kept by the treasurer of state in a separate fund subject to 6595
the lawful orders of the director; 6596

(D) Administer state grants for the construction of sewage 6597
and waste collection and treatment works; 6598

(E) Encourage, participate in, or conduct studies, 6599
investigations, research, and demonstrations relating to water 6600
pollution, and the causes, prevention, control, and abatement 6601
thereof, that are advisable and necessary for the discharge of the 6602
director's duties under this chapter; 6603

(F) Collect and disseminate information relating to water 6604

pollution and prevention, control, and abatement thereof; 6605

(G) Adopt, amend, and rescind rules in accordance with 6606
Chapter 119. of the Revised Code governing the procedure for 6607
hearings, the filing of reports, the issuance of permits, the 6608
issuance of industrial water pollution control certificates, and 6609
all other matters relating to procedure; 6610

(H) Issue, modify, or revoke orders to prevent, control, or 6611
abate water pollution by such means as the following: 6612

(1) Prohibiting or abating discharges of sewage, industrial 6613
waste, or other wastes into the waters of the state; 6614

(2) Requiring the construction of new disposal systems or any 6615
parts thereof, or the modification, extension, or alteration of 6616
existing disposal systems or any parts thereof; 6617

(3) Prohibiting additional connections to or extensions of a 6618
sewerage system when the connections or extensions would result in 6619
an increase in the polluting properties of the effluent from the 6620
system when discharged into any waters of the state; 6621

(4) Requiring compliance with any standard or rule adopted 6622
under sections 6111.01 to 6111.05 of the Revised Code or term or 6623
condition of a permit. 6624

In the making of those orders, wherever compliance with a 6625
rule adopted under section 6111.042 of the Revised Code is not 6626
involved, consistent with the Federal Water Pollution Control Act, 6627
the director shall give consideration to, and base the 6628
determination on, evidence relating to the technical feasibility 6629
and economic reasonableness of complying with those orders and to 6630
evidence relating to conditions calculated to result from 6631
compliance with those orders, and their relation to benefits to 6632
the people of the state to be derived from such compliance in 6633
accomplishing the purposes of this chapter. 6634

(I) Review plans, specifications, or other data relative to 6635
disposal systems or any part thereof in connection with the 6636
issuance of orders, permits, and industrial water pollution 6637
control certificates under this chapter; 6638

(J)(1) Issue, revoke, modify, or deny sludge management 6639
permits and permits for the discharge of sewage, industrial waste, 6640
or other wastes into the waters of the state, and for the 6641
installation or modification of disposal systems or any parts 6642
thereof in compliance with all requirements of the Federal Water 6643
Pollution Control Act and mandatory regulations adopted 6644
thereunder, including regulations adopted under section 405 of the 6645
Federal Water Pollution Control Act, and set terms and conditions 6646
of permits, including schedules of compliance, where necessary. 6647
Any person who discharges, transports, or handles storm water from 6648
an animal feeding facility, as defined in section 903.01 of the 6649
Revised Code, or pollutants from a concentrated animal feeding 6650
operation, as both terms are defined in that section, is not 6651
required to obtain a permit under division (J)(1) of this section 6652
for the installation or modification of a disposal system 6653
involving pollutants or storm water or any parts of such a system 6654
on and after the date on which the director of agriculture has 6655
finalized the program required under division (A)(1) of section 6656
903.02 of the Revised Code. In addition, any person who 6657
discharges, transports, or handles storm water from an animal 6658
feeding facility, as defined in section 903.01 of the Revised 6659
Code, or pollutants from a concentrated animal feeding operation, 6660
as both terms are defined in that section, is not required to 6661
obtain a permit under division (J)(1) of this section for the 6662
discharge of storm water from an animal feeding facility or 6663
pollutants from a concentrated animal feeding operation on and 6664
after the date on which the United States environmental protection 6665
agency approves the NPDES program submitted by the director of 6666
agriculture under section 903.08 of the Revised Code. 6667

Any permit terms and conditions set by the director shall be 6668
designed to achieve and maintain full compliance with the national 6669
effluent limitations, national standards of performance for new 6670
sources, and national toxic and pretreatment effluent standards 6671
set under that act, and any other mandatory requirements of that 6672
act that are imposed by regulation of the administrator of the 6673
United States environmental protection agency. If an applicant for 6674
a sludge management permit also applies for a related permit for 6675
the discharge of sewage, industrial waste, or other wastes into 6676
the waters of the state, the director may combine the two permits 6677
and issue one permit to the applicant. 6678

A sludge management permit is not required for an entity that 6679
treats or transports sewage sludge or for a sanitary landfill when 6680
all of the following apply: 6681

(a) The entity or sanitary landfill does not generate the 6682
sewage sludge. 6683

(b) Prior to receipt at the sanitary landfill, the entity has 6684
ensured that the sewage sludge meets the requirements established 6685
in rules adopted by the director under section 3734.02 of the 6686
Revised Code concerning disposal of municipal solid waste in a 6687
sanitary landfill. 6688

(c) Disposal of the sewage sludge occurs at a sanitary 6689
landfill that complies with rules adopted by the director under 6690
section 3734.02 of the Revised Code. 6691

As used in division (J)(1) of this section, "sanitary 6692
landfill" means a sanitary landfill facility, as defined in rules 6693
adopted under section 3734.02 of the Revised Code, that is 6694
licensed as a solid waste facility under section 3734.05 of the 6695
Revised Code. 6696

(2) An application for a permit or renewal thereof shall be 6697
denied if any of the following applies: 6698

(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby;

(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;

(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;

(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.

(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.

(4) Where a discharge having a thermal component from a source that is constructed or modified on or after October 18, 1972, meets national or state effluent limitations or more stringent permit conditions designed to achieve and maintain compliance with applicable standards of quality for the waters of

the state, which limitations or conditions will ensure protection 6730
and propagation of a balanced, indigenous population of shellfish, 6731
fish, and wildlife in or on the body of water into which the 6732
discharge is made, taking into account the interaction of the 6733
thermal component with sewage, industrial waste, or other wastes, 6734
the director shall not impose any more stringent limitation on the 6735
thermal component of the discharge, as a condition of a permit or 6736
renewal thereof for the discharge, during a ten-year period 6737
beginning on the date of completion of the construction or 6738
modification of the source, or during the period of depreciation 6739
or amortization of the source for the purpose of section 167 or 6740
169 of the Internal Revenue Code of 1954, whichever period ends 6741
first. 6742

(5) The director shall specify in permits for the discharge 6743
of sewage, industrial waste, and other wastes, the net volume, net 6744
weight, duration, frequency, and, where necessary, concentration 6745
of the sewage, industrial waste, and other wastes that may be 6746
discharged into the waters of the state. The director shall 6747
specify in those permits and in sludge management permits that the 6748
permit is conditioned upon payment of applicable fees as required 6749
by section 3745.11 of the Revised Code and upon the right of the 6750
director's authorized representatives to enter upon the premises 6751
of the person to whom the permit has been issued for the purpose 6752
of determining compliance with this chapter, rules adopted 6753
thereunder, or the terms and conditions of a permit, order, or 6754
other determination. The director shall issue or deny an 6755
application for a sludge management permit or a permit for a new 6756
discharge, for the installation or modification of a disposal 6757
system, or for the renewal of a permit, within one hundred eighty 6758
days of the date on which a complete application with all plans, 6759
specifications, construction schedules, and other pertinent 6760
information required by the director is received. 6761

(6) The director may condition permits upon the installation of discharge or water quality monitoring equipment or devices and the filing of periodic reports on the amounts and contents of discharges and the quality of receiving waters that the director prescribes. The director shall condition each permit for a government-owned disposal system or any other "treatment works" as defined in the Federal Water Pollution Control Act upon the reporting of new introductions of industrial waste or other wastes and substantial changes in volume or character thereof being introduced into those systems or works from "industrial users" as defined in section 502 of that act, as necessary to comply with section 402(b)(8) of that act; upon the identification of the character and volume of pollutants subject to pretreatment standards being introduced into the system or works; and upon the existence of a program to ensure compliance with pretreatment standards by "industrial users" of the system or works. In requiring monitoring devices and reports, the director, to the extent consistent with the Federal Water Pollution Control Act, shall give consideration to technical feasibility and economic reasonableness and shall allow reasonable time for compliance.

(7) A permit may be issued for a period not to exceed five years and may be renewed upon application for renewal ~~and upon a finding by the director.~~ In renewing a permit, the director shall consider the compliance history of the permit holder and may deny the renewal if the director determines that the permit holder is ~~making satisfactory progress toward the achievement of all applicable standards and has not~~ complied with the terms and conditions of the existing permit. A permit may be modified, suspended, or revoked for cause, including, but not limited to, violation of any condition of the permit, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts of the permitted discharge or of the sludge use, storage, treatment, or disposal practice, or changes in any condition that

requires either a temporary or permanent reduction or elimination 6795
of the permitted activity. No application shall be denied or 6796
permit revoked or modified without a written order stating the 6797
findings upon which the denial, revocation, or modification is 6798
based. A copy of the order shall be sent to the applicant or 6799
permit holder by certified mail. 6800

(K) Institute or cause to be instituted in any court of 6801
competent jurisdiction proceedings to compel compliance with this 6802
chapter or with the orders of the director issued under this 6803
chapter, or to ensure compliance with sections 204(b), 307, 308, 6804
and 405 of the Federal Water Pollution Control Act; 6805

(L) Issue, deny, revoke, or modify industrial water pollution 6806
control certificates; 6807

(M) Certify to the government of the United States or any 6808
agency thereof that an industrial water pollution control facility 6809
is in conformity with the state program or requirements for the 6810
control of water pollution whenever the certification may be 6811
required for a taxpayer under the Internal Revenue Code of the 6812
United States, as amended; 6813

(N) Issue, modify, and revoke orders requiring any 6814
"industrial user" of any publicly owned "treatment works" as 6815
defined in sections 212(2) and 502(18) of the Federal Water 6816
Pollution Control Act to comply with pretreatment standards; 6817
establish and maintain records; make reports; install, use, and 6818
maintain monitoring equipment or methods, including, where 6819
appropriate, biological monitoring methods; sample discharges in 6820
accordance with methods, at locations, at intervals, and in a 6821
manner that the director determines; and provide other information 6822
that is necessary to ascertain whether or not there is compliance 6823
with toxic and pretreatment effluent standards. In issuing, 6824
modifying, and revoking those orders, the director, to the extent 6825
consistent with the Federal Water Pollution Control Act, shall 6826

give consideration to technical feasibility and economic	6827
reasonableness and shall allow reasonable time for compliance.	6828
(O) Exercise all incidental powers necessary to carry out the	6829
purposes of this chapter;	6830
(P) Certify or deny certification to any applicant for a	6831
federal license or permit to conduct any activity that may result	6832
in any discharge into the waters of the state that the discharge	6833
will comply with the Federal Water Pollution Control Act;	6834
(Q) Administer and enforce the publicly owned treatment works	6835
pretreatment program in accordance with the Federal Water	6836
Pollution Control Act. In the administration of that program, the	6837
director may do any of the following:	6838
(1) Apply and enforce pretreatment standards;	6839
(2) Approve and deny requests for approval of publicly owned	6840
treatment works pretreatment programs, oversee those programs, and	6841
implement, in whole or in part, those programs under any of the	6842
following conditions:	6843
(a) The director has denied a request for approval of the	6844
publicly owned treatment works pretreatment program;	6845
(b) The director has revoked the publicly owned treatment	6846
works pretreatment program;	6847
(c) There is no pretreatment program currently being	6848
implemented by the publicly owned treatment works;	6849
(d) The publicly owned treatment works has requested the	6850
director to implement, in whole or in part, the pretreatment	6851
program.	6852
(3) Require that a publicly owned treatment works	6853
pretreatment program be incorporated in a permit issued to a	6854
publicly owned treatment works as required by the Federal Water	6855
Pollution Control Act, require compliance by publicly owned	6856

treatment works with those programs, and require compliance by 6857
industrial users with pretreatment standards; 6858

(4) Approve and deny requests for authority to modify 6859
categorical pretreatment standards to reflect removal of 6860
pollutants achieved by publicly owned treatment works; 6861

(5) Deny and recommend approval of requests for fundamentally 6862
different factors variances submitted by industrial users; 6863

(6) Make determinations on categorization of industrial 6864
users; 6865

(7) Adopt, amend, or rescind rules and issue, modify, or 6866
revoke orders necessary for the administration and enforcement of 6867
the publicly owned treatment works pretreatment program. 6868

Any approval of a publicly owned treatment works pretreatment 6869
program may contain any terms and conditions, including schedules 6870
of compliance, that are necessary to achieve compliance with this 6871
chapter. 6872

(R) Except as otherwise provided in this division, adopt 6873
rules in accordance with Chapter 119. of the Revised Code 6874
establishing procedures, methods, and equipment and other 6875
requirements for equipment to prevent and contain discharges of 6876
oil and hazardous substances into the waters of the state. The 6877
rules shall be consistent with and equivalent in scope, content, 6878
and coverage to section 311(j)(1)(c) of the Federal Water 6879
Pollution Control Act and regulations adopted under it. The 6880
director shall not adopt rules under this division relating to 6881
discharges of oil from oil production facilities and oil drilling 6882
and workover facilities as those terms are defined in that act and 6883
regulations adopted under it. 6884

(S)(1) Administer and enforce a program for the regulation of 6885
sludge management in this state. In administering the program, the 6886
director, in addition to exercising the authority provided in any 6887

other applicable sections of this chapter, may do any of the 6888
following: 6889

(a) Develop plans and programs for the disposal and 6890
utilization of sludge and sludge materials; 6891

(b) Encourage, participate in, or conduct studies, 6892
investigations, research, and demonstrations relating to the 6893
disposal and use of sludge and sludge materials and the impact of 6894
sludge and sludge materials on land located in the state and on 6895
the air and waters of the state; 6896

(c) Collect and disseminate information relating to the 6897
disposal and use of sludge and sludge materials and the impact of 6898
sludge and sludge materials on land located in the state and on 6899
the air and waters of the state; 6900

(d) Issue, modify, or revoke orders to prevent, control, or 6901
abate the use and disposal of sludge and sludge materials or the 6902
effects of the use of sludge and sludge materials on land located 6903
in the state and on the air and waters of the state; 6904

(e) Adopt and enforce, modify, or rescind rules necessary for 6905
the implementation of division (S) of this section. The rules 6906
reasonably shall protect public health and the environment, 6907
encourage the beneficial reuse of sludge and sludge materials, and 6908
minimize the creation of nuisance odors. 6909

The director may specify in sludge management permits the net 6910
volume, net weight, quality, and pollutant concentration of the 6911
sludge or sludge materials that may be used, stored, treated, or 6912
disposed of, and the manner and frequency of the use, storage, 6913
treatment, or disposal, to protect public health and the 6914
environment from adverse effects relating to those activities. The 6915
director shall impose other terms and conditions to protect public 6916
health and the environment, minimize the creation of nuisance 6917
odors, and achieve compliance with this chapter and rules adopted 6918

under it and, in doing so, shall consider whether the terms and 6919
conditions are consistent with the goal of encouraging the 6920
beneficial reuse of sludge and sludge materials. 6921

The director may condition permits on the implementation of 6922
treatment, storage, disposal, distribution, or application 6923
management methods and the filing of periodic reports on the 6924
amounts, composition, and quality of sludge and sludge materials 6925
that are disposed of, used, treated, or stored. 6926

An approval of a treatment works sludge disposal program may 6927
contain any terms and conditions, including schedules of 6928
compliance, necessary to achieve compliance with this chapter and 6929
rules adopted under it. 6930

(2) As a part of the program established under division 6931
(S)(1) of this section, the director has exclusive authority to 6932
regulate sewage sludge management in this state. For purposes of 6933
division (S)(2) of this section, that program shall be consistent 6934
with section 405 of the Federal Water Pollution Control Act and 6935
regulations adopted under it and with this section, except that 6936
the director may adopt rules under division (S) of this section 6937
that establish requirements that are more stringent than section 6938
405 of the Federal Water Pollution Control Act and regulations 6939
adopted under it with regard to monitoring sewage sludge and 6940
sewage sludge materials and establishing acceptable sewage sludge 6941
management practices and pollutant levels in sewage sludge and 6942
sewage sludge materials. 6943

This chapter authorizes the state to participate in any 6944
national sludge management program and the national pollutant 6945
discharge elimination system, to administer and enforce the 6946
publicly owned treatment works pretreatment program, and to issue 6947
permits for the discharge of dredged or fill materials, in 6948
accordance with the Federal Water Pollution Control Act. This 6949
chapter shall be administered, consistent with the laws of this 6950

state and federal law, in the same manner that the Federal Water
Pollution Control Act is required to be administered.

This section does not apply to animal waste disposal systems
and related management and conservation practices subject to rules
adopted pursuant to division (E)(4) of section 1511.02 of the
Revised Code. However, until the date on which the United States
environmental protection agency approves the NPDES program
submitted by the director of agriculture under section 903.08 of
the Revised Code, this exclusion does not apply to animal waste
treatment works having a controlled direct discharge to the waters
of the state or any concentrated animal feeding operation, as
defined in 40 C.F.R. 122.23(b)(2). On and after the date on which
the United States environmental protection agency approves the
NPDES program submitted by the director of agriculture under
section 903.08 of the Revised Code, this section does not apply to
storm water from an animal feeding facility, as defined in section
903.01 of the Revised Code, or to pollutants discharged from a
concentrated animal feeding operation, as both terms are defined
in that section. Neither of these exclusions applies to the
discharge of animal waste into a publicly owned treatment works.

Sec. 6111.035. (A) The director of environmental protection,
consistent with the Federal Water Pollution Control Act and the
regulations adopted thereunder, without application therefor, may
issue, modify, revoke, or terminate a general permit under this
chapter for both of the following:

(1) Discharge of stormwater; the discharge of liquids,
sediments, solids, or water-borne mining related waste, such as,
but not limited to, acids, metallic cations, or their salts, from
coal mining and reclamation operations ~~as defined in section~~
~~1513.01 of the Revised Code~~; or treatment works whose discharge
would have de minimis impact on the waters of the state receiving

the discharge; 6982

(2) Installation or modification of disposal systems or any 6983
parts thereof, including disposal systems for stormwater or for 6984
coal mining and reclamation operations ~~as defined in section~~ 6985
~~1513.01 of the Revised Code.~~ 6986

A general permit shall apply to a class or category of 6987
discharges or disposal systems or to persons conducting similar 6988
activities, within any area of the state, including the entire 6989
state. 6990

A general permit shall not be issued unless the director 6991
determines that the discharges authorized by the permit will have 6992
only minimal cumulative adverse effects on the environment when 6993
the discharges are considered collectively and individually and 6994
if, in the opinion of the director, the discharges, installations, 6995
or modifications authorized by the permit are more appropriately 6996
authorized by a general permit than by an individual permit. 6997

A general permit shall be issued subject to applicable 6998
mandatory provisions and may be issued subject to any applicable 6999
permissive provision of the Federal Water Pollution Control Act 7000
and the regulations adopted thereunder. 7001

The director, at the director's discretion, may require any 7002
person authorized to discharge or to install or modify a disposal 7003
system under a general permit to apply for and obtain an 7004
individual permit for the discharge, installation, or 7005
modification. When a particular discharge, installation, or 7006
modification is subject to an individual permit, a general permit 7007
shall not apply to that discharge, installation, or modification 7008
until the individual permit is revoked, terminated, or modified to 7009
exclude the discharge, installation, or modification. 7010

In the case of a general permit issued by the director under 7011
this section for coal mining and reclamation operations, a person 7012

seeking coverage under such a general permit shall submit a notice 7013
of intent to be covered by the general permit and to be subject to 7014
the terms and conditions of the general permit. The notice of 7015
intent shall be submitted in accordance with the forms and 7016
deadlines specified for the applicable general permit for which 7017
coverage is sought. If the director has not granted or denied 7018
coverage under the general permit within forty-five days after 7019
receipt of the notice of intent, the person seeking coverage shall 7020
submit written notice to the director restating the person's 7021
request for coverage under the general permit. The director shall 7022
grant or deny coverage under the general permit not later than 7023
sixty days after receipt of the notice of intent. If, not later 7024
than fifteen days after receipt of the person's written notice 7025
restating the person's request for coverage, but not earlier than 7026
sixty days after receipt of the original notice of intent for 7027
coverage under the general permit, the director fails to act on 7028
the notice of intent, the discharge that is the subject of the 7029
notice of intent is deemed to be permitted and covered by the 7030
general permit related to coal mining and reclamation operations. 7031
Nothing in this section alters or limits the authority of the 7032
director to enforce the terms and conditions of the general permit 7033
or limits the director's authority to issue or deny other required 7034
permits. 7035

As used in this division, "coal mining and reclamation 7036
operations" has the same meaning as in section 1513.01 of the 7037
Revised Code. 7038

(B) Notwithstanding any requirement under Chapter 119. of the 7039
Revised Code concerning the manner in which notice of a permit 7040
action is provided, the director shall not be required to provide 7041
certified mail notice to persons subject to the issuance, 7042
modification, revocation, or termination of a general permit under 7043
division (A) of this section. 7044

Notwithstanding section 3745.07 of the Revised Code 7045
concerning the location of newspapers in which notices of permit 7046
actions are published, the director shall cause notice of the 7047
issuance, modification, revocation, or termination of a general 7048
permit to be published in the newspapers of general circulation 7049
determined by the director to provide reasonable notice to persons 7050
affected by the permit action in the geographic area covered by 7051
the general permit within the time periods prescribed by section 7052
3745.07 of the Revised Code. Any notice under this section or 7053
section 3745.07 of the Revised Code concerning the issuance, 7054
modification, revocation, or termination of a general permit shall 7055
include a summary of the permit action and instructions on how to 7056
obtain a copy of the full text of the permit action. The director 7057
may take other appropriate measures, such as press releases and 7058
notice to trade journals, associations, and other persons known to 7059
the director to desire notification, in order to provide notice of 7060
the director's actions concerning the issuance, modification, 7061
revocation, or termination of a general permit; however, the 7062
failure to provide such notice shall not invalidate any general 7063
permit. 7064

(C) Notwithstanding any other provision of the Revised Code, 7065
a person subject to the proposed issuance, modification, 7066
revocation, or termination of a general permit under division (A) 7067
of this section may request an adjudication hearing pursuant to 7068
section 119.07 of the Revised Code concerning the proposed action 7069
within thirty days after publication of the notice of the proposed 7070
action in newspapers of general circulation pursuant to division 7071
(B) of this section. This division shall not be interpreted to 7072
affect the authority of the director to take actions on general 7073
permits in forms other than proposed general permits. 7074

(D) The director may exercise all incidental powers required 7075
to carry out this section, including, without limitation, the 7076

adoption, amendment, and rescission of rules to implement a 7077
general permit program for classes or categories of dischargers or 7078
disposal systems. 7079

(E) On and after the date on which the United States 7080
environmental protection agency approves the NPDES program 7081
submitted by the director of agriculture under section 903.08 of 7082
the Revised Code, this section does not apply to storm water from 7083
an animal feeding facility, as defined in section 903.01 of the 7084
Revised Code, or to manure, as defined in that section. 7085

(F) As used in this section, "Federal Water Pollution Control 7086
Act" means the "Federal Water Pollution Control Act Amendments of 7087
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean 7088
Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of 7089
October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal 7090
Wastewater Treatment Construction Grant Amendments of 1981," 95 7091
Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 7092
101 Stat. 7, 33 U.S.C.A. 1251. 7093

Sec. 6111.0382. (A) There is hereby created in the state 7094
treasury the surface water improvement fund. The fund shall 7095
include, but is not limited to, money derived from any of the 7096
following: 7097

(1) Payments, contributions, and donations made to the 7098
environmental protection agency for water quality restoration and 7099
protection projects; 7100

(2) Payments made under an in-lieu fee mitigation program 7101
established by the agency under section 6111.025 of the Revised 7102
Code; 7103

(3) Funds for supplemental environmental projects for water 7104
quality improvements required by orders of the director of 7105
environmental protection, settlement agreements, consent decrees, 7106

or court orders; 7107

(4) Mitigation fees for impacts to waters of the state for 7108
mitigation not required by the United States environmental 7109
protection agency or the United States army corps of engineers. 7110

(B) Money in the fund shall be used by the director to 7111
complete water quality protection and restoration projects. The 7112
director may enter into contracts and agreements, including grant 7113
agreements with federal, state, or local government agencies, 7114
environmental nonprofit organizations, and universities, for 7115
purposes of those projects. 7116

(C) If the agency becomes an approved sponsor of a federal 7117
in-lieu fee mitigation program in accordance with 33 C.F.R. 332, 7118
money for the federally approved program may be maintained in the 7119
fund, provided that the money is segregated from all other money 7120
in the fund. 7121

Sec. 6111.30. (A) Applications for a section 401 water 7122
quality certification required under division (P) of section 7123
6111.03 of the Revised Code shall be submitted on forms provided 7124
by the director of environmental protection and shall include all 7125
information required on those forms as well as all of the 7126
following: 7127

(1) A copy of a letter from the United States army corps of 7128
engineers documenting its jurisdiction over the wetlands, streams, 7129
or other waters of the state that are the subject of the section 7130
401 water quality certification application; 7131

(2) If the project involves impacts to a wetland, a wetland 7132
characterization analysis consistent with the Ohio rapid 7133
assessment method; 7134

(3) If the project involves a stream for which a specific 7135
aquatic life use designation has not been made, a use 7136

attainability analysis;	7137
(4) A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity;	7138 7139 7140
(5) Applicable fees;	7141
(6) Site photographs;	7142
(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;	7143 7144 7145 7146 7147
(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;	7148 7149 7150 7151
(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;	7152 7153 7154
(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.	7155 7156 7157
(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 applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized	7158 7159 7160 7161 7162 7163 7164 7165 7166

list of the information or materials that are necessary to 7167
complete the application. If the applicant fails to provide the 7168
information or materials within sixty days after the director's 7169
receipt of the application, the director may return the incomplete 7170
application to the applicant and take no further action on the 7171
application. If the application is returned to the applicant 7172
because it is incomplete, the director shall return the review fee 7173
levied under division (A)(1), (2), or (3) of section 3745.114 of 7174
the Revised Code to the applicant, but shall retain the 7175
application fee levied under that section. 7176

(C) Not later than twenty-one days after a determination that 7177
an application is complete under division (B) of this section, the 7178
applicant shall publish public notice of the director's receipt of 7179
the complete application in a newspaper of general circulation in 7180
the county in which the project that is the subject of the 7181
application is located. The public notice shall be in a form 7182
acceptable to the director. The applicant shall promptly provide 7183
the director with proof of publication. The applicant may choose, 7184
subject to review by and approval of the director, to include in 7185
the public notice an advertisement for an antidegradation public 7186
hearing on the application pursuant to section 6111.12 of the 7187
Revised Code. There shall be a public comment period of thirty 7188
days following the publication of the public notice. 7189

(D) If the director determines that there is significant 7190
public interest in a public hearing as evidenced by the public 7191
comments received concerning the application and by other requests 7192
for a public hearing on the application, the director or the 7193
director's representative shall conduct a public hearing 7194
concerning the application. Notice of the public hearing shall be 7195
published by the applicant, subject to review and approval by the 7196
director, at least thirty days prior to the date of the hearing in 7197
a newspaper of general circulation in the county in which the 7198

project that is the subject of the application is to take place. 7199
If a public hearing is requested concerning an application, the 7200
director shall accept comments concerning the application until 7201
five business days after the public hearing. A public hearing 7202
conducted under this division shall take place not later than one 7203
hundred days after the application is determined to be complete. 7204

(E) The director shall forward all public comments concerning 7205
an application submitted under this section that are received 7206
through the public involvement process required by rules adopted 7207
under this chapter to the applicant not later than five business 7208
days after receipt of the comments by the director. 7209

(F) The applicant shall respond in writing to written 7210
comments or to deficiencies identified by the director during the 7211
course of reviewing the application not later than fifteen days 7212
after receiving or being notified of them. 7213

(G) The director shall issue or deny a section 401 water 7214
quality certification not later than one hundred eighty days after 7215
the complete application for the certification is received. The 7216
director shall provide an applicant for a section 401 water 7217
quality certification with an opportunity to review the 7218
certification prior to its issuance. 7219

(H) The director shall maintain an accessible database that 7220
includes environmentally beneficial water restoration and 7221
protection projects that may serve as potential mitigation 7222
projects for projects in the state for which a section 401 water 7223
quality certification is required. A project's inclusion in the 7224
database does not constitute an approval of the project. 7225

(I) Mitigation required by a section 401 water quality 7226
certification may be accomplished by any of the following: 7227

(1) Purchasing credits at a mitigation bank approved in 7228
accordance with 33 C.F.R. 332.8; 7229

<u>(2) Participating in an in-lieu fee mitigation program</u>	7230
<u>approved in accordance with 33 C.F.R. 332.8;</u>	7231
<u>(3) Constructing individual mitigation projects.</u>	7232
<u>Notwithstanding the mitigation hierarchy specified in section</u>	7233
<u>3745-1-54 of the Administrative Code, mitigation projects shall be</u>	7234
<u>approved in accordance with the hierarchy specified in 33 C.F.R.</u>	7235
<u>332.3 unless the director determines that the size or quality of</u>	7236
<u>the impacted resource necessitates reasonably identifiable,</u>	7237
<u>available, and practicable mitigation conducted by the applicant.</u>	7238
<u>The director shall adopt rules in accordance with Chapter 119. of</u>	7239
<u>the Revised Code consistent with the mitigation hierarchy</u>	7240
<u>specified in 33 C.F.R. 332.3.</u>	7241
<u>(J) As used in this section and sections <u>section</u> 6111.31 and</u>	7242
<u>6111.32 of the Revised Code, "section 401 water quality</u>	7243
<u>certification" means certification pursuant to section 401 of the</u>	7244
<u>Federal Water Pollution Control Act and this chapter and rules</u>	7245
<u>adopted under it that any discharge, as set forth in section 401,</u>	7246
<u>will comply with sections 301, 302, 303, 306, and 307 of the</u>	7247
<u>Federal Water Pollution Control Act.</u>	7248
Section 2. That existing sections 3714.07, 3714.073, 3734.01,	7249
3734.02, 3734.021, 3734.027, 3734.05, 3734.06, 3734.12, 3734.121,	7250
3734.41, 3734.42, 3734.57, 3734.573, 3734.85, 3737.87, 3737.88,	7251
3745.11, 3745.31, 3746.02, 6109.31, 6109.32, 6111.02, 6111.022,	7252
6111.023, 6111.024, 6111.025, 6111.027, 6111.03, 6111.035, and	7253
6111.30 and sections 3734.022, 3734.131, 3734.132, and 3734.133 of	7254
the Revised Code are hereby repealed.	7255
Section 3. The Surface Water Improvement Fund created in	7256
section 6111.0382 of the Revised Code, as enacted by this act, is	7257
a continuation of the Surface Water Improvement Fund (5Y30)	7258
established by the Controlling Board on August 18, 2008, and	7259

continued in Section 277.10 of Am. Sub. H.B. 1 of the 128th 7260
General Assembly. 7261

Section 4. Section 3737.88 of the Revised Code is presented 7262
in this act as a composite of the section as amended by both Am. 7263
Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. The 7264
General Assembly, applying the principle stated in division (B) of 7265
section 1.52 of the Revised Code that amendments are to be 7266
harmonized if reasonably capable of simultaneous operation, finds 7267
that the composite is the resulting version of the section in 7268
effect prior to the effective date of the section as presented in 7269
this act. 7270