

As Introduced

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Representative Ramos

**Cosponsors: Representatives Lepore-Hagan, West, Ashford, Howse, Patterson,
Smith, K., Miller**

A BILL

To amend section 3704.03 of the Revised Code to 1
require all rules adopted by the Director of 2
Environmental Protection governing the 3
fabrication, manufacturing, usage, and disposal 4
of asbestos, asbestos-containing materials, and 5
asbestos-containing products to be consistent 6
with the United States Environmental Protection 7
Agency regulations governing asbestos as those 8
regulations existed on August 1, 2018. 9

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

Section 1. That section 3704.03 of the Revised Code be 10
amended to read as follows: 11

Sec. 3704.03. The director of environmental protection may 12
do any of the following: 13

(A) Develop programs for the prevention, control, and 14
abatement of air pollution; 15

(B) Advise, consult, contract, and cooperate with any 16
governmental or private agency in the furtherance of the 17

purposes of this chapter; 18

(C) Encourage, participate in, or conduct studies, 19
investigations, and research relating to air pollution, collect 20
and disseminate information, and conduct education and training 21
programs relating to the causes, prevention, control, and 22
abatement of air pollution; 23

(D) Adopt, modify, and rescind rules prescribing ambient 24
air quality standards for the state as a whole or for various 25
areas of the state that are consistent with and no more 26
stringent than the national ambient air quality standards in 27
effect under the federal Clean Air Act; 28

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

density, or opacity limitation for that source that does not 48
require the source to reduce emissions below the level specified 49
by those other standards; rules for the prevention or control of 50
odors and air pollution nuisances; rules that prevent 51
significant deterioration of air quality to the extent required 52
by the federal Clean Air Act; rules for the protection of 53
visibility as required by the federal Clean Air Act; and rules 54
prescribing open burning limitations and standards. In adopting, 55
modifying, suspending, or rescinding any such rules, the 56
director, to the extent consistent with the federal Clean Air 57
Act, shall hear and give consideration to evidence relating to 58
all of the following: 59

(1) Conditions calculated to result from compliance with 60
the rules, the overall cost within this state of compliance with 61
the rules, and their relation to benefits to the people of the 62
state to be derived from that compliance; 63

(2) The quantity and characteristics of air contaminants, 64
the frequency and duration of their presence in the ambient air, 65
and the dispersion and dilution of those contaminants; 66

(3) Topography, prevailing wind directions and velocities, 67
physical conditions, and other factors that may or may combine 68
to affect air pollution. 69

Consistent with division (K) of section 3704.036 of the 70
Revised Code, the director shall consider alternative emission 71
limits proposed by the owner or operator of an air contaminant 72
source that is subject to an emission limit established in rules 73
adopted under this division and shall accept those alternative 74
emission limits that the director determines to be equivalent to 75
emission limits established in rules adopted under this 76
division. 77

When adopting rules under division (E) of this section 78
governing the fabrication, manufacturing, usage, or disposal of 79
asbestos, asbestos-containing materials, or asbestos-containing 80
products, the director shall ensure that the rules are 81
consistent with the United States environmental protection 82
agency regulations governing asbestos as those regulations 83
existed on August 1, 2018. 84

(F)(1) Adopt, modify, suspend, and rescind rules 85
consistent with the purposes of this chapter prohibiting the 86
location, installation, construction, or modification of any air 87
contaminant source or any machine, equipment, device, apparatus, 88
or physical facility intended primarily to prevent or control 89
the emission of air contaminants unless an installation permit 90
therefor has been obtained from the director or the director's 91
authorized representative. 92

(2)(a) Applications for installation permits shall be 93
accompanied by plans, specifications, construction schedules, 94
and such other pertinent information and data, including data on 95
ambient air quality impact and a demonstration of best available 96
technology, as the director may require. Installation permits 97
shall be issued for a period specified by the director and are 98
transferable. The director shall specify in each permit the 99
applicable emission standards and that the permit is conditioned 100
upon payment of the applicable fees as required by section 101
3745.11 of the Revised Code and upon the right of the director's 102
authorized representatives to enter upon the premises of the 103
person to whom the permit has been issued, at any reasonable 104
time and subject to safety requirements of the person in control 105
of the premises, for the purpose of determining compliance with 106
such standards, this chapter, the rules adopted thereunder, and 107
the conditions of any permit, variance, or order issued 108

thereunder. Each proposed new or modified air contaminant source 109
shall provide such notice of its proposed installation or 110
modification to other states as is required under the federal 111
Clean Air Act. Installation permits shall include the 112
authorization to operate sources installed and operated in 113
accordance with terms and conditions of the installation permits 114
for a period not to exceed one year from commencement of 115
operation, which authorization shall constitute an operating 116
permit under division (G) of this section and rules adopted 117
under it. 118

No installation permit shall be required for activities 119
that are subject to and in compliance with a plant-wide 120
applicability limit issued by the director in accordance with 121
rules adopted under this section. 122

No installation permit shall be issued except in 123
accordance with all requirements of this chapter and rules 124
adopted thereunder. No application shall be denied or permit 125
revoked or modified without a written order stating the findings 126
upon which denial, revocation, or modification is based. A copy 127
of the order shall be sent to the applicant or permit holder by 128
certified mail. 129

(b) An air contaminant source that is the subject of an 130
installation permit shall be installed or modified in accordance 131
with the permit not later than eighteen months after the 132
permit's effective date at which point the permit shall 133
terminate unless one of the following applies: 134

(i) The owner or operator has undertaken a continuing 135
program of installation or modification during the eighteen- 136
month period. 137

(ii) The owner or operator has entered into a binding 138
contractual obligation to undertake and complete within a 139
reasonable period of time a continuing program of installation 140
or modification of the air contaminant source during the 141
eighteen-month period. 142

(iii) The director has extended the date by which the air 143
contaminant source that is the subject of the installation 144
permit must be installed or modified. 145

(iv) The installation permit is the subject of an appeal 146
by a party other than the owner or operator of the air 147
contaminant source that is the subject of the installation 148
permit, in which case the date of termination of the permit is 149
not later than eighteen months after the effective date of the 150
permit plus the number of days between the date in which the 151
permit was appealed and the date on which all appeals concerning 152
the permit have been resolved. 153

(v) The installation permit has been superseded by a 154
subsequent installation permit, in which case the original 155
installation permit terminates on the effective date of the 156
superseding installation permit. 157

Division (F) (2) (b) of this section applies to an 158
installation permit that has not terminated as of ~~the effective~~ 159
~~date of this amendment~~ October 16, 2009. 160

The director may adopt rules in accordance with Chapter 161
119. of the Revised Code for the purpose of establishing 162
additional requirements that are necessary for the 163
implementation of division (F) (2) (b) of this section. 164

(3) Not later than two years after August 3, 2006, the 165
director shall adopt a rule in accordance with Chapter 119. of 166

the Revised Code specifying that a permit to install is required 167
only for new or modified air contaminant sources that emit any 168
of the following air contaminants: 169

(a) An air contaminant or precursor of an air contaminant 170
for which a national ambient air quality standard has been 171
adopted under the federal Clean Air Act; 172

(b) An air contaminant for which the air contaminant 173
source is regulated under the federal Clean Air Act; 174

(c) An air contaminant that presents, or may present, 175
through inhalation or other routes of exposure, a threat of 176
adverse human health effects, including, but not limited to, 177
substances that are known to be, or may reasonably be 178
anticipated to be, carcinogenic, mutagenic, teratogenic, or 179
neurotoxic, that cause reproductive dysfunction, or that are 180
acutely or chronically toxic, or a threat of adverse 181
environmental effects whether through ambient concentrations, 182
bioaccumulation, deposition, or otherwise, and that is 183
identified in the rule by chemical name and chemical abstract 184
service number. 185

The director may modify the rule adopted under division 186
(F) (3) (c) of this section for the purpose of adding or deleting 187
air contaminants. For each air contaminant that is contained in 188
or deleted from the rule adopted under division (F) (3) (c) of 189
this section, the director shall include in a notice 190
accompanying any proposed or final rule an explanation of the 191
director's determination that the air contaminant meets the 192
criteria established in that division and should be added to, or 193
no longer meets the criteria and should be deleted from, the 194
list of air contaminants. The explanation shall include an 195
identification of the scientific evidence on which the director 196

relied in making the determination. Until adoption of the rule 197
under division (F) (3) (c) of this section, nothing shall affect 198
the director's authority to issue, deny, modify, or revoke 199
permits to install under this chapter and rules adopted under 200
it. 201

(4) (a) Applications for permits to install new or modified 202
air contaminant sources shall contain sufficient information 203
regarding air contaminants for which the director may require a 204
permit to install to determine conformity with the environmental 205
protection agency's document entitled "Review of New Sources of 206
Air Toxics Emissions, Option A," dated May 1986, which the 207
director shall use to evaluate toxic emissions from new or 208
modified air contaminant sources. The director shall make copies 209
of the document available to the public upon request at no cost 210
and post the document on the environmental protection agency's 211
web site. Any inconsistency between the document and division 212
(F) (4) of this section shall be resolved in favor of division 213
(F) (4) of this section. 214

(b) The maximum acceptable ground level concentration of 215
an air contaminant shall be calculated in accordance with the 216
document entitled "Review of New Sources of Air Toxics 217
Emissions, Option A." Modeling shall be conducted to determine 218
the increase in the ground level concentration of an air 219
contaminant beyond the facility's boundary caused by the 220
emissions from a new or modified source that is the subject of 221
an application for a permit to install. Modeling shall be based 222
on the maximum hourly rate of emissions from the source using 223
information including, but not limited to, any emission control 224
devices or methods, operational restrictions, stack parameters, 225
and emission dispersion devices or methods that may affect 226
ground level concentrations, either individually or in 227

combination. The director shall determine whether the activities 228
for which a permit to install is sought will cause an increase 229
in the ground level concentration of one or more relevant air 230
contaminants beyond the facility's boundary by an amount in 231
excess of the maximum acceptable ground level concentration. In 232
making the determination as to whether the maximum acceptable 233
ground level concentration will be exceeded, the director shall 234
give consideration to the modeling conducted under division (F) 235
(4) (b) of this section and other relevant information submitted 236
by the applicant. 237

(c) If the modeling conducted under division (F) (4) (b) of 238
this section with respect to an application for a permit to 239
install demonstrates that the maximum ground level concentration 240
from a new or modified source will be greater than or equal to 241
eighty per cent, but less than one hundred per cent of the 242
maximum acceptable ground level concentration for an air 243
contaminant, the director may establish terms and conditions in 244
the permit to install for the air contaminant source that will 245
require the owner or operator of the air contaminant source to 246
maintain emissions of that air contaminant commensurate with the 247
modeled level, which shall be expressed as allowable emissions 248
per day. In order to calculate the allowable emissions per day, 249
the director shall multiply the hourly emission rate modeled 250
under division (F) (4) (b) of this section to determine the ground 251
level concentration by the operating schedule that has been 252
identified in the permit to install application. Terms and 253
conditions imposed under division (F) (4) (c) of this section are 254
not federally enforceable requirements and, if included in a 255
Title V permit, shall be placed in the portion of the permit 256
that is only enforceable by the state. 257

(d) If the modeling conducted under division (F) (4) (b) of 258

this section with respect to an application for a permit to 259
install demonstrates that the maximum ground level concentration 260
from a new or modified source will be less than eighty per cent 261
of the maximum acceptable ground level concentration, the owner 262
or operator of the source annually shall report to the director, 263
on a form prescribed by the director, whether operations of the 264
source are consistent with the information regarding the 265
operations that was used to conduct the modeling with regard to 266
the permit to install application. The annual report to the 267
director shall be in lieu of an emission limit or other permit 268
terms and conditions imposed pursuant to division (F) (4) of this 269
section. The director may consider any significant departure 270
from the operations of the source described in the permit to 271
install application that results in greater emissions than the 272
emissions rate modeled to determine the ground level 273
concentration as a modification and require the owner or 274
operator to submit a permit to install application for the 275
increased emissions. The requirements established in division 276
(F) (4) (d) of this section are not federally enforceable 277
requirements and, if included in a Title V permit, shall be 278
placed in the portion of the permit that is only enforceable by 279
the state. 280

(e) Division (F) (4) of this section and the document 281
entitled "Review of New Sources of Air Toxics Emissions, Option 282
A" shall not be included in the state implementation plan under 283
section 110 of the federal Clean Air Act and do not apply to an 284
air contaminant source that is subject to a maximum achievable 285
control technology standard or residual risk standard under 286
section 112 of the federal Clean Air Act, to a particular air 287
contaminant identified under 40 C.F.R. 51.166, division (b) (23), 288
for which the director has determined that the owner or operator 289

of the source is required to install best available control 290
technology for that particular air contaminant, or to a 291
particular air contaminant for which the director has determined 292
that the source is required to meet the lowest achievable 293
emission rate, as defined in 40 C.F.R. part 51, Appendix S, for 294
that particular air contaminant. 295

(f) (i) Division (F) (4) of this section and the document 296
entitled "Review of New Sources of Air Toxics Emissions, Option 297
A" do not apply to parking lots, storage piles, storage tanks, 298
transfer operations, grain silos, grain dryers, emergency 299
generators, gasoline dispensing operations, air contaminant 300
sources that emit air contaminants solely from the combustion of 301
fossil fuels, or the emission of wood dust, sand, glass dust, 302
coal dust, silica, and grain dust. 303

(ii) Notwithstanding division (F) (4) (f) (i) of this 304
section, the director may require an individual air contaminant 305
source that is within one of the source categories identified in 306
division (F) (4) (f) (i) of this section to submit information in 307
an application for a permit to install a new or modified source 308
in order to determine the source's conformity to the document if 309
the director has information to conclude that the particular new 310
or modified source will potentially cause an increase in ground 311
level concentration beyond the facility's boundary that exceeds 312
the maximum acceptable ground level concentration as set forth 313
in the document. 314

(iii) The director may adopt rules in accordance with 315
Chapter 119. of the Revised Code that are consistent with the 316
purposes of this chapter and that add to or delete from the 317
source category exemptions established in division (F) (4) (f) (i) 318
of this section. 319

(5) Not later than one year after August 3, 2006, the 320
director shall adopt rules in accordance with Chapter 119. of 321
the Revised Code specifying activities that do not, by 322
themselves, constitute beginning actual construction activities 323
related to the installation or modification of an air 324
contaminant source for which a permit to install is required 325
such as the grading and clearing of land, on-site storage of 326
portable parts and equipment, and the construction of 327
foundations or buildings that do not themselves emit air 328
contaminants. The rules also shall allow specified initial 329
activities that are part of the installation or modification of 330
an air contaminant source, such as the installation of 331
electrical and other utilities for the source, prior to issuance 332
of a permit to install, provided that the owner or operator of 333
the source has filed a complete application for a permit to 334
install, the director or the director's designee has determined 335
that the application is complete, and the owner or operator of 336
the source has notified the director that this activity will be 337
undertaken prior to the issuance of a permit to install. Any 338
activity that is undertaken by the source under those rules 339
shall be at the risk of the owner or operator. The rules shall 340
not apply to activities that are precluded prior to permit 341
issuance under section 111, section 112, Part C of Title I, and 342
Part D of Title I of the federal Clean Air Act. 343

(G) Adopt, modify, suspend, and rescind rules prohibiting 344
the operation or other use of any new, modified, or existing air 345
contaminant source unless an operating permit has been obtained 346
from the director or the director's authorized representative, 347
or the air contaminant source is being operated in compliance 348
with the conditions of a variance issued pursuant to division 349
(H) of this section. Applications for operating permits shall be 350

accompanied by such plans, specifications, and other pertinent 351
information as the director may require. Operating permits may 352
be issued for a period determined by the director not to exceed 353
ten years, are renewable, and are transferable. The director 354
shall specify in each operating permit that the permit is 355
conditioned upon payment of the applicable fees as required by 356
section 3745.11 of the Revised Code and upon the right of the 357
director's authorized representatives to enter upon the premises 358
of the person to whom the permit has been issued, at any 359
reasonable time and subject to safety requirements of the person 360
in control of the premises, for the purpose of determining 361
compliance with this chapter, the rules adopted thereunder, and 362
the conditions of any permit, variance, or order issued 363
thereunder. Operating permits may be denied or revoked for 364
failure to comply with this chapter or the rules adopted 365
thereunder. An operating permit shall be issued only upon a 366
showing satisfactory to the director or the director's 367
representative that the air contaminant source is being operated 368
in compliance with applicable emission standards and other rules 369
or upon submission of a schedule of compliance satisfactory to 370
the director for a source that is not in compliance with all 371
applicable requirements at the time of permit issuance, provided 372
that the compliance schedule shall be consistent with and at 373
least as stringent as that contained in any judicial consent 374
decree or administrative order to which the air contaminant 375
source is subject. The rules shall provide for the issuance of 376
conditional operating permits for such reasonable periods as the 377
director may determine to allow the holder of an installation 378
permit, who has constructed, installed, located, or modified a 379
new air contaminant source in accordance with the provisions of 380
an installation permit, to make adjustments or modifications 381
necessary to enable the new air contaminant source to comply 382

with applicable emission standards and other rules. Terms and 383
conditions of operating permits issued pursuant to this division 384
shall be federally enforceable for the purpose of establishing 385
the potential to emit of a stationary source and shall be 386
expressly designated as federally enforceable. Any such 387
federally enforceable restrictions on a source's potential to 388
emit shall include both an annual limit and a short-term limit 389
of not more than thirty days for each pollutant to be restricted 390
together with adequate methods for establishing compliance with 391
the restrictions. In other respects, operating permits issued 392
pursuant to this division are enforceable as state law only. No 393
application shall be denied or permit revoked or modified 394
without a written order stating the findings upon which denial, 395
revocation, or modification is based. A copy of the order shall 396
be sent to the applicant or permit holder by certified mail. 397

(H) Adopt, modify, and rescind rules governing the 398
issuance, revocation, modification, or denial of variances that 399
authorize emissions in excess of the applicable emission 400
standards. 401

No variance shall be issued except pursuant to those 402
rules. The rules shall prescribe conditions and criteria in 403
furtherance of the purposes of this chapter and consistent with 404
the federal Clean Air Act governing eligibility for issuance of 405
variances, which shall include all of the following: 406

(1) Provisions requiring consistency of emissions 407
authorized by a variance with timely attainment and maintenance 408
of ambient air quality standards; 409

(2) Provisions prescribing the classes and categories of 410
air contaminants and air contaminant sources for which variances 411
may be issued; 412

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

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

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

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

The director may hold a public hearing on an application

for a variance or renewal thereof at a location in the county 443
where the variance is sought. The director shall give not less 444
than twenty days' notice of the hearing to the applicant by 445
certified mail and cause at least one publication of notice in a 446
newspaper with general circulation in the county where the 447
variance is sought. The director shall keep available for public 448
inspection at the principal office of the environmental 449
protection agency a current schedule of pending applications for 450
variances and a current schedule of pending variance hearings. 451
The director shall make a complete stenographic record of 452
testimony and other evidence submitted at the hearing. The 453
director shall make a written determination to issue, renew, or 454
deny the variance and shall enter the determination and the 455
basis therefor into the record of the hearing. The director 456
shall issue, renew, or deny an application for a variance or 457
renewal thereof, or issue a proposed action upon the application 458
pursuant to section 3745.07 of the Revised Code, within six 459
months of the date upon which the director receives a complete 460
application with all pertinent information and data required by 461
the director. 462

Any variance granted pursuant to rules adopted under this 463
division shall be for a period specified by the director, not to 464
exceed three years, and may be renewed from time to time on such 465
terms and for such periods, not to exceed three years each, as 466
the director determines to be appropriate. A variance may be 467
revoked, or renewal denied, for failure to comply with 468
conditions specified in the variance. No variance shall be 469
issued, denied, revoked, or modified without a written order 470
stating the findings upon which the issuance, denial, 471
revocation, or modification is based. A copy of the order shall 472
be sent to the applicant or variance holder by certified mail. 473

(I) Require the owner or operator of an air contaminant source to install, employ, maintain, and operate such emissions, ambient air quality, meteorological, or other monitoring devices or methods as the director shall prescribe; to sample those emissions at such locations, at such intervals, and in such manner as the director prescribes; to maintain records and file periodic reports with the director containing information as to location, size, and height of emission outlets, rate, duration, and composition of emissions, and any other pertinent information the director prescribes; and to provide such written notice to other states as the director shall prescribe. In requiring monitoring devices, records, and reports, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to technical feasibility and economic reasonableness and allow reasonable time for compliance. For sources where a specific monitoring, record-keeping, or reporting requirement is specified for a particular air contaminant from a particular air contaminant source in an applicable regulation adopted by the United States environmental protection agency under the federal Clean Air Act or in an applicable rule adopted by the director, the director shall not impose an additional requirement in a permit that is a different monitoring, record-keeping, or reporting requirement other than the requirement specified in the applicable regulation or rule for that air contaminant except as otherwise agreed to by the owner or operator of the air contaminant source and the director. If two or more regulations or rules impose different monitoring, record-keeping, or reporting requirements for the same air contaminant from the same air contaminant source, the director may impose permit terms and conditions that consolidate or streamline the monitoring, record-keeping, or reporting requirements in a manner that conforms with each applicable

requirement. To the extent consistent with the federal Clean Air 506
Act and except as otherwise agreed to by the owner or operator 507
of an air contaminant source and the director, the director 508
shall not require an operating restriction that has the 509
practical effect of increasing the stringency of an existing 510
applicable emission limitation or standard. 511

(J) Establish, operate, and maintain monitoring stations 512
and other devices designed to measure air pollution and enter 513
into contracts with any public or private agency for the 514
establishment, operation, or maintenance of such stations and 515
devices; 516

(K) By rule adopt procedures for giving reasonable public 517
notice and conducting public hearings on any plans for the 518
prevention, control, and abatement of air pollution that the 519
director is required to submit to the federal government; 520

(L) Through any employee, agent, or authorized 521
representative of the director or the environmental protection 522
agency, enter upon private or public property, including 523
improvements thereon, at any reasonable time, to make 524
inspections, take samples, conduct tests, and examine records or 525
reports pertaining to any emission of air contaminants and any 526
monitoring equipment or methods and to determine if there are 527
any actual or potential emissions from such premises and, if so, 528
to determine the sources, amounts, contents, and extent of those 529
emissions, or to ascertain whether there is compliance with this 530
chapter, any orders issued or rules adopted thereunder, or any 531
other determination of the director. The director, at reasonable 532
times, may have access to and copy any such records. If entry or 533
inspection authorized by this division is refused, hindered, or 534
thwarted, the director or the director's authorized 535

representative may by affidavit apply for, and any judge of a 536
court of record may issue, an appropriate inspection warrant 537
necessary to achieve the purposes of this chapter within the 538
court's territorial jurisdiction. 539

(M) Accept and administer gifts or grants from the federal 540
government and from any other source, public or private, for 541
carrying out any of the functions under this chapter; 542

(N) Obtain necessary scientific, technical, and laboratory 543
services; 544

(O) Establish advisory boards in accordance with section 545
121.13 of the Revised Code; 546

(P) Delegate to any city or general health district or 547
political subdivision of the state any of the director's 548
enforcement and monitoring powers and duties, other than rule- 549
making powers, as the director elects to delegate, and in 550
addition employ, compensate, and prescribe the powers and duties 551
of such officers, employees, and consultants as are necessary to 552
enable the director to exercise the authority and perform duties 553
imposed upon the director by law. Technical and other services 554
shall be performed, insofar as practical, by personnel of the 555
environmental protection agency. 556

(Q) Certify to the government of the United States or any 557
agency thereof that an industrial air pollution facility is in 558
conformity with the state program or requirements for control of 559
air pollution whenever such certificate is required for a 560
taxpayer pursuant to any federal law or requirements; 561

(R) Issue, modify, or revoke orders requiring abatement of 562
or prohibiting emissions that violate applicable emission 563
standards or other requirements of this chapter and rules 564

adopted thereunder, or requiring emission control devices or 565
measures in order to comply with applicable emission standards 566
or other requirements of this chapter and rules adopted 567
thereunder. Any such order shall require compliance with 568
applicable emission standards by a specified date and shall not 569
conflict with any requirement of the federal Clean Air Act. In 570
the making of such orders, the director, to the extent 571
consistent with the federal Clean Air Act, shall give 572
consideration to, and base the determination on, evidence 573
relating to the technical feasibility and economic 574
reasonableness of compliance with such orders and their relation 575
to benefits to the people of the state to be derived from such 576
compliance. If, under the federal Clean Air Act, any such order 577
shall provide for the posting of a bond or surety to secure 578
compliance with the order as a condition of issuance of the 579
order, the order shall so provide, but only to the extent 580
required by the federal Clean Air Act. 581

(S) To the extent provided by the federal Clean Air Act, 582
adopt, modify, and rescind rules providing for the 583
administrative assessment and collection of monetary penalties, 584
not in excess of those required pursuant to the federal Clean 585
Air Act, for failure to comply with any emission limitation or 586
standard, compliance schedule, or other requirement of any rule, 587
order, permit, or variance issued or adopted under this chapter 588
or required under the applicable implementation plan whether or 589
not the source is subject to a federal or state consent decree. 590
The director may require the submission of compliance schedules, 591
calculations of penalties for noncompliance, and related 592
information. Any orders, payments, sanctions, or other 593
requirements imposed pursuant to rules adopted under this 594
division shall be in addition to any other permits, orders, 595

payments, sanctions, or other requirements established under 596
this chapter and shall not affect any civil or criminal 597
enforcement proceedings brought under any provision of this 598
chapter or any other provision of state or local law. This 599
division does not apply to any requirement of this chapter 600
regarding the prevention or abatement of odors. 601

(T) Require new or modified air contaminant sources to 602
install best available technology, but only in accordance with 603
this division. With respect to permits issued pursuant to 604
division (F) of this section beginning three years after August 605
3, 2006, best available technology for air contaminant sources 606
and air contaminants emitted by those sources that are subject 607
to standards adopted under section 112, Part C of Title I, and 608
Part D of Title I of the federal Clean Air Act shall be 609
equivalent to and no more stringent than those standards. For an 610
air contaminant or precursor of an air contaminant for which a 611
national ambient air quality standard has been adopted under the 612
federal Clean Air Act, best available technology only shall be 613
required to the extent required by rules adopted under Chapter 614
119. of the Revised Code for permit to install applications 615
filed three or more years after August 3, 2006. 616

Best available technology requirements established in 617
rules adopted under this division shall be expressed only in one 618
of the following ways that is most appropriate for the 619
applicable source or source categories: 620

(1) Work practices; 621

(2) Source design characteristics or design efficiency of 622
applicable air contaminant control devices; 623

(3) Raw material specifications or throughput limitations 624

averaged over a twelve-month rolling period; 625

(4) Monthly allowable emissions averaged over a twelve- 626
month rolling period. 627

Best available technology requirements shall not apply to 628
an air contaminant source that has the potential to emit, taking 629
into account air pollution controls installed on the source, 630
less than ten tons per year of emissions of an air contaminant 631
or precursor of an air contaminant for which a national ambient 632
air quality standard has been adopted under the federal Clean 633
Air Act. In addition, best available technology requirements 634
established in rules adopted under this division shall not apply 635
to any existing, new, or modified air contaminant source that is 636
subject to a plant-wide applicability limit that has been 637
approved by the director. Further, best available technology 638
requirements established in rules adopted under this division 639
shall not apply to general permits issued prior to January 1, 640
2006, under rules adopted under this chapter. 641

For permits to install issued three or more years after 642
August 3, 2006, any new or modified air contaminant source that 643
has the potential to emit, taking into account air pollution 644
controls installed on the source, ten or more tons per year of 645
volatile organic compounds or nitrogen oxides shall meet, at a 646
minimum, the requirements of any applicable reasonably available 647
control technology rule in effect as of January 1, 2006, 648
regardless of the location of the source. 649

(U) Consistent with section 507 of the federal Clean Air 650
Act, adopt, modify, suspend, and rescind rules for the 651
establishment of a small business stationary source technical 652
and environmental compliance assistance program as provided in 653
section 3704.18 of the Revised Code; 654

(V) Provide for emissions trading, marketable permits, 655
auctions of emission rights, and economic incentives that would 656
reduce the cost or increase the efficiency of achieving a 657
specified level of environmental protection; 658

(W) Provide for the construction of an air contaminant 659
source prior to obtaining a permit to install pursuant to 660
division (F) of this section if the applicant demonstrates that 661
the source will be installed to comply with all applicable 662
emission limits and will not adversely affect public health or 663
safety or the environment and if the director determines that 664
such an action will avoid an unreasonable hardship on the owner 665
or operator of the source. Any such determination shall be 666
consistent with the federal Clean Air Act. 667

(X) Exercise all incidental powers, including adoption of 668
rules, required to carry out this chapter. 669

The environmental protection agency shall develop a plan 670
to control air pollution resulting from state-operated 671
facilities and property. 672

Section 2. That existing section 3704.03 of the Revised 673
Code is hereby repealed. 674