

AN ACT

To amend sections 2925.01, 3734.02, 3734.021, 3734.05, 4767.05, 5101.521, 5120.45, 5121.11, 5901.24, 5901.25, 5901.26, 5901.27, 5901.29, 5901.30, 5901.32, and 5903.12; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 4717.20 (4717.16); to enact new sections 4717.01 to 4717.15, 4717.20, and 4717.99 and sections 4717.21 to 4717.30; and to repeal sections 4717.01, 4717.02, 4717.03, 4717.04, 4717.05, 4717.06, 4717.061, 4717.062, 4717.07, 4717.071, 4717.08, 4717.081, 4717.082, 4717.083, 4717.09, 4717.10, 4717.11, 4717.12, 4717.13, 4717.14, 4717.15, 4717.16, 4717.17, 4717.18, 4717.19, and 4717.99 of the Revised Code to make changes in the Embalmers and Funeral Directors Law and to regulate crematories.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2925.01, 3734.02, 3734.021, 3734.05, 4767.05, 5101.521, 5120.45, 5121.11, 5901.24, 5901.25, 5901.26, 5901.27, 5901.29, 5901.30, 5901.32, and 5903.12 be amended, section 4717.20 (4717.16) be amended for the purpose of adopting a new section number as indicated in parentheses, and new sections 4717.01, 4717.02, 4717.03, 4717.04, 4717.05, 4717.06, 4717.07, 4717.08, 4717.09, 4717.10, 4717.11, 4717.12, 4717.13, 4717.14, 4717.15, 4717.20, and 4717.99 and sections 4717.21, 4717.22, 4717.23, 4717.24, 4717.25, 4717.26, 4717.27, 4717.28, 4717.29, and 4717.30 of the Revised Code be enacted to read as follows:

Sec. 2925.01. As used in this chapter:

(A) "Administer," "controlled substance," "dispense," "distribute," "federal drug abuse control laws," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "practitioner,"

"prescription," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code.

(B) "Drug dependent person" and "drug of abuse" have the same meanings as in section 3719.011 of the Revised Code.

(C) "Drug," "dangerous drug," and "Federal Food, Drug, and Cosmetic Act" have the same meanings as in section 4729.02 of the Revised Code.

(D) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (D)(2) or (5) of this section, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;

(d) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the federal drug abuse control laws, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;

(g) An amount equal to or exceeding three grams of a compound,

re, preparation, or substance that is or contains any amount of a schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, ~~specification~~ preparation, or substance that is or contains any amount of a schedule III opiate or opium derivative;

(4) An amount equal to or exceeding two hundred fifty milliliters or two hundred fifty grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule V substance;

(5) An amount equal to or exceeding two hundred solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid.

(E) "Unit dose" means an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and ~~is in a form indicating~~ that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(F) "Cultivate" includes planting, watering, fertilizing, or tilling.

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code;

(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise

aling with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section.

(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant;

(4) Any anesthetic gas.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a practitioner, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(M) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:

(1) "The National Formulary";

(2) "The United States Pharmacopeia," prepared by authority of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the state board of pharmacy.

(N) "Juvenile" means a person under eighteen years of age.

(O) "Counterfeit controlled substance" means any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

(P) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(Q) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

(R) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(S) "School building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at

the time a criminal offense is committed.

(T) "Disciplinary counsel" means the disciplinary counsel appointed by the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(U) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state of Ohio that complies with the criteria set forth in Rule V, section 6 of the Rules for the Government of the Bar of Ohio.

(V) "Professional license" means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in divisions (W)(1) to (35) of this section and that qualifies a person as a professionally licensed person.

(W) "Professionally licensed person" means any of the following:

(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under Chapter 3719. of the Revised Code;

(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Chapter 4701. of the Revised Code and who holds a live permit issued under that chapter;

(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;

(4) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;

(5) A person licensed as an auctioneer or apprentice auctioneer or licensed to operate an auction company under Chapter 4707. of the Revised Code;

(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;

(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;

(8) A person who has been issued a cosmetologist's license, manicurist's license, esthetician's license, managing cosmetologist's license, managing manicurist's license, managing esthetician's license, cosmetology instructor's license, manicurist instructor's license, esthetician instructor's license, or

tanning facility permit under Chapter 4713. of the Revised Code;

(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;

(10) A person who has been issued an embalmer's license, a funeral director's license, ~~or a funeral home license,~~ or a crematory license, or who has been registered for ~~a~~ an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;

(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;

(12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;

(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;

(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;

(15) A person registered as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;

(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;

(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine or surgery, or podiatry under Chapter 4731. of the Revised Code;

(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;

(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;

(20) A person who has been issued a certificate to practice chiropractic under Chapter 4734. of the Revised Code;

(21) A person licensed to act as a real estate broker, real estate ~~salesman~~ salesperson, limited real estate broker, or limited real estate ~~salesman~~ salesperson under Chapter 4735. of the Revised Code;

(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;

(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;

(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;

(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;

(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;

(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;

(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;

(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;

(30) A person licensed to practice as a speech pathologist or audiologist under Chapter 4753. of the Revised Code;

(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;

(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Chapter 4757. of the Revised Code;

(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;

(34) A person who has been issued a license or temporary permit to practice respiratory therapy under Chapter 4761. of the Revised Code;

(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code.

(X) "Cocaine" means any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;

(3) A salt, compound, derivative, or preparation of a substance identified in division (X)(1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

(Y) "L.S.D." means lysergic acid diethylamide.

(Z) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include hashish.

(BB) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(CC) "Presumption for a prison term" or "presumption that a prison term shall be imposed" means a presumption, as described in division (D) of section 2929.13 of the Revised Code, that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.

(DD) "Major drug offender" has the same meaning as in section 2929.01 of the Revised Code.

(EE) "Minor drug possession offense" means either of the following:

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;

(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, ~~this~~ that is a misdemeanor or a felony of the fifth degree.

(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.

(GG) "Crack cocaine" means a compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.

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

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

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

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

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

(C) Except as provided in this division and division (N)(2) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a

permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

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

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

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

This division does not apply to an infectious waste treatment facility that meets any of the following conditions:

(1) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the 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;

(2) Holds a license or renewal of a license to operate a crematory facility issued under section 4717.17 Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of

animals, and is subject to any of the following:

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

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

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

(E)(1) As used in this division and section 3734.18 of the Revised Code:

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

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

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

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

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

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

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit from the

hazardous waste facility board issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed five years.

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

TYPE OF BASIC

MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using:		
Containers	On-site, off-site, and satellite	\$ 500
Tanks	On-site, off-site, and satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000

Treatment facility using:

Tanks	On-site, off-site, and satellite	700
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	
Other forms of treatment	On-site, off-site, and satellite	1,000

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

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

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

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

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to ~~the effective date of Sub. H.B. No. 435 of the 121st general assembly~~ AUGUST 20, 1996, or a modification issued by the director under division (I) of that section on and after ~~that effective date~~ AUGUST 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by

the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(8) of section 3734.05 of the Revised Code applies.

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

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

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

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

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

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

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

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

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair ~~or~~, replacement, or maintenance; work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair ~~or~~, replacement, or maintenance; activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

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

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

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

(K) No owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes, other than those subject to division (A)(1)(c) of section 3734.021 of the Revised Code, that have not been treated to render them noninfectious. For the purposes of this division, certification by the owner or operator of the treatment facility where the wastes were treated on the shipping paper required by rules adopted under division (D)(2) of that section creates a rebuttable presumption that the wastes have been so treated.

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

(1) The program shall be administered by the director and 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, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

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

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

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

Sec. 3734.021. Infectious wastes shall be segregated, packaged, treated, transported, and disposed of in accordance with rules adopted under this section.

The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend and rescind, rules necessary or appropriate to protect human health or safety or the environment:

(A) Establishing standards for generators of infectious wastes that include, without limitation, the following requirements and authorizations that:

(1) All generators of infectious wastes:

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

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

(c) Except as otherwise provided in division (A)(1)(c) of this section, wastes generated by a generator who 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 in the same manner as solid wastes. Such generators who treat specimen cultures and cultures of viable infectious agents on the premises where they are generated shall not be considered treatment facilities as "treatment" and "facility" are defined in section 3734.01 of the Revised Code.

(d) Wastes subject to and treated in accordance with rules adopted under division (A)(1)(b) of this section shall be transported and disposed of in the same manner as solid wastes.

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

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

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

(f) For the purposes of this section and rules adopted under it, no blood, blood products, other body fluids, or embalming fluids that are discharged on the site of their generation into a disposal system, as defined in section 6111.01 of the Revised Code, by a facility that holds a license or renewal of a license issued under ~~section 4717.17~~ 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 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 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.

(i) Wastes generated by an individual for purposes of ~~his~~ the individual's own care or treatment may be taken to and left 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. An individual or member of an individual's household who transports wastes so generated by the individual to a hospital for that purpose is not a transporter for the purposes of this section or section 3734.022 of the Revised Code.

(2) Each generator of fifty pounds or more of infectious wastes during any one month:

(a) Register with the environmental protection agency as a generator of infectious wastes and obtain a registration certificate. The fee for issuance of a generator registration certificate is three hundred dollars payable at the time of application. The registration certificate applies to all the premises owned or operated by the generator in this state where infectious wastes are generated and shall list the address of each such premises. If a generator owns or operates facilities for the treatment of infectious wastes it generates, the certificate shall list the address and method of treatment used at each such facility.

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

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

The registration and renewal fees shall be credited to the infectious wastes management fund, hereby created in the state treasury.

(b) Segregate infectious wastes from other wastes at the point of generation. Nothing in this section and rules adopted under it prohibits a generator of infectious wastes from designating and managing wastes, in

addition to those defined as infectious wastes under section 3734.01 of the Revised Code, as infectious wastes when, in the judgment of the generator, those other wastes should be managed as infectious wastes because they are, or are likely to be, contaminated with infectious agents. After designating any such other wastes as infectious, the generator shall manage those wastes in compliance with the requirements of this chapter and rules adopted under it applicable to the management of infectious wastes.

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

(f) May discharge untreated liquid or semiliquid infectious wastes consisting of blood, blood products, body fluids, and excreta into a disposal system, as defined in section 6111.01 of the Revised Code, unless the

schARGE of those wastes into a disposal system is inconsistent with the terms and conditions of the permit for the system issued under Chapter 6111. of the Revised Code;

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

(h) Cause all infectious wastes that have not been treated to render them noninfectious, and those 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, to be transported in shipments consisting only of untreated infectious wastes;

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

(j) Provide information on the composition of its infectious wastes, the treatment of the wastes to render them noninfectious, and the generator's system for distinguishing between waste packages that contain treated and untreated wastes to persons with whom the generator has entered into a contract or agreement to transport, treat, or dispose of the wastes upon receiving a written request from those persons;

(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.

(B) Establishing standards for transporters of infectious wastes that include, without limitation, the following requirements that the transporters:

(1) Transport only properly packaged and labeled wastes;

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

(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;

(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;

(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;

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

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

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

(C) Establishing standards for owners and operators of infectious waste treatment facilities that include, without limitation, the following requirements and authorizations that:

(1) Treatment of all wastes received be performed in accordance with methods, techniques, and practices approved by the director;

(2) Govern the location, design, construction, and operation of infectious waste treatment facilities. The rules adopted under division (C)(2) of this section shall require that a new infectious waste incineration facility be located so that the incinerator unit and all areas where infectious wastes are handled on the premises where the facility is proposed to be located are at least three hundred feet inside the property line of the tract of land on which the facility is proposed to be located and are at least one thousand feet from any domicile, school, prison, or jail that is in existence on the date on which the application for the permit to establish the incinerator is submitted under division (B)(2)(b) of section 3734.05 of the Revised Code.

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

disposal;

(4) Establish quality control and testing procedures to ensure compliance with the rules adopted under divisions (C)(2) and (3) of this section;

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

(6) Infectious wastes may be treated at a facility that holds a license or renewal of a license to operate a crematory facility issued under ~~section 4717.17~~ Chapter 4717., and a permit issued under Chapter 3704., of the Revised Code to the extent that the treatment of those wastes is consistent with that permit and its terms and conditions. The rules adopted under divisions (C)(2) and (4) of this section do not apply to a facility holding such a license and permit.

In adopting the rules required by divisions (C)(1) to (4) of this section, the director shall consider and, to the maximum feasible extent, utilize existing standards and guidelines established by professional and governmental organizations having expertise in the fields of infection control and infectious wastes management.

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

(2) Shipping papers that accompany shipments of wastes that have been treated to render them noninfectious shall include only the following elements:

(a) The name of the owner or operator of the facility where the wastes were treated and the address of the treatment facility;

(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.

(E) 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:

(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 ~~his~~ the owner's household;

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

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

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

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(F) As used in this section, "generator" means a person who produces infectious wastes.

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

(H) The director shall not issue any variance from the rules adopted under this section.

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

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license 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 health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) 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 (A)(1), (2), (3), or (4) of section 3734.06 of the Revised Code.

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

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

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

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

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

Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

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

county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the 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 information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval 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 information session and 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 information session and hearing.

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

public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator 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 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 in accordance with the following schedule:

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

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

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

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

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

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

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

(4) Except as provided in divisions (A)(8), (9), and (10) of this section,

unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator 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 those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under 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 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.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director

shall certify in ~~his~~ the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

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

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

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code.

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

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

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

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

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license 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 (B)(2)(c) 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 infectious waste fund of the health district created in division (C) 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 an infectious waste treatment 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 the infectious waste provisions of this chapter and rules adopted under them.

(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 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

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 Code in accordance with the following schedule:

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

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

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

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

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

The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications,

and information submitted under division (B)(2)(e) 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 infectious waste treatment facility that meets any of the following conditions:

(a) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, 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;

(b) Holds a license or renewal of a license to operate a crematory facility issued under ~~section 4717.17~~ Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

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

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

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

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.

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 director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit an application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency, except as provided in division (E)(2) of this section, at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

(D)(1) There is hereby created the hazardous waste facility board, composed of the director of environmental protection who shall serve as chairperson, the director of natural resources, and the chairperson of the Ohio water development authority, or their respective designees, and one chemical engineer and one geologist who each shall be employed by a state university as defined in section 3345.011 of the Revised Code. The chemical engineer and geologist each shall be appointed by the governor, with the advice and consent of the senate, for a term of two years. The chemical engineer and geologist each shall receive as compensation five thousand dollars per year, plus expenses necessarily incurred in the performance of their duties.

The board shall not issue any final order without the consent of at least three members.

(2) The hazardous waste facility board shall do both of the following:

(a) Pursuant to Chapter 119. of the Revised Code, adopt rules governing procedure to be followed in hearings before the board;

(b) Except as provided in section 3734.123 of the Revised Code, approve or disapprove applications for a hazardous waste facility installation and operation permit for new facilities and applications for modifications to existing permits for which the board has jurisdiction as provided in division (I)(3) of this section.

(3) Except as provided in section 3734.123 of the Revised Code, upon

receipt of the completed application for a hazardous waste facility installation and operation permit and a preliminary determination by the staff of the environmental protection agency that the application appears to comply with agency rules and to meet the performance standards set forth in divisions (D), (I), and (J) of section 3734.12 of the Revised Code, the director shall transmit the application to the board, which shall do all of the following:

(a) Promptly fix a date for a public hearing on the application, not fewer than sixty nor more than ninety days after receipt of the completed application. At the public hearing, any person may submit written or oral comments or objections to the approval or disapproval of the application. A representative of the applicant who has knowledge of the location, construction, operation, closure, and post-closure care, if applicable, of the facility shall attend the public hearing in order to respond to comments or questions concerning the facility directed to the representative by the presiding officer.

(b) Give public notice of the date of the public hearing and a summary of the application in a newspaper having general circulation in the county in which the facility is proposed to be located. The notice shall contain, at a minimum, the date, time, and location of the public hearing and shall include the location and street address of, or the nearest intersection to, the proposed facility, a description of the proposed facility, and the location where copies of the application, a short statement by the applicant of the anticipated environmental impact of the facility, and a map of the facility are available for inspection.

(c) Promptly fix a date for an adjudication hearing, not fewer than ninety nor more than one hundred twenty days after receipt of the completed application, at which hearing the board shall hear and decide all disputed issues between the parties respecting the approval or disapproval of the application.

(4) The parties to any adjudication hearing before the board upon a completed application shall be the following:

(a) The applicant;

(b) The staff of the environmental protection agency;

(c) The board of county commissioners of the county, the board of township trustees of the township, and the chief executive officer of the municipal corporation in which the facility is proposed to be located;

(d) Any other person who would be aggrieved or adversely affected by the proposed facility and who files a petition to intervene in the adjudication hearing not later than thirty days after the date of publication of the notice

required in division (D)(3)(b) of this section if the petition is granted by the board for good cause shown. The board may allow intervention by other aggrieved or adversely affected persons up to fifteen days prior to the date of the adjudication hearing for good cause shown when the intervention would not be unduly burdensome to or cause a delay in the permitting process.

(5) The hazardous waste facility board shall conduct any adjudication hearing upon disputed issues in accordance with Chapter 119. of the Revised Code and the rules of the board governing the procedure of such hearings. Each party may call and examine witnesses and submit other evidence respecting the disputed issues presented by an application. A written record shall be made of the hearing and of all testimony and evidence submitted to the board.

(6) The board shall not approve an application for a hazardous waste facility installation and operation permit unless it finds and determines as follows:

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

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

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

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

(i) Contamination of ground and surface waters;

(ii) Fires or explosions from treatment, storage, or disposal methods;

(iii) Accident during transportation of hazardous waste to or from the facility;

(iv) Impact on the public health and safety;

(v) Air pollution;

(vi) Soil contamination.

(e) That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards

adopted under those chapters, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of Chapters 3704., 3734., and 6111. of the Revised Code, the applicable rules and standards adopted under those chapters, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility;

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

- (i) Two thousand feet of any residence, school, hospital, jail, or prison;
- (ii) Any naturally occurring wetland;
- (iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood or that procedures will be in effect to remove the waste before flood waters can reach it.

Division (D)(6)(g) of this section does not apply to the facility of any applicant who demonstrates to the board that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(6)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in

the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(6)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

In rendering a decision upon an application for a hazardous waste facility installation and operation permit, the board shall issue a written order and opinion, which shall include the specific findings of fact and conclusions of law that support the board's approval or disapproval of the application.

If the board approves an application for a hazardous waste facility installation and operation permit, as a part of its written order, it shall issue the permit, upon such terms and conditions as the board finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(7) Any party adversely affected by an order of the hazardous waste facility board may appeal the order and decision of the board to the court of appeals of Franklin county. An appellant shall file with the board a notice of appeal, which shall designate the order appealed from. A copy of the notice also shall be filed by the appellant with the court, and a copy shall be sent by certified mail to each party to the adjudication hearing before the board. Such notices shall be filed and mailed within thirty days after the date upon which the appellant received notice from the board by certified mail of the making of the order appealed from. No appeal bond shall be required to make an appeal effective.

The filing of a notice of appeal shall not operate automatically as a suspension of the order of the board. If it appears to the court that an unjust hardship to the appellant will result from the execution of the board's order pending determination of the appeal, the court may grant a suspension of the order and fix its terms.

Within twenty days after receipt of the notice of appeal, the board shall prepare and file in the court the complete record of proceedings out of which the appeal arises, including any transcript of the testimony and any other evidence that has been submitted before the board. The expense of preparing and transcribing the record shall be taxed as a part of the costs of the appeal.

The appellant, other than the state or a political subdivision, an agency of either, or any officer of the appellant acting in the officer's representative capacity, shall provide security for costs satisfactory to the court considering the respective interests of the parties and the public interest. Upon demand by a party, the board shall furnish, at the cost of the party requesting it, a copy of the record. If the complete record is not filed within the time provided for in this section, any party may apply to the court to have the case docketed, and the court shall order the record filed.

In hearing the appeal, the court is confined to the record as certified to it by the board. The court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the board.

The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such findings, it shall reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken by any party to the appeal pursuant to the Rules of Practice of the Supreme Court and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.

(E)(1) Upon receipt of a completed application, the board shall issue a hazardous waste facility installation and operation permit for a hazardous waste facility subject to the requirements of divisions (D)(6) and (7) of this section and all applicable federal regulations if the facility for which the permit is requested satisfies all of the following:

- (a) Was in operation immediately prior to October 9, 1980;
- (b) Was in substantial compliance with applicable statutes and rules in effect immediately prior to October 9, 1980, as determined by the director;
- (c) Demonstrates to the board that its operations after October 9, 1980, comply with applicable performance standards adopted by the director pursuant to division (D) of section 3734.12 of the Revised Code;
- (d) Submits a completed application for a permit under division (C) of this section within six months after October 9, 1980.

The board shall act on the application within twelve months after October 9, 1980.

- (2) A hazardous waste facility that was in operation immediately prior

to October 9, 1980, may continue to operate after that date if it does all of the following:

(a) Complies with performance standards adopted by the director pursuant to division (D) of section 3734.12 of the Revised Code;

(b) Submits a completed application for a hazardous waste installation and operation permit under division (C) of this section within six months after October 9, 1980;

(c) Obtains the permit under division (D) of this section within twelve months after October 9, 1980.

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

(4) After the issuance of a hazardous waste facility installation and operation permit by the board, each hazardous waste facility shall be subject to the rules and supervision of the director during the period of its operation, closure, and post-closure care, if applicable.

(F) Upon approval of the board in accordance with divisions (D) and (E) of this section, the board 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 or to the hazardous waste facility board 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 permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

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

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

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

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

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

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

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

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

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

(3) The director has jurisdiction to approve or disapprove applications for Class 1 modifications, Class 2 modifications, and Class 3 modifications not otherwise described in divisions (I)(3)(a) to (d) of this section. The hazardous waste facility board has jurisdiction to approve or disapprove applications for any of the following categories of Class 3 modifications:

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

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without board approval. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director.

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

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

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. The director shall transmit to the board requests for Class 3 modifications described in divisions (I)(3)(a) to (d) of this section within two hundred forty days after receiving the requests. Requests for modifications shall be acted upon by the director or the board, as appropriate, in accordance with this section and rules adopted under it.

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

For those modification applications for a transfer of a permit to a new owner or operator of a facility, the director also shall determine that, if the transferee owner or operator has been involved in any prior activity involving the transportation, treatment, storage, or disposal of hazardous waste, the transferee owner or operator has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of another state if the transferee owner or operator owns or operates a facility in that state, that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under this chapter and Chapters 3704. and 6111. of the Revised Code, all rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. A permit may be transferred to a new owner or operator only pursuant to a Class 3 permit modification.

As used in division (I)(5) of this section:

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

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

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification that is not described in divisions (I)(3)(a) to (d) of this section within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification that is not described in divisions (I)(3)(a) to (d) of this section is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) The hazardous waste facility board shall approve or disapprove an application for a Class 3 modification transmitted to it under division (I)(4) of this section, or that portion of a permit renewal application that constitutes a Class 3 modification application so transmitted, of a hazardous waste facility installation and operation permit in accordance with division (D) of this section. No other request for a modification shall be subject to division (D)(6) of this section. No aspect of a permitted facility or its operations that is not being modified as described in division (I)(3)(a), (b), (c), or (d) of this section shall be subject to review by the board under division (D) of this section.

(8) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (7) of this section in the

same manner as a modification to a hazardous waste facility installation and operation permit.

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

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

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with rules adopted under division (K) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause

for the late submittal. The application shall be accompanied by information necessary to support the request. The hazardous waste facility board shall approve or disapprove the application in accordance with division (D) of this section, except that the board shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(6)(g) or (h) of this section.

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

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

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

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

Sec. 4717.01. As used in this chapter:

(A) "Embalming" means the preservation and disinfection, or attempted preservation and disinfection, of the dead human body by application of chemicals externally, internally, or both.

(B) "Funeral business" means a sole proprietorship, partnership, corporation, limited liability company, or other business entity that is engaged in funeral directing for profit or for free from one or more funeral homes licensed under this chapter.

(C) "Funeral directing" means the business or profession of directing or supervising funerals for profit, the business or profession of preparing dead human bodies for burial by means other than embalming, the disposition of dead human bodies, the provision or maintenance of a place for the preparation, the care, or disposition of dead human bodies, the use in connection with a business of the term "funeral director," "undertaker," "MORTICIAN," OR any other term from which can be implied the business of funeral directing, or the holding out to the public that one is a funeral director or a disposer of dead human bodies.

(D) "Funeral home" means a fixed place for the care, preparation for burial, or disposition of dead human bodies or the conducting of funerals.

Each business location is a funeral home, regardless of common ownership or management.

(E) "Embalmer" means a person who engages, in whole or in part, in embalming and who is licensed under this chapter.

(F) "Funeral director" means a person who engages, in whole or in part, in funeral directing and who is licensed under this chapter.

(G) "Final disposition" has the same meaning as in division (J) of section 3705.01 of the Revised Code.

(H) "Supervision" means the operation of all phases of the business of funeral directing or embalming under the specific direction of a licensed funeral director or licensed embalmer.

(I) "Direct supervision" means the physical presence of a licensed funeral director or licensed embalmer while the specific functions of the funeral or embalming are being carried out.

(J) "Embalming facility" means a fixed location, separate from the funeral home, that is licensed under this chapter whose only function is the embalming and preparation of dead human bodies.

(K) "Crematory facility" means the physical location at which a cremation chamber is located and the cremation process takes place. "Crematory facility" does not include an infectious waste incineration facility for which a license is held under division (B) of section 3734.05 Of the Revised Code, or a solid waste incineration facility for which a license is held under division (A) of that section that includes a notation pursuant to division (B)(3) of that section authorizing the facility to also treat infectious wastes, in connection with the incineration of body parts other than dead human bodies that were donated to science for purposes of medical education or research.

(L) "Crematory" means the building or portion of a building that houses the holding facility and the cremation chamber.

(M) "Cremation" means the technical process of using heat and flame to reduce human or animal remains to bone fragments or ashes or any combination thereof. "Cremation" includes processing and may include the pulverization of bone fragments.

(N) "Cremation chamber" means the enclosed space within which cremation takes place.

(O) "Cremated remains" means all human or animal remains recovered after the completion of the cremation process, which may include the residue of any foreign matter such as casket material, dental work, or eyeglasses that were cremated with the human or animal remains.

(P) "Lapsed license" means a license issued under this chapter that has

become invalid because of the failure of the licensee to renew the license within the time limits prescribed under this chapter.

(Q) "Operator of a crematory facility" means the sole proprietorship, partnership, corporation, limited liability company, or other business entity responsible for the overall operation of a crematory facility.

(R) "Processing" means the reduction of identifiable bone fragments to unidentifiable bone fragments through manual or mechanical means after the completion of the cremation process.

(S) "Pulverization" means the reduction of identifiable bone fragments to granulated particles by manual or mechanical means after the completion of the cremation process.

Sec. 4717.02. (A) There is hereby created the board of embalmers and funeral directors consisting of seven members to be appointed by the governor with the advice and consent of the senate. Four members shall be licensed embalmers and practicing funeral directors, each with at least ten consecutive years of experience in this state immediately preceding the person's appointment. One member shall be knowledgeable and experienced in operating a crematory and is not required to be, but may be, a licensed embalmer or funeral director. Two members shall represent the public; at least one of the two shall be at least sixty years of age.

(B) Terms of office are for five years, commencing on the first day of July and ending on the last day of June. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Before entering upon the duties of the office, each member shall take and file with the secretary of state an oath of office as required by Section 7 of Article XV, Ohio Constitution.

(C) The governor may remove a member of the board for neglect of duty, incompetency, or immoral conduct. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Each member of the board shall receive an amount fixed under division (J) of section 124.15 of the Revised Code for each day, not to exceed sixty days per year, employed in the discharge of the member's duties as a board member, together with any necessary expenses incurred in the performance of those duties.

Sec. 4717.03. (A) Members of the board of embalmers and funeral

directors shall annually in July, or within thirty days after the senate's confirmation of the new members appointed in that year, meet and organize by selecting from among its members a president, vice-president, and secretary-treasurer. The board may hold other meetings as it determines necessary. A quorum of the board consists of four members, of whom at least three shall be members who are embalmers and funeral directors. The concurrence of at least four members is necessary for the board to take any action. The president and secretary-treasurer shall sign all licenses issued under this chapter and affix the board's seal to each license.

(B) The board may appoint an individual who is not a member of the board to serve as executive director of the board. The executive director serves at the pleasure of the board and shall do all of the following:

- (1) Serve as the board's chief administrative officer;
- (2) Act as custodian of the board's records;
- (3) Execute all of the board's orders.

In executing the board's orders, the executive director may enter the premises, establishment, office, or place of business of any embalmer, funeral director, or operator of a crematory facility in this state. The executive director may serve and execute any process issued by any court under this chapter.

(C) The board may employ clerical or technical staff who are not members of the board and who serve at the pleasure of the board to provide any clerical or technical assistance the board considers necessary. The board may employ necessary inspectors, who shall be licensed embalmers and funeral directors. Any inspector employed by the board may enter the premises, establishment, office, or place of business of any embalmer, funeral director, or operator of a crematory facility in this state, for the purposes of inspecting the facility and premises; the license and registration of embalmers and funeral directors operating in the facility; and the license of the funeral home, embalming facility, or crematory. The inspector shall serve and execute any process issued by any court under this chapter, serve and execute any papers or process issued by the board or any officer or member of the board, and perform any other duties delegated by the board.

(D) The president of the board shall designate three of its members to serve on the crematory review board, which is hereby created, for such time as the president finds appropriate to carry out the provisions of this chapter. Those members of the crematory review board designated by the president to serve and three members designated by the cemetery dispute resolution commission shall designate, by a majority vote, one person who is experienced in the operation of a crematory facility and who is not affiliated

with a cemetery or a funeral home to serve on the crematory review board for such time as the crematory review board finds appropriate. Members serving on the crematory review board shall not receive any additional compensation for serving on the board, but may be reimbursed for their actual and necessary expenses incurred in the performance of official duties as members of the board. Members of the crematory review board shall designate one from among its members to serve as a chairperson for such time as the board finds appropriate. Costs associated with conducting an adjudicatory hearing in accordance with division (E) of this section shall be paid from funds available to the board of embalmers and funeral directors.

(E) Upon receiving written notice from the board of embalmers and funeral directors of any of the following, the crematory review board shall conduct an adjudicatory hearing on the matter in accordance with Chapter 119. of the Revised Code, except as otherwise provided in this section or division (C) of section 4717.14 of the Revised Code:

(1) Notice provided under division (H) of this section of an alleged violation of any provision of this chapter or any rules adopted under this chapter, or section 1107.33 of the Revised Code, governing or in connection with crematory facilities or cremation;

(2) Notice provided under division (B) of section 4717.14 Of the Revised Code that the board of embalmers and funeral directors proposes to refuse to grant or renew, or to suspend or revoke, a license to operate a crematory facility;

(3) Notice provided under division (C) of section 4717.14 Of the Revised Code that the board of embalmers and funeral directors has issued an order summarily suspending a license to operate a crematory facility;

(4) Notice provided under division (B) of section 4717.15 Of the Revised Code that the board of embalmers and funeral directors proposes to issue a notice of violation and order requiring payment of a forfeiture for any violation described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in connection with a crematory facility or cremation.

Nothing in division (E) of this section precludes the crematory review board from appointing an independent examiner in accordance with section 119.09 of the Revised Code to conduct any adjudication hearing required under division (E) of this section.

The crematory review board shall submit a written report of findings and advisory recommendations, and a written transcript of its proceedings, to the board of embalmers and funeral directors. The board of embalmers and funeral directors shall serve a copy of the written report of the

crematory review board's findings and advisory recommendations on the party to the adjudication or the party's attorney, by certified mail, within five days after receiving the report and advisory recommendations. A party may file objections to the written report with the board of embalmers and funeral directors within ten days after receiving the report. No written report is final or appealable until it is issued as a final order by the board of embalmers and funeral directors and entered on the record of the proceedings. The board of embalmers and funeral directors shall consider objections filed by the party prior to issuing a final order. After reviewing the findings and advisory recommendations of the crematory review board, the written transcript of the crematory review board's proceedings, and any objections filed by a party, the board of embalmers and funeral directors shall issue a final order in the matter. Any party may appeal the final order issued by the board of embalmers and funeral directors in a matter described in divisions (E)(1) to (4) of this section in accordance with section 119.12 of the Revised Code, except that the appeal may be made to the court of common pleas in the county in which is located the crematory facility to which the final order pertains, or in the county in which the party resides.

(E) On its own initiative or on receiving a written complaint from any person whose identity is made known to the board of embalmers and funeral directors, the board shall investigate the acts or practices of any person holding or claiming to hold a license or registration under this chapter that, if proven to have occurred, would violate this chapter or any rules adopted under it or section 1107.33 of the Revised Code. The board may compel witnesses by subpoena to appear and testify in relation to investigations conducted under this chapter and may require by subpoena duces tecum the production of any book, paper, or document pertaining to an investigation. If a person does not comply with a subpoena or subpoena duces tecum, the board may apply to the court of common pleas of any county in this state for an order compelling the person to comply with the subpoena or subpoena duces tecum, or for failure to do so, to be held in contempt of court.

(G) If, as a result of its investigation conducted under division (F) of this section, the board of embalmers and funeral directors has reasonable cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter or section 1107.33 of the Revised Code, governing or in connection with embalming, funeral directing, funeral homes, embalming facilities, or the operation of funeral homes or embalming facilities, it may, after providing the opportunity for an adjudicatory hearing, issue an order directing the person to cease the acts or practices that constitute the violation. The board shall conduct the

adjudicatory hearing in accordance with Chapter 119. of the Revised Code except that, notwithstanding the provisions of that chapter, the following shall apply:

(1) The board shall send the notice informing the person of the person's right to a hearing by certified mail.

(2) The person is entitled to a hearing only if the person requests a hearing and if the board receives the request within thirty days after the mailing of the notice described in division (G)(1) of this section.

(3) A stenographic record shall be taken, in the manner prescribed in section 119.09 of the Revised Code, at every adjudicatory hearing held under this section, regardless of whether the record may be the basis of an appeal to a court.

(H) If, as a result of its investigation conducted under division (F) of this section, the board of embalmers and funeral directors has reasonable cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter, or section 1107.33 of the Revised Code, governing or in connection with crematory facilities or cremation, the board shall send written notice of the alleged violation to the crematory review board. If, after the conclusion of the adjudicatory hearing in the matter conducted under division (E) of this section, the board of embalmers and funeral directors finds that a person is in violation of any provision of this chapter or any rules adopted under this chapter, or section 1107.33 of the Revised Code, governing or in connection with crematory facilities or cremation, the board may issue a final order under that division directing the person to cease the acts or practices that constitute the violation.

(I) The board of embalmers and funeral directors may bring a civil action to enjoin any violation or threatened violation of section 1107.33; sections 4717.01 to 4717.15 Of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code. The action shall be brought in the county where the violation occurred or the threatened violation is expected to occur. At the request of the board, the attorney general shall represent the board in any matter arising under this chapter.

(J) The board of embalmers and funeral directors and the crematory review board may issue subpoenas for funeral directors and embalmers or persons holding themselves out as such, for operators of crematory facilities or persons holding themselves out as such, or for any other person whose

timony, in the opinion of either board, is necessary. The subpoena shall require the person to appear before the appropriate board or any designated member of either board, upon any hearing conducted under this chapter. The penalty for disobedience to the command of such a subpoena is the same as for refusal to answer such a process issued under authority of the court of common pleas.

(K) All moneys received by the board of embalmers and funeral directors from any source shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 Of the Revised Code.

(L) The board of embalmers and funeral directors shall submit a written report to the governor on or before the first Monday of July of each year. This report shall contain a detailed statement of the nature and amount of the board's receipts and the amount and manner of its expenditures.

Sec. 4717.04. (A) The board of embalmers and funeral directors shall adopt rules in accordance with Chapter 119. of the Revised Code for the government, transaction of the business, and the management of the affairs of the board of embalmers and funeral directors and the crematory review board, and for the administration and enforcement of this chapter. These rules shall include all of the following:

(1) The nature, scope, content, and form of the application that must be completed and license examination that must be passed in order to receive an embalmer's license or a funeral director's license under section 4717.05 of the Revised Code. The rules shall ensure both of the following:

(a) That the embalmer's license examination tests the applicant's knowledge through at least a comprehensive section and an Ohio laws section;

(b) That the funeral director's license examination tests the applicant's knowledge through at least a comprehensive section, an Ohio laws section, and a sanitation section.

(2) The minimum license examination score necessary to be licensed under section 4717.05 of the Revised Code as an embalmer or as a funeral director;

(3) Procedures for determining the dates of the embalmer's and funeral director's license examinations, which shall be administered at least once each year, the time and place of each examination, and the supervision required for each examination;

(4) Procedures for determining whether the board shall accept an applicant's compliance with the licensure, registration, or certification requirements of another state as grounds for granting the applicant a license

under this chapter:

(5) A determination of whether completion of a nationally recognized embalmer's or funeral director's examination sufficiently meets the license requirements for the comprehensive section of either the embalmer's or the funeral director's license examination administered under this chapter;

(6) Continuing education requirements for licensed embalmers and funeral directors;

(7) Requirements for the licensing and operation of funeral homes;

(8) Requirements for the licensing and operation of embalming facilities;

(9) A schedule that lists, and specifies a forfeiture commensurate with, each of the following types of conduct which, for the purposes of division (A)(9) of this section and section 4717.15 of the Revised Code, are violations of this chapter:

(a) Obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license;

(b) Purposely violating any provision of sections 4717.01 to 4717.15 Of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 Of the Revised Code;

(c) Committing unprofessional conduct;

(d) knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision;

(e) Refusing to promptly submit the custody of a dead human body upon the express order of the person legally entitled to the body;

(f) transferring a license to operate a funeral home, embalming facility, or crematory facility from one owner or operator to another, or from one location to another, without notifying the board;

(g) misleading the public using false or deceptive advertising.

Each instance of the commission of any of the types of conduct described in divisions (a)(9)(a), (b), (c), (d), (e), (f), AND (g) of this section is a separate violation. the rules adopted under division (a)(9) of this section shall establish the amount of the forfeiture FOR a violation of each of those divisions. The forfeiture for a first violation shall not exceed five thousand dollars, and the forfeiture for a second or subsequent violation shall not exceed ten thousand dollars. the amount of the forfeiture may differ among

the types of violations according to what the board considers the seriousness of each violation.

(10) Requirements for the licensing and operation of crematory facilities;

(11) Procedures for the issuance of duplicate licenses.

(B) The board may adopt rules governing the educational standards for licensure as an embalmer or funeral director and the standards of service and practice to be followed in embalming and funeral directing and in the operation of funeral homes, embalming facilities, and crematory facilities in this state.

(C) Nothing in this chapter authorizes the board of embalmers and funeral directors to regulate cemeteries, except that the board shall license and regulate crematories located at cemeteries in accordance with this chapter.

Sec. 4717.05. (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence verified by oath and satisfactory to the board that the applicant meets all of the following requirements:

(1) The applicant is at least eighteen years of age and of good moral character.

(2) If the applicant has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in another jurisdiction for a substantially equivalent offense, at least five years has elapsed since the applicant was released from incarceration, probation, parole, or treatment in connection with the offense.

(3) The applicant holds at least a bachelor's degree or its equivalent from a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located and submits an official transcript from that college or university with the application.

(4) The applicant has satisfactorily completed at least twelve months of instruction in a prescribed course in mortuary science as approved by the

board, and has presented to the board a certificate showing successful completion of the course. The course of mortuary science college training may be completed either before or after the completion of the educational standard set forth in division (A)(3) of this section.

(5) The applicant has registered with the board prior to beginning an embalmer apprenticeship.

(6) The applicant has satisfactorily completed at least one year of apprenticeship under an embalmer licensed in this state and has assisted that person in embalming at least twenty-five dead human bodies.

(7) The applicant, upon meeting the educational standards provided for in divisions (A)(3) and (4) of this section and completing the apprenticeship required in division (A)(6) of this section, has completed the examination for an embalmer's license required by the board.

(B) Upon receiving satisfactory evidence verified by oath that the applicant meets all the requirements of division (A) of this section, the board shall issue the applicant an embalmer's license.

(C) Any person who desires to be licensed as a funeral director shall apply to the board on a form provided by the board. The application shall include an initial license fee as set forth in section 4717.07 of the Revised Code and evidence verified by oath and satisfactory to the board that the applicant meets all of the following requirements:

(1) Except as otherwise provided in division (D) of this section, the applicant has satisfactorily met all the requirements for an embalmer's license as described in divisions (A)(1) to (4) of this section.

(2) The applicant has registered with the board prior to beginning a funeral director apprenticeship.

(3) The applicant, following mortuary science college training described in division (A)(4) of this section, has served a one-year apprenticeship under a licensed funeral director in this state and has assisted that person in directing at least twenty-five funerals.

(4) The applicant has satisfactorily completed the examination for a funeral director's license as required by the board.

(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals.

(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue the applicant a funeral director's license.

Sec. 4717.06. (A)(1) Any person who desires to obtain a license to

rate a funeral home, embalming facility, or crematory facility shall apply to the board of embalmers and funeral directors on a form provided by the board. The application shall include the initial license fee set forth in section 4717.07 of the Revised Code and proof satisfactory to the board that the funeral home, embalming facility, or crematory facility is in compliance with rules adopted by the board under section 4717.04 of the Revised Code, rules adopted by the board of building standards under Chapter 3781. of the Revised Code, and all other federal, state, and local requirements relating to the safety of the premises.

(2) if the funeral home, embalming facility, or crematory facility to which the license application pertains is owned by a corporation, the application shall include the name and address of the corporation's statutory agent appointed under section 1701.07 of the revised code or, in the case of a foreign corporation, the corporation's designated agent appointed under section 1703.041 of the revised code. if the funeral home, embalming facility, or crematory facility to which the application pertains is owned by a partnership, the application shall include the name and address of each of the partners. if, at any time after the submission of a license application or issuance of a license, the statutory or designated agent of a corporation owning a funeral home, embalming facility, or crematory facility or the address of the statutory or designated agent changes or, in the case of a partnership, any of the partners of the funeral home, embalming facility, or crematory facility or the address of any of the partners changes, the applicant for or holder of the license to operate the funeral home, embalming facility, or crematory facility shall submit written notice to the board, within thirty days after the change, informing the board of the change and of any name or address of a statutory or designated agent or partner that has changed from that contained in the application for the license or the most recent notice submitted under division (a)(2) of this section.

(B)(1) The board shall issue a license to operate a funeral home only for the address at which the funeral home is operated. The funeral home license and licenses of the embalmers and funeral directors employed by the funeral home shall be displayed in a conspicuous place within the funeral home.

(2) The funeral home shall have on the premises one of the following:

(a) If embalming will take place at the funeral home, an embalming room that is adequately equipped and maintained. the embalming room shall be kept in a clean and sanitary manner and used only for the embalming, preparation, or holding of dead human bodies. The embalming room shall contain only the articles, facilities, and instruments necessary for those purposes.

(b) If embalming will not take place at the funeral home, a holding room that is adequately equipped and maintained. The holding room shall be kept in a clean and sanitary manner and used only for the preparation, other than embalming, and holding of dead human bodies. the holding room shall contain only the articles and facilities necessary for those purposes.

(3) Except as provided in division (B) of section 4717.11 Of the Revised Code, a funeral home shall be established and operated only under the name of a holder of a funeral director's license issued by the board who is actually in charge of and ultimately responsible for the funeral home, and a funeral home license shall not include directional or geographical references in the name of the funeral home. The holder of the funeral home license shall be a funeral director licensed under this chapter who is actually in charge of and ultimately responsible for the funeral home. Nothing in division (B)(3) of this section prohibits the holder of a funeral home license from including directional or geographical references in promotional or advertising materials identifying the location of the funeral home.

(4) Each funeral home shall be directly supervised by a funeral director licensed under this chapter, who shall supervise only one funeral home.

(C)(1) The board shall issue a license to operate an embalming facility only for the address at which the embalming facility is operated. The license shall be displayed in a conspicuous place within the facility.

(2) The embalming facility shall be adequately equipped and maintained in a sanitary manner. The embalming room at such a facility shall contain only the articles, facilities, and instruments necessary for its stated purpose. The embalming room shall be kept in a clean and sanitary condition and used only for the care and preparation of dead human bodies.

(3) An embalming facility license shall be issued only to an embalmer licensed under division (B) of section 4717.05 of the Revised Code, who is actually in charge of the facility.

(D)(1) The board shall issue a license to operate a crematory facility only for the address at which the crematory facility is located and operated. The license shall be displayed in a conspicuous place within the crematory facility.

(2) The crematory facility shall be adequately equipped and maintained in a clean and sanitary manner. The crematory shall contain only the articles, facilities, and instruments necessary for carrying out the business of the crematory. The crematory shall contain a separate area for the performance of cremation and pulverization of dead human bodies, human body parts, and animals. If a crematory engages in the cremation of animals, the crematory shall cremate animals in a cremation chamber that also is not

used to cremate dead human bodies or human body parts and shall not cremate animals in a cremation chamber used for the cremation of dead human bodies and human body parts. Cremation chambers that are used for the cremation of dead human bodies or human body parts and cremation chambers used for the cremation of animals may be located in the same area.

(3) A license to operate a crematory facility shall be issued to a person. This section does not require the individual who is actually in charge of the crematory facility to be an embalmer or funeral director licensed under this chapter.

(4) Nothing in this section or rules adopted under section 4717.04 Of the Revised Code precludes the establishment and operation of a crematory facility on or adjacent to the property on which a cemetery, funeral home, or embalming facility is located.

Sec. 4717.07. (A) The board of embalmers and funeral directors shall charge and collect the following fees:

(1) For the issuance of an initial embalmer's or funeral director's license, five dollars;

(2) For the issuance of an embalmer or funeral director registration, twenty-five dollars;

(3) For filing an embalmer or funeral director certificate of apprenticeship, ten dollars;

(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;

(5) For the renewal of an embalmer's or funeral director's license, thirty dollars;

(6) For the issuance and renewal of a license to operate a funeral home, one hundred twenty-five dollars;

(7) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(5) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(8) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(6) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(9) For the issuance and renewal of a license to operate an embalming facility, one hundred dollars;

(10) For the reinstatement of a lapsed license to operate an embalming

facility, the renewal fee prescribed in division (A)(9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(11) For the issuance and renewal of a license to operate a crematory facility, one hundred dollars;

(12) For the reinstatement of a lapsed license to operate a crematory facility, the renewal fee prescribed in division (A)(11) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(13) For the issuance of a duplicate of a license issued under this chapter, four dollars.

(B) In addition to the fees set forth in division (A) of this section, an applicant shall pay the examination fee assessed by any examining agency the board uses for any section of an examination required under this chapter.

(C) Subject to the approval of the controlling board, the board of embalmers and funeral directors may establish fees in excess of the amounts set forth in this section, provided that these fees do not exceed the amounts set forth in this section by more than fifty per cent.

Sec. 4717.08. (A) Every license issued under this chapter expires on the last day of December of the year of its issuance and shall be renewed on or before that date according to the standard license renewal procedure set forth in Chapter 4745. of the Revised Code. Licenses not renewed by the last day of December are lapsed.

(B) A holder of a lapsed license to operate a funeral home, license to operate an embalming facility, or license to operate a crematory facility may reinstate the license with the board by paying the lapsed license fee established under section 4717.07 of the Revised Code.

(C) A holder of a lapsed embalmer's or funeral director's license may reinstate the license with the board by paying the lapsed license fee established under section 4717.07 of the Revised Code, except that if the license is lapsed for more than one hundred eighty days after its expiration date, the holder also shall take and pass the Ohio laws examination for each license as a condition for reinstatement.

Sec. 4717.09. (A) Every two years, licensed embalmers and funeral directors shall attend between twelve and thirty hours of educational programs as a condition for renewal of their licenses. The board of embalmers and funeral directors shall determine, by rule, the educational programs that meet the continuing education requirements and the number of hours a licensee shall attend.

(B) A person holding both an embalmer's license and a funeral director's

license need meet only the continuing education requirements established by the board for one or the other of those licenses in order to satisfy the requirement of division (A) of this section.

(C) The board shall not renew the license of a licensee who fails to meet the continuing education requirements of this section and who has not been granted a waiver or exemption under division (D) of this section.

(D) Any licensee who fails to meet the continuing education requirements of this section because of undue hardship or disability, or who is not actively engaged in the practice of funeral directing or embalming in this state, may apply to the board for a waiver or an exemption. The board shall determine, by rule, the procedures for applying for a waiver or an exemption from continuing education requirements under this section and under what conditions a waiver or an exemption may be granted.

Sec. 4717.10. The board of embalmers and funeral directors may recognize licenses issued to embalmers and funeral directors by other states, and upon presentation of such licenses, may issue to the holder an embalmer's or funeral director's license under this chapter. The board shall charge the same fee as prescribed in section 4717.07 of the Revised Code to issue or renew such an embalmer's or funeral director's license. Such licenses shall be renewed annually as provided in section 4717.08 of the Revised Code. The board shall not issue a license to any person under this section unless the applicant proves that the applicant, in the state in which the applicant is licensed, has complied with requirements substantially equal to those established in section 4717.05 of the Revised Code.

Sec. 4717.11. (A) A person who is licensed to operate a funeral home shall obtain a new license upon any change in location of the funeral home or any change in ownership of the funeral business that owns the funeral home that results in a majority of the ownership of the funeral business being held by one or more persons who solely or in combination with others did not own a majority of the funeral business immediately prior to the change in ownership. The person licensed to operate the funeral home shall surrender the current license to the board within thirty days after any such change occurs. If a funeral home is sold, the new owner shall apply for a license within thirty days after the date of the closing of the purchase of the funeral home.

(B) When the funeral director who is licensed to operate a funeral home dies or otherwise ceases to operate the home, the funeral home may continue to operate under that person's name, provided that the name of the new person licensed to operate the funeral home is added to the license within twenty-four months after the previous license holder dies or otherwise

ses to operate the funeral home. The new licensee shall meet the requirements of section 4717.06 of the Revised Code.

(C) A person who is licensed to operate an embalming facility shall obtain a new license upon any change in location of the embalming facility or any change in ownership of the business entity that owns the embalming facility that results in a majority of the ownership of the business entity being held by one or more persons who solely or in combination with others did not own a majority of the business entity immediately prior to the change in ownership. The person licensed to operate the facility shall surrender the current license to the board within thirty days after any such change occurs.

(D) A person who is licensed to operate a crematory facility shall obtain a new license upon any change in location of the crematory facility or any change in ownership of the business entity operating the facility that results in a majority of the ownership of the business entity being held by one or more persons who solely or in combination with others did not own a majority of the business entity immediately prior to the change in ownership. The person licensed to operate the crematory facility shall surrender the current license to the board within thirty days after any such change occurs.

Sec. 4717.12. (A) The following persons are exempt from the provisions of this chapter:

(1) An officer or employee of the department of health or any board of health, who, in compliance with rules or orders of the department of health or board of health, is preparing the body of a person whose death was caused by a virulent communicable disease;

(2) An officer, employee, or licensed physician of a medical college, when any of these are acting on behalf of a medical college;

(3) Any person carrying out sections 1713.34 to 1713.39 of the Revised Code, prescribing the conditions under which the bodies of indigent persons are held subject for anatomical study.

(B) This chapter does not prevent or interfere with any of the following:

(1) The ceremonies, customs, religious rights, or religion of any people, denomination, or sect;

(2) Any religious denomination or sect, or any body composed of members of a denomination;

(3) Any church or synagogue committee in preparing dead human bodies for burial;

(4) The conducting of funerals and the burial of dead human bodies in accordance with the ceremonies or rights described in division (B) of this

section without the use, employment, or supervision of a licensed embalmer or funeral director, except when the body is that of a person whose death was caused by a virulent communicable disease, in which case the rules of the department of health or board of health having territorial jurisdiction shall apply.

Sec. 4717.13. (A) No person shall do any of the following:

(1) Engage in the business or profession of funeral directing unless the person is licensed as a funeral director under this chapter, is certified as an apprentice funeral director in accordance with rules adopted under section 4717.04 Of the Revised Code and is assisting a funeral director licensed under this chapter, or is a student in a college of mortuary sciences approved by the board and is under the direct supervision of a funeral director licensed by the board;

(2) Engage in embalming unless the person is licensed as an embalmer under this chapter, is certified as an apprentice embalmer in accordance with rules adopted under section 4717.04 Of the Revised Code and is assisting an embalmer licensed under this chapter, or is a student in a college of mortuary science approved by the board and is under the direct supervision of an embalmer licensed by the board;

(3) Advertise or otherwise offer to provide or convey the impression that the person provides funeral directing services unless the person is licensed as a funeral director under this chapter and is employed by or under contract to a licensed funeral home and performs funeral directing services for that funeral home in a manner consistent with the advertisement, offering, or conveyance;

(4) Advertise or otherwise offer to provide or convey the impression that the person provides embalming services unless the person is licensed as an embalmer under this chapter and is employed by or under contract to a licensed funeral home or a licensed embalming facility and performs embalming services for the funeral home or embalming facility in a manner consistent with the advertisement, offering, or conveyance;

(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;

(6) Practice the business or profession of funeral directing from any place except from a funeral home that a person is licensed to operate under this chapter;

(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate under this chapter;

(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;

(9) Cremate animals in a cremation chamber in which dead human bodies or body parts are cremated or cremate dead human bodies or human body parts in a cremation chamber in which animals are cremated.

(B) No funeral director or other person in charge of the final disposition of a dead human body shall fail to do one of the following prior to the interment of the body:

(1) affix to the ankle or wrist of the deceased a tag encased in a durable and long-lasting material that contains the name, date of birth, date of death, and social security number of the deceased;

(2) Place in the casket a capsule containing a tag bearing the information described in division (B)(1) of this section;

(3) If the body was cremated, place in the vessel containing the cremated remains a tag bearing the information described in division (B)(1) of this section.

(C) No person who holds a funeral home license for a funeral home that is closed, or that is owned by a funeral business in which changes in the ownership of the funeral business result in a majority of the ownership of the funeral business being held by one or more persons who solely or in combination with others did not own a majority of the funeral business immediately prior to the change in ownership, shall fail to submit to the board within thirty days after the closing or such a change in ownership of the funeral business owning the funeral home, a clearly enumerated account of all of the following from which the licensee, at the time of the closing or change in ownership of the funeral business and in connection with the funeral home, was to receive payment for providing funeral services, funeral goods, or any combination of those in connection with the funeral or final disposition of a dead human body:

(1) preneed funeral contracts governed by section 1107.33 of the revised code;

(2) life insurance policies the benefits of which are payable to the provider of funeral or burial goods or services;

(3) accounts at banks or savings banks insured by the federal deposit insurance corporation, savings and loan associations insured by the federal savings and loan insurance corporation or the ohio deposit guarantee fund, or credit unions insured by the national credit union administration or a credit union share guaranty corporation organized under Chapter 1761. of the Revised Code that are payable upon the death of the person for whose benefit deposits into the accounts were made.

Sec. 4717.14. (A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license issued under

this chapter for any of the following reasons:

(1) The license was obtained by fraud or misrepresentation either in the application or in passing the examination.

(2) The applicant or licensee has been convicted of or has pleaded guilty to a felony or of any crime involving moral turpitude.

(3) The applicant or licensee has purposely violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 Of the Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The applicant or licensee has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant or licensee has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.

(7) The applicant or licensee has refused to promptly submit the custody of a dead human body upon the express order of the person legally entitled to the body.

(8) The licensee loaned the licensee's own license, or the applicant or licensee borrowed or used the license of another person, or knowingly aided or abetted the granting of an improper license.

(9) The applicant or licensee transferred a license to operate a funeral home, embalming facility, or crematory from one owner or operator to another, or from one location to another, without notifying the board.

(10) The applicant or licensee mislead the public by using false or deceptive advertising.

(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke, an embalmer's, funeral director's, funeral home, or embalming facility license only in accordance with Chapter 119. of the Revised Code.

(2) The board shall send to the crematory review board written notice that it proposes to refuse to issue or renew, or proposes to suspend or revoke, a license to operate a crematory facility. If, after the conclusion of

the adjudicatory hearing on the matter conducted under division (E) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that any of the circumstances described in divisions (A)(1) to (10) of this section apply to the person named in its proposed action, the board may issue a final order under division (E) of section 4717.03 of the Revised Code refusing to issue or renew, or suspending or revoking, the person's license to operate a crematory facility.

(C) If the board of embalmers and funeral directors determines that there is clear and convincing evidence that any of the circumstances described in divisions (A)(1) to (10) of this section apply to the holder of a license issued under this chapter and that the licensee's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the licensee's license without a prior adjudicatory hearing. the executive director of the board shall prepare written allegations for consideration by the board.

the board, after reviewing the written allegations, may suspend a license without a prior hearing.

the board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the revised code. such an order is not subject to suspension by the court during THE pendency of any appeal filed under section 119.12 of the Revised Code. If the holder of an embalmer's, funeral director's, funeral home, or embalming facility license requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the licensee has requested a hearing, unless the board and the licensee agree to a different time for holding the hearing.

Upon issuing a written order of suspension to the holder of a license to operate a crematory facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division (E) of section 4713.03 Of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (E) of section 4717.03 Of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days

after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order.

(D) Any holder of a license issued under this chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in another jurisdiction for any substantially equivalent criminal offense, is hereby suspended from practice under this chapter by operation of law, and any license issued to the individual under this chapter is hereby suspended by operation of law as of the date of the guilty plea, verdict or finding of guilt, or judicial finding of eligibility for treatment in lieu of conviction, regardless of whether the proceedings are brought in this state or another jurisdiction. the board shall notify the suspended individual of the suspension of the individual's license by the operation of this division by certified mail or in person in accordance with section 119.07 of the revised code. if an individual whose license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the license.

(E) No person whose license has been suspended or revoked under or by the operation of this section shall practice embalming or funeral directing or operate a funeral home, embalming facility, or crematory facility until the board has reinstated the person's license.

Sec. 4717.15. (A) The board of embalmers and funeral directors, without the necessity for conducting a prior adjudication hearing, may issue a notice of violation to the holder of an embalmer's, funeral director's, funeral home, or embalming facility license issued under this chapter who the board finds has committed any of the violations described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code. The notice shall set forth the specific violation committed by the licensee and shall be sent by certified mail. The notice shall be accompanied by an order requiring the payment of the appropriate forfeiture prescribed in rules adopted under division (A)(9) of section 4717.04 Of the Revised Code and by a notice

informing the licensee that the licensee is entitled to an adjudicatory hearing on the notice of violation and order if the licensee requests a hearing and if the board receives the request within thirty days after the mailing of the notice of violation and order. The board shall conduct any such adjudicatory hearing in accordance with Chapter 119. Of the Revised Code, except as otherwise provided in this division.

A licensee who receives a notice of violation and order under this division shall pay to the executive director of the board the full amount of the forfeiture by certified check within thirty days after the notice of violation and order were mailed to the licensee unless, within that time, the licensee submits a request for an adjudicatory hearing on the notice of violation and order. If such a request for an adjudicatory hearing is timely filed, the licensee need not pay the forfeiture to the executive director until after a final, nonappealable administrative or judicial decision is rendered on the order requiring payment of the forfeiture. If a final nonappealable administrative or judicial decision is rendered affirming the board's order, the licensee shall pay to the executive director of the board the full amount of the forfeiture by certified check within thirty days after notice of the decision was sent to the licensee. a forfeiture is considered to be paid when the licensee's certified check is received by the executive director in Columbus. if the licensee fails to so pay the full amount of the forfeiture to the executive director within that time, the board shall issue an order suspending or revoking the individual's license, as the board considers appropriate.

(B) The board shall send to the crematory review board written notice that it proposes to issue to the holder of a license to operate a crematory facility issued under this chapter a notice of violation and order requiring payment of a forfeiture specified in rules adopted under division (A)(9) of section 4717.04 of the Revised Code. If, after the conclusion of the adjudicatory hearing on the matter conducted under division (E) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that the licensee has committed any of the violations described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code in connection with the operation of a crematory facility or cremation, the board of embalmers and funeral directors may issue a final order under division (E) of section 4717.03 of the Revised Code requiring payment of the appropriate forfeiture specified in rules adopted under division (A)(9) of section 4717.04 of the Revised Code. A licensee who receives such an order shall pay the full amount of the forfeiture to the executive director by certified check within thirty days after the order was sent to the licensee

unless, within that time, the licensee files a notice of appeal in accordance with division (E) of section 4717.03 and section 119.12 of the Revised Code. If such a notice of appeal is timely filed, the licensee need not pay the forfeiture to the executive director until after a final, nonappealable judicial decision is rendered in the appeal. If a final, nonappealable judicial decision is rendered affirming the board's order, the licensee shall pay to the executive director the full amount of the forfeiture by certified check within thirty days after notice of the decision was sent to the licensee. A forfeiture is considered paid when the licensee's certified check is received by the executive director in Columbus. If the licensee fails to so pay the full amount of the forfeiture to the executive director within that time, the board shall issue an order suspending or revoking the individual's license, as the board considers appropriate.

Sec. ~~4717.20~~ 4717.16. On receipt of a notice pursuant to section 2301.373 of the Revised Code, the board of embalmers and funeral directors shall comply with that section with respect to a license issued pursuant to this chapter.

Sec. 4717.20. As used in sections 4717.20 to 4717.30 Of the Revised Code:

(A) "Alternative container" means a receptacle, other than a casket, in which a dead human body or body parts are transported to a crematory facility and placed in the cremation chamber for cremation, and that meets all of the following requirements:

(1) Is composed of readily combustible materials that are suitable for cremation;

(2) May be closed in order to provide a complete covering for the dead human body or body parts;

(3) Is resistant to leakage or spillage;

(4) Is sufficiently rigid to be handled readily;

(5) Provides protection for the health and safety of crematory personnel.

(B) "Authorizing agent" means the person or persons identified in section 4717.21 or 4717.22 Of the Revised Code who are entitled to order the cremation of a decedent or body parts and to order the final disposition of the cremated remains of a decedent or body parts.

(C) "Body parts" means limbs or other portions of the anatomy that are removed from a living person for medical purposes during biopsy, treatment, or surgery. "Body parts" also includes dead human bodies that have been donated to science for purposes of medical education or research and any parts of such a dead human body that were removed for those purposes.

(D) "Burial or burial-transit permit" means a burial permit or burial-transit permit issued under section 3705.17 Of the Revised Code or the laws of another state that are substantially similar to that section.

(E) "Casket" means a rigid container that is designed for the encasement of a dead human body and that is constructed of wood, metal, or another rigid material, is ornamented and lined with fabric, and may or may not be combustible.

(F) "Temporary container" means a receptacle for cremated remains composed of cardboard, plastic, metal, or another material that can be closed in a manner that prevents the leakage or spillage of the cremated remains and the entrance of foreign material, and that is of sufficient size to hold the cremated remains until they are placed in an urn or scattered.

(G) "Urn" means a receptacle designed to encase cremated remains permanently.

Sec. 4717.21. (A) Any person, on an antemortem basis, may serve as the person's own authorizing agent, authorize the person's own cremation, and specify the arrangements for the final disposition of the person's own cremated remains by executing an antemortem cremation authorization form. A guardian, custodian, or other personal representative who is authorized by law or contract to do so on behalf of a person, on an antemortem basis, may authorize the cremation of the person and specify the arrangements for the final disposition of the person's cremated remains by executing an antemortem cremation authorization form on the person's behalf. Any such antemortem cremation authorization form also shall be signed by one witness. The original copy of the executed authorization form shall be sent to the operator of the crematory facility being authorized to conduct the cremation, and a copy shall be retained by the person who executed the authorization form. The person who executed an antemortem cremation authorization form may revoke the authorization at any time by providing written notice of the revocation to the operator of the crematory facility named in the authorization form. The person who executed the authorization form may transfer the authorization to another crematory facility by providing written notice to the operator of the crematory facility named in the original authorization of the revocation of the authorization and, in accordance with this division, executing a new antemortem cremation authorization form authorizing the operator of another crematory facility to conduct the cremation.

(B) Each antemortem cremation authorization form shall specify the final disposition that is to be made of the cremated remains.

(C) When the operator of a crematory facility is in possession of a

cremation authorization form that has been executed on an antemortem basis in accordance with this section, the other conditions set forth in division (A) of section 4717.23 Of the Revised Code have been met, the crematory facility has possession of the decedent to which the antemortem authorization pertains, and the crematory facility has received payment for the cremation of the decedent and the final disposition of the cremated remains of the decedent or is otherwise assured of payment for those services, the crematory facility shall cremate the decedent and dispose of the cremated remains in accordance with the instructions contained in the antemortem cremation authorization form, unless a person identified as being entitled to act as the authorizing agent for the cremation of the decedent in the absence of the antemortem authorization under divisions (A)(1) or (A)(4) to (8) of section 4717.22 Of the Revised Code has modified, in writing, the arrangements for the final disposition of the cremated remains of the decedent or has canceled the cremation and made alternative arrangements for the final disposition of the decedent's body.

(D) An antemortem cremation authorization form executed under division (A) of this section does not constitute a contract for conducting the cremation of the person named in the authorization form or for the final disposition of the person's cremated remains. Despite the existence of such an antemortem cremation authorization, a person identified under divisions (A)(1) or (A)(4) to (8) of section 4717.22 Of the Revised Code as being entitled to act as the authorizing agent for the cremation of the decedent named in the antemortem authorization, in the descending order of priority in which they are listed, may modify, in writing, the arrangements for the final disposition of the cremated remains of the decedent set forth in the authorization form or may cancel the cremation and claim the decedent's body for purposes of making alternative arrangements for the final disposition of the decedent's body. The revocation of an antemortem cremation authorization form executed under division (A) of this section, or the cancellation of the cremation of the person named in the antemortem authorization or modification of the arrangements for the final disposition of the person's cremated remains as authorized by this division, does not affect the validity or enforceability of any contract entered into for the cremation of the person named in the antemortem authorization or for the final disposition of the person's cremated remains.

(E) Nothing in this section applies to any antemortem cremation authorization form executed prior to the effective date of this section. Any cemetery, funeral home, crematory facility, or other party may specify, with the written approval of the person who executed the antemortem

authorization, that such an antemortem authorization is subject to sections 4717.21 to 4717.30 Of the Revised Code.

Sec. 4717.22. (A) The following persons, in the descending order of priority listed below, may serve as an authorizing agent for the cremation of a dead human body, including, without limitation, a dead human body that was donated to science for purposes of medical education or research:

(1) The spouse of the decedent at the time of the decedent's death;

(2) Any person acting on the instructions of a decedent who authorized the decedent's own cremation by executing an antemortem cremation authorization form in accordance with section 4717.21 Of the Revised Code;

(3) A person serving as the executor or legal representative of the decedent's estate who is acting in accordance with the decedent's written instructions for the final disposition of the decedent's body;

(4) The decedent's surviving adult children. If the decedent is survived by more than one adult child, any of them who states on the cremation authorization form authorizing the cremation of the decedent executed in accordance with section 4717.24 Of the Revised Code that all of the decedent's other adult children have been notified of the decedent's death and of the plans to cremate the decedent and that none of them have expressed an objection to the cremation may serve as the authorizing agent.

(5) The decedent's surviving parent or, if the decedent was under eighteen years of age at death, a surviving parent or the guardian or custodian of the decedent. If the decedent is survived by both parents, either of them may serve as the authorizing agent by stating on the cremation authorization form authorizing the cremation of the decedent executed in accordance with section 4717.24 Of the Revised Code that the other parent has been notified of the decedent's death and of the plans to cremate the decedent and that the other parent expressed no objection to the cremation.

(6) The person in the next degree of kinship to the decedent in the order named in section 2105.06 Of the Revised Code to inherit the estate of the decedent if the decedent had died intestate. If there is more than one person of that degree of kinship, any of them may serve as the authorizing agent.

(7) If the decedent was an indigent person or other person the final disposition of whose body is the responsibility of this state or a political subdivision of this state, the public officer or employee responsible for arranging the final disposition of the decedent's body;

(8) In the case of an individual who has donated the individual's body to science for purposes of medical education or research, or whose death occurred in a nursing home, rest home, or home for the aging licensed under Chapter 3721. Of the Revised Code, an adult care facility licensed under

Chapter 3722. Of the Revised Code, or a hospital registered under section 3701.07 Of the Revised Code, and who has executed an antemortem cremation authorization form in accordance with section 4717.21 Of the Revised Code in which the medical education or research facility, nursing home, rest home, home for the aging, adult care facility, or hospital is designated to make arrangements for the final disposition of the decedent's body, a representative of that facility or institution;

(9) In the absence of any of the parties named in divisions (A)(1) to (8) of this section, any person willing to assume the responsibility of an authorizing agent under sections 4717.23 to 4717.30 Of the Revised Code.

(B) If body parts were removed from a living person, the person from whom the body parts were removed or the guardian, custodian, or other personal representative of the person from whom the body parts were removed who is authorized by law or contract to arrange for the disposition of the body parts may serve as the authorizing agent for the cremation of the body parts.

(C) If body parts were removed from a decedent whose body was donated to science for purposes of medical education or research, the medical education or research facility to which the decedent's body was donated may serve as the authorizing agent for the cremation of the body parts.

Sec. 4717.23. (A) No operator of a crematory facility shall cremate or allow the cremation at a crematory facility the operator is licensed to operate under this chapter of a dead human body, other than one that was donated to science for purposes of medical education or research, until all of the following have occurred:

(1) A period of at least twenty-four hours has elapsed since the decedent's death as indicated on a complete, nonprovisional death certificate filed under section 3705.16 Of the Revised Code or under the laws of another state that are substantially equivalent to that section, unless, if the decedent died from a virulent communicable disease, the department of health or board of health having territorial jurisdiction where the death of the decedent occurred requires by rule or order the cremation to occur prior to the end of that period;

(2) The operator has received a burial or burial-transit permit that authorizes the cremation of the decedent;

(3) The operator has received a completed cremation authorization form executed pursuant to section 4717.21 or 4717.24 Of the Revised Code, as applicable, that authorizes the cremation of the decedent. A blank cremation authorization form shall be provided by the operator and shall comply with

section 4717.24 Of the Revised Code and, if applicable, section 4717.21 Of the Revised Code.

(4) The operator has received any other documentation required by this state or a political subdivision of this state.

(B) No operator of a crematory facility shall cremate or allow the cremation of any body parts, including, without limitation, dead human bodies that were donated to science for purposes of medical research or education, at a crematory facility the operator is licensed to operate in this state until both of the following have occurred:

(1) The operator has received a completed cremation authorization form executed pursuant to section 4717.25 Of the Revised Code or, if the decedent has executed an antemortem cremation authorization form in accordance with section 4717.21 Of the Revised Code and has donated the decedent's body to science for purposes of medical education or research, such an antemortem cremation authorization form;

(2) The operator has received any other documentation required by this state or a political subdivision of this state.

Sec. 4717.24. (A) A cremation authorization form authorizing the cremation of a dead human body, other than one that was donated to science for purposes of medical education or research, shall include at least all of the following information and statements:

(1) The identity of the decedent;

(2) The name of the funeral director or other individual who obtained the burial or burial-transit permit authorizing the cremation of the decedent;

(3) The name of the authorizing agent and the relationship of the authorizing agent to the decedent;

(4) A statement that the authorizing agent in fact has the right to authorize cremation of the decedent and that the authorizing agent does not have actual knowledge of the existence of any living person who has a superior priority right to act as the authorizing agent under section 4717.22 Of the Revised Code. If the person executing the cremation authorization form knows of another living person who has such a superior priority right, the authorization form shall include a statement indicating that the person executing the authorization form has made reasonable efforts to contact the person having the superior priority right and has been unable to do so and that the person executing the authorization form has no reason to believe that the person having the superior priority right would object to the cremation of the decedent.

(5) A statement of whether the authorizing agent has actual knowledge of the presence in the decedent of a pacemaker, defibrillator, or any other

mechanical or radioactive device or implant that poses a hazard to the health or safety of personnel performing the cremation;

(6) A statement indicating the crematory facility is to cremate the casket or alternative container in which the decedent was delivered to or accepted by the crematory facility;

(7) A statement of whether the crematory facility is authorized to simultaneously cremate the decedent in the same cremation chamber with one or more other decedents who were related to the decedent named in the cremation authorization form by consanguinity or affinity or who, at any time during the one-year period preceding the decedent's death, lived with the decedent in a common law marital relationship or otherwise cohabited with the decedent. A cremation authorization form executed under this section shall not authorize the simultaneous cremation of a decedent in the same cremation chamber with one or more other decedents except under the circumstances described in the immediately preceding sentence.

(8) The names of any persons designated by the authorizing agent to be present in the holding facility or cremation room prior to or during the cremation of the decedent or during the removal of the cremated remains from the cremation chamber;

(9) The authorization for the crematory facility to cremate the decedent and to process or pulverize the cremated remains as is the practice at the particular crematory facility;

(10) A statement of whether it is the crematory facility's practice to return all of the residue removed from the cremation chamber following the cremation or to separate and remove foreign matter from the residue before returning the cremated remains to the authorizing agent or the person designated on the authorization form to receive the cremated remains pursuant to division (A)(11) of this section;

(11) The name of the person who is to receive the cremated remains of the decedent from the crematory facility;

(12) The manner in which the final disposition of the cremated remains of the decedent is to occur, if known. if the cremation authorization form does not specify the manner of the final disposition of the cremated remains, it shall indicate that the cremated remains will be held by the crematory facility for thirty days after the cremation, unless, prior to the end of that period, they are picked up from the crematory facility by the person designated on the cremation authorization form to receive them, the authorizing agent, or, if applicable, the funeral director who obtained the burial or burial-transit permit for the decedent, or are delivered or shipped by the operator of the crematory facility to one of those persons. the

authorization form shall indicate that If no instructions for the final disposition are provided on the authorization form and that if no arrangements for final disposition have been made within the thirty-day period, the crematory facility may return the cremated remains to the authorizing agent. the authorization form shall further indicate that if no arrangements for the final disposition of the cremated remains have been made within sixty days after the completion of the cremation and if the authorizing agent has not picked them up or caused them to be picked up within that period, the operator may dispose of them in accordance with division (C) of section 4717.27 Of the Revised Code.

(13) A listing of the items of value to be delivered to the crematory facility along with the dead human body, if any, and instructions regarding how those items are to be handled;

(14) A statement of whether the authorizing agent has made arrangements for any type of viewing of the decedent or for a service with the decedent present prior to the cremation and, if so, the date, time, and place of the service;

(15) A statement of whether the crematory facility may proceed with the cremation at any time after the conditions set forth in division (A) of section 4717.23 Of the Revised Code have been met and the decedent has been received at the facility;

(16) The certification of the authorizing agent to the effect that all of the information and statements contained in the authorization form are accurate;

(17) The signature of a funeral director licensed under this chapter, or another individual, as a witness. If a licensed funeral director signs the authorization form as a witness, the funeral director is responsible for verifying the accuracy of the information and statements required under divisions (A)(1) and (2) of this section, but is not responsible for verifying the accuracy of any of the other information or statements provided on the authorization form by the authorizing agent, unless the funeral director has actual knowledge to the contrary regarding any of the other information or statements. In addition, at the time the decedent is delivered to the crematory facility, the funeral director shall certify that the dead human body delivered to the crematory facility is that of the decedent identified on the authorization form and shall certify that the responsibility imposed on the funeral director by division (B) of section 4717.29 Of the Revised Code has been carried out. If an individual other than a licensed funeral director signs the authorization form as a witness, the individual is not responsible for the accuracy of any of the information or statements provided on the authorization form, unless the individual has actual knowledge to the

contrary regarding any of the information or statements provided by the authorizing agent.

(B) An authorizing agent who is not available to execute a cremation authorization form in person may designate another individual to serve as the authorizing agent by providing to the operator of the crematory facility where the cremation is to occur a written designation, acknowledged before a notary public or other person authorized to administer oaths, authorizing that other individual to serve as the authorizing agent, or by sending to the operator a facsimile transmission of the written designation that has been so acknowledged. any such written designation shall contain the name of the decedent, the name and address of the authorizing agent, the relationship of the authorizing agent to the decedent, and the name and address of the individual who is being designated to serve as the authorizing agent. upon receiving such a written designation or a facsimile transmission of such a written designation, the operator shall permit the individual named in the written designation to serve as the authorizing agent and to execute the cremation authorization form authorizing the cremation of the decedent named in the written designation.

(c) an authorizing agent who signs a cremation authorization form under this section is hereby deemed to warrant the accuracy of the information and statements contained in the authorization form, including the person's authority to authorize the cremation.

(d) at any time after executing a cremation authorization form and prior to the beginning of the cremation process, the authorizing agent who executed the cremation authorization form under division (A) or (B) of this section may, in writing, modify the arrangements for the final disposition of the cremated remains of the decedent set forth in the authorization form or may, in writing, revoke the authorization, cancel the cremation, and claim the decedent's body for purposes of making alternative arrangements for the final disposition of the decedent's body. The operator of a crematory facility shall cancel the cremation if the operator receives such a revocation before beginning the cremation.

(e) a cremation authorization form executed under this section does not constitute a contract for conducting the cremation of the decedent named in the authorization form or for the final disposition of the cremated remains of the decedent. the revocation of a cremation authorization form or modification of the arrangements for the final disposition of the cremated remains of the decedent pursuant to division (d) of this section does not affect the validity or enforceability of any contract for the cremation of the decedent NAMED in the authorization form or for the final disposition of

the cremated remains of the decedent.

Sec. 4717.25. (A) A cremation authorization form authorizing the cremation of any body parts, including, without limitation, dead human bodies that were donated to science for purposes of medical education or research shall include at least all of the following information and statements, as applicable:

(1) the identity of the decedent whose body was donated to science for purposes of medical education or research or the identity of the living person or such a decedent from whom the body parts were removed;

(2) the name of the authorizing agent and the relationship of the authorizing agent to the decedent or the living person from whom the body parts were removed;

(3) a statement that the authorizing agent in fact has the right to authorize the cremation of the decedent or the body parts removed from the decedent or living person and a description of the basis of the person's right to execute the cremation authorization form;

(4) A statement of whether the crematory facility is authorized to simultaneously cremate the decedent or body parts removed from the decedent or living person with one or more other decedents whose bodies were donated to science for purposes of medical education or research or with body parts removed from one or more other decedents or living persons;

(5) The authorization for the crematory facility to cremate the decedent or body parts removed from the decedent or living person and to process or pulverize the cremated remains as is the practice at the particular crematory facility;

(6) a statement of whether it is the crematory facility's practice to return all of the residue removed from the cremation chamber following the cremation or to separate and remove foreign matter from the residue before returning the cremated remains to the authorizing agent or the authorizing agent's designee;

(7) the name of the person who is to receive the cremated remains from the crematory facility;

(8) the manner in which the final disposition of the cremated remains is to occur, if known. if the cremation authorization form does not specify the manner of the final disposition of the cremated remains, it shall indicate that the cremated remains will be held by the crematory facility for thirty days after the cremation, unless, prior to the end of that period, they are picked up from the crematory facility by the person designated on the authorization form to receive them or by the authorizing agent, or are delivered or shipped

by the operator of the crematory facility to one of those persons. the authorization form shall indicate that if no instructions for the final disposition of the cremated remains are provided on the authorization form and that if no arrangements for final disposition have been made within the thirty-day period, the crematory facility may return the cremated remains to the authorizing agent. the authorization form shall further indicate that if no arrangements for the final disposition of the cremated remains have been made within sixty days after the cremation and if the authorizing agent or person designated on the authorization form to receive the cremated remains has not picked them up or caused them to be picked up within that period, the operator may dispose of them in accordance with division (c)(1) or (2) of section 4717.27 of the revised code.

(9) the certification of the authorizing agent to the effect that all of the information and statements contained in the authorization form are accurate.

(b) an authorizing agent who signs a cremation authorization form under this section is hereby deemed to warrant the accuracy of the information and statements contained in the authorization form, including the person's authority to authorize the cremation.

(c) at any time after executing a cremation authorization form and prior to the beginning of the cremation process, an authorizing agent who EXECUTED a cremation authorization form under this section may, in writing, revoke the authorization, cancel the cremation, and claim the decedent's body or the body parts for purposes of making alternative arrangements for the final disposition of the decedent's body or the body parts. the operator of a crematory facility shall cancel the cremation if the operator receives such a revocation before beginning the cremation.

(d) a cremation authorization form executed under this section does not constitute a contract for conducting the cremation of the decedent named in the authorization form or body parts removed from the decedent or living person named in the form or for the final disposition of the cremated remains of the decedent or body parts. the revocation of a cremation authorization form or modification of the arrangements for the final disposition of the cremated remains of the decedent or the body parts pursuant to division (c) of this section does not affect the validity or enforceability of any contract for the cremation of the decedent named in the authorization form, the cremation of body parts from the decedent or living person named in the authorization form, or the final disposition of the cremated remains of the decedent or body parts.

Sec. 4717.26. (a) the operator of a crematory facility may schedule the time for the cremation of a dead human body to occur at the operator's own

convenience at any time after the conditions set forth in division (A) or (B) of section 4717.23 of the revised code, as applicable, have been met and the decedent or body parts have been delivered to the facility, unless, in the case of a dead human body, the operator has received specific instructions to the contrary on the cremation authorization form authorizing the cremation of the decedent executed under section 4717.21, 4717.24, or 4717.25 of the revised code, the operator of a crematory facility becomes responsible for a dead human body or body parts when the body or body parts have been delivered to or accepted by the facility or an employee or agent of the facility.

(b) no operator of a crematory facility shall fail to do either of the following:

(1) upon receipt at the crematory facility of any dead human body that has not been embalmed, and subject to the prohibition set forth in division (C)(1) of this section, place the body in a holding or refrigerated facility at the crematory facility and keep the body in the holding or refrigerated facility until near the time the cremation process commences or until the body is held at the facility for eight hours or longer. If the body is held for eight hours or longer, place the body in a REFRIGERATED facility at the crematory facility and keep the body in the refrigerated facility until near the time the cremation process commences;

(2) upon receipt of any dead human body that has been EMBALMED, place the body in a holding facility at the crematory facility and keep the body in the holding facility until the cremation process commences.

(c) no operator of a crematory facility shall do either of the following, unless the INSTRUCTIONS contained in the cremation authorization form authorizing the cremation of the decedent executed under section 4717.21, 4717.24, or 4717.25 Of the Revised Code specifically provide otherwise:

(1) remove any dead human body from the casket or alternative container in which the body was delivered to or accepted by the crematory facility;

(2) fail to cremate the casket or alternative container in which the body was delivered or accepted, in its entirety with the body.

(d) no operator of a crematory facility shall simultaneously cremate more than one decedent or body parts removed from more than one decedent or living person in the same cremation chamber unless the cremation authorization forms executed under section 4717.21, 4717.24, or 4717.25 Of the Revised Code authorizing the cremation of each of the decedents or body parts removed from each decedent or living person specifically authorize such a simultaneous cremation. this division does not

prohibit the use of cremation equipment that contains more than one cremation chamber.

(e) no operator of a crematory facility shall permit any persons other than employees of the crematory facility, the AUTHORIZING agent for the cremation of the decedent who is to be, is being, or was cremated, persons designated to be present at the cremation of the decedent on the cremation authorization form executed under section 4717.21 or 4717.24 Of the Revised Code, and persons authorized by the individual who is actually in charge of the crematory facility, to be present in the holding facility or cremation room while any dead human bodies or body parts are being held there prior to cremation or are being cremated or while any cremated remains are being removed from the cremation chamber.

(f)(1) no operator of a crematory facility shall remove any dental gold, body parts, organs, or other items of value from a dead human body prior to the cremation or from the cremated remains after cremation unless the cremation authorization form authorizing the cremation of the decedent executed under section 4717.21 or 4717.24 of the revised code specifically authorizes the removal thereof.

(2) no operator of a crematory facility that removes any dental gold, body parts, organs, or other items from a dead human body or assists in such removal shall charge a fee for doing so that exceeds the actual cost to the crematory facility for performing or assisting in the removal.

(g) upon the completion of each cremation, the operator of a crematory facility shall remove from the cremation chamber all of the cremation residue that is practicably recoverable. if the cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 Of the Revised Code specifies that the cremated remains are to be placed in an urn, the operator shall place them in the type of urn specified on the authorization form. if the authorization form does not specify that the cremated remains are to be placed in an urn, the operator shall place them in a temporary container. if not all of the recovered cremated remains will fit in the urn selected or the temporary container, the operator shall place the remainder in a separate temporary container, and the cremated remains placed in the separate temporary container shall be delivered, released, or disposed of along with those in the urn or other temporary container. Nothing in this section requires an operator of a crematory facility to recover any specified quantity or quality of cremated remains upon the completion of a cremation, but only requires an operator to recover from the cremation chamber all of the cremation residue that is practically recoverable.

(h) no operator of a crematory facility shall knowingly represent to an

authorizing agent or a designee of an authorizing agent that an urn or temporary container contains the recovered cremated remains of a specific decedent or of body parts removed from a specific decedent or living person when it does not, this division does not prohibit the making of such a representation because of the presence in the recovered cremated remains of de minimus amounts of the cremated remains of another decedent or of body parts removed from another decedent or living person that were not practicably recoverable and that remained in the cremation chamber after the cremated REMAINS from previous cremations were removed.

(i) NO operator of a CREMATORY FACILITY OR FUNERAL director SHALL SHIP OR CAUSE TO BE SHIPPED ANY CREMATED REMAINS BY A CLASS OR METHOD OF MAIL, COMMON CARRIER SERVICE, OR DELIVERY SERVICE THAT DOES NOT HAVE AN INTERNAL SYSTEM FOR TRACING THE LOCATION OF THE CREMATED REMAINS DURING SHIPMENT AND that DOES NOT REQUIRE A SIGNED RECEIPT FROM THE PERSON ACCEPTING DELIVERY OF THE CREMATED REMAINS.

(j) no operator of a crematory facility shall fail to establish and maintain a system for accurately identifying each dead human body in the facility's possession, and for identifying each decedent or living person from which body parts in the facility's possession were removed, throughout all phases of the holding and cremation process.

(k) no operator of a crematory facility shall knowingly use or allow the use of the same cremation chamber for the cremation of dead human bodies, or human body parts, and animals.

Sec. 4717.27. (A) The authorizing agent who executed the cremation authorization form authorizing the cremation of a decedent under section 4717.24 Of the Revised Code or the cremation of body parts under section 4717.25 Of the Revised Code is ultimately responsible for the final disposition of the cremated remains of the decedent or body parts.

sion to, the person designated to receive them on the cremation authorization form or, if no person has been so designated, to the authorizing agent.

(c)(1) if the cremation authorization form does not contain instructions for the final disposition of the cremated remains of the decedent or body parts, if no arrangements for the final disposition of the cremated remains are made within sixty days after the completion of the cremation, and if the cremated REMAINS have not been picked up by the person designated on the authorization form to receive them or, in the absence of such a designated person, by the authorizing agent, the operator of the crematory facility may dispose of the cremated remains in a grave, crypt, or niche at any time after the end of that sixty-day period.

(2) if the cremation authorization form specifies the manner of the final disposition of the cremated remains, or if within sixty days after the completion of the cremation the authorizing agent makes arrangements for the final disposition of the cremated remains, and if either the arrangements have not been carried out within that sixty-day period because of the inaction of a party other than the operator of the crematory facility or the authorizing agent fails to pick up the cremated remains within that sixty-day period, the operator may dispose of the cremated remains in a grave, crypt, or niche at any time after the end of that period.

(3) when cremated remains are disposed of in accordance with division (c)(1) or (2) of this section, the authorizing agent who executed the cremation authorization form authorizing the cremation of the decedent or body parts under section 4717.24 or 4717.25 Of the Revised Code is liable to the operator of the crematory facility for the cost of the final disposition, which cost shall not exceed the reasonable cost for disposing of the cremated remains in a common grave or crypt in the county where the cremated remains were buried or placed in a crypt or niche.

(D)(1) except as provided in division (d)(2) of this section, no person shall do either of the following:

(a) dispose of the cremated remains of a dead human body or body parts in such a manner or in such a location that the cremated remains are commingled with those of another decedent or body parts removed from another decedent or living person;

(b) place the cremated remains of more than one decedent or of body parts removed from more than one decedent or living person in the same urn or temporary container.

(2) division (d)(1) of this section does not prohibit any of the following:

(a) the scattering of cremated remains at sea or by air or in a dedicated

area at a CEMETERY used exclusively for the scattering on the ground of the cremated remains of dead human bodies or body parts.

(b) the commingling of the cremated remains of more than one decedent or of body parts removed from more than one decedent or living person or the placement in the same urn or TEMPORARY container of the cremated remains of more than one decedent or of body parts removed from more than one decedent or living person when each authorizing agent who executed the cremation authorization form authorizing the cremation of each of the decedents or body parts removed from each of the decedents or living persons under section 4717.21, 4717.24, or 4717.25 Of the Revised Code authorized the commingling of the cremated remains or the placement of the cremated remains in the same urn or temporary container on the authorization form.

(c) the commingling, by the individual designated on the cremation authorization form authorizing the cremation of the decedent or body parts to receive the cremated remains, other than a funeral director or employee of a CEMETERY, or by the authorizing agent who executed the cremation authorization form, after receipt of the cremated remains, of the cremated remains with those of another decedent or of body parts removed from another decedent or living person or the placing of them by any such person in the same urn or temporary container with those of another decedent or of body parts removed from another decedent or living person.

Sec. 4717.28. (A) No operator of a crematory facility shall fail to ensure that a written receipt is provided to the person who delivers a dead human body or body parts to the facility for cremation. If the dead human body is other than one that was donated to science for purposes of medical education or research, the receipt shall be signed by both a representative of the crematory facility and the person who delivered the decedent to the crematory facility and shall indicate the name of the decedent; the date and time of delivery; the type of casket or alternative container in which the decedent was delivered to the facility; the name of the person who delivered the decedent to the facility; if applicable, the name of the funeral home or other establishment with whom the delivery person is affiliated; and the name of the person who received the decedent on behalf of the facility. If the dead human body was donated to science for purposes of medical education or research, the receipt shall consist of a copy of the cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 Of the Revised Code that authorizes the cremation of the decedent or body parts that has been signed by both a representative of the crematory facility and the person who delivered the decedent or body parts to the crematory

facility and that indicates the date and time of the delivery. the operator may provide the copy of the RECEIPT to the person who delivered the decedent or body parts to the facility either in person or by certified mail, return receipt requested.

(B) No operator of a crematory facility shall fail to ensure at the time of releasing cremated remains that a written receipt signed by both a representative of the crematory facility and the person who received the cremated remains is provided to the person who received the cremated remains. Unless the cremated remains are those of a dead human body that was donated to science for purposes of medical education or research or are those of body parts, the receipt shall indicate the name of the decedent; the date and time of the release; the name of the person to whom the cremated remains were released; if applicable, the name of the funeral home, CEMETERY, or other entity to whom the cremated remains were released; and the name of the person who released the cremated remains on behalf of the crematory facility. If the cremated remains are those of a dead human body that was donated to science for purposes of medical education or research or are those of body parts, the receipt shall consist of a copy of the cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 Of the Revised Code that authorizes the cremation of the decedent or body parts that has been signed by both a representative of the CREMATORY facility and the person who received the cremated remains and that indicates the date and time of the release. If the cremated remains were delivered to the authorizing agent or other individual designated on the cremation authorization form by a method described in division (I) of section 4717.26 Of the Revised Code that is acceptable under that division, the receipt required by this division shall accompany the cremated remains, and the signature of the authorizing agent or other designated individual on the delivery receipt meets the requirement of this division that the person receiving the cremated remains sign the receipt provided by the crematory facility.

(c) no operator of a crematory facility shall fail to make or keep on file during the time that the operator remains engaged in the business of cremating dead human bodies or body parts, all of the following records and documents:

(1) a copy of each receipt issued upon acceptance by or delivery to the crematory facility of a dead human body under division (a) of this section;

(2) a record of each cremation conducted at the facility, containing at least the name of the decedent or, in the case of body parts, the name of the decedent or living person from whom the body parts were removed, the date

and time of the cremation, and the final disposition made of the cremated remains;

(3) a copy of each delivery receipt issued under division (b) of this section;

(4) a separate record of the cremated remains of each decedent or the body parts removed from each decedent or living person that were disposed of in accordance with division (C)(1) or (2) of section 4717.27 of the Revised Code, containing at least the name of the decedent, the date and time of the cremation, and the location, date, and manner of final disposition of the cremated remains.

(D) All records required to be maintained under sections 4717.21 to 4717.30 of the Revised Code are subject to inspection by the board of EMBALMERS and funeral directors or an authorized representative of the board, upon reasonable notice, at any reasonable time.

Sec. 4717.29. (A) A person executing a cremation authorization form as the authorizing agent under section 4717.24 Of the Revised Code shall use diligent efforts to determine whether a pacemaker, cardiac defibrillator, or any other mechanical or radioactive device or implant is present in the decedent's body that poses a hazard to the health or safety of the personnel of the crematory or to the cremation chamber during the cremation process and shall indicate the presence of the device or implant on the cremation authorization form. If the decedent is to be delivered to the crematory facility by a funeral director, the person executing the authorization form shall inform the funeral director of the presence of the device or implant.

(B) If a funeral director delivers the decedent to a crematory facility, the funeral director shall take reasonable precautions to ensure necessary actions are taken to remove a device or implant from the decedent, or to render the device or implant nonhazardous prior to delivering the DECEDENT to the crematory facility.

Sec. 4717.30. (A) The operator of a crematory facility is not liable in damages in a civil action for any of the following actions or omissions, unless the actions or omissions were made with MALICIOUS purpose, in bad faith, or in a wanton or reckless MANNER or unless any of the conditions set forth in divisions (b)(1) to (3) of this section apply:

(1)(a) For having performed the cremation of the decedent, or having released or disposed of the cremated remains, in accordance with the instructions set forth in the cremation authorization form executed by the decedent on an antemortem basis under section 4717.21 Of the Revised Code;

(b) Having performed the cremation of the decedent or body parts

removed from the decedent or living person or having released or disposed of the cremated remains in accordance with the instructions set forth in a cremation authorization form executed in person by the person authorized to serve as the authorizing agent for the cremation of the decedent or for the cremation of body parts of the decedent or living person, named in the cremation authorization form executed under section 4717.24 or 4717.25 of the Revised Code.

(2) Having performed the cremation of the decedent, or having released or disposed of the cremated remains, in accordance with the instructions set forth in the cremation authorization form executed by a designated agent under division (B) of section 4717.24 of the Revised Code.

(B) The operator of a crematory facility is not liable in damages in a civil action for refusing to accept a dead human body or body parts or to perform a cremation under any of the following circumstances, unless THE refusal was made with malicious purpose, in bad faith, or in a wanton or reckless manner:

(1) the operator has actual knowledge that there is a dispute regarding the cremation of the decedent or body parts, until such time as the operator receives an order of the court of common pleas having JURISDICTION ordering the cremation of the decedent or body parts or until the operator receives from the parties to the dispute a copy of a written agreement resolving the dispute and authorizing the cremation to be performed.

(2) the operator has a reasonable basis for questioning the accuracy of any of the information or statements contained in a cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 Of the Revised Code, as applicable, that authorizes the cremation of the decedent or body parts.

(3) the operator has any other lawful reason for refusing to accept the dead human body or body parts or to perform the cremation.

(c) the operator of a crematory facility is not liable in damages in a civil action for refusing to release or dispose of the cremated remains of a decedent or body parts when the operator has actual knowledge that there is a dispute regarding the release or final disposition of the cremated remains in connection with any damages sustained, prior to the time the operator receives an order of the court of common pleas having jurisdiction ordering the release or final disposition of the cremated remains, or prior to the time the facility receives from the parties to the dispute a copy of a written agreement resolving the dispute and authorizing the cremation to be performed.

(d) the operator of a crematory facility is not liable in damages in a civil

action in connection with the cremation of, or disposition of the cremated remains of, any dental gold, jewelry, or other items of value delivered to the facility with a dead human body or body parts, unless either or both of the following apply:

(1) the cremation authorization form authorizing the cremation of the decedent or body parts executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, contains specific instructions for the removal or recovery and disposition of any such dental gold, jewelry, or other items of value prior to or after the cremation, and the operator has failed to comply with the written instructions.

(2) the actions or omissions of the operator were made with malicious purpose, in bad faith, or in a wanton or reckless manner.

(E)(1) this section does not create a new cause of action against or substantive legal right against the operator of a crematory facility.

(2) this section does not affect any immunities from civil liability or defenses established by another section of the revised code or available at common law to which the operator of a crematory may be entitled under circumstances not covered by this section.

Sec. 4717.99. Whoever violates any provision of sections 4717.01 to 4717.15; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 Of the Revised Code shall be fined not less than one hundred nor more than five thousand dollars, or imprisoned for not more than one year, or both, for the first offense. For each subsequent offense such a person shall be fined not less than one hundred nor more than ten thousand dollars, or imprisoned for not more than one year, or both.

Sec. 4767.05. (A) There is hereby created the Ohio cemetery dispute resolution commission, which shall consist of nine members to be appointed by the governor with the advice and consent of the senate as follows:

(1) One member shall be the management authority of a municipal, township, or union cemetery and shall be selected from a list of four names submitted to the governor. Two of the four names shall be submitted by the Ohio township association and two names shall be submitted by the Ohio municipal league.

(2) Four members shall be individuals employed in a management position by a cemetery company or cemetery association. Two of the four members shall be selected from a list of four names submitted to the governor by the Ohio association of cemeteries and two shall be selected from a list of four names submitted by the Ohio association of cemetery

superintendents and officials.

(3) Two members shall be employed in a management position by a cemetery that is owned or operated by a religious, fraternal, or benevolent society and shall be selected from a list of four names submitted by the Ohio association of cemetery superintendents and officials.

(4) Two members, at least one of whom shall be at least sixty-five years of age, shall be representatives of the public with no financial interest in the death care industry.

Each member of the commission, except for the two members who represent the public, shall, at the time of appointment, have had a minimum of five consecutive years of experience in the active administration and management of a cemetery in this state.

(B) Within ninety days after the effective date of this section, the governor shall make initial appointments to the commission. Of the initial appointments, two shall be for terms ending one year after the effective date of this section, two shall be for terms ending two years after that date, two shall be for terms ending three years after that date, and three shall be for terms ending four years after that date. Thereafter, terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for original appointments, with each appointee, other than a representative of the public, being appointed from a list of two names submitted to the governor by the association or organization that was required to nominate candidates for initial appointment to the position that has become vacant. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. No person shall serve as a member of the commission for more than two consecutive terms, excluding any term served to fill an initial appointment to a term of less than four years or an unexpired term caused by a vacancy.

(C) The commission annually shall elect from among its members a chairperson, vice-chairperson, and secretary, each of whom shall serve a term of one year in that office. The commission shall meet at least four times a year. Additional meetings may be called by the chairperson, or by the vice-chairperson when the chairperson is disabled, or by a majority of the members of the commission. A majority of the members constitutes a

quorum to transact and vote on business of the commission.

The chairperson or vice-chairperson may:

- (1) Administer oaths;
- (2) Issue subpoenas;
- (3) Summon witnesses;
- (4) Compel the production of books, papers, records, and other forms of evidence;
- (5) Fix the time and place for hearing any matter related to compliance with sections 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, 4735.22, and 4767.02 of the Revised Code.

The chairperson shall designate three members of the commission to serve on the crematory review board in accordance with section 4717.03 Of the Revised Code for such time as the chairperson finds appropriate. Members designated to serve on the crematory review board shall perform all functions necessary to carry out the duties of the board as described in section 4717.03 Of the Revised Code. Members who serve on the crematory review board shall receive no compensation for such service.

(D) Before entering upon the duties of office, each member of the commission shall take the oath pursuant to section 3.22 of the Revised Code. The governor may remove any member for misconduct, neglect of duty, incapacity, or malfeasance in accordance with section 3.04 of the Revised Code.

(E) Members of the commission shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the commission.

(F) The division of real estate in the department of commerce shall provide the commission with meeting space, staff services, and other technical assistance required by the commission in carrying out its duties pursuant to sections 4767.05 to 4767.08 of the Revised Code.

Sec. 5101.521. When the body of a dead person is found in a township or municipal corporation, and such person was not an inmate of a correctional, benevolent, or charitable institution of this state, and the body is not claimed by any person for private interment or cremation at ~~his~~ the person's own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with section 1713.34 of the Revised Code, or the person was not eligible for burial assistance under section 5101.52 of the Revised Code, it shall be disposed of as follows:

(A) If the person was a legal resident of the county, the proper officers of the township or municipal corporation in which ~~his~~ the person's body was found shall cause it to be buried or cremated at the expense of the township

or municipal corporation in which ~~he~~ the person had a legal residence at the time of ~~his~~ death.

(B) If the person had a legal residence in any other county of the state at the time of ~~his~~ death, the superintendent of the county home of the county in which such body was found shall cause it to be buried or cremated at the expense of the township or municipal corporation in which ~~he~~ the person had a legal residence at the time of ~~his~~ death.

(C) If the person was an inmate of a correctional institution of the county or a patient or resident of a benevolent institution of the county, the person had no legal residence in the state, or ~~his~~ the person's legal residence is unknown, the superintendent shall cause ~~him~~ the person to be buried or cremated at the expense of the county.

Such officials shall provide, at the grave of ~~such~~ the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a stone or concrete marker on which ~~his~~ the person's name and age, if known, and ~~the~~ date of ~~his~~ death shall be inscribed.

A political subdivision is not relieved of its duty to bury or cremate a person at its expense under this section when the body is claimed by an indigent person.

Sec. 5120.45. The state shall bear the expense of the burial or cremation of an inmate who dies in a state correctional institution, if the body is not claimed for interment or cremation at the expense of friends or relatives, or is not delivered for anatomical purposes or for the study of embalming in accordance with section 1713.34 of the Revised Code. When the expense is borne by the state, interment of the person or the person's cremated remains shall be in the institution cemetery or other place provided by the state. The managing officer of the institution shall provide at the grave of the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a metal, stone, or concrete marker on which shall be inscribed the name and age of the person and the date of death.

Sec. 5121.11. The state shall bear the expense of the burial or cremation of an indigent patient or resident who dies in a state hospital for the mentally ill, or institution for the mentally retarded, or in a state correctional institution, if the body is not claimed for interment or cremation at the expense of friends or relatives, or is not delivered for anatomical purposes or for the study of embalming in accordance with section 1713.34 of the Revised Code. The managing officer of the institution shall provide at the grave of the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a metal, stone, or concrete marker on which shall be inscribed the name and age of the person and the date of

death.

Sec. 5901.24. If it is desired to bury the body or cremated remains of any deceased veteran in any cemetery not having a burial plot as provided by section 5901.22 of the Revised Code, the board of county commissioners, any board of township trustees, or the legislative authority of any municipal corporation in the county in which the cemetery is situated may purchase a space for the grave of the veteran or the veteran's cremated remains, provide for the care of the plot, and pay the amount of the purchase price and maintenance cost from the funds in the treasury of the county, township, or municipal corporation.

Sec. 5901.25. The board of county commissioners shall require the veterans service commission, upon application and with the approval of the family or friends of the deceased, to contract, at a fair and reasonable price, with the funeral director selected by the family or friends, and cause to be interred or cremated in a decent and respectable manner the body of any veteran, or the parent, spouse, or surviving spouse of any such veteran, who dies without the means to defray the necessary funeral or cremation expenses. Such a burial may be made in any cemetery or burial ground within the state, other than those used exclusively for the burial of paupers and criminals.

Sec. 5901.26. Pursuant to section 5901.25 of the Revised Code, the veterans service commission shall use the forms of contracts prescribed by sections 5901.25 to 5901.32 of the Revised Code, and abide by the regulations provided by such sections. The commission shall see that funeral directors furnish all items specified in the contract, that when the benefits of such sections are claimed the entire amount to be contributed by the county toward the cost of the burial or cremation shall not exceed the sum of one thousand dollars, and that any remaining costs are paid by the family or friends of the deceased.

Sec. 5901.27. Before assuming the charge and expense of any burial or cremation, the veterans service commission, pursuant to section 5901.25 of the Revised Code, shall satisfy itself, beyond a reasonable doubt, by careful inquiry, that the family of the deceased is unable, for want of means, to defray the expenses of the burial or cremation, or that the family may be deprived of means actually necessary for its immediate support. Thereupon the commission shall cause the deceased to be buried or cremated and make a report thereof to the board of county commissioners. The report shall set forth that the commission found the family of the deceased person in indigent circumstances and unable to pay the expenses of burial or cremation. The report shall also set forth the name of the deceased, the rank

and command to which the deceased belonged if a veteran, the date of death, the place of burial or disposition made of the person's cremated remains, the occupation while living, and an accurate itemized statement of the expenses incurred by reason of the burial or cremation.

Sec. 5901.29. The funeral director employed to perform the service described by section 5901.25 of the Revised Code shall use the blanks provided by this section, specifying what ~~he~~ the funeral director is to furnish for ~~such~~ the service. ~~Such~~ The contract shall be signed by the funeral director and a copy thereof left with the veterans service commission with which it is made. Such contract shall read as follows:

I, funeral director, residing at hereby agree to furnish the following items for the burial or cremation (circle one) of, who resided at, and died 19....., which shall consist of:

(A) One casket, nicely covered with a good quality of black cloth, lined with a good quality of white satin or other material, and trimmed on the outside with handles of a fair quality in keeping with the casket;

(B) One burial robe of a good quality of material;

(C) One plain box appropriate for receiving the coffin or urn containing cremated remains inside the grave;

(D) Payment for digging the grave, in the place designated by the friends of the deceased or as otherwise provided, and for filling the grave in a proper manner;

(E) Furnishing a funeral car for conveying the remains to the place of burial or crematory;

(F) Preparing the body for burial when so requested;

(G) Furnishing necessary transportation for the use of the family, friends, and pallbearers, which people shall be returned to their respective homes or to the place where the funeral services were held;

(H) Furnishing a decent, respectable funeral, for the sum of dollars.

Sec. 5901.30. The funeral director shall present ~~his~~ the itemized bill and contract, as approved by the veterans service commission, to the county auditor, upon printed blanks furnished by the auditor, and make an oath that ~~he~~ the funeral director has honestly and faithfully performed ~~his~~ the contract, that the bill and contract attached is a true copy of the one left with the parties who engaged ~~his~~ the funeral director's services, and that the bill covers the entire expense of the funeral service described by section 5901.25 Of the Revised Code, in order to obtain the auditor's warrant. The auditor shall have the necessary blanks printed and distribute them to the veterans service commission, from whom they may be procured by funeral directors.

Sec. 5901.32. Upon securing the report and statement of expenses as provided by section 5901.27 of the Revised Code, the board of county commissioners shall transcribe in a book to be kept for that purpose, all the facts contained in the report concerning a deceased veteran, and shall certify the expenses thus incurred to the county auditor, who shall draw ~~his~~ a warrant for ~~such~~ those expenses upon the county treasurer, to be paid from the county fund to such persons as are designated by the board. Upon the death ~~and burial~~ of any indigent veteran, residing within the county at the time of death and the burial of the indigent veteran or the indigent veteran's cremated remains, the board shall make application to the proper authorities, under the United States government, for a suitable headstone, as provided by act of congress, and shall cause it to be placed at the grave of the deceased veteran or the deceased veteran's cremated remains.

Sec. 5903.12. (A) As used in this section:

(1) "Continuing education" means continuing education required of a licensee by law and includes, but is not limited to, the continuing education required of licensees under sections 3737.881, 3781.10, 4701.11, 4715.141, 4715.25, ~~4717.074~~ 4717.09, 4723.24, 4725.10, 4725.51, 4731.281, 4735.141, 4736.11, 4741.16, 4741.19, 4751.07, 4755.63, 4757.33, 4759.06, 4761.06, and 4763.07 of the Revised Code.

(2) "License" means a license, certificate, permit, or other authorization issued or conferred by a licensing agency under which a licensee may engage in a profession, occupation, or occupational activity.

(3) "Licensee" means a person to whom all of the following apply:

(a) The person has been issued a license by a licensing agency.

(b) The person is a member of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, or a reserve component of the armed forces of the United States.

(c) The person has been called to active duty, whether inside or outside the United States, because of an executive order issued by the president of the United States or an act of congress, for a period in excess of thirty-one days.

(4) "Licensing agency" means any state department, division, board, commission, agency, or other state governmental unit authorized by the Revised Code to issue a license.

(5) "Reporting period" means the period of time during which a licensee must complete the number of hours of continuing education required of ~~him~~ the licensee by law.

(B) Each licensing agency, upon receiving an application from one of its licensees that is accompanied by proper documentation certifying that the

licensee has been called to active duty as described in division (A)(3)(c) of this section during the current or a prior reporting period and certifying the length of that active duty, shall extend the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting period. For purposes of this division, any portion of a month served on active duty shall be considered one full month.

SECTION 2. That existing sections 2925.01, 3734.02, 3734.021, 3734.05, 4717.20, 4767.05, 5101.521, 5120.45, 5121.11, 5901.24, 5901.25, 5901.26, 5901.27, 5901.29, 5901.30, 5901.32, and 5903.12 and sections 4717.01, 4717.02, 4717.03, 4717.04, 4717.05, 4717.06, 4717.061, 4717.062, 4717.07, 4717.071, 4717.08, 4717.081, 4717.082, 4717.083, 4717.09, 4717.10, 4717.11, 4717.12, 4717.13, 4717.14, 4717.15, 4717.16, 4717.17, 4717.18, 4717.19, and 4717.99 of the Revised Code are hereby repealed.

SECTION 3. The Board of Embalmers and Funeral Directors created by new section 4717.02 of the Revised Code, as enacted by this act, is a continuation of the Board of Embalmers and Funeral Directors in existence immediately prior to the effective date of this act and continues all of its powers, functions, and obligations on the effective date of this act.

Notwithstanding new section 4717.02 of the Revised Code as enacted by this act, all members serving on the Board immediately prior to the effective date of this act shall continue as members until their terms expire. The member with experience and knowledge in the operation of a crematory facility shall not begin serving a term in accordance with section 4717.02 of the Revised Code until the first day of July following the earliest expiration of the term of a member who is a licensed embalmer and practicing funeral director, after the effective date of this act. The Governor shall appoint, with the advice and consent of the Senate, the member with experience and knowledge in the operation of a crematory facility to begin serving a term of five years beginning on that first day of July following the expiration of such member's term. Thereafter, appointments shall be made in accordance with section 4717.02 of the Revised Code.

Notwithstanding new section 4717.02 of the Revised Code, as enacted by this act, upon the expiration of the terms of the two members who represent the public serving on the Board of Embalmers and Funeral Directors upon the effective date of this act, the Governor shall appoint, with the advice and consent of the Senate, one member to fill one of the

vacancies for a term of four years and shall appoint another member to fill the other vacancy for a term of five years. Thereafter, the Governor shall make appointments in accordance with section 4717.02 of the Revised Code.

SECTION 4. The rules adopted by the Board of Embalmers and Funeral Directors under former sections 4717.04, 4717.06, 4717.061, 4717.07, 4717.071, and 4717.09 of the Revised Code shall remain in effect as rules of the Board adopted under section 4717.04 of the Revised Code, as enacted by this act, until such time as the Board duly amends or rescinds those rules under section 4717.04 of the Revised Code, as enacted by this act.

SECTION 5. Section 2925.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. S.B. 143, Sub. H.B. 125, Am. Sub. S.B. 269, and Sub. S.B. 223 of the 121st General Assembly, with the new language of none of the acts shown in capital letters. Section 3734.021 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 98 and Sub. H.B. 685 of the 120th General Assembly, with the language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____