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Am. S. B. No. 2

Senator Hite

Cosponsors: Senators Gardner, Manning, Yuko, Williams, Brown, Sykes, LaRose, Bacon, Balderson, Beagle, Burke, Dolan, Eklund, Hackett, Hoagland, Hottinger, Huffman, Kunze, Lehner, Obhof, O'Brien, Oelslager, Peterson, Schiavoni, Tavares, Thomas, Uecker Representatives Landis, Leland, Schaffer, Anielski, Antonio, Arndt, Ashford, Boyd, Clyde, Craig, Duffey, Edwards, Fedor, Galonski, Gavarone, Green, Hambley, Holmes, Hughes, Kent, Lepore-Hagan, Manning, Miller, O'Brien, Patterson, Patton, Reineke, Rogers, Seitz, Smith, K., Strahorn, Sweeney, West

A BILL

To amend sections 1506.21, 1506.23, 3714.01, 1
3714.02, 3714.051, 3714.06, 3714.062, 3714.082, 2
3734.061, 3734.19, 3734.20, 3734.21, 3734.22, 3
3734.23, 3734.30, 5301.80, 6109.02, 6109.08, 4
6109.24, 6111.03, 6111.04, 6111.07, and 6111.30 5
and to enact sections 3714.022, 6109.25, 6
6111.052, 6111.33, and 6111.34 of the Revised 7
Code to revise specified laws relating to 8
environmental protection. 9

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

Section 1. That sections 1506.21, 1506.23, 3714.01, 10
3714.02, 3714.051, 3714.06, 3714.062, 3714.082, 3734.061, 11
3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.30, 5301.80, 12
6109.02, 6109.08, 6109.24, 6111.03, 6111.04, 6111.07, and 13
6111.30 be amended and sections 3714.022, 6109.25, 6111.052, 14

6111.33, and 6111.34 of the Revised Code be enacted to read as follows: 15
16

Sec. 1506.21. (A) (1) There is hereby created the Ohio Lake 17
Erie commission, consisting of the directors of environmental 18
protection, natural resources, health, agriculture, 19
transportation, and development services, or their designees, 20
the two board members of the great lakes protection fund board 21
appointed by the governor under section 1506.22 of the Revised 22
Code who shall serve as ex officio nonvoting members, and five 23
additional members appointed by the governor ~~who~~ with the advice 24
and consent of the senate. The governor shall serve at the 25
~~pleasure of the governor~~ appoint the five additional members not 26
later than forty-five days after the effective date of this 27
amendment. Of the initial five additional members appointed by 28
the governor after the effective date of this amendment, two 29
shall serve for a term ending on September 1, 2017, two shall 30
serve for a term ending on September 1, 2018, and one shall 31
serve for a term ending on September 1, 2019. Thereafter, all 32
five additional members appointed by the governor shall serve 33
three-year terms. 34

(2) All of the following apply to the five additional 35
members appointed by the governor: 36

(a) Each member shall hold office from the date of the 37
member's appointment until the end of the term for which the 38
member was appointed. 39

(b) In the event of the death, removal, resignation, or 40
incapacity of a member, the governor, with the advice and 41
consent of the senate, shall appoint a successor who shall hold 42
office for the remainder of the term for which the successor's 43
predecessor was appointed. 44

(c) A member shall continue in office subsequent to the 45
expiration date of the member's term until the member's 46
successor takes office or until a period of sixty days has 47
elapsed, whichever occurs first. 48

(d) Members may be reappointed for not more than two total 49
terms. 50

(e) The governor at any time may remove a member for 51
misfeasance, nonfeasance, or malfeasance in office. 52

(3) Membership on the commission does not constitute 53
holding a public office or position of employment under the laws 54
of this state and is not grounds for removal of public officers 55
or employees from their offices or positions of employment. 56
Members may be reimbursed for their actual and necessary 57
expenses incurred in the performance of their official duties. 58
The members of the commission annually shall designate a 59
director or director's designee as chairperson, who shall 60
preside at the meetings of the commission, and a secretary. 61

(4) The commission shall hold at least one meeting every 62
three months. The secretary of the commission shall keep a 63
record of its proceedings. Special meetings shall be held at the 64
call of the chairperson or upon the request of four members of 65
the commission. All meetings and records of the commission shall 66
be open to the public. Six members of the commission constitute 67
a quorum. The agencies represented on the commission shall 68
furnish administrative, clerical, technical, and other services 69
required by the commission in the performance of its duties. 70

(B) The commission shall do all of the following: 71

(1) Ensure the coordination of funding and monitoring 72
federal, state, and local policies—and, programs, and 73

~~priorities~~ pertaining to Lake Erie ~~water quality, toxic~~ 74
~~pollution control, including issues related to nutrient-related~~ 75
~~water quality and the beneficial use of dredged material. The~~ 76
~~commission shall prioritize policies, programs, and resource~~ 77
~~priorities identified in the Lake Erie protection and~~ 78
~~restoration strategy;~~ 79

(2) Review, and make recommendations concerning, the 80
development and implementation of policies, programs, and issues 81
~~for long term, comprehensive protection of Lake Erie water~~ 82
~~resources and water quality that are consistent with the great~~ 83
~~lakes water quality agreement and the great lakes toxic~~ 84
~~substances control agreement other international, federal, and~~ 85
~~state compacts and agreements;~~ 86

~~(3) Recommend policies and programs to modify the coastal~~ 87
~~management program of this state;~~ 88

~~(4) At each regular meeting, consider matters relating to~~ 89
~~the implementation of sections 1506.22 and 1506.23 of the~~ 90
~~Revised Code Serve as a repository and clearinghouse for public~~ 91
~~information and data related to Lake Erie and the Lake Erie~~ 92
~~basin and collect and distribute such information and data at~~ 93
~~the commission's discretion;~~ 94

~~(5)~~ (4) Publish and submit the Lake Erie protection agenda 95
~~and restoration strategy~~ in accordance with division (C) of 96
section 1506.23 of the Revised Code; 97

~~(6) Ensure the implementation of a basinwide approach to~~ 98
~~Lake Erie issues;~~ 99

~~(7) Increase~~ (5) Provide representation ~~of regarding~~ the 100
interests of this state in state, regional, national, and 101
international forums pertaining to ~~the resources and water~~ 102

quality of Lake Erie and the Lake Erie basin;	103
(8) Promote <u>(6) Develop, implement, and coordinate an</u>	104
<u>education, public information, and community relations program</u>	105
<u>concerning the wise management of the commission's policies,</u>	106
<u>programs, issues, and the resources of Lake Erie;</u>	107
(9) <u>(7) Develop and implement a marketing program</u>	108
<u>promoting the sale of the Lake Erie license plate created under</u>	109
<u>section 4503.52 of the Revised Code and other public and private</u>	110
<u>fundraising initiatives to support the commission's programs;</u>	111
<u>(8) Establish and dissolve public advisory councils as</u>	112
<u>considered necessary to assist in programs established under</u>	113
<u>this section and sections 1506.22 and 1506.23 of the Revised</u>	114
<u>Code. Members of the public advisory councils shall represent a</u>	115
<u>broad cross section of interests, shall have experience or</u>	116
<u>expertise in the subject for which the advisory council was</u>	117
<u>established, and shall serve without compensation. Membership on</u>	118
<u>a public advisory council does not constitute holding a public</u>	119
<u>office or position of employment under the laws of this state</u>	120
<u>and is not grounds for removal of public officers or employees</u>	121
<u>from their offices or positions of employment. Members of a</u>	122
<u>public advisory council may be reimbursed for their actual and</u>	123
<u>necessary expenses incurred in the performance of their official</u>	124
<u>duties.</u>	125
(10) Prepare and submit the report required under division	126
(D) of section 1506.23 of the Revised Code.	127
(C) Each state agency, upon the request of the commission,	128
shall cooperate in the implementation of this section and	129
sections 1506.22 and 1506.23 of the Revised Code.	130
Sec. 1506.23. (A) There is hereby created in the state	131

treasury the Lake Erie protection fund, which shall consist of 132
moneys deposited into the fund from the issuance of Lake Erie 133
license plates under section 4503.52 of the Revised Code and 134
donations, gifts, bequests, and other moneys received for the 135
purposes of this section. Not later than the first day of June 136
each year, the Ohio Lake Erie commission created in section 137
1506.21 of the Revised Code shall designate one of its members 138
who represents a state agency to administer the fund and, with 139
the approval of the commission, to expend moneys from the fund 140
for any of the following purposes: 141

(1) ~~Accelerating the pace of Funding cooperative research 142
into, data gathering, or demonstration projects related to the 143
economic, environmental, and human health effects of 144
contamination of priorities outlined in the Lake Erie protection 145
and its tributaries restoration strategy published under this 146
section; 147~~

(2) ~~Funding cooperative research and data collection 148
regarding Lake Erie water quality and toxic contamination; 149~~

(3) ~~Developing improved methods of measuring water quality 150
and establishing a firm scientific base for implementing a 151
basinwide system of water quality management for Lake Erie and 152
its tributaries; 153~~

(4) ~~Supporting research to improve the scientific 154
knowledge on which protection policies are based and devising 155
new and innovative clean up techniques for toxic contaminants; 156~~

(5) ~~Supplementing, in a stable and predictable manner, 157
state commitments to policies and programs pertaining to Lake 158
Erie water quality and resource protection; 159~~

(6) ~~Encouraging cooperation with and among leaders from 160~~

state legislatures, state agencies, political subdivisions, 161
business and industry, labor, institutions of higher education, 162
agriculture, environmental organizations, and conservation 163
groups within the Lake Erie basin; 164

~~(7)~~ (3) Awarding of grants to any agency of the United 165
States, any state agency, as "agency" is defined in division (A) 166
(2) of section 111.15 of the Revised Code, any political 167
subdivision, any educational institution, or any nonprofit 168
organization for the development and implementation of projects 169
and programs that are designed to ~~protect~~ address priorities 170
outlined in the Lake Erie by reducing toxic contamination of or 171
improving water quality in Lake Erie protection and restoration 172
strategy; 173

~~(8)~~ (4) Expenses authorized by the Ohio Lake Erie 174
commission necessary to implement this chapter. 175

(B) Moneys in the Lake Erie protection fund are not 176
intended to replace other moneys expended by any agency of the 177
United States, any state agency, as "agency" is so defined, any 178
political subdivision, any educational institution, or any 179
nonprofit organization for projects and programs that are 180
designed to protect Lake Erie ~~by reducing toxic contamination of~~ 181
~~or improving water quality in Lake Erie.~~ 182

~~(C) Each March, the Ohio Lake Erie commission shall~~ 183
~~publish a Lake Erie protection agenda that describes proposed~~ 184
~~uses of the Lake Erie protection fund for the following state~~ 185
~~fiscal year. The agenda shall be the subject of at least one~~ 186
~~public meeting of the commission held in the Lake Erie basin.~~ 187
~~The commission shall submit the agenda to the governor, the~~ 188
~~president of the senate, and the speaker of the house of~~ 189
representatives. Not later than the last day of July of each odd- 190

numbered year, the commission shall publish a Lake Erie 191
protection and restoration strategy that describes the goals of 192
the commission and prioritizes the uses of the Lake Erie 193
protection fund and other funds for the following state fiscal 194
year. The commission shall hold at least one public meeting in 195
the Lake Erie basin regarding the strategy. The commission shall 196
submit the strategy to the governor, the president of the 197
senate, and the speaker of the house of representatives. 198

(D) Not later than September 1, 1991, and annually 199
thereafter, the Lake Erie commission shall prepare a report of 200
the activities that were undertaken by the commission under this 201
section during the immediately preceding fiscal year, including, 202
without limitation, revenues and expenses for the preceding 203
fiscal year. The commission shall submit the report to the 204
governor, the president of the senate, and the speaker of the 205
house of representatives. 206

Sec. 3714.01. As used in this chapter: 207

~~(A)~~—"Board of health" means the board of health of a city 208
or general health district or the authority having the duties of 209
a board of health in any city as authorized by section 3709.05 210
of the Revised Code. 211

~~(B)~~—"Closure" means either the time at which a 212
construction and demolition debris facility will no longer 213
accept construction and demolition debris for disposal or the 214
effective date of an order revoking the license of the facility. 215
"Closure" includes measures performed to protect public health 216
or safety, to prevent air or water pollution, or to make the 217
facility suitable for other uses, if any, including, without 218
limitation, the establishment and maintenance of suitable cover 219
of soil and vegetation over areas where construction and 220

demolition debris is buried and the minimization of erosion, the 221
infiltration of surface water into such areas, the production of 222
leachate, and the accumulation and runoff of contaminated 223
surface water. 224

~~(C)~~—"Construction and demolition debris" means those 225
materials resulting from the alteration, construction, 226
destruction, rehabilitation, or repair of any physical structure 227
that is built by humans, including, without limitation, houses, 228
buildings, industrial or commercial facilities, or roadways. 229
"Construction and demolition debris" includes particles and dust 230
created during demolition activities. "Construction and 231
demolition debris" does not include materials identified or 232
listed as solid wastes or hazardous waste pursuant to Chapter 233
3734. of the Revised Code and rules adopted under it; materials 234
from mining operations, nontoxic fly ash, spent nontoxic foundry 235
sand, and slag; or reinforced or nonreinforced concrete, 236
asphalt, building or paving brick, or building or paving stone 237
that is stored for a period of less than two years for recycling 238
into a usable construction material. 239

~~(D)~~—"Disposal" means the discharge, deposit, injection, 240
dumping, spilling, leaking, emitting, or placing of any 241
construction and demolition debris into or on any land or ground 242
or surface water or into the air, except if the disposition or 243
placement constitutes storage. 244

~~(E)~~—"Facility" means any site, location, tract of land, 245
installation, or building used for the disposal of construction 246
and demolition debris. "Facility" does not include any 247
construction site where construction debris and trees and brush 248
removed in clearing the construction site are used as fill 249
material on the site where the materials are generated or 250

removed and does not include any site where materials composed 251
exclusively of reinforced or nonreinforced concrete, asphalt, 252
clay tile, building or paving brick, or building or paving stone 253
are used as fill material, either alone or in conjunction with 254
clean soil, sand, gravel, or other clean aggregates, in 255
legitimate fill operations for construction purposes or to bring 256
the site up to a consistent grade. 257

~~(F)~~—"Health district" means a city or general health 258
district created by or under the authority of Chapter 3709. of 259
the Revised Code. 260

~~(G)~~—"New construction and demolition debris facility" or 261
"new facility" includes an existing facility that is proposing 262
to expand the facility beyond the limits of construction and 263
demolition debris placement approved by a board of health or the 264
director of environmental protection, as applicable, under this 265
chapter. 266

~~(H)~~—"Person" includes the state, any political subdivision 267
of the state or other state or local body, the United States and 268
any agency or instrumentality thereof, and any legal entity or 269
organization defined as a person under section 1.59 of the 270
Revised Code. 271

~~(I)~~—"Processing facility" means a site, location, tract of 272
land, installation, or building that is used or intended to be 273
used for the purpose of processing, transferring, or recycling 274
construction and demolition debris that was generated off the 275
premises of the facility. As used in this paragraph, 276
"transferring" means the receipt or storage of construction and 277
demolition debris, or the movement of construction and 278
demolition debris from vehicles or containers to a working 279
surface and into other vehicles or containers, for purposes of 280

transporting the debris to a solid waste landfill facility, a 281
construction and demolition debris facility, or a processing 282
facility. As used in this paragraph, "processing" means the 283
receipt or storage of construction and demolition debris, or the 284
movement of construction and demolition debris from vehicles or 285
containers to a working surface, for purposes of separating the 286
debris into individual types of materials as a commodity for use 287
in a beneficial manner that does not constitute disposal. 288
"Processing facility" does not include a facility that is 289
licensed under section 3734.05 of the Revised Code as a solid 290
waste transfer facility or solid waste facility. 291

"Pulverized debris" means a load of debris that, after 292
demolition has occurred, but prior to acceptance of the load of 293
debris for disposal, has been shredded, crushed, ground, or 294
otherwise rendered to such an extent that the load of debris is 295
unidentifiable as construction and demolition debris. 296

~~(J)~~—"Qualified ground water scientist" means a scientist 297
or engineer who has received a baccalaureate or post-graduate 298
degree in the natural sciences or engineering and has at least 299
five years of relevant experience in ground water hydrogeology 300
and related fields that enable that individual to make sound 301
professional judgments regarding ground water monitoring, 302
contaminant fate and transport, and corrective measures. 303

~~(K)~~—"Recycling" means processing construction and 304
demolition debris that would otherwise be disposed of and 305
returning the material to commerce as a commodity for use in a 306
beneficial manner that does not constitute disposal. 307

"Storage" means the holding of construction and demolition 308
debris for a temporary period in such a manner that it remains 309
retrievable and substantially unchanged and, at the end of the 310

period, is disposed of or reused or recycled in a beneficial 311
manner. 312

~~(L) "Transfer facility" means a site, location, tract of 313
land, installation, or building that is primarily used or 314
intended to be used for the purpose of transferring construction 315
and demolition debris that was generated off the premises of the 316
facility from vehicles or containers into other vehicles or 317
containers for transportation to a construction and demolition 318
debris facility. 319~~

Sec. 3714.02. The director of environmental protection 320
shall adopt, and may amend and rescind, rules in accordance with 321
Chapter 119. of the Revised Code governing construction and 322
demolition debris facilities and the inspection of and issuance 323
of permits to install and licenses for those facilities. The 324
rules shall ensure that the facilities will not create a 325
nuisance, fire hazard, or health hazard or cause or contribute 326
to air or water pollution. The rules shall establish all of the 327
following: 328

(A) Standards and procedures for the issuance of permits 329
to install under section 3714.051 of the Revised Code that shall 330
include all of the following: 331

(1) Information that must be included in the designs and 332
plans required to be submitted with the application for a permit 333
to install under section 3714.051 of the Revised Code and 334
criteria for approving, disapproving, or requiring modification 335
of the designs and plans; 336

(2) Information that must be included with an application 337
for a permit to install in addition to the information required 338
under section 3714.051 of the Revised Code; 339

(3) Procedures for the issuance, denial, modification,	340
transfer, suspension, and revocation of permits to install;	341
(4) Grounds for the denial, modification, suspension, or	342
revocation of permits to install;	343
(5) A requirement that a person that is required to obtain	344
both a permit to install under section 3714.051 of the Revised	345
Code and a license under section 3714.06 of the Revised Code	346
obtain both the permit and license prior to operation;	347
(6) Criteria for establishing time periods after which a	348
permit to install expires;	349
(7) Any other requirements that the director determines	350
necessary in order to establish the program for the issuance of	351
permits to install under section 3714.051 of the Revised Code.	352
(B) Standards for the design and construction of	353
facilities. The standards may include, without limitation,	354
requirements for diking around the areas where debris is buried	355
to prevent runoff of surface water onto adjacent property.	356
(C) Standards for control over access to facilities and	357
for the operation of facilities, including, without limitation,	358
standards for the compaction and covering of debris disposed of	359
and standards regarding equipment used for the operation of	360
facilities;	361
(D) Criteria and procedures for granting authorization to	362
the owner or operator of a facility to dispose of asbestos or	363
asbestos-containing materials or products at the owner's or	364
operator's facility;	365
(E) Requirements for the installation of ground water	366
monitoring wells and the monitoring of ground water quality at	367

any facility where the operation of the facility threatens to 368
contaminate ground water. The rules shall require that ground 369
water monitoring be capable of determining impacts resulting 370
from the operation of construction and demolition debris 371
facilities. The rules also shall include provisions for ground 372
water assessment and corrective actions for impacts to ground 373
water. Further, the rules shall require that the owner or 374
operator of a construction and demolition debris facility submit 375
a monitoring report to the director or a board of health, as 376
applicable, that has been prepared by a qualified ground water 377
scientist and that includes all of the following: 378

(1) A determination of any impacts to ground water from 379
the migration of contaminants from the construction and 380
demolition debris facility; 381

(2) A list of the contaminants from the facility that may 382
be causing contamination of ground water; 383

(3) Recommendations for actions, if any are necessary, 384
that should be taken to investigate or remediate the source of 385
any ground water contamination. 386

(F) Requirements for the monitoring and sampling of 387
leachate. The rules adopted under division (F) of this section 388
shall include all of the following: 389

(1) A requirement that the owner or operator of a 390
construction and demolition debris facility provide for sampling 391
of leachate at least annually. However, the rules shall require 392
that if leachate is recirculated through a facility, the 393
leachate be sampled at least every calendar quarter. 394

(2) A requirement that the owner or operator of a facility 395
sample for at least seventy-seven parameters that the director 396

shall establish in the rules, which shall include arsenic, 397
copper, and chromium; 398

(3) Requirements governing facilities that do not have a 399
system for sampling leachate. The rules shall require that the 400
owner or operator of such a facility monitor ground water in 401
accordance with the rules adopted under division (E) of this 402
section for the parameters established in the rules adopted 403
under division (F) (2) of this section. 404

(4) A requirement that a facility that monitors ground 405
water and leachate add to the parameters monitored by the ground 406
water monitoring system any parameter that is detected through 407
the monitoring of leachate; 408

(5) Requirements governing the reporting of leachate 409
sampling data. The rules shall require that reports be submitted 410
to the director and the applicable board of health. 411

(G) Requirements respecting written, narrative plans for 412
the operation of facilities. The rules shall require the owner 413
or operator of a facility to use best management practices. In 414
addition, the rules shall require as a part of the plan of 415
operation of a facility the inclusion of the contingency plans 416
required in rules adopted under division (H) of this section. 417

(H) Requirements respecting contingency plans for 418
effective action in response to fire or explosion at a facility 419
or to hydrogen sulfide or other gases created by the operation 420
of a facility that pose a nuisance, cause an offensive odor, or 421
pose a threat to public health or safety or the environment; 422

(I) Financial assurance requirements for the closure and 423
post-closure care of facilities as follows: 424

(1) The rules establishing the financial assurance 425

requirements for the closure of facilities shall require that 426
the owner or operator of a facility, before being issued an 427
initial license for the facility under section 3714.06 of the 428
Revised Code, submit a surety bond, a letter of credit, or other 429
acceptable financial assurance, as specified by the director in 430
the rules, in an amount determined by the director or the 431
appropriate board of health, as applicable. The rules shall 432
include a list of the activities for which financial assurance 433
may be required. The rules shall allow the director or board of 434
health, as applicable, to adjust the amount of a surety bond, a 435
letter of credit, or other acceptable financial assurance in 436
conjunction with the issuance of an annual license. However, the 437
rules shall require that the amount of a surety bond, letter of 438
credit, or other acceptable financial assurance for the closure 439
of a facility be not less than thirteen thousand dollars per 440
acre of land that has been or is being used for the disposal of 441
construction and demolition debris. The rules shall require an 442
explanation of the rationale for financial assurance amounts 443
exceeding thirteen thousand dollars per acre. 444

(2) The rules establishing the financial assurance 445
requirements for the post-closure care of facilities shall 446
address the maintenance of the facility, continuation of any 447
required monitoring systems, and performance and maintenance of 448
any specific requirements established in rules adopted under 449
division (K) of this section or through a permit, license, or 450
order of the director. The rules also shall allow the director 451
or board of health, as applicable, to determine the amount of a 452
surety bond, a letter of credit, or other acceptable financial 453
assurance for the post-closure care of a facility based on a 454
required cost estimate for the post-closure care of the 455
facility. The rules shall require that the owner or operator of 456

a facility provide post-closure financial assurance for a period 457
of five years after the closure of a facility. However, the 458
rules shall stipulate that post-closure care financial assurance 459
may be extended beyond the five-year period if the extension of 460
the post-closure care period is required under rules adopted 461
under division (K) of this section. 462

(J) Requirements for the closure of facilities. The 463
requirements shall include minimum requirements for the closure 464
of facilities and such additional requirements as are reasonably 465
related to the location of the facility and the type and 466
quantity of materials disposed of in the facility. The rules 467
shall require that an owner or operator of a facility, upon the 468
closure of the facility, file in the office of the county 469
recorder of the county in which the facility is located a notice 470
that the property was previously used as a construction and 471
demolition debris facility. The rules shall require that the 472
notice be filed in the same manner as a deed to the property. 473
The rules shall require that the notice include an engineering 474
drawing attachment showing the physical locations of debris 475
placement, an indication of the volumes of debris, and an 476
indication of the depth of the final cover material. 477

(K) Requirements for the post-closure care of facilities 478
for a period of five years after the closure of a facility. 479
However, the rules shall require that the post-closure care 480
period may be extended by order of the applicable board of 481
health, the director, or a court of competent jurisdiction if 482
conditions at a facility are impacting public health or safety 483
or the environment or if ground water assessment and corrective 484
measures are required to be conducted at the facility under 485
rules adopted under division (E) of this section. This division 486
does not limit the authority of the director, a board of health, 487

or a court of competent jurisdiction to issue an order under any 488
other applicable chapter of the Revised Code. 489

The rules adopted under this division shall specify both 490
of the following: 491

(1) With respect to a facility that permanently ceases 492
acceptance of construction and demolition debris in calendar 493
year 2006, the post-closure care and post-closure care financial 494
assurance requirements do not apply, provided that the owner or 495
operator of the facility gives written notice of the date of the 496
cessation to the applicable board of health or the director, the 497
owner or operator of the facility does not submit a subsequent 498
application for a license renewal for the facility after that 499
cessation, and no order was issued by the applicable board of 500
health, the director, or a court of competent jurisdiction 501
governing the post-closure care of and post-closure financial 502
assurance for that facility prior to the date specified in the 503
written notice. 504

(2) With respect to a facility that permanently ceases 505
acceptance of construction and demolition debris in calendar 506
year 2007, the required period of time for post-closure care and 507
post-closure care financial assurance shall be one year after 508
the closure of the facility, provided that the owner or operator 509
of the facility gives written notice of the date of the 510
cessation to the applicable board of health or the director, the 511
owner or operator does not submit a subsequent application for a 512
license renewal for the facility after that cessation, and no 513
order was issued by the applicable board of health, the 514
director, or a court of competent jurisdiction governing the 515
post-closure care of and post-closure financial assurance for 516
that facility prior to the date specified in the written notice. 517

(L) Standards and procedures governing the modification of 518
operation licenses issued under section 3714.06 of the Revised 519
Code; 520

(M) Procedures and requirements governing the 521
certification of construction and demolition debris by ~~transfer~~ 522
processing facilities as required under section 3714.082 of the 523
Revised Code; 524

(N) Requirements governing the provision of notification 525
under section 3714.083 of the Revised Code by owners and 526
operators of construction and demolition debris facilities of 527
rejected loads and by transporters and shippers of the final 528
disposition of rejected loads; 529

(O) Requirements governing the certification and training 530
of operators of construction and demolition debris facilities as 531
required under section 3714.062 of the Revised Code; 532

(P) Definitions of "owner" and "operator" for purposes of 533
this chapter. 534

The rules adopted under this section shall not prohibit 535
the open burning of construction debris on a construction site 536
in compliance with division (C) (1) of section 3704.11 of the 537
Revised Code. 538

Rules adopted under divisions (E) and (F) of this section 539
apply to all new construction and demolition debris facilities 540
for which a permit to install is required under section 3714.051 541
of the Revised Code on and after ~~the effective date of this~~ 542
~~amendment~~ December 22, 2005. With respect to a facility that is 543
licensed under section 3714.06 of the Revised Code and operating 544
~~on the effective date of this amendment~~ December 22, 2005: if 545
the facility does not have a ground water monitoring or leachate 546

monitoring system, the facility is not required to comply with 547
rules adopted under division (E) or (F) of this section; if the 548
facility has a ground water monitoring system, but not a 549
leachate monitoring system, the facility shall comply only with 550
rules adopted under divisions (E) and (F)(3) of this section; 551
and if the facility has a leachate monitoring system, but not a 552
ground water monitoring system, the facility shall comply only 553
with rules adopted under division (F) of this section. 554

Sec. 3714.022. (A) The director of environmental 555
protection shall adopt, and may amend and rescind, rules in 556
accordance with Chapter 119. of the Revised Code governing 557
processing facilities and the inspection of and issuance of 558
permits to install and licenses for those facilities. The rules 559
shall ensure that the facilities will not create a nuisance, 560
fire hazard, or health hazard or cause or contribute to air or 561
water pollution. 562

(B) The rules adopted under this section may establish all 563
of the following: 564

(1) Requirements for the location, design, construction, 565
operation, and closure of processing facilities; 566

(2) Requirements for the acceptance, storage, and 567
accumulation of materials, including the accumulation of 568
material for product development; 569

(3) The authorized maximum daily receipts; 570

(4) Fire prevention measures; 571

(5) Record-keeping procedures; 572

(6) The process for the closure of a processing facility; 573

(7) Financial assurance requirements; 574

<u>(8) The management of stormwater and leachate;</u>	575
<u>(9) Standards and procedures for the issuance of permits to install under divisions (H) and (I) of section 3714.051 of the Revised Code that shall include all of the following:</u>	576
<u>(a) Information that must be included in the designs and plans required to be submitted with the application for a permit to install under section 3714.051 of the Revised Code and criteria for approving, disapproving, or requiring modification of the designs and plans;</u>	577
<u>(a) Information that must be included in the designs and plans required to be submitted with the application for a permit to install under section 3714.051 of the Revised Code and criteria for approving, disapproving, or requiring modification of the designs and plans;</u>	578
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<u>(a) Information that must be included in the designs and plans required to be submitted with the application for a permit to install under section 3714.051 of the Revised Code and criteria for approving, disapproving, or requiring modification of the designs and plans;</u>	582
<u>(a) Information that must be included in the designs and plans required to be submitted with the application for a permit to install under section 3714.051 of the Revised Code and criteria for approving, disapproving, or requiring modification of the designs and plans;</u>	583
<u>(b) Information and the fee amount that must be included with an application for a permit to install in addition to the information required under section 3714.051 of the Revised Code;</u>	584
<u>(b) Information and the fee amount that must be included with an application for a permit to install in addition to the information required under section 3714.051 of the Revised Code;</u>	585
<u>(b) Information and the fee amount that must be included with an application for a permit to install in addition to the information required under section 3714.051 of the Revised Code;</u>	586
<u>(c) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install;</u>	587
<u>(c) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install;</u>	588
<u>(d) Grounds for the denial, modification, suspension, or revocation of permits to install;</u>	589
<u>(d) Grounds for the denial, modification, suspension, or revocation of permits to install;</u>	590
<u>(e) A requirement that a person that is required to obtain both a permit to install under section 3714.051 of the Revised Code and a license under section 3714.06 of the Revised Code obtain both the permit and license;</u>	591
<u>(e) A requirement that a person that is required to obtain both a permit to install under section 3714.051 of the Revised Code and a license under section 3714.06 of the Revised Code obtain both the permit and license;</u>	592
<u>(e) A requirement that a person that is required to obtain both a permit to install under section 3714.051 of the Revised Code and a license under section 3714.06 of the Revised Code obtain both the permit and license;</u>	593
<u>(e) A requirement that a person that is required to obtain both a permit to install under section 3714.051 of the Revised Code and a license under section 3714.06 of the Revised Code obtain both the permit and license;</u>	594
<u>(f) Criteria for establishing time periods after which a permit to install expires;</u>	595
<u>(f) Criteria for establishing time periods after which a permit to install expires;</u>	596
<u>(g) Any other requirements that the director determines necessary in order to establish the program for the issuance of permits to install under section 3714.051 of the Revised Code.</u>	597
<u>(g) Any other requirements that the director determines necessary in order to establish the program for the issuance of permits to install under section 3714.051 of the Revised Code.</u>	598
<u>(g) Any other requirements that the director determines necessary in order to establish the program for the issuance of permits to install under section 3714.051 of the Revised Code.</u>	599
<u>(C) Rules establishing financial assurance requirements for the closure of a processing facility shall require that prior to being issued an initial license for the facility under</u>	600
<u>(C) Rules establishing financial assurance requirements for the closure of a processing facility shall require that prior to being issued an initial license for the facility under</u>	601
<u>(C) Rules establishing financial assurance requirements for the closure of a processing facility shall require that prior to being issued an initial license for the facility under</u>	602

section 3714.06 of the Revised Code, the owner or operator of a 603
facility submit a surety bond, a letter of credit, or other 604
acceptable financial assurance in a fixed amount as specified by 605
the director plus the fixed per cubic yard cost of 606
transportation to and disposal of mixed construction and 607
demolition debris at an authorized disposal facility. 608

(D) The rules adopted under this section shall not 609
prohibit the open burning of construction debris on a 610
construction site in compliance with division (C)(1) of section 611
3704.11 of the Revised Code. 612

(E) The rules adopted under this section may allow for the 613
issuance of a single license governing both a construction and 614
demolition debris facility and a processing facility located on 615
the same property. 616

Sec. 3714.051. (A) (1) Not later than one hundred eighty 617
days after December 22, 2005, and in accordance with rules 618
adopted under section 3714.02 of the Revised Code, the director 619
of environmental protection shall establish a program for the 620
issuance of permits to install for new construction and 621
demolition debris facilities. 622

(2) On and after December 22, 2005, no person shall 623
establish a new construction and demolition debris facility 624
without first obtaining a permit to install issued by the board 625
of health of the health district in which the facility is or is 626
to be located or from the director if the facility is or is to 627
be located in a health district that is not on the approved list 628
under section 3714.09 of the Revised Code or if a board of 629
health requests the director to issue the permit to install 630
under division (G) of this section. 631

(B) The director, the director's authorized 632
representative, a board of health, or an authorized 633
representative of the board may assist an applicant for a permit 634
to install during the permitting process by providing guidance 635
and technical assistance. 636

(C) An applicant for a permit to install shall submit an 637
application to a board of health or the director, as applicable, 638
on a form that the director prescribes. The applicant shall 639
include with the application all of the following: 640

(1) The name and address of the applicant, of all partners 641
if the applicant is a partnership or of all officers and 642
directors if the applicant is a corporation, and of any other 643
person who has a right to control or in fact controls management 644
of the applicant or the selection of officers, directors, or 645
managers of the applicant; 646

(2) The designs and plans for the construction and 647
demolition debris facility that include the location or proposed 648
location of the facility, design and construction plans and 649
specifications, anticipated beginning and ending dates for work 650
performed, and any other related information that the director 651
requires by rule; 652

(3) The information required under section 3714.052 of the 653
Revised Code; 654

(4) An application fee of two thousand dollars. A board of 655
health shall deposit money collected under division (C) (4) of 656
this section into the special fund of the health district 657
created under section 3714.07 of the Revised Code. The director 658
shall transmit money collected under division (C) (4) of this 659
section to the treasurer of state to be credited to the waste 660

management fund created in section 3734.061 of the Revised Code. 661
Not later than six months after a facility that is issued a 662
permit to install begins accepting construction and demolition 663
debris for disposal, a board of health or the director, as 664
applicable, shall refund the application fee received under 665
division (C) (4) of this section to the person that submitted the 666
application for the permit to install. 667

(5) Any other information required by the director in 668
accordance with rules adopted under section 3714.02 of the 669
Revised Code. 670

(D) A permit to install may be issued with terms and 671
conditions that a board of health or the director, as 672
applicable, finds necessary to ensure that the facility will 673
comply with this chapter and rules adopted under it and to 674
protect public health and safety and the environment. 675

(E) A permit to install shall expire after a time period 676
specified by the director or board of health, as applicable, in 677
accordance with rules adopted under section 3714.02 of the 678
Revised Code unless the applicant has undertaken a continuing 679
program of construction or has entered into a binding 680
contractual obligation to undertake and complete a continuing 681
program of construction within a reasonable time, in which case 682
the director or board, as applicable, may extend the expiration 683
date of a permit to install upon request of the applicant. 684

(F) The director or a board of health, as applicable, may 685
issue, deny, modify, suspend, or revoke a permit to install in 686
accordance with rules. 687

(G) A board of health shall notify the director of its 688
receipt of an application for a permit to install. A board of 689

health, or its authorized representative, may request the 690
director to review an application, or part of an application, 691
for a permit to install and also may request that the director 692
issue or deny it when the board determines that additional 693
expertise is required. The director shall comply with such a 694
request. 695

Upon a board of health's issuance of a permit to install 696
for a new construction and demolition debris facility under this 697
section, the board shall mail a copy of the permit to the 698
director together with approved plans, specifications, and 699
information regarding the facility. 700

(H) In accordance with rules adopted under section 701
3714.022 of the Revised Code, the director shall establish a 702
program for the issuance of permits to install for processing 703
facilities. On and after the effective date of this section, no 704
person shall establish a processing facility without first 705
obtaining a permit to install issued by the board of health of 706
the health district in which the processing facility is or is to 707
be located or from the director if the facility is or is to be 708
located in a health district that is not on the approved list 709
under section 3714.09 of the Revised Code. An applicant for a 710
permit to install shall submit an application to a board of 711
health or the director, as applicable, on a form and in the 712
manner that the director prescribes. 713

(I) A permit to install for a processing facility may be 714
issued with terms and conditions that a board of health or the 715
director, as applicable, finds necessary to ensure that the 716
facility will comply with this chapter and rules adopted under 717
it and to protect public health and safety and the environment. 718
The director or a board of health, as applicable, may issue, 719

deny, modify, suspend, or revoke a permit to install in 720
accordance with rules. 721

Sec. 3714.06. (A) (1) No person shall operate or maintain a 722
construction and demolition debris facility or processing 723
facility without an annual construction and demolition debris 724
facility or processing facility operation license issued by 725
either of the following: 726

(a) The board of health of the health district in which 727
the facility or processing facility is located ~~or,~~; 728

(b) The director of environmental protection if the 729
facility or processing facility is located in a health district 730
that is not on the approved list under section 3714.09 of the 731
Revised Code, ~~from the director of environmental protection.~~ 732

(2) Any such license may be issued with such terms and 733
conditions as the board or the director, as appropriate, finds 734
necessary to ensure that the facility or processing facility 735
will comply with this chapter and the rules adopted under it and 736
to protect the public health and safety and the environment. 737
Licenses issued under this section expire annually on the 738
thirty-first day of December. 739

(B) During the month of December, but before the first day 740
of January of the next year, each person proposing to continue 741
with operation of a construction and demolition debris facility 742
or processing facility shall procure a license for the facility 743
for that year from the board of health of the appropriate health 744
district ~~in which the facility is located or, if the facility is~~ 745
~~located in a health district that is not on the approved list~~ 746
~~under section 3714.09 of the Revised Code,~~ from the director, as 747
applicable. The person shall submit the application for a 748

license ~~shall be submitted~~ to the board of health or the 749
director, as appropriate, on or before the last day of September 750
of the year preceding that for which the license is sought. ~~An A~~ 751
person shall submit an application for a license for a new 752
facility ~~shall be submitted or processing facility~~ prior to 753
operation of the new facility. The license ~~shall be~~ is valid 754
until the time that the next annual license is required to be 755
obtained for the facility or processing facility under this 756
section. 757

A person who has received a license, upon sale or 758
disposition of the facility or processing facility, may, with 759
the approval of the board or the director, as appropriate, have 760
the license as well as a permit to install for the facility or 761
the processing facility transferred to another person. The board 762
or director may disapprove the transfer of the permit or 763
license, as applicable, for any of the reasons specified in 764
division (B) of section 3714.052 of the Revised Code for the 765
denial of an application for a permit to install. 766

(C) (1) An applicant for an annual license for a processing 767
facility shall submit an application to a board of health or the 768
director, as applicable, on a form that the director prescribes. 769
The applicant shall include with the application a nonrefundable 770
application fee of one hundred dollars. If an applicant submits 771
an application proposing to continue with the operation of a 772
processing facility after the last day of September of the year 773
preceding that for which the license is sought, the applicant 774
shall pay an additional ten per cent of the amount owed for the 775
application fee. 776

(2) Upon issuance of a license, the licensee shall pay to 777
the board of health or director an annual license fee of six 778

hundred fifty dollars. The annual license fee applies to private 779
operators and the state and its political subdivisions. The 780
licensee shall pay the annual license fee within thirty days 781
after issuance of the license. Each license shall specify that 782
it is conditioned upon payment of the annual license fee to the 783
board of health or the director, as appropriate, within thirty 784
days after issuance of the license. 785

(3) If the application for an annual license for a 786
processing facility is submitted to a board of health on the 787
approved list under section 3714.09 of the Revised Code, any 788
application, license, and late fees shall be credited to the 789
special fund of the health district created in division (A) (4) 790
of section 3714.07 of the Revised Code. If the application for 791
an annual license is submitted to the director, all application, 792
license, and late fees shall be credited to the waste management 793
fund created in section 3734.061 of the Revised Code. 794

(D) Upon issuance of a license by a board of health under 795
this section, the board shall mail a copy of the license to the 796
director together with a copy of the plans for the operation of 797
the construction and demolition debris facility or processing 798
facility or any necessary plan updates, as applicable, that are 799
required under section 3714.061 of the Revised Code. 800

~~(D)~~ (E) The director or a board of health shall not issue 801
a license for a processing facility under this section when the 802
horizontal limits of construction and demolition debris 803
processing at a proposed facility or at a facility at which an 804
expansion is proposed are to be located in any of the following 805
locations: 806

(1) Within one hundred feet of a perennial stream as 807
defined by the United States geological survey seven and one- 808

half minute quadrangle map or a category 3 wetland; 809

(2) Within one hundred feet of the facility's property 810
line; 811

(3) Within five hundred feet of an occupied dwelling. 812

(F) The director or a board of health shall not issue a 813
license for a processing facility under this section unless the 814
facility will have both of the following: 815

(1) Access roads constructed in a manner that allows use 816
in all weather conditions and that will withstand the 817
anticipated degree of use and minimize erosion and generation of 818
dust; 819

(2) Surface water drainage and sediment controls that are 820
required by the director. 821

(G) A license issued under this section may be modified in 822
accordance with rules adopted under section 3714.02 of the 823
Revised Code. 824

(H) Division (E) of this section does not apply to a 825
processing facility that was in operation prior to the effective 826
date of this amendment. However, division (E) of this section 827
does apply to a processing facility that was in operation prior 828
to the effective date of this amendment if the processing 829
facility makes a request to the director or board of health, as 830
applicable, to expand the horizontal limits of the construction 831
and demolition debris processing areas at the facility. 832

Sec. 3714.062. (A) The director of environmental 833
protection, in consultation with boards of health and a 834
statewide association representing construction and demolition 835
debris facilities and processing facilities, shall establish a 836

program for the certification of operators of construction and 837
demolition debris facilities and processing facilities and shall 838
establish continuing education training requirements for those 839
operators as part of the certification program. 840

(B) The program for the certification of operators, 841
including the continuing education training requirements, shall 842
include instruction in and shall emphasize, at a minimum, both 843
of the following: 844

(1) The laws governing construction and demolition debris 845
facilities, processing facilities, and disposal of construction 846
and demolition debris; 847

(2) Best management practices governing construction and 848
demolition debris facilities, processing facilities, and 849
disposal of construction and demolition debris. 850

(C) The director shall accredit educational programs and 851
approve statewide associations representing construction and 852
demolition debris facilities and processing facilities to 853
provide continuing education training for operators of 854
construction and demolition debris facilities and operators of 855
processing facilities. The educational programs and associations 856
shall meet the standards established in rules adopted under 857
section 3714.02 of the Revised Code. For purposes of this 858
division, educational programs that are specific to construction 859
and demolition debris facilities and processing facilities and 860
are conducted by the director or the director's authorized 861
representatives are accredited continuing education training 862
programs. 863

(D) An operator shall successfully complete a minimum of 864
ten hours of continuing education training each calendar year. 865

No operator shall fail to comply with this division. 866

Sec. 3714.082. (A) Except as provided in division (B) of 867
this section, a construction and demolition debris facility may 868
request a ~~transfer-processing~~ facility to certify that material 869
that is transferred from the ~~transfer-processing~~ facility to the 870
construction and demolition debris facility is not off- 871
specification material; hazardous waste, solid wastes, or 872
infectious wastes; or low-level radioactive waste whose 873
treatment, recycling, storage, or disposal is governed under 874
division (B) of section 3748.10 of the Revised Code. As used in 875
this section, "hazardous waste," "solid wastes," and "infectious 876
wastes" have the same meanings as in section 3734.01 of the 877
Revised Code. 878

(B) With respect to material that is transferred to a 879
construction and demolition debris facility by a railroad that 880
is regulated under Title 49 of the United States Code, the 881
facility may request the railroad to provide a bill of lading, 882
or a copy of a bill of lading, from the shipper of the material 883
or may request the railroad to provide written information 884
indicating that the railroad did not process or add to the 885
material. 886

Sec. 3734.061. ~~(A) There is hereby created in the state 887
treasury the waste management fund. The fund shall consist of 888
money credited to it under division (C) (4) of section 3714.051, 889
divisions (A) (4) and (B) of section 3714.07, division (D) of 890
section 3714.08, division (B) (4) of section 3714.09, division 891
(B) of section 3734.021, division (D) (4) of section 3734.07, 892
division (B) of section 3734.551, and division (A) (2) of section 893
3734.57 of the Revised Code. 894~~

~~(B) The director of environmental protection shall use 895~~

~~money in the fund as follows:—~~ 896

~~(1) Money credited to the fund under division (C) (4) of~~ 897
~~section 3714.051, divisions (A) (4) and (B) of section 3714.07,~~ 898
~~division (D) of section 3714.08, and division (B) (4) of section~~ 899
~~3714.09 of the Revised Code exclusively for the administration~~ 900
~~and enforcement of Chapter 3714. of the Revised Code and rules~~ 901
~~adopted under it;—~~ 902

~~(2) Money credited to the fund under division (B) of~~ 903
~~section 3734.551 and division (A) (2) of section 3734.57 of the~~ 904
~~Revised Code exclusively to pay the costs of administering and~~ 905
~~enforcing the laws pertaining to solid wastes, infectious~~ 906
~~wastes, and construction and demolition debris, including ground~~ 907
~~water evaluations related to solid wastes, infectious wastes,~~ 908
~~and construction and demolition debris, under this chapter and~~ 909
~~Chapter 3714. of the Revised Code and any rules adopted under~~ 910
~~those chapters and addressing violations of Chapters 3704. and~~ 911
~~6111. of the Revised Code at facilities;—~~ 912

~~(3) Money credited to the fund under division (B) of~~ 913
~~section 3734.021 and division (D) (4) of section 3734.07 of the~~ 914
~~Revised Code exclusively for the administration and enforcement~~ 915
~~of the provisions of this chapter governing the management of~~ 916
~~infectious wastes and rules adopted under them~~ 917
this chapter and 917
Chapter 3714. of the Revised Code. The environmental protection 918
agency shall use money in the fund to pay the costs of 919
administering and enforcing this chapter and Chapter 3714. of 920
the Revised Code and rules adopted under those chapters, 921
including ground water evaluations related to solid wastes, 922
infectious wastes, and construction and demolition debris. The 923
agency also shall use money in the fund to address violations of 924
Chapters 3704. and 6111. of the Revised Code at facilities 925

regulated under this chapter and Chapter 3714. of the Revised 926
Code. 927

Sec. 3734.19. (A) If the legislative or executive 928
authority of a municipal corporation, county, or township has 929
evidence to indicate that locations within its boundaries once 930
served as hazardous waste facilities or that significant 931
quantities of hazardous waste were disposed of in solid waste or 932
construction and demolition debris facilities within its 933
boundaries, it may file a formal written request with the 934
director of environmental protection, accompanied by supporting 935
evidence, to survey the locations or facilities. 936

Upon receipt of a request and a review of the evidence 937
submitted with the request, the director shall conduct an 938
investigation to determine if hazardous waste was actually 939
treated, stored, or disposed of at the locations or facilities 940
and, if so, to determine the nature and approximate quantity and 941
types of the waste treated, stored, or disposed of at the 942
particular locations or facilities. In addition, the director 943
shall determine whether the locations or facilities, because of 944
their present condition and the nature and quantities of waste 945
treated, stored, or disposed of therein, result or are likely to 946
result in air pollution, pollution of the waters of the state, 947
or soil contamination or constitute a present or imminent and 948
substantial threat to public health or safety. The director 949
shall report the findings of the investigation to the municipal 950
corporation, county, or township requesting the survey. 951

For the purpose of conducting investigations under this 952
section, the director or the director's authorized 953
representative may enter upon any public or private property. 954
The director or the director's authorized representative may 955

apply for, and any judge of a court of common pleas shall issue, 956
an appropriate search warrant necessary to achieve the purposes 957
of this section within the court's territorial jurisdiction. 958
When conducting investigations under this section, the director 959
shall cause no unnecessary damage to any property. The director 960
may expend moneys from the hazardous waste facility management 961
fund created in section 3734.18 of the Revised Code, the 962
hazardous waste clean-up fund created in section 3734.28 of the 963
Revised Code, or the environmental protection remediation fund 964
created in section 3734.281 of the Revised Code for conducting 965
investigations. 966

(B) As used in this section and in sections 3734.20, 967
3734.21, 3734.23, 3734.25, and 3734.26 of the Revised Code, 968
"soil contamination" means the presence in or on the soil of any 969
~~hazardous of the following:~~ 970

(1) Hazardous waste or hazardous waste residue resulting 971
from the discharge, deposit, injection, dumping, spilling, 972
leaking, emitting, or placing into or on the soil of hazardous 973
waste or hazardous waste residue, or any material that when 974
discharged, deposited, injected, dumped, spilled, leaked, 975
emitted, or placed into or on the soil becomes a hazardous 976
waste, in any quantity or having any characteristics that are or 977
threaten to be injurious to public health or safety, plant or 978
animal life, or the environment or that unreasonably interfere 979
with the comfortable enjoyment of life or property; 980

(2) Solid waste or construction and demolition debris or 981
any constituents from disposed solid waste or construction and 982
demolition debris that pose a substantial threat to public 983
health, safety, or the environment. 984

Sec. 3734.20. (A) (1) If the director of environmental 985

protection has reason to believe that hazardous waste was 986
treated, stored, or disposed of at any ~~location-facility or~~ 987
~~property located~~ within the state ~~or that solid waste or~~ 988
~~construction and demolition debris was disposed of at any~~ 989
~~facility or property in the state,~~ the director may conduct such 990
investigations and make such inquiries, ~~including obtaining~~ 991
~~samples and examining and copying records,~~ as are reasonable or 992
necessary to determine if conditions at a ~~hazardous waste-~~ 993
~~facility, solid waste facility, or other location where the~~ 994
~~director has reason to believe hazardous waste was treated,~~ 995
~~stored, or disposed of constitute~~ the facility or property: 996

(a) Constitute a substantial threat to public health or 997
safety; ~~or are~~ 998

(b) Are causing or contributing to or threatening to cause 999
or contribute to air or water pollution or soil contamination. 1000
~~The~~ 1001

The director may obtain samples and examine and copy 1002
records for purposes of an investigation. 1003

(2) The director or the director's authorized 1004
representative may apply for, and any judge of a court of common 1005
pleas shall issue, an appropriate search warrant necessary to 1006
achieve the purposes of this section within the court's 1007
territorial jurisdiction. ~~The~~ 1008

(3) The director may expend ~~moneys-money~~ from the 1009
hazardous waste facility management fund created in section 1010
3734.18 of the Revised Code, the hazardous waste clean-up fund 1011
created in section 3734.28 of the Revised Code, or the 1012
environmental protection remediation fund created in section 1013
3734.281 of the Revised Code for conducting investigations ~~under~~ 1014

this section at any facility or property where the director has 1015
reason to believe that hazardous waste was treated, stored, or 1016
disposed of. The director may expend money from the 1017
environmental protection remediation fund established in section 1018
3734.281 of the Revised Code for conducting investigations at 1019
any facility or property where the director has reason to 1020
believe that solid waste or construction and demolition debris 1021
was disposed of. 1022

(B) If the director determines that conditions at a 1023
hazardous waste facility, solid waste facility, or other 1024
~~location~~ facility or property where hazardous waste was treated, 1025
stored, or disposed of constitute a substantial threat to public 1026
health or safety or are causing or contributing to or 1027
threatening to cause or contribute to air or water pollution or 1028
soil contamination, the director shall initiate appropriate 1029
action under this chapter or Chapter 3704. or 6111. of the 1030
Revised Code or seek any other appropriate legal or equitable 1031
remedies to abate the pollution or contamination or to protect 1032
public health or safety. 1033

If the director determines that conditions at a facility 1034
or property where solid waste or construction and demolition 1035
debris was disposed of constitute a substantial threat to public 1036
health or safety, the director shall initiate appropriate action 1037
under this chapter or Chapter 3714. of the Revised Code or seek 1038
any other appropriate legal or equitable remedies to abate the 1039
pollution or contamination or to protect public health or 1040
safety. 1041

If an order of the director to abate or prevent air or 1042
water pollution or soil contamination or to remedy a threat to 1043
public health or safety caused by conditions at such a facility 1044

or property issued pursuant to this chapter or Chapter 3704., 1045
3714., or 6111. of the Revised Code is not wholly complied with 1046
within the time prescribed in the order, the director may, 1047
through officers or employees of the environmental protection 1048
agency or through contractors employed for that purpose in 1049
~~accordance with the bidding procedure established in division~~ 1050
~~(C) of section 3734.23 of the Revised Code,~~ enter upon the 1051
facility or property and perform ~~those~~ measures ~~necessary~~ to 1052
abate or prevent air or water pollution or soil contamination 1053
from the facility or property or to protect public health or 1054
safety, including, but not limited to, measures prescribed in 1055
division (B) of section 3734.23 of the Revised Code. ~~The~~ 1056

The director shall keep an itemized record of the cost of 1057
the investigation and measures performed, including costs for 1058
labor, materials, and any contract services required. Upon 1059
completion of the investigation or measures, the director shall 1060
record the cost of performing ~~those~~ the investigation and 1061
measures at the office of the county recorder of the county in 1062
which the facility or property is located. The cost so recorded 1063
attaches to the real property and constitutes a perfected lien 1064
against the property ~~on which the facility is located until~~ 1065
~~discharged.~~ ~~Upon~~ 1066

A lien imposed under this section shall continue until it 1067
is discharged or upon a filing by the director of a release of 1068
the lien in the office of the county recorder of the county in 1069
which the facility or property subject to the lien is located. 1070

Upon written request of the director, the attorney general 1071
shall institute a civil action to recover the cost of the 1072
investigation or other measures, as applicable. Any ~~moneys~~ ~~money~~ 1073
so received shall be credited to the hazardous waste facility 1074

management fund, the hazardous waste clean-up fund, or the 1075
environmental protection remediation fund, as applicable. 1076

When entering upon a facility or property under this 1077
division, the director shall perform or cause to be performed 1078
only those measures necessary or appropriate to abate or prevent 1079
air or water pollution or soil contamination caused by 1080
conditions at the facility or property or to abate threats to 1081
public health or safety caused by conditions at the facility or 1082
property. For this purpose the director may expend ~~moneys~~ money 1083
from the hazardous waste facility management fund, the hazardous 1084
waste clean-up fund, or the environmental protection remediation 1085
fund and may expend ~~moneys~~ money from loans from the Ohio water 1086
development authority to the environmental protection agency 1087
that pledge ~~moneys~~ money from the hazardous waste facility 1088
management fund, the hazardous waste clean-up fund, or the 1089
environmental protection remediation fund for the repayment of 1090
and for the interest on such loans. 1091

Sec. 3734.21. (A) The director of environmental protection 1092
may expend ~~moneys~~ money credited to the hazardous waste facility 1093
management fund created in section 3734.18 of the Revised Code, 1094
the hazardous waste clean-up fund created in section 3734.28 of 1095
the Revised Code, or the environmental protection remediation 1096
fund created in section 3734.281 of the Revised Code for ~~the~~ any 1097
of the following: 1098

(1) The payment of the cost of measures necessary for the 1099
proper closure of hazardous waste facilities or any solid waste 1100
facilities containing significant quantities of hazardous waste, ~~—~~ 1101
~~for the~~ i 1102

(2) The payment of costs of the development and 1103
construction of suitable hazardous waste facilities required by 1104

division (B) of section 3734.23 of the Revised Code to the 1105
extent the director determines that such facilities are not 1106
available, ~~and for the~~ i 1107

(3) The payment of costs that are necessary to abate 1108
conditions thereon that are causing or contributing to or 1109
threatening to cause or contribute to air or water pollution or 1110
soil contamination or that constitute a substantial threat to 1111
public health or safety. ~~In~~ 1112

In addition, the director may expend and pledge ~~moneys~~ 1113
money credited to the hazardous waste facility management fund, 1114
the hazardous waste clean-up fund, or the environmental 1115
protection remediation fund for repayment of and for interest on 1116
any loan made by the Ohio water development authority to the 1117
environmental protection agency for the payment of such costs. 1118

(B) The director may expend money credited to the 1119
environmental protection remediation fund established in section 1120
3734.281 of the Revised Code for the payment of the cost of all 1121
or part of any of the following: 1122

(1) Closure or post-closure care of a solid waste or 1123
construction and demolition debris facility; 1124

(2) Remediation or abatement of conditions that are 1125
causing or contributing to or threatening to cause or contribute 1126
to air or water pollution or soil contamination or that 1127
constitute a substantial threat to public health or safety at a 1128
property where solid waste or construction and demolition debris 1129
was disposed of. 1130

(C) Before beginning to clean up activities at any 1131
facility property under this section, the director shall develop 1132
a plan for the ~~cleanup~~ activities and an estimate of the cost 1133

thereof. The plan ~~shall~~ may include ~~only~~ those measures 1134
~~necessary to abate conditions thereon that are causing or~~ 1135
~~contributing to or threatening to cause or contribute to air or~~ 1136
~~water pollution or soil contamination or that constitute a~~ 1137
~~substantial threat to public health or safety~~ and activities 1138
authorized by division (A) or (B) of this section, including, 1139
but not limited to, establishment and maintenance of an adequate 1140
cover of soil and vegetation ~~on any facility for the burial of~~ 1141
~~hazardous waste~~ to prevent the infiltration of water into ~~cells-~~ 1142
areas where hazardous waste, solid waste, or construction and 1143
demolition debris is buried, the accumulation or runoff of 1144
contaminated surface water, the production of leachate, and air 1145
emissions ~~of hazardous waste~~; the collection and treatment of 1146
contaminated surface water runoff; the collection and treatment 1147
of leachate; or, if conditions so require, the removal of 1148
hazardous waste ~~from the facility,~~ solid waste, or construction 1149
and demolition debris and the treatment or disposal of ~~the waste-~~ 1150
such wastes at a suitable ~~hazardous waste~~ facility. The plan or 1151
any part of the plan ~~for the cleanup of the facility~~ shall be 1152
carried out by entering into contracts therefor in accordance 1153
with the procedures established in division (C) of section 1154
3734.23 of the Revised Code. 1155

Sec. 3734.22. Before beginning ~~to clean up any facility~~ 1156
activities under section 3734.21 of the Revised Code, the 1157
director of environmental protection shall endeavor to enter 1158
into an agreement with the owner of the land on which the 1159
~~facility is located, or with the owner of the facility~~ 1160
activities will be conducted, specifying the ~~measures~~ activities 1161
to be performed and authorizing the director, employees of the 1162
agency, or contractors retained by the director to enter upon 1163
the land and perform the specified ~~measures~~ activities. The 1164

director also may enter into an agreement with any other owner 1165
of real or personal property for purposes of conducting those 1166
activities, including obtaining soil that may be used on the 1167
land where the activities will be conducted. 1168

Each agreement may contain provisions for the 1169
reimbursement of the state for the costs of the ~~cleanup~~ 1170
activities. Methods of reimbursement may include the assignment 1171
of royalties or proceeds from the sale of timber or other 1172
resources present at the location. 1173

All reimbursements and payments shall be credited to the 1174
hazardous waste facility management fund created in section 1175
3734.18 of the Revised Code, the hazardous waste clean-up fund 1176
created in section 3734.28 of the Revised Code, or the 1177
environmental protection remediation fund created in section 1178
3734.281 of the Revised Code, as applicable. 1179

The agreement may require the owner to execute an easement 1180
whereby the director, an authorized employee of the agency, or a 1181
contractor employed by the agency in accordance with the bidding 1182
procedure established in division (C) of section 3734.23 of the 1183
Revised Code may enter upon the facility to sample, repair, or 1184
reconstruct air and water quality monitoring equipment 1185
constructed under the agreement, or to construct, maintain, 1186
repair, remove, or make any other alterations or improvements, 1187
as determined appropriate by the director. The director also may 1188
obtain an easement under this section from any other person to 1189
address the use of resources or materials for purposes of 1190
conducting activities pursuant to section 3734.20 or 3734.21 of 1191
the Revised Code. Such easements shall be for a specified period 1192
of years and may be extinguished by agreement between the owner 1193
and the director. When necessary or appropriate to protect the 1194

public health or safety, the agreement may require the owner to 1195
enter into an environmental covenant with the director in 1196
accordance with sections 5301.80 to 5301.92 of the Revised Code. 1197

Upon a breach of the reimbursement provisions of the 1198
agreement by the owner of the land or facility, or upon 1199
notification to the director by the owner that the owner is 1200
unable to perform the duties under the reimbursement provisions 1201
of the agreement, the director may record the unreimbursed 1202
portion of the costs of ~~cleanup the activities~~ at the office of 1203
the county recorder of the county in which the land or facility 1204
is located. The costs so recorded constitute a lien against the 1205
property on which the ~~facility is located until discharged~~ 1206
activities were conducted. ~~Upon~~ 1207

A lien imposed under this section shall continue until it 1208
is discharged or upon a filing by the director of a release of 1209
the lien in the office of the county recorder of the county in 1210
which the property subject to the lien is located. 1211

Upon written request of the director, the attorney general 1212
shall institute a civil action to recover the unreimbursed 1213
portion of the costs of ~~cleanup the activities~~. Any moneys so 1214
recovered shall be credited to the hazardous waste facility 1215
management fund, the hazardous waste clean-up fund, or the 1216
environmental protection remediation fund, as applicable. 1217

Sec. 3734.23. (A) The director of environmental protection 1218
may acquire by purchase, gift, donation, contribution, or 1219
appropriation in accordance with sections 163.01 to 163.21 of 1220
the Revised Code any hazardous waste facility or any solid waste 1221
facility containing significant quantities of hazardous waste 1222
that, because of its condition and the types and quantities of 1223
hazardous waste contained in the facility, constitutes an 1224

imminent and substantial threat to public health or safety or 1225
results in air pollution, pollution of the waters of the state, 1226
or soil contamination. For this purpose and for the purposes of 1227
division (B) of this section, the director may expend moneys 1228
from the hazardous waste facility management fund created in 1229
section 3734.18 of the Revised Code, the hazardous waste clean- 1230
up fund created in section 3734.28 of the Revised Code, or the 1231
environmental protection remediation fund created in section 1232
3734.281 of the Revised Code and may expend moneys from loans 1233
from the Ohio water development authority to the environmental 1234
protection agency that pledge moneys from the hazardous waste 1235
facility management fund, the hazardous waste clean-up fund, or 1236
the environmental protection remediation fund for the repayment 1237
of and for the interest on such loans. Any lands or facilities 1238
purchased or acquired under this section shall be deeded to the 1239
state, but no deed shall be accepted or the purchase price paid 1240
until the title has been approved by the attorney general. 1241

(B) The director shall, with respect to any land or 1242
facility acquired under this section or cleaned up under section 1243
3734.20 of the Revised Code, perform closure, post closure care, 1244
or other measures necessary to abate conditions thereon that are 1245
causing or contributing to or threatening to cause or contribute 1246
to air or water pollution or soil contamination or that 1247
constitute a substantial threat to public health or safety, 1248
including, but not limited to, establishment and maintenance of 1249
an adequate cover of soil and vegetation on any facility for the 1250
burial of hazardous waste to prevent the infiltration of water 1251
into cells where hazardous waste is buried, the accumulation or 1252
runoff of contaminated surface water, the production of 1253
leachate, and air emissions of hazardous waste; the collection 1254
and treatment of contaminated surface water runoff; the 1255

collection and treatment of leachate; or, if conditions so 1256
require, the removal of hazardous waste from the facility and 1257
the treatment or disposal of the waste at a suitable hazardous 1258
waste facility. After performing these measures, the director 1259
shall provide for the post-closure care, maintenance, and 1260
monitoring of facilities cleaned up under this section. 1261

(C) Before proceeding to clean up any property or facility 1262
under this section or section 3734.20 or 3734.21 of the Revised 1263
Code, the director shall develop a plan for the cleanup of the 1264
facility and an estimate of the cost thereof. The director may 1265
carry out the plan or any part of the plan by contracting for 1266
the services, construction, and ~~repair necessary therefor~~ 1267
repairs. ~~The director shall award each such contract to the~~ 1268
~~lowest responsible bidder after sealed bids therefor are~~ 1269
~~received, opened, and published at the time fixed by the~~ 1270
~~director and notice of the time and place at which the sealed~~ 1271
~~bids will be received, opened, and published has been published~~ 1272
~~by the director in a newspaper of general circulation in the~~ 1273
~~county in which the facility to be cleaned up under the contract~~ 1274
~~is located at least once within the ten days before the opening~~ 1275
~~of the bids. However, if after advertising for bids for the~~ 1276
~~contract, no bids are received by the director at the time and~~ 1277
~~place fixed for receiving them, the director may advertise again~~ 1278
~~for bids, or the director may, if the director considers the~~ 1279
~~public interest will best be served thereby, enter into a~~ 1280
~~contract for the cleanup of the facility without further~~ 1281
~~advertisement for bids. The director may reject any or all bids~~ 1282
~~received and fix and publish again notice of the time and place~~ 1283
~~at which bids for the contracts will be received, opened, and~~ 1284
~~published.~~ 1285

(D) The director shall keep an itemized record of the 1286

costs of any acquisition under division (A) of this section and 1287
the costs of cleanup under division (B) of this section. 1288

Sec. 3734.30. The state ~~shall be~~ is immune from liability 1289
for any injury or damage resulting from ~~either any~~ of the 1290
following: 1291

(A) Operation of a hazardous waste facility, solid waste 1292
facility, or construction and demolition debris facility by a 1293
person other than an agency, department, or institution of the 1294
state; 1295

(B) Conditions present at a facility that is acquired by 1296
the state by gift or devise; 1297

(C) Activities conducted pursuant to section 3734.20 or 1298
3734.21 of the Revised Code, remediation activities for which 1299
money may be expended pursuant to section 3734.281 of the 1300
Revised Code, or activities for which money may be expended 1301
pursuant to section 3714.071 or 3734.85, provided that those 1302
activities do not constitute reckless, willful, or wanton 1303
misconduct. 1304

The liability of the state, if any, in other circumstances 1305
regarding hazardous waste, solid waste, or construction and 1306
demolition debris shall be determined in accordance with Chapter 1307
2743. of the Revised Code. 1308

Sec. 5301.80. As used in sections 5301.80 to 5301.92 of 1309
the Revised Code: 1310

(A) "Activity and use limitations" means restrictions or 1311
obligations created under sections 5301.80 to 5301.92 of the 1312
Revised Code with respect to real property. 1313

(B) "Agency" means the environmental protection agency or 1314

any other state or federal agency that determines or approves 1315
the environmental response project pursuant to which an 1316
environmental covenant is created. 1317

(C) "Common interest community" means a condominium, a 1318
cooperative, or other real property with respect to which a 1319
person, by virtue of the person's ownership of a parcel of real 1320
property, is obligated to pay property taxes or insurance 1321
premiums or to pay for maintenance or improvement of other real 1322
property described in a recorded covenant that creates the 1323
common interest community. 1324

(D) "Environmental covenant" means a servitude arising 1325
under an environmental response project that imposes activity 1326
and use limitations and that meets the requirements established 1327
in section 5301.82 of the Revised Code. 1328

(E) "Environmental response project" means a plan or work 1329
performed for environmental remediation of real property or for 1330
protection of ecological features associated with real property 1331
and conducted as follows: 1332

(1) Under a federal or state program governing 1333
environmental remediation of real property that is subject to 1334
agency review or approval, ~~including, but not limited to,~~ 1335
property that is the subject of any of the following: 1336

(a) A corrective action, closure, or post-closure pursuant 1337
to the "Resource Conservation and Recovery Act of 1976," 90 1338
Stat. 2806, 42 U.S.C.A. 6921, et seq., as amended, or any 1339
regulation adopted under that act, or Chapter 3714. or 3734. of 1340
the Revised Code or any rule adopted under ~~it~~ those chapters, 1341
including the use or reservation of soil to be used in the 1342
performance of the corrective action, closure, or post-closure 1343

care; 1344

(b) A removal or remedial action pursuant to the 1345
"Comprehensive Environmental Response, Compensation, and 1346
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, et 1347
seq., as amended, or any regulation adopted under that act, or 1348
Chapter 3734. or 6111. of the Revised Code or any rule adopted 1349
under those chapters; 1350

(c) A no further action letter submitted with a request 1351
for a covenant not to sue pursuant to section 3746.11 of the 1352
Revised Code; 1353

(d) A no further action letter prepared pursuant to 1354
section 122.654 of the Revised Code; 1355

(e) A corrective action pursuant to section 3737.88, 1356
3737.882, or 3737.89 of the Revised Code or any rule adopted 1357
under those sections. 1358

(2) Pursuant to a mitigation requirement associated with 1359
the section 401 water quality certification program or the 1360
isolated wetland program as required by Chapter 6111. of the 1361
Revised Code; 1362

(3) Pursuant to a grant commitment or loan agreement 1363
entered into pursuant to section 6111.036 or 6111.037 of the 1364
Revised Code; 1365

(4) Pursuant to a supplemental environmental project 1366
embodied in orders issued by the director of environmental 1367
protection pursuant to Chapter 6111. of the Revised Code. 1368

(F) "Holder" means a grantee of an environmental covenant 1369
as specified in division (A) of section 5301.81 of the Revised 1370
Code. 1371

(G) "Person" includes the state, a political subdivision, 1372
another state or local entity, the United States and any agency 1373
or instrumentality of it, and any legal entity defined as a 1374
person under section 1.59 of the Revised Code. 1375

(H) "Record," when used as a noun, means information that 1376
is inscribed on a tangible medium or that is stored in an 1377
electronic or other medium and is retrievable in perceivable 1378
form. 1379

Sec. 6109.02. Except for section 6109.05 of the Revised 1380
Code, Chapter 6109. of the Revised Code does not apply to a 1381
public water system which meets all the following conditions: 1382

(A) Consists only of distribution and storage facilities 1383
and does not have any collection and treatment facilities; 1384

(B) Obtains all of its water from, but is not owned or 1385
operated by, a public water system; 1386

(C) Does not sell water to any person, as determined by 1387
the director of environmental protection; 1388

(D) Is not a carrier which conveys passengers in 1389
interstate commerce. 1390

Sec. 6109.08. (A) The director of environmental protection 1391
shall not approve plans for construction, installation, or 1392
substantial modification of a community water system ~~which that~~ 1393
serves fewer than five hundred service connections, or any part 1394
of such a system, except a system owned and operated by a public 1395
entity, ~~a system which supplies water only to premises owned by~~ 1396
~~the water supplier,~~ or a system regulated by the public 1397
utilities commission, unless the owner or operator of ~~such the~~ 1398
system or part thereof has ~~deposited in escrow~~ provided 1399
financial assurance, in a form acceptable to the director, in an 1400

amount equal to fifteen per cent of the cost of the system or 1401
part thereof owned by ~~him~~ the owner or operator, but not to 1402
exceed ~~fifty one hundred~~ thousand dollars. 1403

(B) If a system for which ~~an escrow financial assurance~~ is 1404
required under division (A) of this section is not properly 1405
constructed, maintained, repaired, or operated, the director may 1406
order the owner or operator of ~~such the~~ system or part thereof 1407
to correct the deficiencies, and shall authorize the use of the 1408
~~funds in the escrow money from the financial assurance~~ as 1409
necessary to enable compliance with ~~his~~ the order. When ~~funds~~ 1410
~~are withdrawn from an escrow account~~ money from the financial 1411
assurance is used, ~~they shall be replaced by~~ the owner or the 1412
operator of ~~such the~~ system or part thereof shall replace such 1413
money within six months of withdrawal its use. 1414

(C) For purposes of this section, "community water system" 1415
means a public water system that serves at least fifteen service 1416
connections used by year-round residents or ~~which that~~ regularly 1417
serves at least twenty-five year-round residents. 1418

For purposes of this section, "public entity" means the 1419
federal government, the state, any political subdivision, and 1420
any agency, institution, or instrumentality thereof. 1421

Sec. 6109.24. ~~A public water system that is a community~~ 1422
~~water system, or that is not a community water system and serves~~ 1423
~~a nontransient population, and that proposes to commence~~ 1424
~~providing water to the public after October 1, 1999, shall~~ 1425
~~include with the submission of plans required under section~~ 1426
~~6109.07 of the Revised Code documentation that demonstrates the~~ 1427
~~technical, managerial, and financial capability of the system to~~ 1428
~~comply with this chapter and rules adopted under it.~~ (A) The 1429
director of environmental protection shall adopt, and may amend 1430

and rescind, rules pursuant to section 6109.04 of the Revised 1431
Code establishing requirements governing the demonstration of 1432
technical, managerial, and financial capability for the purposes 1433
of this section. 1434

~~The director may deny approval of plans submitted under~~ 1435
~~section 6109.07 of the Revised Code if the public water system~~ 1436
~~that submitted the plans-~~ (B) (1) A public water system shall 1437
demonstrate the technical, managerial, and financial capability 1438
of the system to comply with this chapter and rules adopted 1439
under it by implementing an asset management program not later 1440
than October 1, 2018. 1441

(2) Notwithstanding division (B) (1) of this section, the 1442
director may require a public water system to complete an asset 1443
management program prior to October 1, 2018. 1444

(3) A public water system shall include in the asset 1445
management program all of the following: 1446

(a) An inventory and evaluation of all public water system 1447
assets; 1448

(b) Public water system operation and maintenance 1449
programs; 1450

(c) A public water system emergency preparedness and 1451
contingency planning program; 1452

(d) Criteria and timelines for public water system 1453
infrastructure rehabilitation and replacement; 1454

(e) Approved public water system capacity projections and 1455
public water system capital improvement planning; 1456

(f) A long-term funding strategy to support the public 1457
water system's asset management program implementation. 1458

(C) If requested by the director, a public water system shall submit a written description of the system's asset management program to the director. The system shall submit the written description not later than thirty days after the date of the request. A small public water system may meet the written description requirement by doing both of the following: 1459
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(1) Submitting the template made available by the director under division (F) (1) of this section; 1465
1466

(2) Including with the completed template a statement that the activities described in the template are being implemented. 1467
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(D) If a public water system fails to ~~demonstrate~~ submit an acceptable written description of the system's asset management program or otherwise fails to demonstrate technical, managerial, and financial capability in accordance with this section and rules adopted under it, the director may request the owner or operator of the system to revise and resubmit the written description. Environmental protection agency staff may provide technical guidance to a public water system in preparing the asset management program or while addressing deficiencies noted in the asset management program. 1469
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(E) If a public water system fails to demonstrate technical, managerial, and financial capability in accordance with this section and rules adopted under it, the director may take any action authorized by this chapter or rules adopted under it to improve and ensure the capability of the public water system, including denying a plan submitted under section 6109.07 of the Revised Code. 1479
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(F) The director shall make available both of the following either on the environmental protection agency's web 1486
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<u>site or via another public forum:</u>	1488
<u>(1) A template for small public water systems to prepare an asset management program;</u>	1489
<u>(2) Information about sources of funding available to assist public water systems with preparing and completing an asset management program.</u>	1491
<u>Sec. 6109.25. (A) (1) Upon petition by the director of environmental protection, a court of common pleas may appoint a receiver to take possession of and operate a public water system that serves fewer than five hundred service connections only when conditions existing at the public water system present a threat to public health or welfare. However, division (A) (1) of this section does not apply to a system owned and operated by a public entity or a system regulated by the public utilities commission.</u>	1494
<u>(2) The director shall include all of the following in a petition:</u>	1503
<u>(a) A description of the specific conditions existing at the public water system which present a threat to public health or welfare;</u>	1505
<u>(b) A statement of the absence of other adequate remedies at law;</u>	1508
<u>(c) The population served by the public water system;</u>	1510
<u>(d) A statement that declares both of the following:</u>	1511
<u>(i) The facts concerning the conditions at the public water system have been brought to the attention of the owner and operator or that efforts to contact the owner or operator have been unsuccessful;</u>	1512
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(ii) The conditions have not been remedied within a 1516
reasonable period of time or that the conditions, though 1517
remedied periodically, habitually exist at the public water 1518
system as a pattern or practice. 1519

(e) The name and address of the owner of the public water 1520
system. 1521

(B) (1) The director shall send notice of the filing to all 1522
of the following: 1523

(a) The appropriate local board of health; 1524

(b) Customers of the public water system; 1525

(c) Any party with a known ownership interest in the 1526
public water system; 1527

(d) Any other appropriate persons identified by the 1528
director. 1529

(2) The court shall conduct a hearing on the petition 1530
within five court days of the day it is filed, except that the 1531
court may appoint a receiver prior to that time if the court 1532
determines that the circumstances necessitate such action. If 1533
the court appoints a receiver prior to conducting a hearing on 1534
the petition, the court shall provide notice of the appointment 1535
to any party with a known ownership interest in the system. 1536
Following a hearing on the petition, and upon a determination 1537
that the appointment of a receiver is warranted, the court shall 1538
appoint a receiver and notify the director, any party with a 1539
known ownership interest in the system, and any other 1540
appropriate persons of the appointment. 1541

(C) All of the following apply to the court's appointment 1542
of a receiver under this section: 1543

(1) The court shall not appoint a person who is not a 1544
resident of this state. 1545

(2) In selecting a receiver, the court shall give priority 1546
consideration to any qualified persons nominated by the 1547
director. However, the court is not required to select a 1548
qualified person nominated by the director. 1549

(3) The court shall not appoint a person with a financial 1550
or ownership interest in the public water system. 1551

(D) Prior to acting as a receiver, the receiver must be 1552
sworn to perform the duties of receiver faithfully, and, with 1553
surety approved by the court. The receiver shall execute a bond 1554
in an amount required by the court, to the effect that the 1555
receiver will faithfully discharge the duties of receiver and 1556
obey the orders of the court. 1557

(E) In establishing a receivership, the court shall set 1558
forth the powers and duties of the receiver. The court may 1559
authorize the receiver to take actions necessary to safely and 1560
efficiently operate the public water system within the 1561
requirements of state and federal law. However, the court shall 1562
require the receiver to obtain court approval prior to making 1563
any single expenditure of more than fifteen thousand dollars. In 1564
addition, if the receiver proposes to enter into a contract that 1565
is necessary to carry out the receiver's powers and duties and 1566
that is valued at fifteen thousand dollars or more, the receiver 1567
shall present to the court at least two cost quotations from 1568
different vendors before entering into the contract. The court 1569
shall closely review the conduct of the receiver it has 1570
appointed and shall require monthly detailed reports. 1571

(F) Under control of the appointing court, a receiver may 1572

bring and defend actions in the receiver's own name as receiver 1573
and take and keep possession of property. The court shall 1574
authorize the receiver to do the following: 1575

(1) Collect payment for all goods and services provided to 1576
persons served by the public water system during the period of 1577
the receivership at the same rate as was charged by the owner at 1578
the time the petition for receivership was filed, unless a 1579
different rate is set by the court; 1580

(2) Honor all leases, mortgages, and secured transactions 1581
governing all buildings, goods, and fixtures of which the 1582
receiver has taken possession and continues to use, subject to 1583
the following conditions: 1584

(a) In the case of a rental agreement, only to the extent 1585
of payments that are for the use of the property during the 1586
period of the receivership; 1587

(b) In the case of a purchase agreement only to the extent 1588
of payments that come due during the period of the receivership. 1589

(3) Make monthly reports on the status of the public water 1590
system to the director and the owner of the public water system; 1591

(4) Compromise demands or claims; 1592

(5) Take actions necessary for the operation of the public 1593
water system in compliance with this chapter and the rules 1594
adopted under it. 1595

(6) Perform any other action regarding the public water 1596
system as the court authorizes. 1597

(G) Neither the receiver nor the director is liable for 1598
debts incurred by the owner or operator of a public water system 1599
for which a receiver has been appointed. 1600

(H) The court shall terminate a receivership established 1601
pursuant to this section following notification of the 1602
appropriate parties and a hearing, if the court determines 1603
either of the following: 1604

(1) The public water system has been closed and is no 1605
longer operating. 1606

(2) Circumstances no longer exist at the public water 1607
system that present a threat to public health or welfare, and 1608
there is no deficiency in the public water system that is likely 1609
to create a future risk of harm. 1610

Notwithstanding division (H) (2) of this section, the court 1611
shall not terminate a receivership for a public water system 1612
that has previously operated under another receivership, under 1613
the same owner, unless the responsibility for the operation of 1614
the public water system is transferred to an owner or operator 1615
approved by the court and the director. 1616

(I) The director shall provide technical assistance to any 1617
receiver appointed under this section. 1618

Sec. 6111.03. The director of environmental protection may 1619
do any of the following: 1620

(A) Develop plans and programs for the prevention, 1621
control, and abatement of new or existing pollution of the 1622
waters of the state; 1623

(B) Advise, consult, and cooperate with other agencies of 1624
the state, the federal government, other states, and interstate 1625
agencies and with affected groups, political subdivisions, and 1626
industries in furtherance of the purposes of this chapter. 1627
Before adopting, amending, or rescinding a standard or rule 1628
pursuant to division (G) of this section or section 6111.041 or 1629

6111.042 of the Revised Code, the director shall do all of the 1630
following: 1631

(1) Mail notice to each statewide organization that the 1632
director determines represents persons who would be affected by 1633
the proposed standard or rule, amendment thereto, or rescission 1634
thereof at least thirty-five days before any public hearing 1635
thereon; 1636

(2) Mail a copy of each proposed standard or rule, 1637
amendment thereto, or rescission thereof to any person who 1638
requests a copy, within five days after receipt of the request 1639
therefor; 1640

(3) Consult with appropriate state and local government 1641
agencies or their representatives, including statewide 1642
organizations of local government officials, industrial 1643
representatives, and other interested persons. 1644

Although the director is expected to discharge these 1645
duties diligently, failure to mail any such notice or copy or to 1646
so consult with any person shall not invalidate any proceeding 1647
or action of the director. 1648

(C) Administer grants from the federal government and from 1649
other sources, public or private, for carrying out any of its 1650
functions, all such moneys to be deposited in the state treasury 1651
and kept by the treasurer of state in a separate fund subject to 1652
the lawful orders of the director; 1653

(D) Administer state grants for the construction of sewage 1654
and waste collection and treatment works; 1655

(E) Encourage, participate in, or conduct studies, 1656
investigations, research, and demonstrations relating to water 1657
pollution, and the causes, prevention, control, and abatement 1658

thereof, that are advisable and necessary for the discharge of 1659
the director's duties under this chapter; 1660

(F) Collect and disseminate information relating to water 1661
pollution and prevention, control, and abatement thereof; 1662

(G) Adopt, amend, and rescind rules in accordance with 1663
Chapter 119. of the Revised Code governing the procedure for 1664
hearings, the filing of reports, the issuance of permits, the 1665
issuance of industrial water pollution control certificates, and 1666
all other matters relating to procedure; 1667

(H) Issue, modify, or revoke orders to prevent, control, 1668
or abate water pollution by such means as the following: 1669

(1) Prohibiting or abating discharges of sewage, 1670
industrial waste, or other wastes into the waters of the state; 1671

(2) Requiring the construction of new disposal systems or 1672
any parts thereof, or the modification, extension, or alteration 1673
of existing disposal systems or any parts thereof; 1674

(3) Prohibiting additional connections to or extensions of 1675
a sewerage system when the connections or extensions would 1676
result in an increase in the polluting properties of the 1677
effluent from the system when discharged into any waters of the 1678
state; 1679

(4) Requiring compliance with any standard or rule adopted 1680
under sections 6111.01 to 6111.05 of the Revised Code or term or 1681
condition of a permit. 1682

In the making of those orders, wherever compliance with a 1683
rule adopted under section 6111.042 of the Revised Code is not 1684
involved, consistent with the Federal Water Pollution Control 1685
Act, the director shall give consideration to, and base the 1686

determination on, evidence relating to the technical feasibility 1687
and economic reasonableness of complying with those orders and 1688
to evidence relating to conditions calculated to result from 1689
compliance with those orders, and their relation to benefits to 1690
the people of the state to be derived from such compliance in 1691
accomplishing the purposes of this chapter. 1692

(I) Review plans, specifications, or other data relative 1693
to disposal systems or any part thereof in connection with the 1694
issuance of orders, permits, and industrial water pollution 1695
control certificates under this chapter; 1696

(J) (1) Issue, revoke, modify, or deny sludge management 1697
permits and permits for the discharge of sewage, industrial 1698
waste, or other wastes into the waters of the state, and for the 1699
installation or modification of disposal systems or any parts 1700
thereof in compliance with all requirements of the Federal Water 1701
Pollution Control Act and mandatory regulations adopted 1702
thereunder, including regulations adopted under section 405 of 1703
the Federal Water Pollution Control Act, and set terms and 1704
conditions of permits, including schedules of compliance, where 1705
necessary. In issuing permits for sludge management, the 1706
director shall not allow the placement of sewage sludge on 1707
frozen ground in conflict with rules adopted under this chapter. 1708
Any person who discharges, transports, or handles storm water 1709
from an animal feeding facility, as defined in section 903.01 of 1710
the Revised Code, or pollutants from a concentrated animal 1711
feeding operation, as both terms are defined in that section, is 1712
not required to obtain a permit under division (J) (1) of this 1713
section for the installation or modification of a disposal 1714
system involving pollutants or storm water or any parts of such 1715
a system on and after the date on which the director of 1716
agriculture has finalized the program required under division 1717

(A) (1) of section 903.02 of the Revised Code. In addition, any 1718
person who discharges, transports, or handles storm water from 1719
an animal feeding facility, as defined in section 903.01 of the 1720
Revised Code, or pollutants from a concentrated animal feeding 1721
operation, as both terms are defined in that section, is not 1722
required to obtain a permit under division (J) (1) of this 1723
section for the discharge of storm water from an animal feeding 1724
facility or pollutants from a concentrated animal feeding 1725
operation on and after the date on which the United States 1726
environmental protection agency approves the NPDES program 1727
submitted by the director of agriculture under section 903.08 of 1728
the Revised Code. 1729

Any permit terms and conditions set by the director shall 1730
be designed to achieve and maintain full compliance with the 1731
national effluent limitations, national standards of performance 1732
for new sources, and national toxic and pretreatment effluent 1733
standards set under that act, and any other mandatory 1734
requirements of that act that are imposed by regulation of the 1735
administrator of the United States environmental protection 1736
agency. If an applicant for a sludge management permit also 1737
applies for a related permit for the discharge of sewage, 1738
industrial waste, or other wastes into the waters of the state, 1739
the director may combine the two permits and issue one permit to 1740
the applicant. 1741

A sludge management permit is not required for an entity 1742
that treats or transports sewage sludge or for a sanitary 1743
landfill when all of the following apply: 1744

(a) The entity or sanitary landfill does not generate the 1745
sewage sludge. 1746

(b) Prior to receipt at the sanitary landfill, the entity 1747

has ensured that the sewage sludge meets the requirements 1748
established in rules adopted by the director under section 1749
3734.02 of the Revised Code concerning disposal of municipal 1750
solid waste in a sanitary landfill. 1751

(c) Disposal of the sewage sludge occurs at a sanitary 1752
landfill that complies with rules adopted by the director under 1753
section 3734.02 of the Revised Code. 1754

As used in division (J)(1) of this section, "sanitary 1755
landfill" means a sanitary landfill facility, as defined in 1756
rules adopted under section 3734.02 of the Revised Code, that is 1757
licensed as a solid waste facility under section 3734.05 of the 1758
Revised Code. 1759

(2) An application for a permit or renewal thereof shall 1760
be denied if any of the following applies: 1761

(a) The secretary of the army determines in writing that 1762
anchorage or navigation would be substantially impaired thereby; 1763

(b) The director determines that the proposed discharge or 1764
source would conflict with an areawide waste treatment 1765
management plan adopted in accordance with section 208 of the 1766
Federal Water Pollution Control Act; 1767

(c) The administrator of the United States environmental 1768
protection agency objects in writing to the issuance or renewal 1769
of the permit in accordance with section 402 (d) of the Federal 1770
Water Pollution Control Act; 1771

(d) The application is for the discharge of any 1772
radiological, chemical, or biological warfare agent or high- 1773
level radioactive waste into the waters of the United States. 1774

(3) To achieve and maintain applicable standards of 1775

quality for the waters of the state adopted pursuant to section 1776
6111.041 of the Revised Code, the director shall impose, where 1777
necessary and appropriate, as conditions of each permit, water 1778
quality related effluent limitations in accordance with sections 1779
301, 302, 306, 307, and 405 of the Federal Water Pollution 1780
Control Act and, to the extent consistent with that act, shall 1781
give consideration to, and base the determination on, evidence 1782
relating to the technical feasibility and economic 1783
reasonableness of removing the polluting properties from those 1784
wastes and to evidence relating to conditions calculated to 1785
result from that action and their relation to benefits to the 1786
people of the state and to accomplishment of the purposes of 1787
this chapter. 1788

(4) Where a discharge having a thermal component from a 1789
source that is constructed or modified on or after October 18, 1790
1972, meets national or state effluent limitations or more 1791
stringent permit conditions designed to achieve and maintain 1792
compliance with applicable standards of quality for the waters 1793
of the state, which limitations or conditions will ensure 1794
protection and propagation of a balanced, indigenous population 1795
of shellfish, fish, and wildlife in or on the body of water into 1796
which the discharge is made, taking into account the interaction 1797
of the thermal component with sewage, industrial waste, or other 1798
wastes, the director shall not impose any more stringent 1799
limitation on the thermal component of the discharge, as a 1800
condition of a permit or renewal thereof for the discharge, 1801
during a ten-year period beginning on the date of completion of 1802
the construction or modification of the source, or during the 1803
period of depreciation or amortization of the source for the 1804
purpose of section 167 or 169 of the Internal Revenue Code of 1805
1954, whichever period ends first. 1806

(5) The director shall specify in permits for the discharge of sewage, industrial waste, and other wastes, the net volume, net weight, duration, frequency, and, where necessary, concentration of the sewage, industrial waste, and other wastes that may be discharged into the waters of the state. The director shall specify in those permits and in sludge management permits that the permit is conditioned upon payment of applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the permit has been issued for the purpose of determining compliance with this chapter, rules adopted thereunder, or the terms and conditions of a permit, order, or other determination. The director shall issue or deny an application for a sludge management permit or a permit for a new discharge, for the installation or modification of a disposal system, or for the renewal of a permit, within one hundred eighty days of the date on which a complete application with all plans, specifications, construction schedules, and other pertinent information required by the director is received.

(6) The director may condition permits upon the installation of discharge or water quality monitoring equipment or devices and the filing of periodic reports on the amounts and contents of discharges and the quality of receiving waters that the director prescribes. The director shall condition each permit for a government-owned disposal system or any other "treatment works" as defined in the Federal Water Pollution Control Act upon the reporting of new introductions of industrial waste or other wastes and substantial changes in volume or character thereof being introduced into those systems or works from "industrial users" as defined in section 502 of

that act, as necessary to comply with section 402(b)(8) of that 1838
act; upon the identification of the character and volume of 1839
pollutants subject to pretreatment standards being introduced 1840
into the system or works; and upon the existence of a program to 1841
ensure compliance with pretreatment standards by "industrial 1842
users" of the system or works. In requiring monitoring devices 1843
and reports, the director, to the extent consistent with the 1844
Federal Water Pollution Control Act, shall give consideration to 1845
technical feasibility and economic reasonableness and shall 1846
allow reasonable time for compliance. 1847

(7) A permit may be issued for a period not to exceed five 1848
years and may be renewed upon application for renewal. In 1849
renewing a permit, the director shall consider the compliance 1850
history of the permit holder and may deny the renewal if the 1851
director determines that the permit holder has not complied with 1852
the terms and conditions of the existing permit. A permit may be 1853
modified, suspended, or revoked for cause, including, but not 1854
limited to, violation of any condition of the permit, obtaining 1855
a permit by misrepresentation or failure to disclose fully all 1856
relevant facts of the permitted discharge or of the sludge use, 1857
storage, treatment, or disposal practice, or changes in any 1858
condition that requires either a temporary or permanent 1859
reduction or elimination of the permitted activity. No 1860
application shall be denied or permit revoked or modified 1861
without a written order stating the findings upon which the 1862
denial, revocation, or modification is based. A copy of the 1863
order shall be sent to the applicant or permit holder by 1864
certified mail. 1865

(K) Institute or cause to be instituted in any court of 1866
competent jurisdiction proceedings to compel compliance with 1867
this chapter or with the orders of the director issued under 1868

this chapter, or to ensure compliance with sections 204(b), 307, 1869
308, and 405 of the Federal Water Pollution Control Act; 1870

(L) Issue, deny, revoke, or modify industrial water 1871
pollution control certificates; 1872

(M) Certify to the government of the United States or any 1873
agency thereof that an industrial water pollution control 1874
facility is in conformity with the state program or requirements 1875
for the control of water pollution whenever the certification 1876
may be required for a taxpayer under the Internal Revenue Code 1877
of the United States, as amended; 1878

(N) Issue, modify, and revoke orders requiring any 1879
"industrial user" of any publicly owned "treatment works" as 1880
defined in sections 212(2) and 502(18) of the Federal Water 1881
Pollution Control Act to comply with pretreatment standards; 1882
establish and maintain records; make reports; install, use, and 1883
maintain monitoring equipment or methods, including, where 1884
appropriate, biological monitoring methods; sample discharges in 1885
accordance with methods, at locations, at intervals, and in a 1886
manner that the director determines; and provide other 1887
information that is necessary to ascertain whether or not there 1888
is compliance with toxic and pretreatment effluent standards. In 1889
issuing, modifying, and revoking those orders, the director, to 1890
the extent consistent with the Federal Water Pollution Control 1891
Act, shall give consideration to technical feasibility and 1892
economic reasonableness and shall allow reasonable time for 1893
compliance. 1894

(O) Exercise all incidental powers necessary to carry out 1895
the purposes of this chapter; 1896

(P) ~~Certify~~ Pursuant to section 401 of the Federal Water 1897

Pollution Control Act, do any of the following: 1898

(1) Issue or deny a section 401 water quality 1899
certification to, or, pursuant to an appealable action, waive a 1900
section 401 water quality certification for, any applicant for a 1901
federal license or permit to conduct any activity that may 1902
result in any discharge into the waters of the state that the 1903
discharge will comply with the Federal Water Pollution Control 1904
Act. Any waiver shall contain a justification for the action. 1905

(2) At the request or concurrence of the certification 1906
holder, transfer or modify a section 401 water quality 1907
certification; 1908

(3) Revoke a section 401 water quality certification when 1909
the director determines that the certification approval was 1910
based on false or misleading information. 1911

(Q) Administer and enforce the publicly owned treatment 1912
works pretreatment program in accordance with the Federal Water 1913
Pollution Control Act. In the administration of that program, 1914
the director may do any of the following: 1915

(1) Apply and enforce pretreatment standards; 1916

(2) Approve and deny requests for approval of publicly 1917
owned treatment works pretreatment programs, oversee those 1918
programs, and implement, in whole or in part, those programs 1919
under any of the following conditions: 1920

(a) The director has denied a request for approval of the 1921
publicly owned treatment works pretreatment program; 1922

(b) The director has revoked the publicly owned treatment 1923
works pretreatment program; 1924

(c) There is no pretreatment program currently being 1925

implemented by the publicly owned treatment works;	1926
(d) The publicly owned treatment works has requested the	1927
director to implement, in whole or in part, the pretreatment	1928
program.	1929
(3) Require that a publicly owned treatment works	1930
pretreatment program be incorporated in a permit issued to a	1931
publicly owned treatment works as required by the Federal Water	1932
Pollution Control Act, require compliance by publicly owned	1933
treatment works with those programs, and require compliance by	1934
industrial users with pretreatment standards;	1935
(4) Approve and deny requests for authority to modify	1936
categorical pretreatment standards to reflect removal of	1937
pollutants achieved by publicly owned treatment works;	1938
(5) Deny and recommend approval of requests for	1939
fundamentally different factors variances submitted by	1940
industrial users;	1941
(6) Make determinations on categorization of industrial	1942
users;	1943
(7) Adopt, amend, or rescind rules and issue, modify, or	1944
revoke orders necessary for the administration and enforcement	1945
of the publicly owned treatment works pretreatment program.	1946
Any approval of a publicly owned treatment works	1947
pretreatment program may contain any terms and conditions,	1948
including schedules of compliance, that are necessary to achieve	1949
compliance with this chapter.	1950
(R) Except as otherwise provided in this division, adopt	1951
rules in accordance with Chapter 119. of the Revised Code	1952
establishing procedures, methods, and equipment and other	1953

requirements for equipment to prevent and contain discharges of 1954
oil and hazardous substances into the waters of the state. The 1955
rules shall be consistent with and equivalent in scope, content, 1956
and coverage to section 311(j) (1) (c) of the Federal Water 1957
Pollution Control Act and regulations adopted under it. The 1958
director shall not adopt rules under this division relating to 1959
discharges of oil from oil production facilities and oil 1960
drilling and workover facilities as those terms are defined in 1961
that act and regulations adopted under it. 1962

(S) (1) Administer and enforce a program for the regulation 1963
of sludge management in this state. In administering the 1964
program, the director, in addition to exercising the authority 1965
provided in any other applicable sections of this chapter, may 1966
do any of the following: 1967

(a) Develop plans and programs for the disposal and 1968
utilization of sludge and sludge materials; 1969

(b) Encourage, participate in, or conduct studies, 1970
investigations, research, and demonstrations relating to the 1971
disposal and use of sludge and sludge materials and the impact 1972
of sludge and sludge materials on land located in the state and 1973
on the air and waters of the state; 1974

(c) Collect and disseminate information relating to the 1975
disposal and use of sludge and sludge materials and the impact 1976
of sludge and sludge materials on land located in the state and 1977
on the air and waters of the state; 1978

(d) Issue, modify, or revoke orders to prevent, control, 1979
or abate the use and disposal of sludge and sludge materials or 1980
the effects of the use of sludge and sludge materials on land 1981
located in the state and on the air and waters of the state; 1982

(e) Adopt and enforce, modify, or rescind rules necessary 1983
for the implementation of division (S) of this section. The 1984
rules reasonably shall protect public health and the 1985
environment, encourage the beneficial reuse of sludge and sludge 1986
materials, and minimize the creation of nuisance odors. 1987

The director may specify in sludge management permits the 1988
net volume, net weight, quality, and pollutant concentration of 1989
the sludge or sludge materials that may be used, stored, 1990
treated, or disposed of, and the manner and frequency of the 1991
use, storage, treatment, or disposal, to protect public health 1992
and the environment from adverse effects relating to those 1993
activities. The director shall impose other terms and conditions 1994
to protect public health and the environment, minimize the 1995
creation of nuisance odors, and achieve compliance with this 1996
chapter and rules adopted under it and, in doing so, shall 1997
consider whether the terms and conditions are consistent with 1998
the goal of encouraging the beneficial reuse of sludge and 1999
sludge materials. 2000

The director may condition permits on the implementation 2001
of treatment, storage, disposal, distribution, or application 2002
management methods and the filing of periodic reports on the 2003
amounts, composition, and quality of sludge and sludge materials 2004
that are disposed of, used, treated, or stored. 2005

An approval of a treatment works sludge disposal program 2006
may contain any terms and conditions, including schedules of 2007
compliance, necessary to achieve compliance with this chapter 2008
and rules adopted under it. 2009

(2) As a part of the program established under division 2010
(S)(1) of this section, the director has exclusive authority to 2011
regulate sewage sludge management in this state. For purposes of 2012

division (S) (2) of this section, that program shall be 2013
consistent with section 405 of the Federal Water Pollution 2014
Control Act and regulations adopted under it and with this 2015
section, except that the director may adopt rules under division 2016
(S) of this section that establish requirements that are more 2017
stringent than section 405 of the Federal Water Pollution 2018
Control Act and regulations adopted under it with regard to 2019
monitoring sewage sludge and sewage sludge materials and 2020
establishing acceptable sewage sludge management practices and 2021
pollutant levels in sewage sludge and sewage sludge materials. 2022

This chapter authorizes the state to participate in any 2023
national sludge management program and the national pollutant 2024
discharge elimination system, to administer and enforce the 2025
publicly owned treatment works pretreatment program, and to 2026
issue permits for the discharge of dredged or fill materials, in 2027
accordance with the Federal Water Pollution Control Act. This 2028
chapter shall be administered, consistent with the laws of this 2029
state and federal law, in the same manner that the Federal Water 2030
Pollution Control Act is required to be administered. 2031

(T) Develop technical guidance and offer technical 2032
assistance, upon request, for the purpose of minimizing wind or 2033
water erosion of soil, and assist in compliance with permits for 2034
storm water management issued under this chapter and rules 2035
adopted under it. 2036

(U) Study, examine, and calculate nutrient loading from 2037
point and nonpoint sources in order to determine comparative 2038
contributions by those sources and to utilize the information 2039
derived from those calculations to determine the most 2040
environmentally beneficial and cost-effective mechanisms to 2041
reduce nutrient loading to watersheds in the Lake Erie basin and 2042

the Ohio river basin. In order to evaluate nutrient loading 2043
contributions, the director or the director's designee shall 2044
conduct a study of the nutrient mass balance for both point and 2045
nonpoint sources in watersheds in the Lake Erie basin and the 2046
Ohio river basin using available data, including both of the 2047
following: 2048

(1) Data on water quality and stream flow; 2049

(2) Data on point source discharges into those watersheds. 2050

The director or the director's designee shall report and 2051
update the results of the study to coincide with the release of 2052
the Ohio integrated water quality monitoring and assessment 2053
report prepared by the director. 2054

This section does not apply to residual farm products and 2055
manure disposal systems and related management and conservation 2056
practices subject to rules adopted pursuant to division (E) (1) 2057
of section 939.02 of the Revised Code. For purposes of this 2058
exclusion, "residual farm products" and "manure" have the same 2059
meanings as in section 939.01 of the Revised Code. However, 2060
until the date on which the United States environmental 2061
protection agency approves the NPDES program submitted by the 2062
director of agriculture under section 903.08 of the Revised 2063
Code, this exclusion does not apply to animal waste treatment 2064
works having a controlled direct discharge to the waters of the 2065
state or any concentrated animal feeding operation, as defined 2066
in 40 C.F.R. 122.23(b) (2). On and after the date on which the 2067
United States environmental protection agency approves the NPDES 2068
program submitted by the director of agriculture under section 2069
903.08 of the Revised Code, this section does not apply to storm 2070
water from an animal feeding facility, as defined in section 2071
903.01 of the Revised Code, or to pollutants discharged from a 2072

concentrated animal feeding operation, as both terms are defined 2073
in that section. Neither of these exclusions applies to the 2074
discharge of animal waste into a publicly owned treatment works. 2075

Not later than December 1, 2016, a publicly owned 2076
treatment works with a design flow of one million gallons per 2077
day or more, or designated as a major discharger by the 2078
director, shall be required to begin monthly monitoring of total 2079
and dissolved reactive phosphorus pursuant to a new NPDES 2080
permit, an NPDES permit renewal, or a director-initiated 2081
modification. The director shall include in each applicable new 2082
NPDES permit, NPDES permit renewal, or director-initiated 2083
modification a requirement that such monitoring be conducted. A 2084
director-initiated modification for that purpose shall be 2085
considered and processed as a minor modification pursuant to 2086
Ohio Administrative Code 3745-33-04. In addition, not later than 2087
December 1, 2017, a publicly owned treatment works with a design 2088
flow of one million gallons per day or more that, on July 3, 2089
2015, is not subject to a phosphorus limit shall complete and 2090
submit to the director a study that evaluates the technical and 2091
financial capability of the existing treatment facility to 2092
reduce the final effluent discharge of phosphorus to one 2093
milligram per liter using possible source reduction measures, 2094
operational procedures, and unit process configurations. 2095

Sec. 6111.04. (A) Both of the following apply except as 2096
otherwise provided in division (A) or (F) of this section: 2097

(1) No person shall cause pollution or place or cause to 2098
be placed any sewage, sludge, sludge materials, industrial 2099
waste, or other wastes in a location where they cause pollution 2100
of any waters of the state. 2101

(2) Such an action prohibited under division (A) (1) of 2102

this section is hereby declared to be a public nuisance. 2103

Divisions (A) (1) and (2) of this section do not apply if 2104
the person causing pollution or placing or causing to be placed 2105
wastes in a location in which they cause pollution of any waters 2106
of the state holds a valid, unexpired permit, or renewal of a 2107
permit, governing the causing or placement as provided in 2108
sections 6111.01 to 6111.08 of the Revised Code or if the 2109
person's application for renewal of such a permit is pending. 2110

(B) If the director of environmental protection 2111
administers a sludge management program pursuant to division (S) 2112
of section 6111.03 of the Revised Code, both of the following 2113
apply except as otherwise provided in division (B) or (F) of 2114
this section: 2115

(1) No person, in the course of sludge management, shall 2116
place on land located in the state or release into the air of 2117
the state any sludge or sludge materials. 2118

(2) An action prohibited under division (B) (1) of this 2119
section is hereby declared to be a public nuisance. 2120

Divisions (B) (1) and (2) of this section do not apply if 2121
the person placing or releasing the sludge or sludge materials 2122
holds a valid, unexpired permit, or renewal of a permit, 2123
governing the placement or release as provided in sections 2124
6111.01 to 6111.08 of the Revised Code or if the person's 2125
application for renewal of such a permit is pending. 2126

(C) No person to whom a permit has been issued shall place 2127
or discharge, or cause to be placed or discharged, in any waters 2128
of the state any sewage, sludge, sludge materials, industrial 2129
waste, or other wastes in excess of the permissive discharges 2130
specified under an existing permit without first receiving a 2131

permit from the director to do so. 2132

(D) No person to whom a sludge management permit has been 2133
issued shall place on the land or release into the air of the 2134
state any sludge or sludge materials in excess of the permissive 2135
amounts specified under the existing sludge management permit 2136
without first receiving a modification of the existing sludge 2137
management permit or a new sludge management permit to do so 2138
from the director. 2139

(E) The director may require the submission of plans, 2140
specifications, and other information that the director 2141
considers relevant in connection with the issuance of permits. 2142

(F) This section does not apply to any of the following: 2143

(1) Waters used in washing sand, gravel, other aggregates, 2144
or mineral products when the washing and the ultimate disposal 2145
of the water used in the washing, including any sewage, 2146
industrial waste, or other wastes contained in the waters, are 2147
entirely confined to the land under the control of the person 2148
engaged in the recovery and processing of the sand, gravel, 2149
other aggregates, or mineral products and do not result in the 2150
pollution of waters of the state; 2151

(2) Water, gas, or other material injected into a well to 2152
facilitate, or that is incidental to, the production of oil, 2153
gas, artificial brine, or water derived in association with oil 2154
or gas production and disposed of in a well, in compliance with 2155
a permit issued under Chapter 1509. of the Revised Code, or 2156
sewage, industrial waste, or other wastes injected into a well 2157
in compliance with an injection well operating permit. Division 2158

(F) (2) of this section does not authorize, without a permit, any 2159
discharge that is prohibited by, or for which a permit is 2160

required by, regulation of the United States environmental 2161
protection agency. 2162

(3) Application of any materials to land for agricultural 2163
purposes or runoff of the materials from that application or 2164
pollution by residual farm products, manure, or soil sediment, 2165
including attached substances, resulting from farming, 2166
silvicultural, or earthmoving activities regulated by Chapter 2167
307. or 939. of the Revised Code. Division (F)(3) of this 2168
section does not authorize, without a permit, any discharge that 2169
is prohibited by, or for which a permit is required by, the 2170
Federal Water Pollution Control Act or regulations adopted under 2171
it. As used in division (F)(3) of this section, "residual farm 2172
products" and "manure" have the same meanings as in section 2173
939.01 of the Revised Code. 2174

(4) The excrement of domestic and farm animals defecated 2175
on land or runoff therefrom into any waters of the state. 2176
Division (F)(4) of this section does not authorize, without a 2177
permit, any discharge that is prohibited by, or for which a 2178
permit is required by, the Federal Water Pollution Control Act 2179
or regulations adopted under it. 2180

(5) On and after the date on which the United States 2181
environmental protection agency approves the NPDES program 2182
submitted by the director of agriculture under section 903.08 of 2183
the Revised Code, any discharge that is within the scope of the 2184
approved NPDES program submitted by the director of agriculture; 2185

(6) The discharge of sewage, industrial waste, or other 2186
wastes into a sewerage system tributary to a treatment works. 2187
Division (F)(6) of this section does not authorize any discharge 2188
into a publicly owned treatment works in violation of a 2189
pretreatment program applicable to the publicly owned treatment 2190

works or any discharge to a privately owned treatment works in 2191
violation of any permit conditions established in accordance 2192
with 40 C.F.R. 122.44(m). 2193

(7) A household sewage treatment system or a small flow 2194
on-site sewage treatment system, as applicable, as defined in 2195
section 3718.01 of the Revised Code that is installed in 2196
compliance with Chapter 3718. of the Revised Code and rules 2197
adopted under it. Division (F) (7) of this section does not 2198
authorize, without a permit, any discharge that is prohibited 2199
by, or for which a permit is required by, regulation of the 2200
United States environmental protection agency. 2201

(8) Exceptional quality sludge generated outside of this 2202
state and contained in bags or other containers not greater than 2203
one hundred pounds in capacity. As used in division (F) (8) of 2204
this section, "exceptional quality sludge" has the same meaning 2205
as in division (Y) of section 3745.11 of the Revised Code. 2206

(G) The holder of a permit issued under section 402 (a) of 2207
the Federal Water Pollution Control Act need not obtain a permit 2208
for a discharge authorized by the permit until its expiration 2209
date. Except as otherwise provided in this division, the 2210
director of environmental protection shall administer and 2211
enforce those permits within this state and may modify their 2212
terms and conditions in accordance with division (J) of section 2213
6111.03 of the Revised Code. On and after the date on which the 2214
United States environmental protection agency approves the NPDES 2215
program submitted by the director of agriculture under section 2216
903.08 of the Revised Code, the director of agriculture shall 2217
administer and enforce those permits within this state that are 2218
issued for any discharge that is within the scope of the 2219
approved NPDES program submitted by the director of agriculture. 2220

<u>Sec. 6111.052. (A) As used in this section:</u>	2221
<u>(1) "Blast furnace slag" means a nonmetallic material that</u>	2222
<u>is an intended output or intended result of the melting of iron</u>	2223
<u>ore or iron pellets together with coke and a flux in a blast</u>	2224
<u>furnace, that is sold and distributed in the stream of commerce</u>	2225
<u>as a product.</u>	2226
<u>(2) "Steel slag" means an intended output or intended</u>	2227
<u>result of the use of an electric arc furnace or basic oxygen</u>	2228
<u>furnace to make steel that is all of the following:</u>	2229
<u>(a) Not a hazardous waste;</u>	2230
<u>(b) Poured from the furnace in a molten state, cooled, and</u>	2231
<u>processed to remove all free metallic;</u>	2232
<u>(c) Sold and distributed in the stream of commerce as a</u>	2233
<u>product.</u>	2234
<u>(B) For purposes of this chapter, "industrial waste" and</u>	2235
<u>"other wastes" do not include blast furnace slag or steel slag</u>	2236
<u>regardless of whether it is placed on the ground, placed below</u>	2237
<u>grade, or used in products that come into contact with the</u>	2238
<u>ground or are placed below grade.</u>	2239
<u>(C) No person shall place or manage blast furnace slag or</u>	2240
<u>steel slag in a manner that results in any of the following:</u>	2241
<u>(1) An exceedance of a water quality standard, including</u>	2242
<u>narrative standards, adopted under section 6111.041 of the</u>	2243
<u>Revised Code;</u>	2244
<u>(2) An exceedance of a primary or secondary maximum</u>	2245
<u>contaminant level in ground water adopted under section 6109.04</u>	2246
<u>of the Revised Code;</u>	2247

(3) A discharge that is prohibited by, or for which a permit is required by, United States environmental protection agency regulations, except in accordance with such permit; 2248
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(4) A threat to public health or safety or the environment. 2251
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(D) The director of environmental protection or the director's duly authorized representative may enter at reasonable times on any private or public property to inspect and investigate conditions or examine records relating to alleged noncompliance with this section. 2253
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Sec. 6111.07. (A) No person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 or division (B) of section 6111.33 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense. 2258
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(B) The attorney general, upon the written request of the director, shall prosecute any person who violates, or who fails to perform any duty imposed by, sections 6111.01 to 6111.08 or division (B) of section 6111.33 of the Revised Code or who violates any order, rule, or condition of a permit issued or adopted by the director pursuant to those sections. 2264
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The attorney general, upon written request of the director, shall bring an action for an injunction against any person violating or threatening to violate this chapter or violating or threatening to violate any order, rule, or condition of a permit issued or adopted by the director pursuant to this chapter. In an action for injunction to enforce any final order of the director brought pursuant to this section, 2270
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the finding by the director, after hearing, is prima-facie 2277
evidence of the facts found therein. 2278

(C) No person knowingly shall submit false information or 2279
records or fail to submit information or records pertaining to 2280
discharges of sewage, industrial wastes, or other wastes or to 2281
sludge management required as a condition of a permit or 2282
knowingly render inaccurate any monitoring device or other 2283
method required to be maintained by the director. 2284

Sec. 6111.30. (A) Applications for a section 401 water 2285
quality certification required under division (P) of section 2286
6111.03 of the Revised Code shall be submitted on forms provided 2287
by the director of environmental protection and shall include 2288
all information required on those forms as well as all of the 2289
following: 2290

(1) A copy of a letter from the United States army corps 2291
of engineers documenting its jurisdiction over the wetlands, 2292
streams, or other waters of the state that are the subject of 2293
the section 401 water quality certification application; 2294

(2) If the project involves impacts to a wetland, a 2295
wetland characterization analysis consistent with the Ohio rapid 2296
assessment method; 2297

(3) If the project involves a stream for which a specific 2298
aquatic life use designation has not been made, data sufficient 2299
to determine the existing aquatic life use; 2300

(4) A specific and detailed mitigation proposal, including 2301
the location and proposed real estate instrument or other 2302
available mechanism for protecting the property long term; 2303

(5) Applicable fees; 2304

(6) Site photographs;	2305
(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat;	2306 2307 2308 2309 2310
(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project;	2311 2312 2313 2314
(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;	2315 2316 2317
(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.	2318 2319 2320
(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director	2321 2322 2323 2324 2325 2326 2327 2328 2329 2330 2331 2332 2333

may return the incomplete application to the applicant and take 2334
no further action on the application. If the application is 2335
returned to the applicant because it is incomplete, the director 2336
shall return the review fee levied under division (A) (1), (2), 2337
or (3) of section 3745.114 of the Revised Code to the applicant, 2338
but shall retain the application fee levied under that section. 2339

(C) Not later than twenty-one days after a determination 2340
that an application is complete under division (B) of this 2341
section, the applicant shall publish public notice of the 2342
director's receipt of the complete application in a newspaper of 2343
general circulation in the county in which the project that is 2344
the subject of the application is located. The public notice 2345
shall be in a form acceptable to the director. The applicant 2346
shall promptly provide the director with proof of publication. 2347
The applicant may choose, subject to review by and approval of 2348
the director, to include in the public notice an advertisement 2349
for an antidegradation public hearing on the application 2350
pursuant to section 6111.12 of the Revised Code. There shall be 2351
a public comment period of thirty days following the publication 2352
of the public notice. 2353

(D) If the director determines that there is significant 2354
public interest in a public hearing as evidenced by the public 2355
comments received concerning the application and by other 2356
requests for a public hearing on the application, the director 2357
or the director's representative shall conduct a public hearing 2358
concerning the application. Notice of the public hearing shall 2359
be published by the applicant, subject to review and approval by 2360
the director, at least thirty days prior to the date of the 2361
hearing in a newspaper of general circulation in the county in 2362
which the project that is the subject of the application is to 2363
take place. If a public hearing is requested concerning an 2364

application, the director shall accept comments concerning the 2365
application until five business days after the public hearing. A 2366
public hearing conducted under this division shall take place 2367
not later than one hundred days after the application is 2368
determined to be complete. 2369

(E) The director shall forward all public comments 2370
concerning an application submitted under this section that are 2371
received through the public involvement process required by 2372
rules adopted under this chapter to the applicant not later than 2373
five business days after receipt of the comments by the 2374
director. 2375

(F) The applicant shall respond in writing to written 2376
comments or to deficiencies identified by the director during 2377
the course of reviewing the application not later than fifteen 2378
days after receiving or being notified of them. 2379

(G) The director shall issue or deny a section 401 water 2380
quality certification not later than one hundred eighty days 2381
after the complete application for the certification is 2382
received. The director shall provide an applicant for a section 2383
401 water quality certification with an opportunity to review 2384
the certification prior to its issuance. However, when a 2385
certified water quality professional conducts a stream or 2386
wetland assessment to support an application and the application 2387
does not require or necessitate a public hearing, the director 2388
shall issue or deny a section 401 water quality certification 2389
not later than ninety days after the complete application for 2390
the certification is received. 2391

(H) The director shall maintain an accessible database 2392
that includes environmentally beneficial water restoration and 2393
protection projects that may serve as potential mitigation 2394

projects for projects in the state for which a section 401 water 2395
quality certification is required. A project's inclusion in the 2396
database does not constitute an approval of the project. 2397

(I) Mitigation required by a section 401 water quality 2398
certification may be accomplished by any of the following: 2399

(1) Purchasing credits at a mitigation bank approved in 2400
accordance with 33 C.F.R. 332.8; 2401

(2) Participating in an in-lieu fee mitigation program 2402
approved in accordance with 33 C.F.R. 332.8; 2403

(3) Constructing individual mitigation projects. 2404

Notwithstanding the mitigation hierarchy specified in 2405
section 3745-1-54 of the Administrative Code, mitigation 2406
projects shall be approved in accordance with the hierarchy 2407
specified in 33 C.F.R. 332.3 unless the director determines that 2408
the size or quality of the impacted resource necessitates 2409
reasonably identifiable, available, and practicable mitigation 2410
conducted by the applicant. The director shall adopt rules in 2411
accordance with Chapter 119. of the Revised Code consistent with 2412
the mitigation hierarchy specified in 33 C.F.R. 332.3. 2413

(J) The director ~~may~~ shall establish a program and adopt 2414
rules in accordance with Chapter 119. of the Revised Code for 2415
the purpose of certifying water quality professionals to assess 2416
streams to determine existing aquatic life use and to categorize 2417
wetlands in support of applications for section 401 water 2418
quality certification under divisions (A) (2) and (3) of this 2419
section and isolated wetland permits under sections 6111.022 to 2420
6111.024 of the Revised Code. The director shall establish a 2421
multi-sector work group to assist in the development of rules 2422
adopted under this division. The director shall use information 2423

submitted by certified water quality professionals in the review 2424
of those applications. 2425

Rules adopted under this division shall do all of the 2426
following: 2427

(1) Provide for the certification of water quality 2428
professionals to conduct activities in support of applications 2429
for section 401 water quality certification and isolated wetland 2430
permits, including work necessary to determine existing aquatic 2431
life use of streams and categorize wetlands. Rules adopted under 2432
division (J) (1) of this section shall do at least all of the 2433
following: 2434

(a) Authorize the director to require an applicant for 2435
water quality professional certification to submit information 2436
considered necessary by the director to assess a water quality 2437
professional's experience in conducting stream assessments and 2438
wetlands categorizations; 2439

(b) Authorize the director to establish experience 2440
requirements and to use tests to determine the competency of 2441
applicants for water quality professional certification; 2442

(c) Authorize the director to approve applicants for water 2443
quality professional certification who comply with the 2444
requirements established in rules and deny applicants that do 2445
not comply with those requirements; 2446

(d) Require the director to revoke the certification of a 2447
water quality professional if the director finds that the 2448
professional falsified any information on the professional's 2449
application for certification regarding the professional's 2450
credentials; 2451

(e) Require periodic renewal of a water quality 2452

professional's certification and establish continuing education requirements for purposes of that renewal. 2453
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(2) Establish an annual fee to be paid by water quality professionals certified under rules adopted under division (J) (1) of this section in an amount calculated to defray the costs incurred by the environmental protection agency for reviewing applications for water quality professional certification and for issuing those certifications; 2455
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(3) Authorize the director to suspend or revoke the certification of a water quality professional if the director finds that the professional's performance has resulted in submission of documentation that is inconsistent with standards established in rules adopted under division (J) (7) of this section; 2461
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(4) Authorize the director to review documentation submitted by a certified water quality professional to ensure compliance with requirements established in rules adopted under division (J) (7) of this section; 2467
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(5) Require a certified water quality professional to submit any documentation developed in support of an application for a section 401 water quality certification or an isolated wetland permit upon the request of the director; 2471
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(6) Authorize ~~random~~ audits by the director of documentation developed or submitted by certified water quality professionals to ensure compliance with requirements established in rules adopted under division (J) (7) of this section; 2475
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(7) Establish technical standards to be used by certified water quality professionals in conducting stream assessments and wetlands categorizations; 2479
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(8) Authorize the director to require public disclosure, 2482
including publication on the environmental protection agency's 2483
web site, of all of the following information for each certified 2484
water quality professional: 2485

(a) Name; 2486

(b) Qualifications and credentials; 2487

(c) Status of the professional's certifications; 2488

(d) Documents and reports submitted by the certified water 2489
quality professional; 2490

(e) Documentation and results of agency audits of the 2491
certified water quality professional's work; 2492

(f) Any final disciplinary action related to the certified 2493
water quality professional's performance. 2494

(K) Nothing in this section requires an applicant for a 2495
section 401 water quality certification or a permit for impacts 2496
to an isolated wetland under this chapter to use the services of 2497
a certified water quality professional. 2498

(L) As used in this section and section 6111.31 of the 2499
Revised Code, "section 401 water quality certification" means 2500
certification pursuant to section 401 of the Federal Water 2501
Pollution Control Act and this chapter and rules adopted under 2502
it that any discharge, as set forth in section 401, will comply 2503
with sections 301, 302, 303, 306, and 307 of the Federal Water 2504
Pollution Control Act. 2505

Sec. 6111.33. (A) As used in this section and in sections 2506
6111.32 and 6111.34 of the Revised Code, "dredged material" 2507
means material excavated or dredged from a federal navigation 2508
channel during harbor or navigation maintenance activities. 2509

<u>(B) No person shall use, manage, or place dredged material</u>	2510
<u>in any location except in accordance with the following:</u>	2511
<u>(1) Section 6111.32 of the Revised Code;</u>	2512
<u>(2) Rules adopted under Chapter 6111. of the Revised Code;</u>	2513
<u>(3) A permit issued under any other section of this</u>	2514
<u>chapter or under rules adopted under any such section; or</u>	2515
<u>(4) Any other authorization issued by the director of</u>	2516
<u>environmental protection.</u>	2517
<u>Sec. 6111.34.</u> (A) <u>The director of environmental</u>	2518
<u>protection, in accordance with Chapter 119. of the Revised Code,</u>	2519
<u>may adopt rules governing the beneficial use of dredged material</u>	2520
<u>and the beneficial use of material excavated or dredged from</u>	2521
<u>adjacent or connected commercial maritime port facilities that</u>	2522
<u>are necessary to protect public health, safety, and the</u>	2523
<u>environment.</u>	2524
<u>(B) The director shall ensure that rules adopted under</u>	2525
<u>this section establish both of the following:</u>	2526
<u>(1) Criteria for determining when dredged material and</u>	2527
<u>material excavated or dredged from adjacent or connected</u>	2528
<u>commercial maritime port facilities does not constitute either</u>	2529
<u>of the following:</u>	2530
<u>(a) Solid wastes;</u>	2531
<u>(b) Other wastes.</u>	2532
<u>(2) Requirements and procedures for the issuance,</u>	2533
<u>modification, suspension, revocation, and denial of an</u>	2534
<u>authorization, authorization by rule, and general and individual</u>	2535
<u>permits for the beneficial use of dredged material and the</u>	2536

beneficial use of material excavated or dredged from adjacent or 2537
connected commercial maritime port facilities. 2538

(C) The director shall ensure that the criteria and 2539
requirements established in rules adopted under this section are 2540
no less stringent than any applicable standard established under 2541
federal environmental laws and regulations adopted under them, 2542
including the "Federal Water Pollution Control Act Amendments of 2543
1972," 86 Stat. 886, 33 U.S.C. 1251; the "Resource Conservation 2544
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C. 6921; the 2545
"Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C. 2546
2601; the "Comprehensive Environmental Response, Compensation, 2547
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C. 9601; and 2548
the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C. 2549
300f. 2550

(D) As used in this section, "solid wastes" has the same 2551
meaning as in section 3734.01 of the Revised Code. 2552

Section 2. That existing sections 1506.21, 1506.23, 2553
3714.01, 3714.02, 3714.051, 3714.06, 3714.062, 3714.082, 2554
3734.061, 3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.30, 2555
5301.80, 6109.02, 6109.08, 6109.24, 6111.03, 6111.04, 6111.07, 2556
and 6111.30 of the Revised Code are hereby repealed. 2557

Section 3. The five existing members appointed to the Ohio 2558
Lake Erie Commission by the Governor under section 1506.21 of 2559
the Revised Code prior to the effective date of this section 2560
shall begin a three-year term on the effective date of this 2561
section. Thereafter, such members may serve one additional 2562
three-year term as provided in the amendments made to section 2563
1506.21 of the Revised Code by this act. 2564

Section 4. (A) As used in this section, "processing" 2565

facility" means a processing facility as defined in section 2566
3714.01 of the Revised Code to which either of the following 2567
apply: 2568

(1) It was in operation prior to the effective date of 2569
this section. 2570

(2) It was not in operation prior to the effective date of 2571
this section, but is in operation prior to the effective date of 2572
any rules adopted under section 3714.022 of the Revised Code. 2573

(B) Any person proposing to operate or continue to operate 2574
a processing facility after the effective date of this section 2575
shall submit an application for registration from the applicable 2576
board of health. If the health district in which such a 2577
processing facility is or is to be located is not on the 2578
approved list under section 3714.09 of the Revised Code, the 2579
person shall submit the application to the Director of 2580
Environmental Protection. The person shall include with the 2581
application a registration fee of one hundred dollars. The 2582
Director shall establish the form of the application and the 2583
application shall require the applicant to include all of the 2584
following information: 2585

(1) The applicant's name and phone number, and the address 2586
of the owner or operator of the processing facility or the 2587
proposed owner or operator of the processing facility. If the 2588
owner or operator or proposed owner or operator is an entity, 2589
the application shall include the name, phone number, and 2590
address of the agent of the owner or operator or proposed owner 2591
or operator. The application also shall include the emergency 2592
contact information of the owner or operator or proposed owner 2593
or operator. 2594

(2) The location of the processing facility or proposed processing facility, including the address and parcel numbers of the location; 2595
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(3) The name, phone number, and address of the property owner of the location where the processing facility is or is proposed to be located; 2598
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(4) Documentation of the property owner's written consent to the location of the processing facility on the property if the property owner is not the same person as the owner or operator or proposed owner or operator of the processing facility; 2601
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(5) A plan view drawing depicting the location of areas within the property boundary, whether on the ground or in buildings, to be used for the receipt, storage, transferring, or processing of construction and demolition debris. 2606
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(C) If the application concerns a processing facility that was not in operation on the effective date of this section, the applicant shall submit with the application a notarized statement certifying that the proposed horizontal limits of construction and demolition debris processing at the time the application is submitted are not located: 2610
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(1) Within one hundred feet of a perennial stream as defined by the United States Geological Survey seven and one-half minute quadrangle map or a category 3 wetland; 2616
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(2) Within one hundred feet of the facility's property line; 2619
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(3) Within five hundred feet of an occupied dwelling. 2621

(D) Upon written concurrence by the board of health of the 2622

appropriate health district or the Director, as applicable, that 2623
the registration application for the processing facility meets 2624
the criteria set forth in this section, the board or Director 2625
shall issue the registration. 2626

(E) Upon written notification by the board of health or 2627
the Director, as applicable, that the registration application 2628
is incomplete, the applicant shall correct noted deficiencies 2629
and resubmit the registration application not later than thirty 2630
days after receipt of the notification. 2631

(F) Any registrant proposing to continue to operate a 2632
processing facility on the effective date of the rules adopted 2633
under section 3714.022 of the Revised Code shall, within six 2634
months after the effective date of the rules, submit to the 2635
board of health of the appropriate health district or to the 2636
Director, as applicable, an application for an initial 2637
processing facility license and permit to install in accordance 2638
with sections 3714.022, 3714.051, and 3714.06 of the Revised 2639
Code, and the rules adopted under those sections. 2640

(G) A registration issued under this section terminates on 2641
the date that the board of health of the appropriate health 2642
district or the Director, as applicable, issues or denies a 2643
license in accordance with Chapter 119. of the Revised Code, and 2644
rules adopted under section 3714.022 of the Revised Code. 2645

Section 5. The terms of the five additional members of the 2646
Ohio Lake Erie Commission who were appointed by the Governor 2647
prior to the effective date of this act under section 1506.21 of 2648
the Revised Code expire on the effective date of this act. The 2649
governor may reappoint those members in accordance with section 2650
1506.21 of the Revised Code as amended by this act. 2651