

Sub. H. B. No. 96
As Passed by the Senate
EPACD19

_____ moved to amend as follows:

After line 74853, insert:

"Sec. 3704.01. As used in this chapter:

(A) "Administrator" means the administrator of the United States environmental protection agency or the chief executive of any successor federal agency responsible for implementation of the federal Clean Air Act.

(B) "Air contaminant" means particulate matter, dust, fumes, gas, mist, radionuclides, smoke, vapor, or odorous substances, or any combination thereof, but does not mean emissions from agricultural production activities, as defined in section 929.01 of the Revised Code, that are consistent with generally accepted agricultural practices, were established prior to adjacent nonagricultural activities, have no substantial, adverse effect on the public health, safety, or welfare, do not result from the negligent or other improper operations of any such agricultural activities, and would not be required to obtain a Title V permit. For the purposes of this chapter, agricultural production activities do not include the

installation and operation of off-farm facilities for the 19
storage or processing of agricultural products, including, but 20
not limited to, alfalfa dehydrating facilities, rendering 21
plants, and feed and grain mills, elevators, and terminals. 22

(C) "Air contaminant source" means each separate operation 23
or activity that results or may result in the emission of any 24
air contaminant. 25

(D) "Air pollution" means the presence in the ambient air 26
of one or more air contaminants or any combination thereof in 27
sufficient quantity and of such characteristics and duration as 28
is or threatens to be injurious to human health or welfare, 29
plant or animal life, or property, or as unreasonably interferes 30
with the comfortable enjoyment of life or property. 31

(E) "Ambient air" means that portion of the atmosphere 32
outside of buildings and other enclosures, stacks, or ducts that 33
surrounds human, plant, or animal life or property. 34

(F) "Best available technology" means any combination of 35
work practices, raw material specifications, throughput 36
limitations, source design characteristics, an evaluation of the 37
annualized cost per ton of pollutant removed, and air pollution 38
control devices that have been previously demonstrated to the 39
director of environmental protection to operate satisfactorily 40
in this state or other states with similar air quality on 41
substantially similar air pollution sources. 42

(G) "Change within a permitted facility" means, within the 43
context of the Title V permit program established under section 44
3704.036 of the Revised Code, a change that is limited by a 45
federally enforceable provision of an applicable Title V permit 46
and that does not include physical, production, or other changes 47

that are neither addressed nor limited by the federally 48
enforceable portion of a Title V permit unless the change would 49
result in a violation of a federally enforceable requirement or 50
a modification under Title I of the federal Clean Air Act or 51
would be subject to any requirements under Title IV of that act. 52

(H) "Community air monitoring" means any measurement or 53
quantification of ambient air concentrations of an air 54
contaminant, including both one-time monitoring events and 55
multi-sampling events. "Community air monitoring" does not 56
include any of the following: 57

(1) Monitoring conducted using monitoring devices 58
identified in the most recent approved version of the United 59
States environmental protection agency's document entitled "List 60
of Designated Reference and Equivalent Methods"; 61

(2) Monitoring conducted using monitoring devices 62
identified in the most recent approved version of the United 63
State environmental protection agency's document entitled "Air 64
Monitoring Network Plan" that are installed and operated in 65
accordance with 40 C.F.R. 58 by the environmental protection 66
agency or by a local air pollution control authority under the 67
terms of a delegation agreement entered into under section 68
3704.111 of the Revised Code; 69

(3) Any measurement or quantification of ambient air 70
concentrations of an air contaminant that is specifically 71
identified or described in and either required or allowed to be 72
used for the particular air contaminant source or source 73
category for which it is being used under any of the following: 74

(a) The federal Clean Air Act; 75

(b) Any implementation plan promulgated or approved before 76

the effective date of this amendment; 77

(c) Any permit, variance, or order issued before the 78
effective date of this amendment or any renewal thereof after 79
the effective date of this amendment; 80

(d) Any other permit, variance, or order issued on or 81
after the effective date of this amendment, if the use of the 82
measurement system, testing equipment, tool, or process was 83
proposed, requested, or voluntarily accepted by the air 84
contaminant source or sources subject to that permit, variance, 85
or order. 86

(4) Any monitoring system installed and used by the 87
environmental protection agency or by a local air pollution 88
control authority under the terms of a delegation agreement 89
entered into under section 3704.111 of the Revised Code, 90
including, but not limited to, all of the following: 91

(a) A monitoring system used to measure polyfluoroalkyl 92
substances (PFAS) in ambient air or precipitation, using a 93
technique approved for that purpose by the United States 94
environmental protection agency; 95

(b) A monitoring system used to measure contaminants 96
identified by the American conference of governmental industrial 97
hygienists using methodologies consistent with the procedures 98
identified under method guidelines 1 and 2 of the United States 99
occupational safety and health administration; 100

(c) A monitoring system used to investigate and respond to 101
any accidents, spills, or releases under the authority of any 102
emergency response program developed and implemented under 103
Chapter 3750. of the Revised Code or Chapter 3745-104 of the 104
Administrative Code; 105

(d) A monitoring system used to investigate any release 106
that exceeds the reporting quantities under 40 C.F.R. 302; 107

(e) A monitoring system used to measure any of the 108
compounds identified under section 112(b) of the federal Clean 109
Air Act or Chapter 3745-114 of the Administrative Code; 110

(f) A monitoring system used under the national 111
atmospheric deposition program; 112

(g) A monitoring system used to measure contaminants 113
consistent with the "National Emission Standards for Hazardous 114
Air Pollutants from Petroleum Refineries," 40 C.F.R. 63, Subpart 115
CC. 116

(I) "Emit" or "emission" means the release into the 117
ambient air of an air contaminant. 118

~~(I)~~ (J) "Emission limitation" and "emission standard" mean 119
a requirement that limits the quantity, rate, or concentration 120
of emissions of air contaminants, including any requirement 121
relating to the operation or maintenance of an air contaminant 122
source. 123

~~(J)~~ (K) "Facility," for the purposes of the Title V permit 124
program established under section 3704.036 of the Revised Code, 125
means all of the emitting activities that are located on 126
contiguous or adjacent properties that are under the control of 127
the same person or persons or are under common control and that 128
are in the same major group as described in the standard 129
Industrial Classification Manual, 1987. 130

~~(K)~~ (L) "Federal Clean Air Act" means "Air Quality Act of 131
1967," 81 Stat. 485, 42 U.S.C. 1857, as amended by "Clean Air 132
Act Amendments of 1970," 84 Stat. 1676, 42 U.S.C. 1857, "Act of 133

November 18, 1971," 85 Stat. 464, 42 U.S.C. 1857, "Act of April 134
9, 1973," 87 Stat. 11, 42 U.S.C. 1857, "Act of June 24, 1974," 135
88 Stat. 248, 42 U.S.C. 1857, "Clean Air Act Amendments of 136
1977," 91 Stat. 685, 42 U.S.C. 7401, "Safe Drinking Water Act 137
Amendments of 1977," 91 Stat. 1393, 42 U.S.C. 7401, "Clean Air 138
Act Amendments of 1990," 104 Stat. 2399, 42 U.S.C.A. 7401, and 139
any other amendments that have been or may hereafter be adopted, 140
or any supplements to those acts and laws of the United States 141
that have been or may hereafter be enacted in substitution 142
therefor, together with any regulations that have been or may 143
hereafter be adopted by the administrator by virtue of and in 144
accordance with those acts and laws. Reference to a particular 145
title or section of the federal Clean Air Act includes any 146
amendments that have been or may hereafter be enacted in 147
substitution therefor and any regulations pertaining to the 148
title or section that have been or may hereafter be adopted by 149
the administrator by virtue of and in accordance with the 150
federal Clean Air Act. 151

~~(I)~~ (M) "Hazardous air pollutant" means any pollutant 152
listed under section 112(b) of the federal Clean Air Act. 153

~~(M)~~ (N) "Implementation plan" means a program for the 154
prevention and abatement of air pollution in the state that has 155
been promulgated or approved by the administrator pursuant to 156
the federal Clean Air Act. 157

~~(N)~~ (O) "Local air pollution control authority" includes 158
all of the following unless terminated by the political 159
subdivisions represented thereby: 160

(1) All of the following agencies representing the 161
following political subdivisions, as those agencies existed on 162
July 1, 1993: 163

(a) The Akron regional air quality management district	164
representing Medina, Summit, and Portage counties;	165
(b) The Canton city health department representing Stark	166
county;	167
(c) The Hamilton county department of environmental	168
services, southwest Ohio air quality agency representing Butler,	169
Warren, Hamilton, and Clermont counties;	170
(d) The city of Cleveland division of the environment	171
representing Cuyahoga county;	172
(e) The regional air pollution control agency representing	173
Darke, Preble, Miami, Montgomery, Clark, and Greene counties;	174
(f) The Lake county general health district representing	175
Lake and Geauga counties;	176
(g) The Portsmouth city health department representing	177
Brown, Adams, Scioto, and Lawrence counties;	178
(h) The city of Toledo division of pollution control	179
representing Lucas county and the city of Rossford in Wood	180
county.	181
(2) Any successor to an existing local air pollution	182
control authority listed in divisions (N) (1) (a) to (i) <u>division</u>	183
<u>(O) (1)</u> of this section that results from a change in the	184
political subdivisions comprising the local air pollution	185
control authority through the withdrawal of a political	186
subdivision from membership in the local air pollution control	187
authority or the inclusion of an additional political	188
subdivision in the membership of the local air pollution control	189
authority;	190
(3) Any new local air pollution control authority	191

established on or after July 1, 1993, by one or more political 192
subdivisions of this state for the purposes of exercising the 193
powers reserved to political subdivisions of this state under 194
division (A) of section 3704.11 of the Revised Code. 195

~~(O)~~ (P) "Person" means the federal government or any agency 196
thereof, the state or any agency thereof, any political 197
subdivision or any agency thereof, or any public or private 198
corporation, individual, partnership, or other entity. 199

~~(P)~~ (Q) "Research and development sources" means sources 200
whose activities are conducted for nonprofit scientific or 201
educational purposes; sources whose activities are conducted to 202
test more efficient production processes or methods for 203
preventing or reducing adverse environmental impacts, provided 204
that the activities do not include the production of an 205
intermediate or final product for sale or exchange for 206
commercial profit, except in a de minimis manner; a research or 207
laboratory source the primary purpose of which is to conduct 208
research and development into new processes and products, that 209
is operated under the close supervision of technically trained 210
personnel, and that is not engaged in the manufacture of 211
products for sale or exchange for commercial profit, except in a 212
de minimis manner; the temporary use of normal production 213
sources in a research and development mode to test the technical 214
or commercial viability of alternative raw materials or 215
production processes, provided that the use does not include the 216
production of an intermediate or final product for sale or 217
exchange for commercial profit, except in a de minimis manner; 218
the experimental firing of any fuel or combination of fuels in a 219
boiler, heater, furnace, or dryer for the purpose of conducting 220
research and development of more efficient combustion or more 221

effective prevention or control of air pollutant emissions, 222
provided that, during those periods of research and development, 223
the heat generated is not used for normal production purposes or 224
for producing a product for sale or exchange for commercial 225
profit, except in a de minimis manner; and such other similar 226
sources as the director may prescribe by rule. 227

~~(Q)~~(R) "Responsible official" means one of the following, 228
as applicable: 229

(1) For a corporation: a president, secretary, treasurer, 230
or vice-president of the corporation in charge of a principal 231
business function, any other person who performs similar policy 232
or decision-making functions for the corporation, or a duly 233
authorized representative of any such person if the 234
representative is responsible for the overall operation of one 235
or more manufacturing, production, or operating facilities 236
applying for or subject to a Title V permit and if one of the 237
following applies: 238

(a) The facilities employ more than two hundred fifty 239
individuals or have gross annual sales or expenditures exceeding 240
twenty-five million dollars, in second quarter 1980 dollars; 241

(b) The delegation of authority to the representative is 242
approved in advance by the director. 243

(2) For a partnership or sole proprietorship: a general 244
partner or the proprietor, respectively. 245

(3) For the federal government or any agency thereof, the 246
state or any agency thereof, a political subdivision or any 247
agency thereof, or any other public agency, either a principal 248
executive officer or authorized elected official. For the 249
purposes of this division, a principal executive officer of a 250

federal agency includes the chief executive officer having 251
responsibility for the overall operation of a principal 252
geographic unit of the agency. 253

(4) For affected sources, both of the following: 254

(a) The designated representative insofar as actions, 255
standards, requirements, or prohibitions under Title IV of the 256
federal Clean Air Act or regulations adopted under it are 257
concerned; 258

(b) The designated representative for any other purposes 259
under 40 C.F.R. part 70. 260

~~(R)~~(S) "Small business stationary source" means any 261
building, structure, facility, or installation that emits any 262
federally regulated air pollutant and is owned or operated by a 263
person who employs one hundred or fewer individuals; is a small 264
business concern as defined in the "Small Business Act," 72 265
Stat. 384 (1958), 15 U.S.C.A. 632, as amended; is not a major 266
stationary source as defined in section 302(j) of the federal 267
Clean Air Act; does not emit fifty tons or more per year of any 268
federally regulated air pollutant or any hazardous air 269
pollutant; and emits less than seventy-five tons per year of all 270
federally regulated air pollutants. 271

~~(S)~~(T) "Title V permit" means an operating permit required 272
to be issued by the state under section 502 of the federal Clean 273
Air Act and issued under section 3704.036 of the Revised Code 274
and rules adopted under it. 275

~~(T)~~(U) For the purposes of the Title V permit program 276
established under this chapter and rules adopted under it, all 277
terms defined in 40 C.F.R. part 70 have the same meaning as in 278
that part. 279

Sec. 3704.03. The director of environmental protection may	280
do any of the following:	281
(A) Develop programs for the prevention, control, and	282
abatement of air pollution;	283
(B) Advise, consult, contract, and cooperate with any	284
governmental or private agency in the furtherance of the	285
purposes of this chapter;	286
(C) Encourage, participate in, or conduct studies,	287
investigations, and research relating to air pollution, collect	288
and disseminate information, and conduct education and training	289
programs relating to the causes, prevention, control, and	290
abatement of air pollution;	291
(D) Adopt, modify, and rescind rules prescribing ambient	292
air quality standards for the state as a whole or for various	293
areas of the state that are consistent with and no more	294
stringent than the national ambient air quality standards in	295
effect under the federal Clean Air Act;	296
(E) Adopt, modify, suspend, and rescind rules for the	297
prevention, control, and abatement of air pollution, including	298
rules prescribing for the state as a whole or for various areas	299
of the state emission standards for air contaminants, and other	300
necessary rules for the purpose of achieving and maintaining	301
compliance with ambient air quality standards in all areas	302
within the state as expeditiously as practicable, but not later	303
than any deadlines applicable under the federal Clean Air Act;	304
rules for the prevention or control of the emission of hazardous	305
or toxic air contaminants; rules prescribing fugitive dust	306
limitations and standards that are related, on an areawide	307
basis, to attainment and maintenance of ambient air quality	308

standards; rules prescribing shade, density, or opacity 309
limitations and standards for emissions, provided that with 310
regard to air contaminant sources for which there are 311
particulate matter emission standards in addition to a shade, 312
density, or opacity rule, upon demonstration by such a source of 313
compliance with those other standards, the shade, density, or 314
opacity rule shall provide for establishment of a shade, 315
density, or opacity limitation for that source that does not 316
require the source to reduce emissions below the level specified 317
by those other standards; rules for the prevention or control of 318
odors and air pollution nuisances; rules that prevent 319
significant deterioration of air quality to the extent required 320
by the federal Clean Air Act; rules for the protection of 321
visibility as required by the federal Clean Air Act; and rules 322
prescribing open burning limitations and standards. In adopting, 323
modifying, suspending, or rescinding any such rules, the 324
director, to the extent consistent with the federal Clean Air 325
Act, shall hear and give consideration to evidence relating to 326
all of the following: 327

(1) Conditions calculated to result from compliance with 328
the rules, the overall cost within this state of compliance with 329
the rules, and their relation to benefits to the people of the 330
state to be derived from that compliance; 331

(2) The quantity and characteristics of air contaminants, 332
the frequency and duration of their presence in the ambient air, 333
and the dispersion and dilution of those contaminants; 334

(3) Topography, prevailing wind directions and velocities, 335
physical conditions, and other factors that may or may combine 336
to affect air pollution. 337

Consistent with division (K) of section 3704.036 of the 338

Revised Code, the director shall consider alternative emission 339
limits proposed by the owner or operator of an air contaminant 340
source that is subject to an emission limit established in rules 341
adopted under this division and shall accept those alternative 342
emission limits that the director determines to be equivalent to 343
emission limits established in rules adopted under this 344
division. 345

(F) (1) Adopt, modify, suspend, and rescind rules 346
consistent with the purposes of this chapter prohibiting the 347
location, installation, construction, or modification of any air 348
contaminant source or any machine, equipment, device, apparatus, 349
or physical facility intended primarily to prevent or control 350
the emission of air contaminants unless an installation permit 351
therefor has been obtained from the director or the director's 352
authorized representative. 353

(2) (a) Applications for installation permits shall be 354
accompanied by plans, specifications, construction schedules, 355
and such other pertinent information and data, including data on 356
ambient air quality impact and a demonstration of best available 357
technology, as the director may require. Installation permits 358
shall be issued for a period specified by the director and are 359
transferable. The director shall specify in each permit the 360
applicable emission standards and that the permit is conditioned 361
upon payment of the applicable fees as required by section 362
3745.11 of the Revised Code and upon the right of the director's 363
authorized representatives to enter upon the premises of the 364
person to whom the permit has been issued, at any reasonable 365
time and subject to safety requirements of the person in control 366
of the premises, for the purpose of determining compliance with 367
such standards, this chapter, the rules adopted thereunder, and 368

the conditions of any permit, variance, or order issued 369
thereunder. Each proposed new or modified air contaminant source 370
shall provide such notice of its proposed installation or 371
modification to other states as is required under the federal 372
Clean Air Act. Installation permits shall include the 373
authorization to operate sources installed and operated in 374
accordance with terms and conditions of the installation permits 375
for a period not to exceed one year from commencement of 376
operation, which authorization shall constitute an operating 377
permit under division (G) of this section and rules adopted 378
under it. 379

No installation permit shall be required for activities 380
that are subject to and in compliance with a plant-wide 381
applicability limit issued by the director in accordance with 382
rules adopted under this section. 383

No installation permit shall be issued except in 384
accordance with all requirements of this chapter and rules 385
adopted thereunder. No application shall be denied or permit 386
revoked or modified without a written order stating the findings 387
upon which denial, revocation, or modification is based. A copy 388
of the order shall be sent to the applicant or permit holder by 389
certified mail. 390

(b) An air contaminant source that is the subject of an 391
installation permit shall be installed or modified in accordance 392
with the permit not later than eighteen months after the 393
permit's effective date at which point the permit shall 394
terminate unless one of the following applies: 395

(i) The owner or operator has undertaken a continuing 396
program of installation or modification during the eighteen- 397
month period. 398

(ii) The owner or operator has entered into a binding 399
contractual obligation to undertake and complete within a 400
reasonable period of time a continuing program of installation 401
or modification of the air contaminant source during the 402
eighteen-month period. 403

(iii) The director has extended the date by which the air 404
contaminant source that is the subject of the installation 405
permit must be installed or modified. 406

(iv) The installation permit is the subject of an appeal 407
by a party other than the owner or operator of the air 408
contaminant source that is the subject of the installation 409
permit, in which case the date of termination of the permit is 410
not later than eighteen months after the effective date of the 411
permit plus the number of days between the date in which the 412
permit was appealed and the date on which all appeals concerning 413
the permit have been resolved. 414

(v) The installation permit has been superseded by a 415
subsequent installation permit, in which case the original 416
installation permit terminates on the effective date of the 417
superseding installation permit. 418

Division (F) (2) (b) of this section applies to an 419
installation permit that has not terminated as of October 16, 420
2009. 421

The director may adopt rules in accordance with Chapter 422
119. of the Revised Code for the purpose of establishing 423
additional requirements that are necessary for the 424
implementation of division (F) (2) (b) of this section. 425

(3) Not later than two years after August 3, 2006, the 426
director shall adopt a rule in accordance with Chapter 119. of 427

the Revised Code specifying that a permit to install is required 428
only for new or modified air contaminant sources that emit any 429
of the following air contaminants: 430

(a) An air contaminant or precursor of an air contaminant 431
for which a national ambient air quality standard has been 432
adopted under the federal Clean Air Act; 433

(b) An air contaminant for which the air contaminant 434
source is regulated under the federal Clean Air Act; 435

(c) An air contaminant that presents, or may present, 436
through inhalation or other routes of exposure, a threat of 437
adverse human health effects, including, but not limited to, 438
substances that are known to be, or may reasonably be 439
anticipated to be, carcinogenic, mutagenic, teratogenic, or 440
neurotoxic, that cause reproductive dysfunction, or that are 441
acutely or chronically toxic, or a threat of adverse 442
environmental effects whether through ambient concentrations, 443
bioaccumulation, deposition, or otherwise, and that is 444
identified in the rule by chemical name and chemical abstract 445
service number. 446

The director may modify the rule adopted under division 447
(F) (3) (c) of this section for the purpose of adding or deleting 448
air contaminants. For each air contaminant that is contained in 449
or deleted from the rule adopted under division (F) (3) (c) of 450
this section, the director shall include in a notice 451
accompanying any proposed or final rule an explanation of the 452
director's determination that the air contaminant meets the 453
criteria established in that division and should be added to, or 454
no longer meets the criteria and should be deleted from, the 455
list of air contaminants. The explanation shall include an 456
identification of the scientific evidence on which the director 457

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

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

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

ground level concentrations, either individually or in 488
combination. The director shall determine whether the activities 489
for which a permit to install is sought will cause an increase 490
in the ground level concentration of one or more relevant air 491
contaminants beyond the facility's boundary by an amount in 492
excess of the maximum acceptable ground level concentration. In 493
making the determination as to whether the maximum acceptable 494
ground level concentration will be exceeded, the director shall 495
give consideration to the modeling conducted under division (F) 496
(4) (b) of this section and other relevant information submitted 497
by the applicant. 498

(c) If the modeling conducted under division (F) (4) (b) of 499
this section with respect to an application for a permit to 500
install demonstrates that the maximum ground level concentration 501
from a new or modified source will be greater than or equal to 502
eighty per cent, but less than one hundred per cent of the 503
maximum acceptable ground level concentration for an air 504
contaminant, the director may establish terms and conditions in 505
the permit to install for the air contaminant source that will 506
require the owner or operator of the air contaminant source to 507
maintain emissions of that air contaminant commensurate with the 508
modeled level, which shall be expressed as allowable emissions 509
per day. In order to calculate the allowable emissions per day, 510
the director shall multiply the hourly emission rate modeled 511
under division (F) (4) (b) of this section to determine the ground 512
level concentration by the operating schedule that has been 513
identified in the permit to install application. Terms and 514
conditions imposed under division (F) (4) (c) of this section are 515
not federally enforceable requirements and, if included in a 516
Title V permit, shall be placed in the portion of the permit 517
that is only enforceable by the state. 518

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

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

for which the director has determined that the owner or operator 550
of the source is required to install best available control 551
technology for that particular air contaminant, or to a 552
particular air contaminant for which the director has determined 553
that the source is required to meet the lowest achievable 554
emission rate, as defined in 40 C.F.R. part 51, Appendix S, for 555
that particular air contaminant. 556

(f) (i) Division (F) (4) of this section and the document 557
entitled "Review of New Sources of Air Toxics Emissions, Option 558
A" do not apply to parking lots, storage piles, storage tanks, 559
transfer operations, grain silos, grain dryers, emergency 560
generators, gasoline dispensing operations, air contaminant 561
sources that emit air contaminants solely from the combustion of 562
fossil fuels, or the emission of wood dust, sand, glass dust, 563
coal dust, silica, and grain dust. 564

(ii) Notwithstanding division (F) (4) (f) (i) of this 565
section, the director may require an individual air contaminant 566
source that is within one of the source categories identified in 567
division (F) (4) (f) (i) of this section to submit information in 568
an application for a permit to install a new or modified source 569
in order to determine the source's conformity to the document if 570
the director has information to conclude that the particular new 571
or modified source will potentially cause an increase in ground 572
level concentration beyond the facility's boundary that exceeds 573
the maximum acceptable ground level concentration as set forth 574
in the document. 575

(iii) The director may adopt rules in accordance with 576
Chapter 119. of the Revised Code that are consistent with the 577
purposes of this chapter and that add to or delete from the 578
source category exemptions established in division (F) (4) (f) (i) 579

of this section.

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

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(G) Adopt, modify, suspend, and rescind rules prohibiting
the operation or other use of any new, modified, or existing air
contaminant source unless an operating permit has been obtained
from the director or the director's authorized representative,
or the air contaminant source is being operated in compliance

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with the conditions of a variance issued pursuant to division 610
(H) of this section. Applications for operating permits shall be 611
accompanied by such plans, specifications, and other pertinent 612
information as the director may require. Operating permits may 613
be issued for a period determined by the director not to exceed 614
ten years, are renewable, and are transferable. The director 615
shall specify in each operating permit that the permit is 616
conditioned upon payment of the applicable fees as required by 617
section 3745.11 of the Revised Code and upon the right of the 618
director's authorized representatives to enter upon the premises 619
of the person to whom the permit has been issued, at any 620
reasonable time and subject to safety requirements of the person 621
in control of the premises, for the purpose of determining 622
compliance with this chapter, the rules adopted thereunder, and 623
the conditions of any permit, variance, or order issued 624
thereunder. Operating permits may be denied or revoked for 625
failure to comply with this chapter or the rules adopted 626
thereunder. An operating permit shall be issued only upon a 627
showing satisfactory to the director or the director's 628
representative that the air contaminant source is being operated 629
in compliance with applicable emission standards and other rules 630
or upon submission of a schedule of compliance satisfactory to 631
the director for a source that is not in compliance with all 632
applicable requirements at the time of permit issuance, provided 633
that the compliance schedule shall be consistent with and at 634
least as stringent as that contained in any judicial consent 635
decree or administrative order to which the air contaminant 636
source is subject. The rules shall provide for the issuance of 637
conditional operating permits for such reasonable periods as the 638
director may determine to allow the holder of an installation 639
permit, who has constructed, installed, located, or modified a 640

new air contaminant source in accordance with the provisions of 641
an installation permit, to make adjustments or modifications 642
necessary to enable the new air contaminant source to comply 643
with applicable emission standards and other rules. Terms and 644
conditions of operating permits issued pursuant to this division 645
shall be federally enforceable for the purpose of establishing 646
the potential to emit of a stationary source and shall be 647
expressly designated as federally enforceable. Any such 648
federally enforceable restrictions on a source's potential to 649
emit shall include both an annual limit and a short-term limit 650
of not more than thirty days for each pollutant to be restricted 651
together with adequate methods for establishing compliance with 652
the restrictions. In other respects, operating permits issued 653
pursuant to this division are enforceable as state law only. No 654
application shall be denied or permit revoked or modified 655
without a written order stating the findings upon which denial, 656
revocation, or modification is based. A copy of the order shall 657
be sent to the applicant or permit holder by certified mail. 658

(H) Adopt, modify, and rescind rules governing the 659
issuance, revocation, modification, or denial of variances that 660
authorize emissions in excess of the applicable emission 661
standards. 662

No variance shall be issued except pursuant to those 663
rules. The rules shall prescribe conditions and criteria in 664
furtherance of the purposes of this chapter and consistent with 665
the federal Clean Air Act governing eligibility for issuance of 666
variances, which shall include all of the following: 667

(1) Provisions requiring consistency of emissions 668
authorized by a variance with timely attainment and maintenance 669
of ambient air quality standards; 670

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

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

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

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

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

adopted thereunder, and the conditions of any permit, variance, 701
or order issued thereunder. 702

The director may hold a public hearing on an application 703
for a variance or renewal thereof at a location in the county 704
where the variance is sought. The director shall give not less 705
than twenty days' notice of the hearing to the applicant by 706
certified mail or another type of mail accompanied by a receipt. 707
The director also shall cause at least one publication of notice 708
in a newspaper with general circulation in the county where the 709
variance is sought or may instead provide public notice by 710
publication on the environmental protection agency's web site. 711
The director shall keep available for public inspection at the 712
principal office of the environmental protection agency a 713
current schedule of pending applications for variances and a 714
current schedule of pending variance hearings. The director 715
shall make a complete stenographic record or electronic record 716
of testimony and other evidence submitted at the hearing. The 717
director shall make a written determination to issue, renew, or 718
deny the variance and shall enter the determination and the 719
basis therefor into the record of the hearing. The director 720
shall issue, renew, or deny an application for a variance or 721
renewal thereof, or issue a proposed action upon the application 722
pursuant to section 3745.07 of the Revised Code, within six 723
months of the date upon which the director receives a complete 724
application with all pertinent information and data required by 725
the director. 726

Any variance granted pursuant to rules adopted under this 727
division shall be for a period specified by the director, not to 728
exceed three years, and may be renewed from time to time on such 729
terms and for such periods, not to exceed three years each, as 730

the director determines to be appropriate. A variance may be 731
revoked, or renewal denied, for failure to comply with 732
conditions specified in the variance. No variance shall be 733
issued, denied, revoked, or modified without a written order 734
stating the findings upon which the issuance, denial, 735
revocation, or modification is based. A copy of the order shall 736
be sent to the applicant or variance holder by certified mail. 737

(I) Require the owner or operator of an air contaminant 738
source to install, employ, maintain, and operate such emissions, 739
ambient air quality, meteorological, or other monitoring devices 740
or methods as the director shall prescribe; to sample those 741
emissions at such locations, at such intervals, and in such 742
manner as the director prescribes; to maintain records and file 743
periodic reports with the director containing information as to 744
location, size, and height of emission outlets, rate, duration, 745
and composition of emissions, and any other pertinent 746
information the director prescribes; and to provide such written 747
notice to other states as the director shall prescribe. In 748
requiring monitoring devices, records, and reports, the 749
director, to the extent consistent with the federal Clean Air 750
Act, shall give consideration to technical feasibility and 751
economic reasonableness and allow reasonable time for 752
compliance. For sources where a specific monitoring, record- 753
keeping, or reporting requirement is specified for a particular 754
air contaminant from a particular air contaminant source in an 755
applicable regulation adopted by the United States environmental 756
protection agency under the federal Clean Air Act or in an 757
applicable rule adopted by the director, the director shall not 758
impose an additional requirement in a permit that is a different 759
monitoring, record-keeping, or reporting requirement other than 760
the requirement specified in the applicable regulation or rule 761

for that air contaminant except as otherwise agreed to by the 762
owner or operator of the air contaminant source and the 763
director. For sources where no specific monitoring requirement 764
is specified for a particular air contaminant from a particular 765
air contaminant source in an applicable regulation adopted by 766
the United States environmental protection agency under the 767
federal Clean Air Act or in an applicable rule adopted by the 768
director, the director shall not impose a monitoring requirement 769
in a permit that requires community air monitoring, except as 770
otherwise agreed to by the owner or air operator of the air 771
contaminant source and the director. If two or more regulations 772
or rules impose different monitoring, record-keeping, or 773
reporting requirements for the same air contaminant from the 774
same air contaminant source, the director may impose permit 775
terms and conditions that consolidate or streamline the 776
monitoring, record-keeping, or reporting requirements in a 777
manner that conforms with each applicable requirement. To the 778
extent consistent with the federal Clean Air Act and except as 779
otherwise agreed to by the owner or operator of an air 780
contaminant source and the director, the director shall not 781
require an operating restriction that has the practical effect 782
of increasing the stringency of an existing applicable emission 783
limitation or standard. 784

(J) Establish, operate, and maintain monitoring stations 785
and other devices designed to measure air pollution and enter 786
into contracts with any public or private agency for the 787
establishment, operation, or maintenance of such stations and 788
devices, except that the director shall not enter into contracts 789
with any private agency for the establishment, operation, or 790
maintenance of community air monitoring where the intended use 791
of the data produced by such monitoring stations and other 792

devices would violate divisions (B) or (C) of section 3704.09 of 793
the Revised Code; 794

(K) By rule adopt procedures for giving reasonable public 795
notice and conducting public hearings on any plans for the 796
prevention, control, and abatement of air pollution that the 797
director is required to submit to the federal government; 798

(L) Through any employee, agent, or authorized 799
representative of the director or the environmental protection 800
agency, enter upon private or public property, including 801
improvements thereon, at any reasonable time, to make 802
inspections, take samples, conduct tests, and examine records or 803
reports pertaining to any emission of air contaminants and any 804
monitoring equipment or methods and to determine if there are 805
any actual or potential emissions from such premises and, if so, 806
to determine the sources, amounts, contents, and extent of those 807
emissions, or to ascertain whether there is compliance with this 808
chapter, any orders issued or rules adopted thereunder, or any 809
other determination of the director. The director, at reasonable 810
times, may have access to and copy any such records. If entry or 811
inspection authorized by this division is refused, hindered, or 812
thwarted, the director or the director's authorized 813
representative may by affidavit apply for, and any judge of a 814
court of record may issue, an appropriate inspection warrant 815
necessary to achieve the purposes of this chapter within the 816
court's territorial jurisdiction. 817

(M) Accept and administer gifts or grants from the federal 818
government and from any other source, public or private, for 819
carrying out any of the functions under this chapter; 820

(N) Obtain necessary scientific, technical, and laboratory 821
services; 822

(O) Establish advisory boards in accordance with section 823
121.13 of the Revised Code; 824

(P) Delegate to any city or general health district or 825
political subdivision of the state any of the director's 826
enforcement and monitoring powers and duties, other than rule- 827
making powers, as the director elects to delegate, and in 828
addition employ, compensate, and prescribe the powers and duties 829
of such officers, employees, and consultants as are necessary to 830
enable the director to exercise the authority and perform duties 831
imposed upon the director by law. Technical and other services 832
shall be performed, insofar as practical, by personnel of the 833
environmental protection agency. 834

(Q) Certify to the government of the United States or any 835
agency thereof that an industrial air pollution facility is in 836
conformity with the state program or requirements for control of 837
air pollution whenever such certificate is required for a 838
taxpayer pursuant to any federal law or requirements; 839

(R) Issue, modify, or revoke orders requiring abatement of 840
or prohibiting emissions that violate applicable emission 841
standards or other requirements of this chapter and rules 842
adopted thereunder, or requiring emission control devices or 843
measures in order to comply with applicable emission standards 844
or other requirements of this chapter and rules adopted 845
thereunder. Any such order shall require compliance with 846
applicable emission standards by a specified date and shall not 847
conflict with any requirement of the federal Clean Air Act. In 848
the making of such orders, the director, to the extent 849
consistent with the federal Clean Air Act, shall give 850
consideration to, and base the determination on, evidence 851
relating to the technical feasibility and economic 852

reasonableness of compliance with such orders and their relation 853
to benefits to the people of the state to be derived from such 854
compliance. If, under the federal Clean Air Act, any such order 855
shall provide for the posting of a bond or surety to secure 856
compliance with the order as a condition of issuance of the 857
order, the order shall so provide, but only to the extent 858
required by the federal Clean Air Act. 859

(S) To the extent provided by the federal Clean Air Act, 860
adopt, modify, and rescind rules providing for the 861
administrative assessment and collection of monetary penalties, 862
not in excess of those required pursuant to the federal Clean 863
Air Act, for failure to comply with any emission limitation or 864
standard, compliance schedule, or other requirement of any rule, 865
order, permit, or variance issued or adopted under this chapter 866
or required under the applicable implementation plan whether or 867
not the source is subject to a federal or state consent decree. 868
The director may require the submission of compliance schedules, 869
calculations of penalties for noncompliance, and related 870
information. Any orders, payments, sanctions, or other 871
requirements imposed pursuant to rules adopted under this 872
division shall be in addition to any other permits, orders, 873
payments, sanctions, or other requirements established under 874
this chapter and shall not affect any civil or criminal 875
enforcement proceedings brought under any provision of this 876
chapter or any other provision of state or local law. This 877
division does not apply to any requirement of this chapter 878
regarding the prevention or abatement of odors. 879

(T) Require new or modified air contaminant sources to 880
install best available technology, but only in accordance with 881
this division. With respect to permits issued pursuant to 882

division (F) of this section beginning three years after August 883
3, 2006, best available technology for air contaminant sources 884
and air contaminants emitted by those sources that are subject 885
to standards adopted under section 112, Part C of Title I, and 886
Part D of Title I of the federal Clean Air Act shall be 887
equivalent to and no more stringent than those standards. For an 888
air contaminant or precursor of an air contaminant for which a 889
national ambient air quality standard has been adopted under the 890
federal Clean Air Act, best available technology only shall be 891
required to the extent required by rules adopted under Chapter 892
119. of the Revised Code for permit to install applications 893
filed three or more years after August 3, 2006. 894

Best available technology requirements established in 895
rules adopted under this division shall be expressed only in one 896
of the following ways that is most appropriate for the 897
applicable source or source categories: 898

(1) Work practices; 899

(2) Source design characteristics or design efficiency of 900
applicable air contaminant control devices; 901

(3) Raw material specifications or throughput limitations 902
averaged over a twelve-month rolling period; 903

(4) Monthly allowable emissions averaged over a twelve- 904
month rolling period. 905

Best available technology requirements shall not apply to 906
an air contaminant source that has the potential to emit, taking 907
into account air pollution controls installed on the source, 908
less than ten tons per year of emissions of an air contaminant 909
or precursor of an air contaminant for which a national ambient 910
air quality standard has been adopted under the federal Clean 911

Air Act. In addition, best available technology requirements 912
established in rules adopted under this division shall not apply 913
to any existing, new, or modified air contaminant source that is 914
subject to a plant-wide applicability limit that has been 915
approved by the director. Further, best available technology 916
requirements established in rules adopted under this division 917
shall not apply to general permits issued prior to January 1, 918
2006, under rules adopted under this chapter. 919

For permits to install issued three or more years after 920
August 3, 2006, any new or modified air contaminant source that 921
has the potential to emit, taking into account air pollution 922
controls installed on the source, ten or more tons per year of 923
volatile organic compounds or nitrogen oxides shall meet, at a 924
minimum, the requirements of any applicable reasonably available 925
control technology rule in effect as of January 1, 2006, 926
regardless of the location of the source. 927

(U) Consistent with section 507 of the federal Clean Air 928
Act, adopt, modify, suspend, and rescind rules for the 929
establishment of a small business stationary source technical 930
and environmental compliance assistance program as provided in 931
section 3704.18 of the Revised Code; 932

(V) Provide for emissions trading, marketable permits, 933
auctions of emission rights, and economic incentives that would 934
reduce the cost or increase the efficiency of achieving a 935
specified level of environmental protection; 936

(W) Provide for the construction of an air contaminant 937
source prior to obtaining a permit to install pursuant to 938
division (F) of this section if the applicant demonstrates that 939
the source will be installed to comply with all applicable 940
emission limits and will not adversely affect public health or 941

safety or the environment and if the director determines that 942
such an action will avoid an unreasonable hardship on the owner 943
or operator of the source. Any such determination shall be 944
consistent with the federal Clean Air Act. 945

(X) Exercise all incidental powers, including adoption of 946
rules, required to carry out this chapter. 947

The environmental protection agency shall develop a plan 948
to control air pollution resulting from state-operated 949
facilities and property. 950

Sec. 3704.031. ~~Prior~~ (A) Except as provided in division 951
(B) of this section, prior to issuance or renewal of a permit or 952
a variance under division (F), (G), or (H) of section 3704.03 of 953
the Revised Code, the director of environmental protection may 954
require the applicant to install such equipment and conduct such 955
tests and analyses as the director finds reasonable and 956
necessary to determine adequately the amount and content of any 957
emissions from such sources, the ambient air quality at the 958
proposed site and in areas that may be affected by emissions 959
from such sources, and any violation or potential violation of 960
Chapter 3704. of the Revised Code, or the regulations or orders 961
promulgated thereunder. 962

(B) Prior to the issuance or renewal of a permit or a 963
variance under division (F), (G), or (H) of section 3704.03 of 964
the Revised Code, the director shall not require an applicant to 965
conduct community air monitoring ." 966

After line 74884, insert: 967

"Sec. 3704.09. (A) Determinations made by the director of 968
environmental protection or other persons acting under sections 969
3704.03 and 3704.04 of the Revised Code shall not be used as 970

evidence in civil actions nor create any presumption of law or 971
finding of fact which shall inure to or be for the benefit of 972
any person other than the state, and sections 3704.01 to 3704.07 973
of the Revised Code do not create, enlarge, or abrogate existing 974
private rights. Nothing in Chapter 3704. of the Revised Code 975
shall be construed to abridge, limit, or otherwise impair the 976
right of any person to damages or other relief on account of 977
injury to persons or property and to maintain any action or 978
other appropriate proceedings therefor. 979

(B) Data produced from community air monitoring shall not 980
be used as evidence to support either of the following: 981

(1) A fine, penalty, or notice of violation against any 982
person for violations of or noncompliance with the federal Clean 983
Air Act, this chapter, the rules adopted thereunder, or any 984
other applicable law, rule, or regulation for which the state 985
has primary enforcement authority; 986

(2) An administrative, regulatory, or judicial enforcement 987
action, lawsuit, or proceeding for violations of or 988
noncompliance with the federal Clean Air Act, this chapter, the 989
rules adopted thereunder, or any other applicable law, rule, or 990
regulation for which the state has primary enforcement 991
authority. 992

(C) Data produced from community air monitoring shall not 993
be considered or relied upon by the environmental protection 994
agency or a local air pollution control authority in any 995
rulemaking action or in any action relating to the issuance of 996
an installation permit or operating permit unless such 997
consideration or reliance is requested by the owner or operator 998
of the air contaminant source requesting the permit. 999

Sec. 3704.111. (A) Not later than October 1, 1993, the
director of environmental protection shall enter into a
delegation agreement with each local air pollution control
authority listed in ~~divisions (N) (1) (a) to (h)~~division (O) (1) of
section 3704.01 of the Revised Code under which the local air
pollution control authority agrees to perform on behalf of the
environmental protection agency air pollution control regulatory
services within the political subdivision represented by the
local air pollution control authority. The director may enter
into such a delegation agreement with a local air pollution
control authority established on or after the effective date of
this section, subject to the condition established in division
(B) of this section. Each delegation agreement shall be self-
renewing on an annual basis on the first day of October of each
year. The terms of each such delegation agreement shall remain
unchanged from year to year unless they are amended by mutual
agreement of the director and the local air pollution control
authority.

(B) The director may conduct a periodic performance
evaluation of the air pollution control program operated by each
local air pollution control authority. Based upon the findings
of such a performance evaluation, the director may terminate or
refuse to renew the delegation agreement with a local air
pollution control authority if the director determines that the
local air pollution control authority is not adequately
performing its obligations under the agreement.

(C) The director may enter into contracts for payments to
local air pollution control authorities from moneys credited to
the clean air fund created in section 3704.035 of the Revised
Code, subject to the limitation specified in that section, and

any other moneys appropriated by the general assembly for that 1030
 purpose. The director shall distribute the moneys available for 1031
 making payments to the local air pollution control authorities 1032
 pursuant to such contracts equitably among the local air 1033
 pollution control authorities based upon the amount of local 1034
 funding and the workload of each local air pollution control 1035
 authority, including, without limitation, population served, 1036
 number of air permits issued for both new and existing sources, 1037
 land area, and number of air contaminant sources. The director 1038
 biennially shall review the workload of each local air pollution 1039
 control authority and shall determine the percentage of the 1040
 moneys available for the purpose of making payments under the 1041
 contracts. In determining the percentage of those moneys that is 1042
 to be so distributed, the director shall consider the 1043
 recommendations of the local air pollution control authorities. 1044

(D) The director may modify a contract between the 1045
 director and a local air pollution control authority to 1046
 authorize the local air pollution control authority to perform 1047
 air pollution control activities outside the geographic 1048
 boundaries of that local air pollution control authority. " 1049

Update the title, amend, enact, or repeal clauses accordingly 1050

The motion was _____ agreed to.

SYNOPSIS

**Community air monitoring (restored from House version with 1051
 modifications) 1052
 1053**

R.C. 3704.01, 3704.03, 3704.031, 3704.09, and 3704.111 1054

Establishes requirements governing community air monitoring, which is any measurement or quantification of ambient air concentrations of an air contaminant other than any of the following:

1. Monitoring conducted using monitoring devices identified in the most recent approved version of the USEPA's "List of Designated Reference and Equivalent Methods";

2. Monitoring conducted using monitoring devices identified in the most recent approved version of the USEPA's "Air Monitoring Network Plan" that are legally installed and operated;

3. Any measurement or quantification of ambient air concentrations of an air contaminant that is specifically identified or described in and either required or allowed to be used for the particular air contaminant source or source category for which it is being used under federal law or an implementation plan, permit, variance, order issued prior to the bill's effective date; and

4. Any monitoring system installed and used by the OEPA or by a local air pollution control authority under the terms of a delegation agreement.

Prohibits the OEPA Director from requiring community air monitoring prior to the issuance or renewal of an air pollution control permit or a variance.

Prohibits data produced from community air monitoring from being used as evidence to support either of the following:

1. A fine, penalty, or notice of violation against any person for violations of or noncompliance with any federal or

state air pollution regulation; or 1083

2. An administrative, regulatory, or judicial enforcement 1084
action, lawsuit, or proceeding for violations of or 1085
noncompliance with any federal or state air pollution 1086
regulation. 1087

Prohibits data produced from community air monitoring from 1088
being considered or relied upon by the OEPA or a local air 1089
pollution control authority in any rulemaking action, or in any 1090
action relating to the issuance of an installation permit or 1091
operating permit unless such consideration or reliance is 1092
requested by the air contaminant source owner or operator. 1093