

**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**S. B. No. 333**

**Senator Hite**

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**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, 6109.08, 6109.24, 4  
6111.03, 6111.04, 6111.07, and 6111.30 and to 5  
enact sections 3714.022, 6109.25, 6111.33, and 6  
6111.34 of the Revised Code to revise specified 7  
laws relating to environmental protection. 8

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

**Section 1.** That sections 1506.21, 1506.23, 3714.01, 9  
3714.02, 3714.051, 3714.06, 3714.062, 3714.082, 3734.061, 10  
3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.30, 5301.80, 11  
6109.08, 6109.24, 6111.03, 6111.04, 6111.07, and 6111.30 be 12  
amended and sections 3714.022, 6109.25, 6111.33, and 6111.34 of 13  
the Revised Code be enacted to read as follows: 14

**Sec. 1506.21.** (A) (1) There is hereby created the Ohio Lake 15  
Erie commission, consisting of the directors of environmental 16  
protection, natural resources, health, agriculture, 17  
transportation, and development services, or their designees, 18  
the two board members of the great lakes protection fund board 19

appointed by the governor under section 1506.22 of the Revised 20  
Code who shall serve as ex officio nonvoting members, and five 21  
additional members appointed by the governor ~~who~~ with the advice 22  
and consent of the senate. The governor shall serve at the 23  
pleasure of the governor appoint the five additional members not 24  
later than forty-five days after the effective date of this 25  
amendment. Of the initial five additional members appointed by 26  
the governor after the effective date of this amendment, two 27  
shall serve for a term ending on September 1, 2017, two shall 28  
serve for a term ending on September 1, 2018, and one shall 29  
serve for a term ending on September 1, 2019. Thereafter, all 30  
five additional members appointed by the governor shall serve 31  
three-year terms. 32

(2) All of the following apply to the five additional 33  
members appointed by the governor: 34

(a) Each member shall hold office from the date of the 35  
member's appointment until the end of the term for which the 36  
member was appointed. 37

(b) In the event of the death, removal, resignation, or 38  
incapacity of a member, the governor, with the advice and 39  
consent of the senate, shall appoint a successor who shall hold 40  
office for the remainder of the term for which the successor's 41  
predecessor was appointed. 42

(c) A member shall continue in office subsequent to the 43  
expiration date of the member's term until the member's 44  
successor takes office or until a period of sixty days has 45  
elapsed, whichever occurs first. 46

(d) Members may be reappointed for not more than two total 47  
terms. 48

(e) The governor at any time may remove a member for 49  
misfeasance, nonfeasance, or malfeasance in office. 50

(3) Membership on the commission does not constitute 51  
holding a public office or position of employment under the laws 52  
of this state and is not grounds for removal of public officers 53  
or employees from their offices or positions of employment. 54  
Members may be reimbursed for their actual and necessary 55  
expenses incurred in the performance of their official duties. 56  
The members of the commission annually shall designate a 57  
director or director's designee as chairperson, who shall 58  
preside at the meetings of the commission, and a secretary. 59

(4) The commission shall hold at least one meeting every 60  
three months. The secretary of the commission shall keep a 61  
record of its proceedings. Special meetings shall be held at the 62  
call of the chairperson or upon the request of four members of 63  
the commission. All meetings and records of the commission shall 64  
be open to the public. Six members of the commission constitute 65  
a quorum. The agencies represented on the commission shall 66  
furnish administrative, clerical, technical, and other services 67  
required by the commission in the performance of its duties. 68

(B) The commission shall do all of the following: 69

(1) Ensure the coordination and implementation of federal, 70  
state, and local policies and, programs, and issues pertaining 71  
to Lake Erie ~~water quality, toxic pollution control, including~~ 72  
nutrient-related water quality and beneficial use of dredged 73  
material, with a priority on policies, programs, and resource 74  
issues identified in the Lake Erie protection and restoration 75  
strategy; 76

(2) Review, and make recommendations concerning, the 77

development and implementation of policies, programs, and issues 78  
~~for long term, comprehensive protection of Lake Erie water~~ 79  
~~resources and water quality that are consistent with the great~~ 80  
~~lakes water quality agreement and the great lakes toxic~~ 81  
~~substances control agreement~~ other international, federal, and 82  
state compacts and agreements; 83

~~(3) Recommend policies and programs to modify the coastal~~ 84  
~~management program of this state;~~ 85

~~(4) At each regular meeting, consider matters relating to~~ 86  
~~the implementation of sections 1506.22 and 1506.23 of the~~ 87  
~~Revised Code~~ Serve as a repository and clearinghouse for 88  
information and data related to Lake Erie and the Lake Erie 89  
basin and collect and distribute such information and data at 90  
the commission's discretion; 91

~~(5)~~ (4) Publish and submit the Lake Erie protection agenda 92  
and restoration strategy in accordance with division (C) of 93  
section 1506.23 of the Revised Code; 94

~~(6) Ensure the implementation of a basinwide approach to~~ 95  
~~Lake Erie issues;~~ 96

~~(7) Increase~~ (5) Provide representation of regarding the 97  
interests of this state in state, regional, national, and 98  
international forums pertaining to ~~the resources and water~~ 99  
~~quality of~~ Lake Erie and the Lake Erie basin; 100

~~(8) Promote~~ (6) Develop, implement, and coordinate an 101  
education, public information, and community relations program 102  
concerning ~~the wise management of the~~ commission's policies, 103  
programs, issues, and the resources of Lake Erie; 104

~~(9)~~ (7) Develop and implement a marketing program 105  
promoting the sale of the Lake Erie license plate created under 106

section 4503.52 of the Revised Code and other public and private 107  
fundraising initiatives to support the commission's programs; 108

(8) Establish and dissolve public advisory councils as 109  
considered necessary to assist in programs established under 110  
this section and sections 1506.22 and 1506.23 of the Revised 111  
Code. ~~Members of the public advisory councils shall represent a~~ 112  
~~broad cross section of interests, shall have experience or~~ 113  
~~expertise in the subject for which the advisory council was~~ 114  
~~established, and shall serve without compensation.~~ 115  
Membership on 116  
a public advisory council does not constitute holding a public 117  
office or position of employment under the laws of this state 118  
and is not grounds for removal of public officers or employees 119  
from their offices or positions of employment. Members of a 120  
public advisory council may be reimbursed for their actual and 121  
necessary expenses incurred in the performance of their official 122  
duties.

~~(10) Prepare and submit the report required under division~~ 123  
~~(D) of section 1506.23 of the Revised Code.~~ 124

(C) Each state agency, upon the request of the commission, 125  
shall cooperate in the implementation of this section and 126  
sections 1506.22 and 1506.23 of the Revised Code. 127

**Sec. 1506.23.** (A) There is hereby created in the state 128  
treasury the Lake Erie protection fund, which shall consist of 129  
moneys deposited into the fund from the issuance of Lake Erie 130  
license plates under section 4503.52 of the Revised Code and 131  
donations, gifts, bequests, and other moneys received for the 132  
purposes of this section. Not later than the first day of June 133  
each year, the Ohio Lake Erie commission created in section 134  
1506.21 of the Revised Code shall designate one of its members 135  
who represents a state agency to administer the fund and, with 136

the approval of the commission, to expend moneys from the fund 137  
for any of the following purposes: 138

(1) Accelerating the pace of cooperative research into, , 139  
data gathering, or demonstration projects related to the 140  
economic, environmental, and human health effects of 141  
contamination of priorities outlined in the Lake Erie protection 142  
and its tributaries restoration strategy published under this 143  
section; 144

(2) ~~Funding cooperative research and data collection~~ 145  
~~regarding Lake Erie water quality and toxic contamination;~~ 146

~~(3) Developing improved methods of measuring water quality~~ 147  
~~and establishing a firm scientific base for implementing a~~ 148  
~~basinwide system of water quality management for Lake Erie and~~ 149  
~~its tributaries;~~ 150

~~(4) Supporting research to improve the scientific~~ 151  
~~knowledge on which protection policies are based and devising~~ 152  
~~new and innovative clean up techniques for toxic contaminants;~~ 153

~~(5) Supplementing, in a stable and predictable manner,~~ 154  
~~state commitments to policies and programs pertaining to Lake~~ 155  
~~Erie water quality and resource protection;~~ 156

~~(6) Encouraging cooperation with and among leaders from~~ 157  
~~state legislatures, state agencies, political subdivisions,~~ 158  
~~business and industry, labor, institutions of higher education,~~ 159  
~~environmental organizations, and conservation groups within the~~ 160  
~~Lake Erie basin;~~ 161

~~(7)~~ (3) Awarding of grants to any agency of the United 162  
States, any state agency, as "agency" is defined in division (A) 163  
(2) of section 111.15 of the Revised Code, any political 164  
subdivision, any educational institution, or any nonprofit 165

organization for the development and implementation of projects 166  
and programs that are designed to ~~protect~~address priorities 167  
outlined in the Lake Erie ~~by reducing toxic contamination of or~~ 168  
~~improving water quality in Lake Erie~~ protection and restoration 169  
strategy; 170

~~(8)~~(4) Expenses authorized by the Ohio Lake Erie 171  
commission necessary to implement this chapter. 172

(B) Moneys in the Lake Erie protection fund are not 173  
intended to replace other moneys expended by any agency of the 174  
United States, any state agency, as "agency" is so defined, any 175  
political subdivision, any educational institution, or any 176  
nonprofit organization for projects and programs that are 177  
designed to protect Lake Erie ~~by reducing toxic contamination of~~ 178  
~~or improving water quality in Lake Erie.~~ 179

~~(C) Each March, the Ohio Lake Erie commission shall~~ 180  
~~publish a Lake Erie protection agenda that describes proposed~~ 181  
~~uses of the Lake Erie protection fund for the following state~~ 182  
~~fiscal year. The agenda shall be the subject of at least one~~ 183  
~~public meeting of the commission held in the Lake Erie basin.~~ 184  
~~The commission shall submit the agenda to the governor, the~~ 185  
~~president of the senate, and the speaker of the house of~~ 186  
~~representatives~~ Not later than the last day of March each year, 187  
the commission shall publish a Lake Erie protection and 188  
restoration strategy that describes the goals of the commission 189  
and prioritizes the uses of the Lake Erie protection fund and 190  
other funds for the following state fiscal year. The commission 191  
shall hold at least one public meeting in the Lake Erie basin 192  
regarding the strategy. The commission shall submit the strategy 193  
to the governor, the president of the senate, and the speaker of 194  
the house of representatives. 195

(D) Not later than September 1, 1991, and annually 196  
thereafter, the Lake Erie commission shall prepare a report of 197  
the activities that were undertaken by the commission under this 198  
section during the immediately preceding fiscal year, including, 199  
without limitation, revenues and expenses for the preceding 200  
fiscal year. The commission shall submit the report to the 201  
governor, the president of the senate, and the speaker of the 202  
house of representatives. 203

**Sec. 3714.01.** As used in this chapter: 204

~~(A)~~—"Board of health" means the board of health of a city 205  
or general health district or the authority having the duties of 206  
a board of health in any city as authorized by section 3709.05 207  
of the Revised Code. 208

~~(B)~~—"Closure" means either the time at which a 209  
construction and demolition debris facility will no longer 210  
accept construction and demolition debris for disposal or the 211  
effective date of an order revoking the license of the facility. 212  
"Closure" includes measures performed to protect public health 213  
or safety, to prevent air or water pollution, or to make the 214  
facility suitable for other uses, if any, including, without 215  
limitation, the establishment and maintenance of suitable cover 216  
of soil and vegetation over areas where construction and 217  
demolition debris is buried and the minimization of erosion, the 218  
infiltration of surface water into such areas, the production of 219  
leachate, and the accumulation and runoff of contaminated 220  
surface water. 221

~~(C)~~—"Construction and demolition debris" means those 222  
materials resulting from the alteration, construction, 223  
destruction, rehabilitation, or repair of any physical structure 224  
that is built by humans, including, without limitation, houses, 225

buildings, industrial or commercial facilities, or roadways.	226
"Construction and demolition debris" includes particles and dust	227
created during demolition activities. "Construction and	228
demolition debris" does not include materials identified or	229
listed as solid wastes or hazardous waste pursuant to Chapter	230
3734. of the Revised Code and rules adopted under it; materials	231
from mining operations, nontoxic fly ash, spent nontoxic foundry	232
sand, and slag; or reinforced or nonreinforced concrete,	233
asphalt, building or paving brick, or building or paving stone	234
that is stored for a period of less than two years for recycling	235
into a usable construction material.	236
<del>(D)</del> —"Disposal" means the discharge, deposit, injection,	237
dumping, spilling, leaking, emitting, or placing of any	238
construction and demolition debris into or on any land or ground	239
or surface water or into the air, except if the disposition or	240
placement constitutes storage.	241
<del>(E)</del> —"Facility" means any site, location, tract of land,	242
installation, or building used for the disposal of construction	243
and demolition debris. "Facility" does not include any	244
construction site where construction debris and trees and brush	245
removed in clearing the construction site are used as fill	246
material on the site where the materials are generated or	247
removed and does not include any site where materials composed	248
exclusively of reinforced or nonreinforced concrete, asphalt,	249
clay tile, building or paving brick, or building or paving stone	250
are used as fill material, either alone or in conjunction with	251
clean soil, sand, gravel, or other clean aggregates, in	252
legitimate fill operations for construction purposes or to bring	253
the site up to a consistent grade.	254
<del>(F)</del> —"Health district" means a city or general health	255

district created by or under the authority of Chapter 3709. of 256  
the Revised Code. 257

~~(G)~~—"New construction and demolition debris facility" or 258  
"new facility" includes an existing facility that is proposing 259  
to expand the facility beyond the limits of construction and 260  
demolition debris placement approved by a board of health or the 261  
director of environmental protection, as applicable, under this 262  
chapter. 263

~~(H)~~—"Person" includes the state, any political subdivision 264  
of the state or other state or local body, the United States and 265  
any agency or instrumentality thereof, and any legal entity or 266  
organization defined as a person under section 1.59 of the 267  
Revised Code. 268

~~(I)~~ "Processing facility" means a site, location, tract of 269  
land, installation, or building that is used or intended to be 270  
used for the purpose of processing, transferring, or recycling 271  
construction and demolition debris that was generated off the 272  
premises of the facility. As used in this paragraph, 273  
"transferring" includes the receipt, storage, and movement of 274  
construction and demolition debris from vehicles or containers 275  
to a working surface and into other vehicles or containers for 276  
transportation to a solid waste landfill facility, a 277  
construction and demolition debris facility, or a processing 278  
facility. "Processing facility" does not include any 279  
construction site where construction debris and trees and brush 280  
removed in clearing the construction site are used as fill 281  
material on the site where the materials are generated or 282  
removed. "Processing facility" also does not include any site 283  
where materials composed exclusively of reinforced or 284  
nonreinforced concrete, asphalt, clay tile, building or paving 285

brick, or building or paving stone are recycled or used as fill 286  
material, either alone or in conjunction with clean soil, sand, 287  
gravel, or other clean aggregates, in legitimate fill operations 288  
for construction purposes or to bring the site up to a 289  
consistent grade. 290

"Pulverized debris" means a load of debris that, after 291  
demolition has occurred, but prior to acceptance of the load of 292  
debris for disposal, has been shredded, crushed, ground, or 293  
otherwise rendered to such an extent that the load of debris is 294  
unidentifiable as construction and demolition debris. 295

~~(J)~~—"Qualified ground water scientist" means a scientist 296  
or engineer who has received a baccalaureate or post-graduate 297  
degree in the natural sciences or engineering and has at least 298  
five years of relevant experience in ground water hydrogeology 299  
and related fields that enable that individual to make sound 300  
professional judgments regarding ground water monitoring, 301  
contaminant fate and transport, and corrective measures. 302

~~(K)~~—"Recycling" means processing construction and 303  
demolition debris that would otherwise be disposed of and 304  
returning the material to commerce as a commodity for use or 305  
exchange in a legitimate market or for use in a beneficial 306  
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 acceptance of construction and demolition debris in calendar year 2006, the post-closure care and post-closure care financial assurance requirements do not apply, provided that the owner or operator of the facility gives written notice of the date of the cessation to the applicable board of health or the director, the owner or operator of the facility does not submit a subsequent application for a license renewal for the facility after that cessation, and no order was issued by the applicable board of health, the director, or a court of competent jurisdiction governing the post-closure care of and post-closure financial assurance for that facility prior to the date specified in the written notice.

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

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

(M) Procedures and requirements governing the

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

(8) The management of stormwater and leachate; 575

(9) Standards and procedures for the issuance of permits 576  
to install under divisions (H) and (I) of section 3714.051 of 577

the Revised Code that shall include all of the following: 578

(a) Information that must be included in the designs and 579  
plans required to be submitted with the application for a permit 580  
to install under section 3714.051 of the Revised Code and 581  
criteria for approving, disapproving, or requiring modification 582  
of the designs and plans; 583

(b) Information and the fee amount that must be included 584  
with an application for a permit to install in addition to the 585  
information required under section 3714.051 of the Revised Code; 586

(c) Procedures for the issuance, denial, modification, 587  
transfer, suspension, and revocation of permits to install; 588

(d) Grounds for the denial, modification, suspension, or 589  
revocation of permits to install; 590

(e) A requirement that a person that is required to obtain 591  
both a permit to install under section 3714.051 of the Revised 592  
Code and a license under section 3714.06 of the Revised Code 593  
obtain both the permit and license prior to operation; 594

(f) Criteria for establishing time periods after which a 595  
permit to install expires; 596

(g) Any other requirements that the director determines 597  
necessary in order to establish the program for the issuance of 598  
permits to install under section 3714.051 of the Revised Code. 599

(C) Rules establishing financial assurance requirements 600  
for the closure of a processing facility shall require that 601  
prior to being issued an initial license for the facility under 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 new 703  
processing facilities. On and after the effective date of this 704  
section, no person shall establish a new processing facility 705  
without first obtaining a permit to install issued by the board 706  
of health of the health district in which the processing 707  
facility is or is to be located or from the director if the 708  
facility is or is to be located in a health district that is not 709  
on the approved list under section 3714.09 of the Revised Code. 710  
An applicant for a permit to install shall submit an application 711  
to a board of health or the director, as applicable, on a form 712  
and in the 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 new processing facility under this section when 802  
the horizontal limits of the construction and demolition debris 803  
processing or storage at the proposed facility are to be located 804  
in any of the following locations: 805

(1) Within one hundred feet of a perennial stream as 806  
defined by the United States geological survey seven and one- 807  
half minute quadrangle map or a category 3 wetland; 808

(2) Within one hundred feet of the facility's property 809  
line. 810

(F) The director or a board of health shall not issue a 811

license for a processing facility under this section unless the 812  
new facility will have all of the following: 813

(1) Access roads constructed in a manner that allows use 814  
in all weather conditions and that will withstand the 815  
anticipated degree of use and minimize erosion and generation of 816  
dust; 817

(2) Surface water drainage and sediment controls that are 818  
required by the director; 819

(3) If the facility is proposed to be located in an area 820  
in which an applicable zoning resolution allows residential 821  
construction, vegetated earthen berms or an equivalent barrier 822  
with a minimum height of six feet separating the facility from 823  
adjoining property. 824

(G) A license issued under this section may be modified in 825  
accordance with rules adopted under section 3714.02 of the 826  
Revised Code. 827

**Sec. 3714.062.** (A) The director of environmental 828  
protection, in consultation with boards of health and a 829  
statewide association representing construction and demolition 830  
debris facilities and processing facilities, shall establish a 831  
program for the certification of operators of construction and 832  
demolition debris facilities and processing facilities and shall 833  
establish continuing education training requirements for those 834  
operators as part of the certification program. 835

(B) The program for the certification of operators, 836  
including the continuing education training requirements, shall 837  
include instruction in and shall emphasize, at a minimum, both 838  
of the following: 839

(1) The laws governing construction and demolition debris 840

facilities, processing facilities, and disposal of construction 841  
and demolition debris; 842

(2) Best management practices governing construction and 843  
demolition debris facilities, processing facilities, and 844  
disposal of construction and demolition debris. 845

(C) The director shall accredit educational programs and 846  
approve statewide associations representing construction and 847  
demolition debris facilities and processing facilities to 848  
provide continuing education training for operators of 849  
construction and demolition debris facilities and operators of 850  
processing facilities. The educational programs and associations 851  
shall meet the standards established in rules adopted under 852  
section 3714.02 of the Revised Code. For purposes of this 853  
division, educational programs that are specific to construction 854  
and demolition debris facilities and processing facilities and 855  
are conducted by the director or the director's authorized 856  
representatives are accredited continuing education training 857  
programs. 858

(D) An operator shall successfully complete a minimum of 859  
ten hours of continuing education training each calendar year. 860  
No operator shall fail to comply with this division. 861

**Sec. 3714.082.** (A) Except as provided in division (B) of 862  
this section, a construction and demolition debris facility may 863  
request a ~~transfer-processing~~ facility to certify that material 864  
that is transferred from the ~~transfer-processing~~ facility to the 865  
construction and demolition debris facility is not off- 866  
specification material; hazardous waste, solid wastes, or 867  
infectious wastes; or low-level radioactive waste whose 868  
treatment, recycling, storage, or disposal is governed under 869  
division (B) of section 3748.10 of the Revised Code. As used in 870

this section, "hazardous waste," "solid wastes," and "infectious wastes" have the same meanings as in section 3734.01 of the Revised Code.

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

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

~~(B) The director of environmental protection shall use money in the fund as follows:~~

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

~~(2) Money credited to the fund under division (B) of section 3734.551 and division (A) (2) of section 3734.57 of the~~

~~Revised Code exclusively to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under those chapters and addressing violations of Chapters 3704. and 6111. of the Revised Code at facilities;~~

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

**Sec. 3734.19.** (A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or

facilities. 931

Upon receipt of a request and a review of the evidence 932  
submitted with the request, the director shall conduct an 933  
investigation to determine if hazardous waste was actually 934  
treated, stored, or disposed of at the locations or facilities 935  
and, if so, to determine the nature and approximate quantity and 936  
types of the waste treated, stored, or disposed of at the 937  
particular locations or facilities. In addition, the director 938  
shall determine whether the locations or facilities, because of 939  
their present condition and the nature and quantities of waste 940  
treated, stored, or disposed of therein, result or are likely to 941  
result in air pollution, pollution of the waters of the state, 942  
or soil contamination or constitute a present or imminent and 943  
substantial threat to public health or safety. The director 944  
shall report the findings of the investigation to the municipal 945  
corporation, county, or township requesting the survey. 946

For the purpose of conducting investigations under this 947  
section, the director or the director's authorized 948  
representative may enter upon any public or private property. 949  
The director or the director's authorized representative may 950  
apply for, and any judge of a court of common pleas shall issue, 951  
an appropriate search warrant necessary to achieve the purposes 952  
of this section within the court's territorial jurisdiction. 953  
When conducting investigations under this section, the director 954  
shall cause no unnecessary damage to any property. The director 955  
may expend moneys from the hazardous waste facility management 956  
fund created in section 3734.18 of the Revised Code, the 957  
hazardous waste clean-up fund created in section 3734.28 of the 958  
Revised Code, or the environmental protection remediation fund 959  
created in section 3734.281 of the Revised Code for conducting 960  
investigations. 961

(B) As used in this section and in sections 3734.20, 962  
3734.21, 3734.23, 3734.25, and 3734.26 of the Revised Code, 963  
"soil contamination" means the presence in or on the soil of any 964  
~~hazardous~~ of the following: 965

(1) Hazardous waste or hazardous waste residue resulting 966  
from the discharge, deposit, injection, dumping, spilling, 967  
leaking, emitting, or placing into or on the soil of hazardous 968  
waste or hazardous waste residue, or any material that when 969  
discharged, deposited, injected, dumped, spilled, leaked, 970  
emitted, or placed into or on the soil becomes a hazardous 971  
waste, in any quantity or having any characteristics that are or 972  
threaten to be injurious to public health or safety, plant or 973  
animal life, or the environment or that unreasonably interfere 974  
with the comfortable enjoyment of life or property; 975

(2) Solid waste or any constituents from disposed solid 976  
waste having any characteristics that are or threaten to be 977  
harmful, inimical, or injurious to public health or safety, 978  
plant or animal life, or the environment, or that unreasonably 979  
interfere with the comfortable enjoyment of life or property; 980

(3) Construction and demolition debris or any constituents 981  
from disposed construction and demolition debris having any 982  
characteristics that are or threaten to be injurious to public 983  
health or safety, plant or animal life, or the environment, or 984  
that unreasonably interfere with the comfortable enjoyment of 985  
life or property. 986

**Sec. 3734.20.** (A) (1) If the director of environmental 987  
protection has reason to believe that hazardous waste was 988  
treated, stored, or disposed of at any ~~location~~ facility or 989  
property located within the state or that solid waste or 990  
construction and demolition debris was disposed of at any 991

facility or property in the state, the director may conduct such 992  
investigations and make such inquiries, ~~including obtaining~~ 993  
~~samples and examining and copying records~~, as are reasonable or 994  
necessary to determine if conditions at ~~a hazardous waste~~ 995  
~~facility, solid waste facility, or other location where the~~ 996  
~~director has reason to believe hazardous waste was treated,~~ 997  
~~stored, or disposed of constitute~~ the facility or property: 998

(a) Constitute a substantial threat to public health or 999  
safety; or ~~are~~ 1000

(b) Are causing or contributing to or threatening to cause 1001  
or contribute to air or water pollution or soil contamination. 1002  
~~The~~ 1003

The director may obtain samples and examine and copy 1004  
records for purposes of an investigation. 1005

(2) The director or the director's authorized 1006  
representative may apply for, and any judge of a court of common 1007  
pleas shall issue, an appropriate search warrant necessary to 1008  
achieve the purposes of this section within the court's 1009  
territorial jurisdiction. ~~The~~ 1010

(3) The director may expend ~~moneys~~ money from the 1011  
hazardous waste facility management fund created in section 1012  
3734.18 of the Revised Code, the hazardous waste clean-up fund 1013  
created in section 3734.28 of the Revised Code, or the 1014  
environmental protection remediation fund created in section 1015  
3734.281 of the Revised Code for conducting investigations ~~under~~ 1016  
~~this section~~ at any facility or property where the director has 1017  
reason to believe that hazardous waste was treated, stored, or 1018  
disposed of. The director may expend money from the 1019  
environmental protection remediation fund established in section 1020

3734.281 of the Revised Code for conducting investigations at 1021  
any facility or property where the director has reason to 1022  
believe that solid waste or construction and demolition debris 1023  
was disposed of. 1024

(B) If the director determines that conditions at a 1025  
~~hazardous waste facility, solid waste facility, or other~~ 1026  
~~location~~ facility or property where hazardous waste was treated, 1027  
stored, or disposed of, or where solid waste or construction and 1028  
demolition debris was disposed of, constitute a substantial 1029  
threat to public health or safety or are causing or contributing 1030  
to or threatening to cause or contribute to air or water 1031  
pollution or soil contamination, the director shall initiate 1032  
appropriate action under this chapter or Chapter 3704., 3714., 1033  
or 6111. of the Revised Code or seek any other appropriate legal 1034  
or equitable remedies to abate the pollution or contamination or 1035  
to protect public health or safety. 1036

If an order of the director to abate or prevent air or 1037  
water pollution or soil contamination or to remedy a threat to 1038  
public health or safety caused by conditions at such a facility 1039  
or property issued pursuant to this chapter or Chapter 3704.,  1040  
3714., or 6111. of the Revised Code is not wholly complied with 1041  
within the time prescribed in the order, the director may, 1042  
through officers or employees of the environmental protection 1043  
agency or through contractors employed for that purpose ~~in~~ 1044  
~~accordance with the bidding procedure established in division~~ 1045  
~~(C) of section 3734.23 of the Revised Code,~~ enter upon the 1046  
facility or property and perform ~~those~~ measures ~~necessary~~ to 1047  
abate or prevent air or water pollution or soil contamination 1048  
from the facility or property or to protect public health or 1049  
safety, including, but not limited to, measures prescribed in 1050  
division (B) of section 3734.23 of the Revised Code. ~~The~~ 1051

The director shall keep an itemized record of the cost of 1052  
the investigation and measures performed, including costs for 1053  
labor, materials, and any contract services required. Upon 1054  
completion of the investigation or measures, the director shall 1055  
record the cost of performing ~~those~~ the investigation and 1056  
measures at the office of the county recorder of the county in 1057  
which the facility or property is located. The cost so recorded 1058  
attaches to the real property and constitutes a perfected lien 1059  
against the property ~~on which the facility is located until~~ 1060  
~~discharged. Upon~~ 1061

A lien imposed by this section is superior in priority to 1062  
any other lien or mortgage on the facility or property, except 1063  
for a tax lien of the state, which shall take priority over a 1064  
lien imposed by this section. A lien imposed under this section 1065  
shall continue until it is discharged or upon a filing by the 1066  
director of a release of the lien in the office of the county 1067  
recorder of the county in which the facility or property subject 1068  
to the lien is located. 1069

Upon written request of the director, the attorney general 1070  
shall institute a civil action to recover the cost of the 1071  
investigation or other measures, as applicable. Any ~~moneys~~ money 1072  
so received shall be credited to the hazardous waste facility 1073  
management fund, the hazardous waste clean-up fund, or the 1074  
environmental protection remediation fund, as applicable. 1075

When entering upon a facility or property under this 1076  
division, the director shall perform or cause to be performed 1077  
only those measures necessary or appropriate to abate or prevent 1078  
air or water pollution or soil contamination caused by 1079  
conditions at the facility or property or to abate threats to 1080  
public health or safety caused by conditions at the facility or 1081

property. For this purpose the director may expend ~~moneys~~money 1082  
from the hazardous waste facility management fund, the hazardous 1083  
waste clean-up fund, or the environmental protection remediation 1084  
fund and may expend ~~moneys~~money from loans from the Ohio water 1085  
development authority to the environmental protection agency 1086  
that pledge ~~moneys~~money from the hazardous waste facility 1087  
management fund, the hazardous waste clean-up fund, or the 1088  
environmental protection remediation fund for the repayment of 1089  
and for the interest on such loans. 1090

**Sec. 3734.21.** (A) The director of environmental protection 1091  
may expend ~~moneys~~money credited to the hazardous waste facility 1092  
management fund created in section 3734.18 of the Revised Code, 1093  
the hazardous waste clean-up fund created in section 3734.28 of 1094  
the Revised Code, or the environmental protection remediation 1095  
fund created in section 3734.281 of the Revised Code for ~~the any~~ 1096  
of the following: 1097

(1) The payment of the cost of measures necessary for the 1098  
proper closure of hazardous waste facilities or any solid waste 1099  
facilities containing significant quantities of hazardous waste, ~~for the~~ 1100  
~~;~~ 1101

(2) The payment of costs of the development and 1102  
construction of suitable hazardous waste facilities required by 1103  
division (B) of section 3734.23 of the Revised Code to the 1104  
extent the director determines that such facilities are not 1105  
available, ~~and for the~~ ; 1106

(3) The payment of costs that are necessary to abate 1107  
conditions thereon that are causing or contributing to or 1108  
threatening to cause or contribute to air or water pollution or 1109  
soil contamination or that constitute a substantial threat to 1110  
public health or safety. ~~In~~ 1111

In addition, the director may expend and pledge ~~moneys~~ 1112  
money credited to the hazardous waste facility management fund, 1113  
the hazardous waste clean-up fund, or the environmental 1114  
protection remediation fund for repayment of and for interest on 1115  
any loan made by the Ohio water development authority to the 1116  
environmental protection agency for the payment of such costs. 1117

(B) The director may expend money credited to the 1118  
environmental protection remediation fund established in section 1119  
3734.281 of the Revised Code for the payment of the cost of all 1120  
or part of any of the following: 1121

(1) Closure or post-closure care of a solid waste or 1122  
construction and demolition debris facility; 1123

(2) Remediation or abatement of conditions that are 1124  
causing or contributing to or threatening to cause or contribute 1125  
to air or water pollution or soil contamination or that 1126  
constitute a substantial threat to public health or safety at a 1127  
property where solid waste or construction and demolition debris 1128  
was disposed of. 1129

(C) Before beginning ~~to clean up~~ activities at any 1130  
facility ~~property~~ under this section, the director shall develop 1131  
a plan for the ~~cleanup~~ activities and an estimate of the cost 1132  
thereof. The plan ~~shall~~ may include ~~only~~ those measures 1133  
~~necessary to abate conditions thereon that are causing or~~ 1134  
~~contributing to or threatening to cause or contribute to air or~~ 1135  
~~water pollution or soil contamination or that constitute a~~ 1136  
~~substantial threat to public health or safety~~ and activities 1137  
authorized by division (A) or (B) of this section, including, 1138  
but not limited to, establishment and maintenance of an adequate 1139  
cover of soil and vegetation ~~on any facility for the burial of~~ 1140  
~~hazardous waste to prevent the infiltration of water into cells~~ 1141

areas where hazardous waste, solid waste, or construction and demolition debris is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions ~~of hazardous waste~~; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste ~~from the facility~~, solid waste, or construction and demolition debris and the treatment or disposal of ~~the waste~~ such wastes at a suitable ~~hazardous waste~~ facility. The plan or any part of the plan ~~for the cleanup of the facility~~ shall be carried out by entering into contracts therefor in accordance with the procedures established in division (C) of section 3734.23 of the Revised Code.

**Sec. 3734.22.** Before beginning ~~to clean up any facility activities~~ under section 3734.21 of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the ~~facility is located, or with the owner of the facility activities~~ will be conducted, specifying the ~~measures~~ activities to be performed and authorizing the director, employees of the agency, or contractors retained by the director to enter upon the land and perform the specified ~~measures~~ activities. The director also may enter into an agreement with any other owner of real or personal property for purposes of conducting those activities, including obtaining soil that may be used on the land where the activities will be conducted.

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

All reimbursements and payments shall be credited to the 1173  
hazardous waste facility management fund created in section 1174  
3734.18 of the Revised Code, the hazardous waste clean-up fund 1175  
created in section 3734.28 of the Revised Code, or the 1176  
environmental protection remediation fund created in section 1177  
3734.281 of the Revised Code, as applicable. 1178

The agreement may require the owner to execute an easement 1179  
whereby the director, an authorized employee of the agency, or a 1180  
contractor employed by the agency in accordance with the bidding 1181  
procedure established in division (C) of section 3734.23 of the 1182  
Revised Code may enter upon the facility to sample, repair, or 1183  
reconstruct air and water quality monitoring equipment 1184  
constructed under the agreement, or to construct, maintain, 1185  
repair, remove, or make any other alterations or improvements, 1186  
as determined appropriate by the director. The director also may 1187  
obtain an easement under this section from any other person to 1188  
address the use of resources or materials for purposes of 1189  
conducting activities pursuant to section 3734.20 or 3734.21 of 1190  
the Revised Code. Such easements shall be for a specified period 1191  
of years and may be extinguished by agreement between the owner 1192  
and the director. When necessary or appropriate to protect the 1193  
public health or safety, the agreement may require the owner to 1194  
enter into an environmental covenant with the director in 1195  
accordance with sections 5301.80 to 5301.92 of the Revised Code. 1196

Upon a breach of the reimbursement provisions of the 1197  
agreement by the owner of the land or facility, ~~or~~ upon 1198  
notification to the director by the owner that the owner is 1199  
unable to perform the duties under the reimbursement provisions 1200  
of the agreement, or in the absence of an agreement for 1201  
reimbursement, the director may record the unreimbursed portion 1202  
of the costs of ~~cleanup the activities~~ at the office of the 1203

county recorder of the county in which the land or facility is 1204  
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 by this section is superior in priority to 1208  
any other lien or mortgage on the property, except for a lien 1209  
imposed under section 3734.20 of the Revised Code or a tax lien 1210  
of the state, both of which shall take priority over a lien 1211  
imposed by this section. A lien imposed under this section shall 1212  
continue until it is discharged or upon a filing by the director 1213  
of a release of the lien in the office of the county recorder of 1214  
the county in which the property subject to the lien is located. 1215

Upon written request of the director, the attorney general 1216  
shall institute a civil action to recover the unreimbursed 1217  
portion of the costs of ~~cleanup~~ the activities. Any moneys so 1218  
recovered shall be credited to the hazardous waste facility 1219  
management fund, the hazardous waste clean-up fund, or the 1220  
environmental protection remediation fund, as applicable. 1221

**Sec. 3734.23.** (A) The director of environmental protection 1222  
may acquire by purchase, gift, donation, contribution, or 1223  
appropriation in accordance with sections 163.01 to 163.21 of 1224  
the Revised Code any hazardous waste facility or any solid waste 1225  
facility containing significant quantities of hazardous waste 1226  
that, because of its condition and the types and quantities of 1227  
hazardous waste contained in the facility, constitutes an 1228  
imminent and substantial threat to public health or safety or 1229  
results in air pollution, pollution of the waters of the state, 1230  
or soil contamination. For this purpose and for the purposes of 1231  
division (B) of this section, the director may expend moneys 1232  
from the hazardous waste facility management fund created in 1233

section 3734.18 of the Revised Code, the hazardous waste clean- 1234  
up fund created in section 3734.28 of the Revised Code, or the 1235  
environmental protection remediation fund created in section 1236  
3734.281 of the Revised Code and may expend moneys from loans 1237  
from the Ohio water development authority to the environmental 1238  
protection agency that pledge moneys from the hazardous waste 1239  
facility management fund, the hazardous waste clean-up fund, or 1240  
the environmental protection remediation fund for the repayment 1241  
of and for the interest on such loans. Any lands or facilities 1242  
purchased or acquired under this section shall be deeded to the 1243  
state, but no deed shall be accepted or the purchase price paid 1244  
until the title has been approved by the attorney general. 1245

(B) The director shall, with respect to any land or 1246  
facility acquired under this section or cleaned up under section 1247  
3734.20 of the Revised Code, perform closure, post closure care, 1248  
or other measures necessary to abate conditions thereon that are 1249  
causing or contributing to or threatening to cause or contribute 1250  
to air or water pollution or soil contamination or that 1251  
constitute a substantial threat to public health or safety, 1252  
including, but not limited to, establishment and maintenance of 1253  
an adequate cover of soil and vegetation on any facility for the 1254  
burial of hazardous waste to prevent the infiltration of water 1255  
into cells where hazardous waste is buried, the accumulation or 1256  
runoff of contaminated surface water, the production of 1257  
leachate, and air emissions of hazardous waste; the collection 1258  
and treatment of contaminated surface water runoff; the 1259  
collection and treatment of leachate; or, if conditions so 1260  
require, the removal of hazardous waste from the facility and 1261  
the treatment or disposal of the waste at a suitable hazardous 1262  
waste facility. After performing these measures, the director 1263  
shall provide for the post-closure care, maintenance, and 1264

monitoring of facilities cleaned up under this section. 1265

(C) Before proceeding to clean up any property or facility 1266  
under this section or section 3734.20 or 3734.21 of the Revised 1267  
Code, the director shall develop a plan for the cleanup of the 1268  
facility and an estimate of the cost thereof. The director may 1269  
carry out the plan or any part of the plan by contracting for 1270  
the services, construction, and ~~repair necessary therefor~~ 1271  
repairs. ~~The director shall award each such contract to the~~ 1272  
~~lowest responsible bidder after sealed bids therefor are~~ 1273  
~~received, opened, and published at the time fixed by the~~ 1274  
~~director and notice of the time and place at which the sealed~~ 1275  
~~bids will be received, opened, and published has been published~~ 1276  
~~by the director in a newspaper of general circulation in the~~ 1277  
~~county in which the facility to be cleaned up under the contract~~ 1278  
~~is located at least once within the ten days before the opening~~ 1279  
~~of the bids. However, if after advertising for bids for the~~ 1280  
~~contract, no bids are received by the director at the time and~~ 1281  
~~place fixed for receiving them, the director may advertise again~~ 1282  
~~for bids, or the director may, if the director considers the~~ 1283  
~~public interest will best be served thereby, enter into a~~ 1284  
~~contract for the cleanup of the facility without further~~ 1285  
~~advertisement for bids. The director may reject any or all bids~~ 1286  
~~received and fix and publish again notice of the time and place~~ 1287  
~~at which bids for the contracts will be received, opened, and~~ 1288  
~~published.~~ 1289

(D) The director shall keep an itemized record of the 1290  
costs of any acquisition under division (A) of this section and 1291  
the costs of cleanup under division (B) of this section. 1292

**Sec. 3734.30.** The state ~~shall be~~ is immune from liability 1293  
for any injury or damage resulting from ~~either~~ any of the 1294

following:	1295
(A) Operation of a hazardous waste facility, <u>solid waste facility, or construction and demolition debris facility</u> by a person other than an agency, department, or institution of the state;	1296 1297 1298 1299
(B) Conditions present at a facility that is acquired by the state by gift or devise;	1300 1301
(C) <u>Activities conducted pursuant to section 3734.20 or 3734.21 of the Revised Code, remediation activities for which money may be expended pursuant to section 3734.281 of the Revised Code, or activities for which money may be expended pursuant to section 3714.071 or 3734.85, provided that those activities do not constitute reckless, willful, or wanton misconduct.</u>	1302 1303 1304 1305 1306 1307 1308
The liability of the state, if any, in other circumstances regarding hazardous waste, <u>solid waste, or construction and demolition debris</u> shall be determined in accordance with Chapter 2743. of the Revised Code.	1309 1310 1311 1312
<b>Sec. 5301.80.</b> As used in sections 5301.80 to 5301.92 of the Revised Code:	1313 1314
(A) "Activity and use limitations" means restrictions or obligations created under sections 5301.80 to 5301.92 of the Revised Code with respect to real property.	1315 1316 1317
(B) "Agency" means the environmental protection agency or any other state or federal agency that determines or approves the environmental response project pursuant to which an environmental covenant is created.	1318 1319 1320 1321
(C) "Common interest community" means a condominium, a	1322

cooperative, or other real property with respect to which a 1323  
person, by virtue of the person's ownership of a parcel of real 1324  
property, is obligated to pay property taxes or insurance 1325  
premiums or to pay for maintenance or improvement of other real 1326  
property described in a recorded covenant that creates the 1327  
common interest community. 1328

(D) "Environmental covenant" means a servitude arising 1329  
under an environmental response project that imposes activity 1330  
and use limitations and that meets the requirements established 1331  
in section 5301.82 of the Revised Code. 1332

(E) "Environmental response project" means a plan or work 1333  
performed for environmental remediation of real property or for 1334  
protection of ecological features associated with real property 1335  
and conducted as follows: 1336

(1) Under a federal or state program governing 1337  
environmental remediation of real property that is subject to 1338  
agency review or approval, ~~including, but not limited to,~~ 1339  
property that is the subject of any of the following: 1340

(a) A corrective action, closure, or post-closure pursuant 1341  
to the "Resource Conservation and Recovery Act of 1976," 90 1342  
Stat. 2806, 42 U.S.C.A. 6921, et seq., as amended, or any 1343  
regulation adopted under that act, or Chapter 3714. or 3734. of 1344  
the Revised Code or any rule adopted under ~~it those chapters,~~ 1345  
including the use or reservation of soil to be used in the 1346  
performance of the corrective action, closure, or post-closure 1347  
care; 1348

(b) A removal or remedial action pursuant to the 1349  
"Comprehensive Environmental Response, Compensation, and 1350  
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, et 1351

seq., as amended, or any regulation adopted under that act, or 1352  
Chapter 3734. or 6111. of the Revised Code or any rule adopted 1353  
under those chapters; 1354

(c) A no further action letter submitted with a request 1355  
for a covenant not to sue pursuant to section 3746.11 of the 1356  
Revised Code; 1357

(d) A no further action letter prepared pursuant to 1358  
section 122.654 of the Revised Code; 1359

(e) A corrective action pursuant to section 3737.88, 1360  
3737.882, or 3737.89 of the Revised Code or any rule adopted 1361  
under those sections. 1362

(2) Pursuant to a mitigation requirement associated with 1363  
the section 401 water quality certification program or the 1364  
isolated wetland program as required by Chapter 6111. of the 1365  
Revised Code; 1366

(3) Pursuant to a grant commitment or loan agreement 1367  
entered into pursuant to section 6111.036 or 6111.037 of the 1368  
Revised Code; 1369

(4) Pursuant to a supplemental environmental project 1370  
embodied in orders issued by the director of environmental 1371  
protection pursuant to Chapter 6111. of the Revised Code. 1372

(F) "Holder" means a grantee of an environmental covenant 1373  
as specified in division (A) of section 5301.81 of the Revised 1374  
Code. 1375

(G) "Person" includes the state, a political subdivision, 1376  
another state or local entity, the United States and any agency 1377  
or instrumentality of it, and any legal entity defined as a 1378  
person under section 1.59 of the Revised Code. 1379

(H) "Record," when used as a noun, means information that 1380  
is inscribed on a tangible medium or that is stored in an 1381  
electronic or other medium and is retrievable in perceivable 1382  
form. 1383

**Sec. 6109.08.** (A) The director of environmental protection 1384  
shall not approve plans for construction, installation, or 1385  
substantial modification of a community water system ~~which that~~ 1386  
serves fewer than five hundred service connections, or any part 1387  
of such a system, except a system owned and operated by a public 1388  
entity, ~~a system which supplies water only to premises owned by~~ 1389  
~~the water supplier~~, or a system regulated by the public 1390  
utilities commission, unless the owner or operator of ~~such the~~ 1391  
system or part thereof has ~~deposited in escrow provided~~ 1392  
financial assurance, in a form acceptable to the director, in an 1393  
amount equal to fifteen per cent of the cost of the system or 1394  
part thereof owned by ~~him~~ the owner or operator, but not to 1395  
exceed ~~fifty one hundred~~ thousand dollars. 1396

(B) If a system for which ~~an escrow financial assurance is~~ 1397  
required under division (A) of this section is not properly 1398  
constructed, maintained, repaired, or operated, the director may 1399  
order the owner or operator of ~~such the~~ system or part thereof 1400  
to correct the deficiencies, and shall authorize the use of the 1401  
~~funds in the escrow money from the financial assurance as~~ 1402  
necessary to enable compliance with ~~his~~ the order. When ~~funds~~ 1403  
~~are withdrawn from an escrow account~~ money from the financial 1404  
assurance is used, ~~they shall be replaced by~~ the owner or the 1405  
operator of ~~such the~~ system or part thereof shall replace such 1406  
money within six months of withdrawal its use. 1407

(C) For purposes of this section, "community water system" 1408  
means a public water system that serves at least fifteen service 1409

connections used by year-round residents or ~~which that~~ regularly 1410  
serves at least twenty-five year-round residents. 1411

For purposes of this section, "public entity" means the 1412  
federal government, the state, any political subdivision, and 1413  
any agency, institution, or instrumentality thereof. 1414

**Sec. 6109.24.** ~~A public water system that is a community-~~ 1415  
~~water system, or that is not a community water system and serves-~~ 1416  
~~a nontransient population, and that proposes to commence-~~ 1417  
~~providing water to the public after October 1, 1999, shall-~~ 1418  
~~include with the submission of plans required under section-~~ 1419  
~~6109.07 of the Revised Code documentation that demonstrates the-~~ 1420  
~~technical, managerial, and financial capability of the system to-~~ 1421  
~~comply with this chapter and rules adopted under it. (A) The~~ 1422  
director of environmental protection shall adopt, and may amend 1423  
and rescind, rules pursuant to section 6109.04 of the Revised 1424  
Code establishing requirements governing the demonstration of 1425  
technical, managerial, and financial capability for the purposes 1426  
of this section. 1427

~~The director may deny approval of plans submitted under-~~ 1428  
~~section 6109.07 of the Revised Code if the public water system-~~ 1429  
~~that submitted the plans-~~ (B) (1) A public water system shall 1430  
demonstrate the technical, managerial, and financial capability 1431  
of the system to comply with this chapter and rules adopted 1432  
under it by implementing an asset management program not later 1433  
than October 1, 2018. 1434

(2) Notwithstanding division (B) (1) of this section, the 1435  
director may require a public water system to complete an asset 1436  
management program prior to October 1, 2018. 1437

(3) A public water system shall include in the asset 1438

<u>management program all of the following:</u>	1439
<u>(a) An inventory and evaluation of all assets;</u>	1440
<u>(b) Operation and maintenance programs;</u>	1441
<u>(c) An emergency preparedness and contingency planning</u> <u>program;</u>	1442 1443
<u>(d) Criteria and timelines for infrastructure</u> <u>rehabilitation and replacement;</u>	1444 1445
<u>(e) Approved capacity projections and capital improvement</u> <u>planning;</u>	1446 1447
<u>(f) A long-term funding strategy to support asset</u> <u>management program implementation.</u>	1448 1449
<u>(C) If requested by the director, a public water system</u> <u>shall submit a written description of the system's asset</u> <u>management program to the director. The system shall submit the</u> <u>written description not later than thirty days after the date of</u> <u>the request.</u>	1450 1451 1452 1453 1454
<u>(D) If a public water system fails to demonstrate</u> <u>technical, managerial, and financial capability in accordance</u> <u>with this section and rules adopted under it, the director may</u> <u>take any action authorized by this chapter or rules adopted</u> <u>under it to improve and ensure the capability of the public</u> <u>water system, including denying a plan submitted under section</u> <u>6109.07 of the Revised Code.</u>	1455 1456 1457 1458 1459 1460 1461
<u>Sec. 6109.25. (A) (1) Upon petition by the director of</u> <u>environmental protection, a court of common pleas may appoint a</u> <u>receiver to take possession of and operate a public water system</u> <u>that serves fewer than five hundred service connections when</u> <u>conditions existing at the public water system present a threat</u>	1462 1463 1464 1465 1466

to public health or welfare. However, division (A) (1) of this 1467  
section does not apply to a system owned and operated by a 1468  
public entity or a system regulated by the public utilities 1469  
commission. 1470

(2) The director shall include all of the following in a 1471  
petition: 1472

(a) A description of the specific conditions existing at 1473  
the public water system which present a threat to public health 1474  
or welfare; 1475

(b) A statement of the absence of other adequate remedies 1476  
at law; 1477

(c) The population served by the public water system; 1478

(d) A statement that declares both of the following: 1479

(i) The facts concerning the conditions at the public 1480  
water system have been brought to the attention of the owner and 1481  
operator or that efforts to contact the owner or operator have 1482  
been unsuccessful; 1483

(ii) The conditions have not been remedied within a 1484  
reasonable period of time or that the conditions, though 1485  
remedied periodically, habitually exist at the public water 1486  
system as a pattern or practice. 1487

(e) The name and address of the owner of the public water 1488  
system. 1489

(B) (1) The court in which a petition is filed shall notify 1490  
the owner of the public water system of the filing. The director 1491  
shall send notice of the filing to all of the following: 1492

(a) The appropriate local board of health; 1493

<u>(b) Customers of the public water system;</u>	1494
<u>(c) Any other appropriate persons identified by the</u>	1495
<u>director.</u>	1496
<u>(2) The court shall conduct a hearing on the petition</u>	1497
<u>within five court days of the day it is filed, except that the</u>	1498
<u>court may appoint a receiver prior to that time if the court</u>	1499
<u>determines that the circumstances necessitate such action.</u>	1500
<u>Following a hearing on the petition, and upon a determination</u>	1501
<u>that the appointment of a receiver is warranted, the court shall</u>	1502
<u>appoint a receiver and notify the director and the appropriate</u>	1503
<u>persons of the appointment.</u>	1504
<u>(C) In establishing a receivership, the court shall set</u>	1505
<u>forth the powers and duties of the receiver. The court may</u>	1506
<u>authorize the receiver to take actions necessary to safely and</u>	1507
<u>efficiently operate the public water system within the</u>	1508
<u>requirements of state and federal law. However, the court shall</u>	1509
<u>require the receiver to obtain court approval prior to making</u>	1510
<u>any single expenditure of more than fifteen thousand dollars.</u>	1511
<u>The court shall closely review the conduct of the receiver it</u>	1512
<u>has appointed and shall require regular and detailed reports.</u>	1513
<u>(D) The court shall terminate a receivership established</u>	1514
<u>pursuant to this section following notification of the</u>	1515
<u>appropriate parties and a hearing, if the court determines</u>	1516
<u>either of the following:</u>	1517
<u>(1) The public water system has been closed and is no</u>	1518
<u>longer operating.</u>	1519
<u>(2) Circumstances no longer exist at the public water</u>	1520
<u>system that present a threat to public health or welfare, and</u>	1521
<u>there is no deficiency in the public water system that is likely</u>	1522

to create a future risk of harm. 1523

Notwithstanding division (D) (2) of this section, the court 1524  
shall not terminate a receivership for a public water system 1525  
that has previously operated under another receivership, under 1526  
the same owner, unless the responsibility for the operation of 1527  
the public water system is transferred to an owner or operator 1528  
approved by the court and the director. 1529

(E) (1) The court shall not appoint a person with an 1530  
interest in the public water system as a receiver. 1531

(2) To assist the court in identifying persons qualified 1532  
to be named as receivers, the director may maintain a list of 1533  
the names of such persons. The director may, in accordance with 1534  
Chapter 119. of the Revised Code, adopt rules establishing 1535  
standards for evaluating persons desiring to be included on such 1536  
a list. 1537

(F) Prior to acting as a receiver, the receiver must be 1538  
sworn to perform the duties of receiver faithfully, and, with 1539  
surety approved by the court. The receiver shall execute a bond 1540  
in an amount required by the court, to the effect that the 1541  
receiver will faithfully discharge the duties of receiver and 1542  
obey the orders of the court. 1543

(G) Under control of the appointing court, a receiver may 1544  
bring and defend actions in the receiver's own name as receiver 1545  
and take and keep possession of property. The court shall 1546  
authorize the receiver to do the following: 1547

(1) Collect payment for all goods and services provided to 1548  
persons served by the public water system during the period of 1549  
the receivership at the same rate as was charged by the owner at 1550  
the time the petition for receivership was filed, unless a 1551

different rate is set by the court; 1552

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions: 1553

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership; 1554  
1555  
1556

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership. 1557  
1558  
1559

(3) Make periodic reports on the status of the public water system to the director; 1560  
1561

(4) Compromise demands or claims; 1562  
1563

(5) Take actions necessary for the operation of the public water system in compliance with this chapter and the rules adopted under it. 1564  
1565  
1566  
1567

(6) Perform any other action regarding the public water system as the court authorizes. 1568  
1569

(H) Notwithstanding any other provision of law, contracts which are necessary to carry out the powers and duties of the receiver need not be competitively bid. 1570  
1571  
1572

(I) Neither the receiver nor the director is liable for debts incurred by the owner or operator of a public water system for which a receiver has been appointed. 1573  
1574  
1575

(J) The director shall provide technical assistance to any receiver appointed pursuant to this section. 1576  
1577

**Sec. 6111.03.** The director of environmental protection may 1578

do any of the following: 1579

(A) Develop plans and programs for the prevention, 1580  
control, and abatement of new or existing pollution of the 1581  
waters of the state; 1582

(B) Advise, consult, and cooperate with other agencies of 1583  
the state, the federal government, other states, and interstate 1584  
agencies and with affected groups, political subdivisions, and 1585  
industries in furtherance of the purposes of this chapter. 1586  
Before adopting, amending, or rescinding a standard or rule 1587  
pursuant to division (G) of this section or section 6111.041 or 1588  
6111.042 of the Revised Code, the director shall do all of the 1589  
following: 1590

(1) Mail notice to each statewide organization that the 1591  
director determines represents persons who would be affected by 1592  
the proposed standard or rule, amendment thereto, or rescission 1593  
thereof at least thirty-five days before any public hearing 1594  
thereon; 1595

(2) Mail a copy of each proposed standard or rule, 1596  
amendment thereto, or rescission thereof to any person who 1597  
requests a copy, within five days after receipt of the request 1598  
therefor; 1599

(3) Consult with appropriate state and local government 1600  
agencies or their representatives, including statewide 1601  
organizations of local government officials, industrial 1602  
representatives, and other interested persons. 1603

Although the director is expected to discharge these 1604  
duties diligently, failure to mail any such notice or copy or to 1605  
so consult with any person shall not invalidate any proceeding 1606  
or action of the director. 1607

(C) Administer grants from the federal government and from 1608  
other sources, public or private, for carrying out any of its 1609  
functions, all such moneys to be deposited in the state treasury 1610  
and kept by the treasurer of state in a separate fund subject to 1611  
the lawful orders of the director; 1612

(D) Administer state grants for the construction of sewage 1613  
and waste collection and treatment works; 1614

(E) Encourage, participate in, or conduct studies, 1615  
investigations, research, and demonstrations relating to water 1616  
pollution, and the causes, prevention, control, and abatement 1617  
thereof, that are advisable and necessary for the discharge of 1618  
the director's duties under this chapter; 1619

(F) Collect and disseminate information relating to water 1620  
pollution and prevention, control, and abatement thereof; 1621

(G) Adopt, amend, and rescind rules in accordance with 1622  
Chapter 119. of the Revised Code governing the procedure for 1623  
hearings, the filing of reports, the issuance of permits, the 1624  
issuance of industrial water pollution control certificates, and 1625  
all other matters relating to procedure; 1626

(H) Issue, modify, or revoke orders to prevent, control, 1627  
or abate water pollution by such means as the following: 1628

(1) Prohibiting or abating discharges of sewage, 1629  
industrial waste, or other wastes into the waters of the state; 1630

(2) Requiring the construction of new disposal systems or 1631  
any parts thereof, or the modification, extension, or alteration 1632  
of existing disposal systems or any parts thereof; 1633

(3) Prohibiting additional connections to or extensions of 1634  
a sewerage system when the connections or extensions would 1635

result in an increase in the polluting properties of the 1636  
effluent from the system when discharged into any waters of the 1637  
state; 1638

(4) Requiring compliance with any standard or rule adopted 1639  
under sections 6111.01 to 6111.05 of the Revised Code or term or 1640  
condition of a permit. 1641

In the making of those orders, wherever compliance with a 1642  
rule adopted under section 6111.042 of the Revised Code is not 1643  
involved, consistent with the Federal Water Pollution Control 1644  
Act, the director shall give consideration to, and base the 1645  
determination on, evidence relating to the technical feasibility 1646  
and economic reasonableness of complying with those orders and 1647  
to evidence relating to conditions calculated to result from 1648  
compliance with those orders, and their relation to benefits to 1649  
the people of the state to be derived from such compliance in 1650  
accomplishing the purposes of this chapter. 1651

(I) Review plans, specifications, or other data relative 1652  
to disposal systems or any part thereof in connection with the 1653  
issuance of orders, permits, and industrial water pollution 1654  
control certificates under this chapter; 1655

(J) (1) Issue, revoke, modify, or deny sludge management 1656  
permits and permits for the discharge of sewage, industrial 1657  
waste, or other wastes into the waters of the state, and for the 1658  
installation or modification of disposal systems or any parts 1659  
thereof in compliance with all requirements of the Federal Water 1660  
Pollution Control Act and mandatory regulations adopted 1661  
thereunder, including regulations adopted under section 405 of 1662  
the Federal Water Pollution Control Act, and set terms and 1663  
conditions of permits, including schedules of compliance, where 1664  
necessary. In issuing permits for sludge management, the 1665

director shall not allow the placement of sewage sludge on 1666  
frozen ground in conflict with rules adopted under this chapter. 1667  
Any person who discharges, transports, or handles storm water 1668  
from an animal feeding facility, as defined in section 903.01 of 1669  
the Revised Code, or pollutants from a concentrated animal 1670  
feeding operation, as both terms are defined in that section, is 1671  
not required to obtain a permit under division (J) (1) of this 1672  
section for the installation or modification of a disposal 1673  
system involving pollutants or storm water or any parts of such 1674  
a system on and after the date on which the director of 1675  
agriculture has finalized the program required under division 1676  
(A) (1) of section 903.02 of the Revised Code. In addition, any 1677  
person who discharges, transports, or handles storm water from 1678  
an animal feeding facility, as defined in section 903.01 of the 1679  
Revised Code, or pollutants from a concentrated animal feeding 1680  
operation, as both terms are defined in that section, is not 1681  
required to obtain a permit under division (J) (1) of this 1682  
section for the discharge of storm water from an animal feeding 1683  
facility or pollutants from a concentrated animal feeding 1684  
operation on and after the date on which the United States 1685  
environmental protection agency approves the NPDES program 1686  
submitted by the director of agriculture under section 903.08 of 1687  
the Revised Code. 1688

Any permit terms and conditions set by the director shall 1689  
be designed to achieve and maintain full compliance with the 1690  
national effluent limitations, national standards of performance 1691  
for new sources, and national toxic and pretreatment effluent 1692  
standards set under that act, and any other mandatory 1693  
requirements of that act that are imposed by regulation of the 1694  
administrator of the United States environmental protection 1695  
agency. If an applicant for a sludge management permit also 1696

applies for a related permit for the discharge of sewage, 1697  
industrial waste, or other wastes into the waters of the state, 1698  
the director may combine the two permits and issue one permit to 1699  
the applicant. 1700

A sludge management permit is not required for an entity 1701  
that treats or transports sewage sludge or for a sanitary 1702  
landfill when all of the following apply: 1703

(a) The entity or sanitary landfill does not generate the 1704  
sewage sludge. 1705

(b) Prior to receipt at the sanitary landfill, the entity 1706  
has ensured that the sewage sludge meets the requirements 1707  
established in rules adopted by the director under section 1708  
3734.02 of the Revised Code concerning disposal of municipal 1709  
solid waste in a sanitary landfill. 1710

(c) Disposal of the sewage sludge occurs at a sanitary 1711  
landfill that complies with rules adopted by the director under 1712  
section 3734.02 of the Revised Code. 1713

As used in division (J)(1) of this section, "sanitary 1714  
landfill" means a sanitary landfill facility, as defined in 1715  
rules adopted under section 3734.02 of the Revised Code, that is 1716  
licensed as a solid waste facility under section 3734.05 of the 1717  
Revised Code. 1718

(2) An application for a permit or renewal thereof shall 1719  
be denied if any of the following applies: 1720

(a) The secretary of the army determines in writing that 1721  
anchorage or navigation would be substantially impaired thereby; 1722

(b) The director determines that the proposed discharge or 1723  
source would conflict with an areawide waste treatment 1724

management plan adopted in accordance with section 208 of the 1725  
Federal Water Pollution Control Act; 1726

(c) The administrator of the United States environmental 1727  
protection agency objects in writing to the issuance or renewal 1728  
of the permit in accordance with section 402 (d) of the Federal 1729  
Water Pollution Control Act; 1730

(d) The application is for the discharge of any 1731  
radiological, chemical, or biological warfare agent or high- 1732  
level radioactive waste into the waters of the United States. 1733

(3) To achieve and maintain applicable standards of 1734  
quality for the waters of the state adopted pursuant to section 1735  
6111.041 of the Revised Code, the director shall impose, where 1736  
necessary and appropriate, as conditions of each permit, water 1737  
quality related effluent limitations in accordance with sections 1738  
301, 302, 306, 307, and 405 of the Federal Water Pollution 1739  
Control Act and, to the extent consistent with that act, shall 1740  
give consideration to, and base the determination on, evidence 1741  
relating to the technical feasibility and economic 1742  
reasonableness of removing the polluting properties from those 1743  
wastes and to evidence relating to conditions calculated to 1744  
result from that action and their relation to benefits to the 1745  
people of the state and to accomplishment of the purposes of 1746  
this chapter. 1747

(4) Where a discharge having a thermal component from a 1748  
source that is constructed or modified on or after October 18, 1749  
1972, meets national or state effluent limitations or more 1750  
stringent permit conditions designed to achieve and maintain 1751  
compliance with applicable standards of quality for the waters 1752  
of the state, which limitations or conditions will ensure 1753  
protection and propagation of a balanced, indigenous population 1754

of shellfish, fish, and wildlife in or on the body of water into 1755  
which the discharge is made, taking into account the interaction 1756  
of the thermal component with sewage, industrial waste, or other 1757  
wastes, the director shall not impose any more stringent 1758  
limitation on the thermal component of the discharge, as a 1759  
condition of a permit or renewal thereof for the discharge, 1760  
during a ten-year period beginning on the date of completion of 1761  
the construction or modification of the source, or during the 1762  
period of depreciation or amortization of the source for the 1763  
purpose of section 167 or 169 of the Internal Revenue Code of 1764  
1954, whichever period ends first. 1765

(5) The director shall specify in permits for the 1766  
discharge of sewage, industrial waste, and other wastes, the net 1767  
volume, net weight, duration, frequency, and, where necessary, 1768  
concentration of the sewage, industrial waste, and other wastes 1769  
that may be discharged into the waters of the state. The 1770  
director shall specify in those permits and in sludge management 1771  
permits that the permit is conditioned upon payment of 1772  
applicable fees as required by section 3745.11 of the Revised 1773  
Code and upon the right of the director's authorized 1774  
representatives to enter upon the premises of the person to whom 1775  
the permit has been issued for the purpose of determining 1776  
compliance with this chapter, rules adopted thereunder, or the 1777  
terms and conditions of a permit, order, or other determination. 1778  
The director shall issue or deny an application for a sludge 1779  
management permit or a permit for a new discharge, for the 1780  
installation or modification of a disposal system, or for the 1781  
renewal of a permit, within one hundred eighty days of the date 1782  
on which a complete application with all plans, specifications, 1783  
construction schedules, and other pertinent information required 1784  
by the director is received. 1785

(6) The director may condition permits upon the 1786  
installation of discharge or water quality monitoring equipment 1787  
or devices and the filing of periodic reports on the amounts and 1788  
contents of discharges and the quality of receiving waters that 1789  
the director prescribes. The director shall condition each 1790  
permit for a government-owned disposal system or any other 1791  
"treatment works" as defined in the Federal Water Pollution 1792  
Control Act upon the reporting of new introductions of 1793  
industrial waste or other wastes and substantial changes in 1794  
volume or character thereof being introduced into those systems 1795  
or works from "industrial users" as defined in section 502 of 1796  
that act, as necessary to comply with section 402(b)(8) of that 1797  
act; upon the identification of the character and volume of 1798  
pollutants subject to pretreatment standards being introduced 1799  
into the system or works; and upon the existence of a program to 1800  
ensure compliance with pretreatment standards by "industrial 1801  
users" of the system or works. In requiring monitoring devices 1802  
and reports, the director, to the extent consistent with the 1803  
Federal Water Pollution Control Act, shall give consideration to 1804  
technical feasibility and economic reasonableness and shall 1805  
allow reasonable time for compliance. 1806

(7) A permit may be issued for a period not to exceed five 1807  
years and may be renewed upon application for renewal. In 1808  
renewing a permit, the director shall consider the compliance 1809  
history of the permit holder and may deny the renewal if the 1810  
director determines that the permit holder has not complied with 1811  
the terms and conditions of the existing permit. A permit may be 1812  
modified, suspended, or revoked for cause, including, but not 1813  
limited to, violation of any condition of the permit, obtaining 1814  
a permit by misrepresentation or failure to disclose fully all 1815  
relevant facts of the permitted discharge or of the sludge use, 1816

storage, treatment, or disposal practice, or changes in any 1817  
condition that requires either a temporary or permanent 1818  
reduction or elimination of the permitted activity. No 1819  
application shall be denied or permit revoked or modified 1820  
without a written order stating the findings upon which the 1821  
denial, revocation, or modification is based. A copy of the 1822  
order shall be sent to the applicant or permit holder by 1823  
certified mail. 1824

(K) Institute or cause to be instituted in any court of 1825  
competent jurisdiction proceedings to compel compliance with 1826  
this chapter or with the orders of the director issued under 1827  
this chapter, or to ensure compliance with sections 204(b), 307, 1828  
308, and 405 of the Federal Water Pollution Control Act; 1829

(L) Issue, deny, revoke, or modify industrial water 1830  
pollution control certificates; 1831

(M) Certify to the government of the United States or any 1832  
agency thereof that an industrial water pollution control 1833  
facility is in conformity with the state program or requirements 1834  
for the control of water pollution whenever the certification 1835  
may be required for a taxpayer under the Internal Revenue Code 1836  
of the United States, as amended; 1837

(N) Issue, modify, and revoke orders requiring any 1838  
"industrial user" of any publicly owned "treatment works" as 1839  
defined in sections 212(2) and 502(18) of the Federal Water 1840  
Pollution Control Act to comply with pretreatment standards; 1841  
establish and maintain records; make reports; install, use, and 1842  
maintain monitoring equipment or methods, including, where 1843  
appropriate, biological monitoring methods; sample discharges in 1844  
accordance with methods, at locations, at intervals, and in a 1845  
manner that the director determines; and provide other 1846

information that is necessary to ascertain whether or not there 1847  
is compliance with toxic and pretreatment effluent standards. In 1848  
issuing, modifying, and revoking those orders, the director, to 1849  
the extent consistent with the Federal Water Pollution Control 1850  
Act, shall give consideration to technical feasibility and 1851  
economic reasonableness and shall allow reasonable time for 1852  
compliance. 1853

(O) Exercise all incidental powers necessary to carry out 1854  
the purposes of this chapter; 1855

(P) Certify Pursuant to section 401 of the Federal Water 1856  
Pollution Control Act, do both of the following: 1857

(1) Issue or deny a section 401 water quality 1858  
certification to, or waive a section 401 water quality 1859  
certification for, any applicant for a federal license or permit 1860  
to conduct any activity that may result in any discharge into 1861  
the waters of the state ~~that the discharge will comply with the~~ 1862  
~~Federal Water Pollution Control Act;~~ 1863

(2) Revoke, transfer, or, at the request or concurrence of 1864  
the certification holder, modify a section 401 water quality 1865  
certification. 1866

(Q) Administer and enforce the publicly owned treatment 1867  
works pretreatment program in accordance with the Federal Water 1868  
Pollution Control Act. In the administration of that program, 1869  
the director may do any of the following: 1870

(1) Apply and enforce pretreatment standards; 1871

(2) Approve and deny requests for approval of publicly 1872  
owned treatment works pretreatment programs, oversee those 1873  
programs, and implement, in whole or in part, those programs 1874  
under any of the following conditions: 1875

(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program; 1876  
1877

(b) The director has revoked the publicly owned treatment works pretreatment program; 1878  
1879

(c) There is no pretreatment program currently being implemented by the publicly owned treatment works; 1880  
1881

(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program. 1882  
1883  
1884

(3) Require that a publicly owned treatment works pretreatment program be incorporated in a permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards; 1885  
1886  
1887  
1888  
1889  
1890

(4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works; 1891  
1892  
1893

(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users; 1894  
1895  
1896

(6) Make determinations on categorization of industrial users; 1897  
1898

(7) Adopt, amend, or rescind rules and issue, modify, or revoke orders necessary for the administration and enforcement of the publicly owned treatment works pretreatment program. 1899  
1900  
1901

Any approval of a publicly owned treatment works pretreatment program may contain any terms and conditions, 1902  
1903

including schedules of compliance, that are necessary to achieve 1904  
compliance with this chapter. 1905

(R) Except as otherwise provided in this division, adopt 1906  
rules in accordance with Chapter 119. of the Revised Code 1907  
establishing procedures, methods, and equipment and other 1908  
requirements for equipment to prevent and contain discharges of 1909  
oil and hazardous substances into the waters of the state. The 1910  
rules shall be consistent with and equivalent in scope, content, 1911  
and coverage to section 311(j) (1) (c) of the Federal Water 1912  
Pollution Control Act and regulations adopted under it. The 1913  
director shall not adopt rules under this division relating to 1914  
discharges of oil from oil production facilities and oil 1915  
drilling and workover facilities as those terms are defined in 1916  
that act and regulations adopted under it. 1917

(S) (1) Administer and enforce a program for the regulation 1918  
of sludge management in this state. In administering the 1919  
program, the director, in addition to exercising the authority 1920  
provided in any other applicable sections of this chapter, may 1921  
do any of the following: 1922

(a) Develop plans and programs for the disposal and 1923  
utilization of sludge and sludge materials; 1924

(b) Encourage, participate in, or conduct studies, 1925  
investigations, research, and demonstrations relating to the 1926  
disposal and use of sludge and sludge materials and the impact 1927  
of sludge and sludge materials on land located in the state and 1928  
on the air and waters of the state; 1929

(c) Collect and disseminate information relating to the 1930  
disposal and use of sludge and sludge materials and the impact 1931  
of sludge and sludge materials on land located in the state and 1932

on the air and waters of the state; 1933

(d) Issue, modify, or revoke orders to prevent, control, 1934  
or abate the use and disposal of sludge and sludge materials or 1935  
the effects of the use of sludge and sludge materials on land 1936  
located in the state and on the air and waters of the state; 1937

(e) Adopt and enforce, modify, or rescind rules necessary 1938  
for the implementation of division (S) of this section. The 1939  
rules reasonably shall protect public health and the 1940  
environment, encourage the beneficial reuse of sludge and sludge 1941  
materials, and minimize the creation of nuisance odors. 1942

The director may specify in sludge management permits the 1943  
net volume, net weight, quality, and pollutant concentration of 1944  
the sludge or sludge materials that may be used, stored, 1945  
treated, or disposed of, and the manner and frequency of the 1946  
use, storage, treatment, or disposal, to protect public health 1947  
and the environment from adverse effects relating to those 1948  
activities. The director shall impose other terms and conditions 1949  
to protect public health and the environment, minimize the 1950  
creation of nuisance odors, and achieve compliance with this 1951  
chapter and rules adopted under it and, in doing so, shall 1952  
consider whether the terms and conditions are consistent with 1953  
the goal of encouraging the beneficial reuse of sludge and 1954  
sludge materials. 1955

The director may condition permits on the implementation 1956  
of treatment, storage, disposal, distribution, or application 1957  
management methods and the filing of periodic reports on the 1958  
amounts, composition, and quality of sludge and sludge materials 1959  
that are disposed of, used, treated, or stored. 1960

An approval of a treatment works sludge disposal program 1961

may contain any terms and conditions, including schedules of 1962  
compliance, necessary to achieve compliance with this chapter 1963  
and rules adopted under it. 1964

(2) As a part of the program established under division 1965  
(S) (1) of this section, the director has exclusive authority to 1966  
regulate sewage sludge management in this state. For purposes of 1967  
division (S) (2) of this section, that program shall be 1968  
consistent with section 405 of the Federal Water Pollution 1969  
Control Act and regulations adopted under it and with this 1970  
section, except that the director may adopt rules under division 1971  
(S) of this section that establish requirements that are more 1972  
stringent than section 405 of the Federal Water Pollution 1973  
Control Act and regulations adopted under it with regard to 1974  
monitoring sewage sludge and sewage sludge materials and 1975  
establishing acceptable sewage sludge management practices and 1976  
pollutant levels in sewage sludge and sewage sludge materials. 1977

This chapter authorizes the state to participate in any 1978  
national sludge management program and the national pollutant 1979  
discharge elimination system, to administer and enforce the 1980  
publicly owned treatment works pretreatment program, and to 1981  
issue permits for the discharge of dredged or fill materials, in 1982  
accordance with the Federal Water Pollution Control Act. This 1983  
chapter shall be administered, consistent with the laws of this 1984  
state and federal law, in the same manner that the Federal Water 1985  
Pollution Control Act is required to be administered. 1986

(T) Develop technical guidance and offer technical 1987  
assistance, upon request, for the purpose of minimizing wind or 1988  
water erosion of soil, and assist in compliance with permits for 1989  
storm water management issued under this chapter and rules 1990  
adopted under it. 1991

(U) Study, examine, and calculate nutrient loading from point and nonpoint sources in order to determine comparative contributions by those sources and to utilize the information derived from those calculations to determine the most environmentally beneficial and cost-effective mechanisms to reduce nutrient loading to watersheds in the Lake Erie basin and the Ohio river basin. In order to evaluate nutrient loading contributions, the director or the director's designee shall conduct a study of the nutrient mass balance for both point and nonpoint sources in watersheds in the Lake Erie basin and the Ohio river basin using available data, including both of the following:

- (1) Data on water quality and stream flow;
- (2) Data on point source discharges into those watersheds.

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

This section does not apply to residual farm products and manure disposal systems and related management and conservation practices subject to rules adopted pursuant to division (E)(1) of section 939.02 of the Revised Code. For purposes of this exclusion, "residual farm products" and "manure" have the same meanings as in section 939.01 of the Revised Code. However, until the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, this exclusion does not apply to animal waste treatment works having a controlled direct discharge to the waters of the state or any concentrated animal feeding operation, as defined

in 40 C.F.R. 122.23(b)(2). On and after the date on which the 2022  
United States environmental protection agency approves the NPDES 2023  
program submitted by the director of agriculture under section 2024  
903.08 of the Revised Code, this section does not apply to storm 2025  
water from an animal feeding facility, as defined in section 2026  
903.01 of the Revised Code, or to pollutants discharged from a 2027  
concentrated animal feeding operation, as both terms are defined 2028  
in that section. Neither of these exclusions applies to the 2029  
discharge of animal waste into a publicly owned treatment works. 2030

Not later than December 1, 2016, a publicly owned 2031  
treatment works with a design flow of one million gallons per 2032  
day or more, or designated as a major discharger by the 2033  
director, shall be required to begin monthly monitoring of total 2034  
and dissolved reactive phosphorus pursuant to a new NPDES 2035  
permit, an NPDES permit renewal, or a director-initiated 2036  
modification. The director shall include in each applicable new 2037  
NPDES permit, NPDES permit renewal, or director-initiated 2038  
modification a requirement that such monitoring be conducted. A 2039  
director-initiated modification for that purpose shall be 2040  
considered and processed as a minor modification pursuant to 2041  
Ohio Administrative Code 3745-33-04. In addition, not later than 2042  
December 1, 2017, a publicly owned treatment works with a design 2043  
flow of one million gallons per day or more that, on July 3, 2044  
2015, is not subject to a phosphorus limit shall complete and 2045  
submit to the director a study that evaluates the technical and 2046  
financial capability of the existing treatment facility to 2047  
reduce the final effluent discharge of phosphorus to one 2048  
milligram per liter using possible source reduction measures, 2049  
operational procedures, and unit process configurations. 2050

**Sec. 6111.04.** (A) Both of the following apply except as 2051  
otherwise provided in division (A) or (F) of this section: 2052

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

(2) Such an action prohibited under division (A) (1) of this section is hereby declared to be a public nuisance.

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

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

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

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

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

(C) No person to whom a permit has been issued shall place 2082  
or discharge, or cause to be placed or discharged, in any waters 2083  
of the state any sewage, sludge, sludge materials, industrial 2084  
waste, or other wastes in excess of the permissive discharges 2085  
specified under an existing permit without first receiving a 2086  
permit from the director to do so. 2087

(D) No person to whom a sludge management permit has been 2088  
issued shall place on the land or release into the air of the 2089  
state any sludge or sludge materials in excess of the permissive 2090  
amounts specified under the existing sludge management permit 2091  
without first receiving a modification of the existing sludge 2092  
management permit or a new sludge management permit to do so 2093  
from the director. 2094

(E) The director may require the submission of plans, 2095  
specifications, and other information that the director 2096  
considers relevant in connection with the issuance of permits. 2097

(F) This section does not apply to any of the following: 2098

(1) Waters used in washing sand, gravel, other aggregates, 2099  
or mineral products when the washing and the ultimate disposal 2100  
of the water used in the washing, including any sewage, 2101  
industrial waste, or other wastes contained in the waters, are 2102  
entirely confined to the land under the control of the person 2103  
engaged in the recovery and processing of the sand, gravel, 2104  
other aggregates, or mineral products and do not result in the 2105  
pollution of waters of the state; 2106

(2) Water, gas, or other material injected into a well to 2107  
facilitate, or that is incidental to, the production of oil, 2108  
gas, artificial brine, or water derived in association with oil 2109  
or gas production and disposed of in a well, in compliance with 2110

a permit issued under Chapter 1509. of the Revised Code, or 2111  
sewage, industrial waste, or other wastes injected into a well 2112  
in compliance with an injection well operating permit. Division 2113  
(F) (2) of this section does not authorize, without a permit, any 2114  
discharge that is prohibited by, or for which a permit is 2115  
required by, regulation of the United States environmental 2116  
protection agency. 2117

(3) Application of any materials to land for agricultural 2118  
purposes or runoff of the materials from that application or 2119  
pollution by residual farm products, manure, or soil sediment, 2120  
including attached substances, resulting from farming, 2121  
silvicultural, or earthmoving activities regulated by Chapter 2122  
307. or 939. of the Revised Code. Division (F) (3) of this 2123  
section does not authorize, without a permit, any discharge that 2124  
is prohibited by, or for which a permit is required by, the 2125  
Federal Water Pollution Control Act or regulations adopted under 2126  
it. As used in division (F) (3) of this section, "residual farm 2127  
products" and "manure" have the same meanings as in section 2128  
939.01 of the Revised Code. 2129

(4) The excrement of domestic and farm animals defecated 2130  
on land or runoff therefrom into any waters of the state. 2131  
Division (F) (4) of this section does not authorize, without a 2132  
permit, any discharge that is prohibited by, or for which a 2133  
permit is required by, the Federal Water Pollution Control Act 2134  
or regulations adopted under it. 2135

(5) On and after the date on which the United States 2136  
environmental protection agency approves the NPDES program 2137  
submitted by the director of agriculture under section 903.08 of 2138  
the Revised Code, any discharge that is within the scope of the 2139  
approved NPDES program submitted by the director of agriculture; 2140

(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F) (6) of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works or any discharge to a privately owned treatment works in violation of any permit conditions established in accordance with 40 C.F.R. 122.44(m).

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

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

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. Except as otherwise provided in this division, the director of environmental protection shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code. On and after the date on which the United States environmental protection agency approves the NPDES

program submitted by the director of agriculture under section 2171  
903.08 of the Revised Code, the director of agriculture shall 2172  
administer and enforce those permits within this state that are 2173  
issued for any discharge that is within the scope of the 2174  
approved NPDES program submitted by the director of agriculture. 2175

**Sec. 6111.07.** (A) No person shall violate or fail to 2176  
perform any duty imposed by sections 6111.01 to 6111.08 or 2177  
division (B) of section 6111.33 of the Revised Code or violate 2178  
any order, rule, or term or condition of a permit issued or 2179  
adopted by the director of environmental protection pursuant to 2180  
those sections. Each day of violation is a separate offense. 2181

(B) The attorney general, upon the written request of the 2182  
director, shall prosecute any person who violates, or who fails 2183  
to perform any duty imposed by, sections 6111.01 to 6111.08 or 2184  
division (B) of section 6111.33 of the Revised Code or who 2185  
violates any order, rule, or condition of a permit issued or 2186  
adopted by the director pursuant to those sections. 2187

The attorney general, upon written request of the 2188  
director, shall bring an action for an injunction against any 2189  
person violating or threatening to violate this chapter or 2190  
violating or threatening to violate any order, rule, or 2191  
condition of a permit issued or adopted by the director pursuant 2192  
to this chapter. In an action for injunction to enforce any 2193  
final order of the director brought pursuant to this section, 2194  
the finding by the director, after hearing, is prima-facie 2195  
evidence of the facts found therein. 2196

(C) No person knowingly shall submit false information or 2197  
records or fail to submit information or records pertaining to 2198  
discharges of sewage, industrial wastes, or other wastes or to 2199  
sludge management required as a condition of a permit or 2200

knowingly render inaccurate any monitoring device or other 2201  
method required to be maintained by the director. 2202

**Sec. 6111.30.** (A) Applications for a section 401 water 2203  
quality certification required under division (P) of section 2204  
6111.03 of the Revised Code shall be submitted on forms provided 2205  
by the director of environmental protection and shall include 2206  
all information required on those forms as well as all of the 2207  
following: 2208

(1) A copy of a letter from the United States army corps 2209  
of engineers documenting its jurisdiction over the wetlands, 2210  
streams, or other waters of the state that are the subject of 2211  
the section 401 water quality certification application; 2212

(2) If the project involves impacts to a wetland, a 2213  
wetland characterization analysis consistent with the Ohio rapid 2214  
assessment method; 2215

(3) If the project involves a stream for which a specific 2216  
aquatic life use designation has not been made, data sufficient 2217  
to determine the existing aquatic life use; 2218

(4) A specific and detailed mitigation proposal, including 2219  
the location and proposed real estate instrument or other 2220  
available mechanism for protecting the property long term; 2221

(5) Applicable fees; 2222

(6) Site photographs; 2223

(7) Adequate documentation confirming that the applicant 2224  
has requested comments from the department of natural resources 2225  
and the United States fish and wildlife service regarding 2226  
threatened and endangered species, including the presence or 2227  
absence of critical habitat; 2228

(8) Descriptions, schematics, and appropriate economic 2229  
information concerning the applicant's preferred alternative, 2230  
nondegradation alternatives, and minimum degradation 2231  
alternatives for the design and operation of the project; 2232

(9) The applicant's investigation report of the waters of 2233  
the United States in support of a section 404 permit application 2234  
concerning the project; 2235

(10) A copy of the United States army corps of engineers' 2236  
public notice regarding the section 404 permit application 2237  
concerning the project. 2238

(B) Not later than fifteen business days after the receipt 2239  
of an application for a section 401 water quality certification, 2240  
the director shall review the application to determine if it is 2241  
complete and shall notify the applicant in writing as to whether 2242  
the application is complete. If the director fails to notify the 2243  
applicant within fifteen business days regarding the 2244  
completeness of the application, the application is considered 2245  
complete. If the director determines that the application is not 2246  
complete, the director shall include with the written 2247  
notification an itemized list of the information or materials 2248  
that are necessary to complete the application. If the applicant 2249  
fails to provide the information or materials within sixty days 2250  
after the director's receipt of the application, the director 2251  
may return the incomplete application to the applicant and take 2252  
no further action on the application. If the application is 2253  
returned to the applicant because it is incomplete, the director 2254  
shall return the review fee levied under division (A) (1), (2), 2255  
or (3) of section 3745.114 of the Revised Code to the applicant, 2256  
but shall retain the application fee levied under that section. 2257

(C) Not later than twenty-one days after a determination 2258

that an application is complete under division (B) of this 2259  
section, the applicant shall publish public notice of the 2260  
director's receipt of the complete application in a newspaper of 2261  
general circulation in the county in which the project that is 2262  
the subject of the application is located. The public notice 2263  
shall be in a form acceptable to the director. The applicant 2264  
shall promptly provide the director with proof of publication. 2265  
The applicant may choose, subject to review by and approval of 2266  
the director, to include in the public notice an advertisement 2267  
for an antidegradation public hearing on the application 2268  
pursuant to section 6111.12 of the Revised Code. There shall be 2269  
a public comment period of thirty days following the publication 2270  
of the public notice. 2271

(D) If the director determines that there is significant 2272  
public interest in a public hearing as evidenced by the public 2273  
comments received concerning the application and by other 2274  
requests for a public hearing on the application, the director 2275  
or the director's representative shall conduct a public hearing 2276  
concerning the application. Notice of the public hearing shall 2277  
be published by the applicant, subject to review and approval by 2278  
the director, at least thirty days prior to the date of the 2279  
hearing in a newspaper of general circulation in the county in 2280  
which the project that is the subject of the application is to 2281  
take place. If a public hearing is requested concerning an 2282  
application, the director shall accept comments concerning the 2283  
application until five business days after the public hearing. A 2284  
public hearing conducted under this division shall take place 2285  
not later than one hundred days after the application is 2286  
determined to be complete. 2287

(E) The director shall forward all public comments 2288  
concerning an application submitted under this section that are 2289

received through the public involvement process required by 2290  
rules adopted under this chapter to the applicant not later than 2291  
five business days after receipt of the comments by the 2292  
director. 2293

(F) The applicant shall respond in writing to written 2294  
comments or to deficiencies identified by the director during 2295  
the course of reviewing the application not later than fifteen 2296  
days after receiving or being notified of them. 2297

(G) The director shall issue or deny a section 401 water 2298  
quality certification not later than one hundred eighty days 2299  
after the complete application for the certification is 2300  
received. The director shall provide an applicant for a section 2301  
401 water quality certification with an opportunity to review 2302  
the certification prior to its issuance. However, when a 2303  
certified water quality professional conducts a stream or 2304  
wetland assessment to support an application and the application 2305  
does not require or necessitate a public hearing, the director 2306  
shall issue or deny a section 401 water quality certification 2307  
not later than ninety days after the complete application for 2308  
the certification is received. 2309

(H) The director shall maintain an accessible database 2310  
that includes environmentally beneficial water restoration and 2311  
protection projects that may serve as potential mitigation 2312  
projects for projects in the state for which a section 401 water 2313  
quality certification is required. A project's inclusion in the 2314  
database does not constitute an approval of the project. 2315

(I) Mitigation required by a section 401 water quality 2316  
certification may be accomplished by any of the following: 2317

(1) Purchasing credits at a mitigation bank approved in 2318

accordance with 33 C.F.R. 332.8;	2319
(2) Participating in an in-lieu fee mitigation program	2320
approved in accordance with 33 C.F.R. 332.8;	2321
(3) Constructing individual mitigation projects.	2322
Notwithstanding the mitigation hierarchy specified in	2323
section 3745-1-54 of the Administrative Code, mitigation	2324
projects shall be approved in accordance with the hierarchy	2325
specified in 33 C.F.R. 332.3 unless the director determines that	2326
the size or quality of the impacted resource necessitates	2327
reasonably identifiable, available, and practicable mitigation	2328
conducted by the applicant. The director shall adopt rules in	2329
accordance with Chapter 119. of the Revised Code consistent with	2330
the mitigation hierarchy specified in 33 C.F.R. 332.3.	2331
(J) The director <del>may</del> <u>shall</u> establish a program and adopt	2332
rules in accordance with Chapter 119. of the Revised Code for	2333
the purpose of certifying water quality professionals to assess	2334
streams to determine existing aquatic life use and to categorize	2335
wetlands in support of applications for section 401 water	2336
quality certification under divisions (A) (2) and (3) of this	2337
section and isolated wetland permits under sections 6111.022 to	2338
6111.024 of the Revised Code. <u>The director shall establish a</u>	2339
<u>multi-sector work group to assist in the development of rules</u>	2340
<u>adopted under this division.</u> The director shall use information	2341
submitted by certified water quality professionals in the review	2342
of those applications.	2343
Rules adopted under this division shall do all of the	2344
following:	2345
(1) Provide for the certification of water quality	2346
professionals to conduct activities in support of applications	2347

for section 401 water quality certification and isolated wetland 2348  
permits, including work necessary to determine existing aquatic 2349  
life use of streams and categorize wetlands. Rules adopted under 2350  
division (J) (1) of this section shall do at least all of the 2351  
following: 2352

(a) Authorize the director to require an applicant for 2353  
water quality professional certification to submit information 2354  
considered necessary by the director to assess a water quality 2355  
professional's experience in conducting stream assessments and 2356  
wetlands categorizations; 2357

(b) Authorize the director to establish experience 2358  
requirements and to use tests to determine the competency of 2359  
applicants for water quality professional certification; 2360

(c) Authorize the director to approve applicants for water 2361  
quality professional certification who comply with the 2362  
requirements established in rules and deny applicants that do 2363  
not comply with those requirements; 2364

(d) Require the director to revoke the certification of a 2365  
water quality professional if the director finds that the 2366  
professional falsified any information on the professional's 2367  
application for certification regarding the professional's 2368  
credentials; 2369

(e) Require periodic renewal of a water quality 2370  
professional's certification and establish continuing education 2371  
requirements for purposes of that renewal. 2372

(2) Establish an annual fee to be paid by water quality 2373  
professionals certified under rules adopted under division (J) 2374  
(1) of this section in an amount calculated to defray the costs 2375  
incurred by the environmental protection agency for reviewing 2376

applications for water quality professional certification and 2377  
for issuing those certifications; 2378

(3) Authorize the director to suspend or revoke the 2379  
certification of a water quality professional if the director 2380  
finds that the professional's performance has resulted in 2381  
submission of documentation that is inconsistent with standards 2382  
established in rules adopted under division (J) (7) of this 2383  
section; 2384

(4) Authorize the director to review documentation 2385  
submitted by a certified water quality professional to ensure 2386  
compliance with requirements established in rules adopted under 2387  
division (J) (7) of this section; 2388

(5) Require a certified water quality professional to 2389  
submit any documentation developed in support of an application 2390  
for a section 401 water quality certification or an isolated 2391  
wetland permit upon the request of the director; 2392

(6) Authorize ~~random~~ audits by the director of 2393  
documentation developed or submitted by certified water quality 2394  
professionals to ensure compliance with requirements established 2395  
in rules adopted under division (J) (7) of this section; 2396

(7) Establish technical standards to be used by certified 2397  
water quality professionals in conducting stream assessments and 2398  
wetlands categorizations; 2399

(8) Authorize the director to require public disclosure, 2400  
including publication on the environmental protection agency's 2401  
web site, of all of the following information for each certified 2402  
water quality professional: 2403

(a) Name; 2404

<u>(b) Qualifications and credentials;</u>	2405
<u>(c) Status of the professional's certifications;</u>	2406
<u>(d) Documents and reports submitted by the certified water quality professional;</u>	2407 2408
<u>(e) Documentation and results of agency audits of the certified water quality professional's work;</u>	2409 2410
<u>(f) Any final disciplinary action related to the certified water quality professional's performance.</u>	2411 2412
<u>(K) Nothing in this section requires an applicant for a section 401 water quality certification or a permit for impacts to an isolated wetland under this chapter to use the services of a certified water quality professional.</u>	2413 2414 2415 2416
<u>(L) As used in this section and section 6111.31 of the Revised Code, "section 401 water quality certification" means certification pursuant to section 401 of the Federal Water Pollution Control Act and this chapter and rules adopted under it that any discharge, as set forth in section 401, will comply with sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.</u>	2417 2418 2419 2420 2421 2422 2423
<u>Sec. 6111.33. (A) As used in this section and in sections 6111.32 and 6111.34 of the Revised Code, "dredged material" means material excavated or dredged from a federal navigation channel during harbor or navigation maintenance activities.</u>	2424 2425 2426 2427
<u>(B) No person shall use, manage, or place dredged material in any location except in accordance with the following:</u>	2428 2429
<u>(1) Section 6111.32 of the Revised Code;</u>	2430
<u>(2) Rules adopted under section 6111.34 of the Revised</u>	2431

Code; 2432

(3) A permit issued under any other section of this 2433  
chapter or under rules adopted under any such section; or 2434

(4) Any other authorization issued by the director of 2435  
environmental protection. 2436

**Sec. 6111.34.** (A) The director of environmental 2437  
protection, in accordance with Chapter 119. of the Revised Code, 2438  
may adopt rules governing the beneficial use of dredged material 2439  
that are necessary to protect public health, safety, and the 2440  
environment. 2441

(B) The director shall ensure that rules adopted under 2442  
this section establish both of the following: 2443

(1) Criteria for determining when dredged material does 2444  
not constitute either of the following: 2445

(a) Solid wastes; 2446

(b) Other wastes. 2447

(2) Requirements and procedures for the issuance, 2448  
modification, suspension, revocation, and denial of an 2449  
authorization, authorization by rule, and general and individual 2450  
permits for the beneficial use of dredged material. 2451

(C) The director shall ensure that the criteria and 2452  
requirements established in rules adopted under this section are 2453  
no less stringent than any applicable standard established under 2454  
federal environmental laws and regulations adopted under them, 2455  
including the "Federal Water Pollution Control Act Amendments of 2456  
1972," 86 Stat. 886, 33 U.S.C. 1251; the "Resource Conservation 2457  
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C. 6921; the 2458  
"Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C. 2459

2601; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C. 9601; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C. 300f. 2460  
2461  
2462  
2463

(D) As used in this section, "solid wastes" has the same meaning as in section 3734.01 of the Revised Code. 2464  
2465

**Section 2.** That existing sections 1506.21, 1506.23, 2466  
3714.01, 3714.02, 3714.051, 3714.06, 3714.062, 3714.082, 2467  
3734.061, 3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.30, 2468  
5301.80, 6109.08, 6109.24, 6111.03, 6111.04, 6111.07, and 2469  
6111.30 of the Revised Code are hereby repealed. 2470

**Section 3.** The five existing members appointed to the Ohio 2471  
Lake Erie Commission by the Governor under section 1506.21 of 2472  
the Revised Code prior to the effective date of this section 2473  
shall begin a three-year term on the effective date of this 2474  
section. Thereafter, such members may serve one additional 2475  
three-year term as provided in the amendments made to section 2476  
1506.21 of the Revised Code by this act. 2477

**Section 4.** (A) The owner or operator of a processing 2478  
facility, as defined in section 3714.01 of the Revised Code, 2479  
that is in operation on the effective date of this act shall, 2480  
within six months after the effective date of the rules adopted 2481  
under section 3714.022 of the Revised Code, submit to the board 2482  
of health in the health district in which the processing 2483  
facility is located an application for an initial processing 2484  
facility license. The owner or operator also shall submit 2485  
accompanying plans, specifications, and information regarding 2486  
the facility and its method of operation. If the health district 2487  
in which such an existing processing facility is located is not 2488  
on the approved list under section 3714.09 of the Revised Code, 2489

the owner or operator of the facility shall submit the 2490  
application for the initial license and accompanying plans, 2491  
specifications, and information regarding the facility and its 2492  
method of operation to the Director of Environmental Protection 2493  
within that time. 2494

(B) The board or the Director shall issue an initial 2495  
processing facility license not later than ninety days after 2496  
receiving a complete application, and accompanying plans, 2497  
specifications, and information if the board or the director 2498  
finds that the processing facility complies with the rules 2499  
adopted under section 3714.022 of the Revised Code. 2500

(C) If the board or the director denies an application 2501  
submitted under this section, the board or the director shall 2502  
include in the order denying the application a statement 2503  
containing all of the following requirements: 2504

(1) That the owner or operator of the processing facility 2505  
must stop accepting construction and demolition debris for 2506  
disposal; 2507

(2) That the owner or operator of the processing facility 2508  
must submit a plan for closure of the facility to the board or 2509  
the director, as applicable, for approval within six months 2510  
after the issuance of the order; 2511

(3) That the owner or operator of the processing facility 2512  
must commence closure of the facility within one year after 2513  
issuance of the order. 2514

(D) After an initial processing facility license issued 2515  
under this section expires, the owner or operator of the 2516  
processing facility shall apply for an annual processing 2517  
facility license in accordance with section 3714.06 of the 2518

Revised Code. 2519

**Section 5.** The terms of the five additional members of the 2520  
Ohio Lake Erie Commission who were appointed by the Governor 2521  
prior to the effective date of this act under section 1506.21 of 2522  
the Revised Code expire on the effective date of this act. The 2523  
governor may re-appoint those members in accordance with section 2524  
1506.21 of the Revised Code as amended by this act. 2525