

**As Reported by the Senate Energy and Natural Resources Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Am. S. B. No. 2**

**Senator Hite**

**Cosponsors: Senators Gardner, Manning, Yuko, Williams, Brown, Sykes, LaRose**

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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, 6109.02, 6109.08, 4  
6109.24, 6111.03, 6111.04, 6111.07, and 6111.30 5  
and to enact sections 3714.022, 6109.25, 6  
6111.052, 6111.33, and 6111.34 of the Revised 7  
Code to revise specified laws relating to 8  
environmental protection. 9

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

**Section 1.** That sections 1506.21, 1506.23, 3714.01, 10  
3714.02, 3714.051, 3714.06, 3714.062, 3714.082, 3734.061, 11  
3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.30, 5301.80, 12  
6109.02, 6109.08, 6109.24, 6111.03, 6111.04, 6111.07, and 13  
6111.30 be amended and sections 3714.022, 6109.25, 6111.052, 14  
6111.33, and 6111.34 of the Revised Code be enacted to read as 15  
follows: 16

**Sec. 1506.21.** (A) (1) There is hereby created the Ohio Lake 17  
Erie commission, consisting of the directors of environmental 18

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

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

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

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

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

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

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

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

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

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

(1) Ensure the coordination of funding and monitoring 72  
federal, state, and local policies~~and~~, programs, and 73  
priorities pertaining to Lake Erie ~~water quality, toxic~~ 74  
~~pollution control, including issues related to nutrient-related~~ 75  
water quality and the beneficial use of dredged material. The 76  
commission shall prioritize policies, programs, and resource 77

<u>priorities identified in the Lake Erie protection and</u>	78
<u>restoration strategy;</u>	79
(2) Review, and make recommendations concerning, the	80
development and implementation of policies, programs, and issues	81
<del>for long term, comprehensive protection of Lake Erie water</del>	82
<del>resources and water quality that are consistent with the great</del>	83
<del>lakes water quality agreement and the great lakes toxic</del>	84
<del>substances control agreement other international, federal, and</del>	85
<u>state compacts and agreements;</u>	86
(3) <del>Recommend policies and programs to modify the coastal</del>	87
<del>management program of this state;</del>	88
(4) <del>At each regular meeting, consider matters relating to</del>	89
<del>the implementation of sections 1506.22 and 1506.23 of the</del>	90
<del>Revised Code</del> <u>Serve as a repository and clearinghouse for public</u>	91
<u>information and data related to Lake Erie and the Lake Erie</u>	92
<u>basin and collect and distribute such information and data at</u>	93
<u>the commission's discretion;</u>	94
(5) <del>(4)</del> <u>Publish and submit the Lake Erie protection agenda</u>	95
<u>and restoration strategy in accordance with division (C) of</u>	96
<u>section 1506.23 of the Revised Code;</u>	97
(6) <del>Ensure the implementation of a basinwide approach to</del>	98
<del>Lake Erie issues;</del>	99
(7) <del>Increase</del> (5) <u>Provide representation of regarding the</u>	100
interests of this state in state, regional, national, and	101
international forums pertaining to <del>the resources and water</del>	102
<del>quality of Lake Erie and the Lake Erie basin;</del>	103
(8) <del>Promote</del> (6) <u>Develop, implement, and coordinate an</u>	104
<u>education, public information, and community relations program</u>	105
<u>concerning the wise management of the commission's policies,</u>	106

<u>programs, issues, and the resources of Lake Erie;</u>	107
<del>(9)</del> <u>(7) Develop and implement a marketing program</u>	108
<u>promoting the sale of the Lake Erie license plate created under</u>	109
<u>section 4503.52 of the Revised Code and other public and private</u>	110
<u>fundraising initiatives to support the commission's programs;</u>	111
<u>(8) Establish and dissolve public advisory councils as</u>	112
considered necessary to assist in programs established under	113
this section and sections 1506.22 and 1506.23 of the Revised	114
Code. Members of the public advisory councils shall represent a	115
broad cross section of interests, shall have experience or	116
expertise in the subject for which the advisory council was	117
established, and shall serve without compensation. <u>Membership on</u>	118
<u>a public advisory council does not constitute holding a public</u>	119
<u>office or position of employment under the laws of this state</u>	120
<u>and is not grounds for removal of public officers or employees</u>	121
<u>from their offices or positions of employment. Members of a</u>	122
<u>public advisory council may be reimbursed for their actual and</u>	123
<u>necessary expenses incurred in the performance of their official</u>	124
<u>duties.</u>	125
<del>(10) Prepare and submit the report required under division</del>	126
<del>(D) of section 1506.23 of the Revised Code.</del>	127
(C) Each state agency, upon the request of the commission,	128
shall cooperate in the implementation of this section and	129
sections 1506.22 and 1506.23 of the Revised Code.	130
<b>Sec. 1506.23.</b> (A) There is hereby created in the state	131
treasury the Lake Erie protection fund, which shall consist of	132
moneys deposited into the fund from the issuance of Lake Erie	133
license plates under section 4503.52 of the Revised Code and	134
donations, gifts, bequests, and other moneys received for the	135

purposes of this section. Not later than the first day of June 136  
each year, the Ohio Lake Erie commission created in section 137  
1506.21 of the Revised Code shall designate one of its members 138  
who represents a state agency to administer the fund and, with 139  
the approval of the commission, to expend moneys from the fund 140  
for any of the following purposes: 141

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

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

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

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

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

(6) ~~Encouraging cooperation with and among leaders from~~ 160  
~~state legislatures, state agencies, political subdivisions,~~ 161  
~~business and industry, labor, institutions of higher education,~~ 162  
agriculture, environmental organizations, and conservation 163  
groups within the Lake Erie basin; 164

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

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

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

~~(C) Each March, the Ohio Lake Erie commission shall publish a Lake Erie protection agenda that describes proposed uses of the Lake Erie protection fund for the following state fiscal year. The agenda shall be the subject of at least one public meeting of the commission held in the Lake Erie basin. The commission shall submit the agenda to the governor, the president of the senate, and the speaker of the house of representatives~~ Not later than the last day of July of each odd-numbered year, the commission shall publish a Lake Erie protection and restoration strategy that describes the goals of the commission and prioritizes the uses of the Lake Erie protection fund and other funds for the following state fiscal

year. The commission shall hold at least one public meeting in 195  
the Lake Erie basin regarding the strategy. The commission shall 196  
submit the strategy to the governor, the president of the 197  
senate, and the speaker of the house of representatives. 198

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

**Sec. 3714.01.** As used in this chapter: 207

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

~~(B)~~"Closure" means either the time at which a 212  
construction and demolition debris facility will no longer 213  
accept construction and demolition debris for disposal or the 214  
effective date of an order revoking the license of the facility. 215  
"Closure" includes measures performed to protect public health 216  
or safety, to prevent air or water pollution, or to make the 217  
facility suitable for other uses, if any, including, without 218  
limitation, the establishment and maintenance of suitable cover 219  
of soil and vegetation over areas where construction and 220  
demolition debris is buried and the minimization of erosion, the 221  
infiltration of surface water into such areas, the production of 222  
leachate, and the accumulation and runoff of contaminated 223  
surface water. 224



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

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

~~(E)~~—"Facility" means any site, location, tract of land, 245  
installation, or building used for the disposal of construction 246  
and demolition debris. "Facility" does not include any 247  
construction site where construction debris and trees and brush 248  
removed in clearing the construction site are used as fill 249  
material on the site where the materials are generated or 250  
removed and does not include any site where materials composed 251  
exclusively of reinforced or nonreinforced concrete, asphalt, 252  
clay tile, building or paving brick, or building or paving stone 253  
are used as fill material, either alone or in conjunction with 254  
clean soil, sand, gravel, or other clean aggregates, in 255

legitimate fill operations for construction purposes or to bring 256  
the site up to a consistent grade. 257

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

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

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

~~(I)~~—"Processing facility" means a site, location, tract of 272  
land, installation, or building that is used or intended to be 273  
used for the purpose of processing, transferring, or recycling 274  
construction and demolition debris that was generated off the 275  
premises of the facility. As used in this paragraph, 276  
"transferring" means the receipt or storage of construction and 277  
demolition debris, or the movement of construction and 278  
demolition debris from vehicles or containers to a working 279  
surface and into other vehicles or containers, for purposes of 280  
transporting the debris to a solid waste landfill facility, a 281  
construction and demolition debris facility, or a processing 282  
facility. As used in this paragraph, "processing" means the 283  
receipt or storage of construction and demolition debris, or the 284  
movement of construction and demolition debris from vehicles or 285

containers to a working surface, for purposes of separating the 286  
debris into individual types of materials as a commodity for use 287  
in a beneficial manner that does not constitute disposal. 288

"Processing facility" does not include a facility that is 289  
licensed under section 3734.05 of the Revised Code as a solid 290  
waste transfer facility or solid waste facility. 291

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

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

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

"Storage" means the holding of construction and demolition 308  
debris for a temporary period in such a manner that it remains 309  
retrievable and substantially unchanged and, at the end of the 310  
period, is disposed of or reused or recycled in a beneficial 311  
manner. 312

~~(L)~~ "Transfer facility" means ~~a site, location, tract of~~ 313  
~~land, installation, or building that is primarily used or~~ 314

~~intended to be used for the purpose of transferring construction-~~ 315  
~~and demolition debris that was generated off the premises of the~~ 316  
~~facility from vehicles or containers into other vehicles or~~ 317  
~~containers for transportation to a construction and demolition-~~ 318  
~~debris facility.~~ 319

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

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

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

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

(3) Procedures for the issuance, denial, modification, 340  
transfer, suspension, and revocation of permits to install; 341

(4) Grounds for the denial, modification, suspension, or 342  
revocation of permits to install; 343

(5) A requirement that a person that is required to obtain	344
both a permit to install under section 3714.051 of the Revised	345
Code and a license under section 3714.06 of the Revised Code	346
obtain both the permit and license prior to operation;	347
(6) Criteria for establishing time periods after which a	348
permit to install expires;	349
(7) Any other requirements that the director determines	350
necessary in order to establish the program for the issuance of	351
permits to install under section 3714.051 of the Revised Code.	352
(B) Standards for the design and construction of	353
facilities. The standards may include, without limitation,	354
requirements for diking around the areas where debris is buried	355
to prevent runoff of surface water onto adjacent property.	356
(C) Standards for control over access to facilities and	357
for the operation of facilities, including, without limitation,	358
standards for the compaction and covering of debris disposed of	359
and standards regarding equipment used for the operation of	360
facilities;	361
(D) Criteria and procedures for granting authorization to	362
the owner or operator of a facility to dispose of asbestos or	363
asbestos-containing materials or products at the owner's or	364
operator's facility;	365
(E) Requirements for the installation of ground water	366
monitoring wells and the monitoring of ground water quality at	367
any facility where the operation of the facility threatens to	368
contaminate ground water. The rules shall require that ground	369
water monitoring be capable of determining impacts resulting	370
from the operation of construction and demolition debris	371
facilities. The rules also shall include provisions for ground	372

water assessment and corrective actions for impacts to ground 373  
water. Further, the rules shall require that the owner or 374  
operator of a construction and demolition debris facility submit 375  
a monitoring report to the director or a board of health, as 376  
applicable, that has been prepared by a qualified ground water 377  
scientist and that includes all of the following: 378

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

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

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

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

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

(2) A requirement that the owner or operator of a facility 395  
sample for at least seventy-seven parameters that the director 396  
shall establish in the rules, which shall include arsenic, 397  
copper, and chromium; 398

(3) Requirements governing facilities that do not have a 399  
system for sampling leachate. The rules shall require that the 400  
owner or operator of such a facility monitor ground water in 401

accordance with the rules adopted under division (E) of this 402  
section for the parameters established in the rules adopted 403  
under division (F) (2) of this section. 404

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

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

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

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

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

(1) The rules establishing the financial assurance 425  
requirements for the closure of facilities shall require that 426  
the owner or operator of a facility, before being issued an 427  
initial license for the facility under section 3714.06 of the 428  
Revised Code, submit a surety bond, a letter of credit, or other 429  
acceptable financial assurance, as specified by the director in 430

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

(2) The rules establishing the financial assurance 445  
requirements for the post-closure care of facilities shall 446  
address the maintenance of the facility, continuation of any 447  
required monitoring systems, and performance and maintenance of 448  
any specific requirements established in rules adopted under 449  
division (K) of this section or through a permit, license, or 450  
order of the director. The rules also shall allow the director 451  
or board of health, as applicable, to determine the amount of a 452  
surety bond, a letter of credit, or other acceptable financial 453  
assurance for the post-closure care of a facility based on a 454  
required cost estimate for the post-closure care of the 455  
facility. The rules shall require that the owner or operator of 456  
a facility provide post-closure financial assurance for a period 457  
of five years after the closure of a facility. However, the 458  
rules shall stipulate that post-closure care financial assurance 459  
may be extended beyond the five-year period if the extension of 460  
the post-closure care period is required under rules adopted 461



under division (K) of this section. 462

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

(K) Requirements for the post-closure care of facilities 478  
for a period of five years after the closure of a facility. 479  
However, the rules shall require that the post-closure care 480  
period may be extended by order of the applicable board of 481  
health, the director, or a court of competent jurisdiction if 482  
conditions at a facility are impacting public health or safety 483  
or the environment or if ground water assessment and corrective 484  
measures are required to be conducted at the facility under 485  
rules adopted under division (E) of this section. This division 486  
does not limit the authority of the director, a board of health, 487  
or a court of competent jurisdiction to issue an order under any 488  
other applicable chapter of the Revised Code. 489

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

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

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

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

(M) Procedures and requirements governing the 521

certification of construction and demolition debris by ~~transfer-~~ 522  
processing facilities as required under section 3714.082 of the 523  
Revised Code; 524

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

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

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

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

Rules adopted under divisions (E) and (F) of this section 539  
apply to all new construction and demolition debris facilities 540  
for which a permit to install is required under section 3714.051 541  
of the Revised Code on and after ~~the effective date of this~~ 542  
~~amendment~~ December 22, 2005. With respect to a facility that is 543  
licensed under section 3714.06 of the Revised Code and operating 544  
~~on the effective date of this amendment~~ December 22, 2005: if 545  
the facility does not have a ground water monitoring or leachate 546  
monitoring system, the facility is not required to comply with 547  
rules adopted under division (E) or (F) of this section; if the 548  
facility has a ground water monitoring system, but not a 549  
leachate monitoring system, the facility shall comply only with 550

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

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

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

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

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

(3) The authorized maximum daily receipts; 570

(4) Fire prevention measures; 571

(5) Record-keeping procedures; 572

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

(7) Financial assurance requirements; 574

(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

<u>the Revised Code that shall include all of the following:</u>	578
<u>(a) Information that must be included in the designs and</u>	579
<u>plans required to be submitted with the application for a permit</u>	580
<u>to install under section 3714.051 of the Revised Code and</u>	581
<u>criteria for approving, disapproving, or requiring modification</u>	582
<u>of the designs and plans;</u>	583
<u>(b) Information and the fee amount that must be included</u>	584
<u>with an application for a permit to install in addition to the</u>	585
<u>information required under section 3714.051 of the Revised Code;</u>	586
<u>(c) Procedures for the issuance, denial, modification,</u>	587
<u>transfer, suspension, and revocation of permits to install;</u>	588
<u>(d) Grounds for the denial, modification, suspension, or</u>	589
<u>revocation of permits to install;</u>	590
<u>(e) A requirement that a person that is required to obtain</u>	591
<u>both a permit to install under section 3714.051 of the Revised</u>	592
<u>Code and a license under section 3714.06 of the Revised Code</u>	593
<u>obtain both the permit and license;</u>	594
<u>(f) Criteria for establishing time periods after which a</u>	595
<u>permit to install expires;</u>	596
<u>(g) Any other requirements that the director determines</u>	597
<u>necessary in order to establish the program for the issuance of</u>	598
<u>permits to install under section 3714.051 of the Revised Code.</u>	599
<u>(C) Rules establishing financial assurance requirements</u>	600
<u>for the closure of a processing facility shall require that</u>	601
<u>prior to being issued an initial license for the facility under</u>	602
<u>section 3714.06 of the Revised Code, the owner or operator of a</u>	603
<u>facility submit a surety bond, a letter of credit, or other</u>	604
<u>acceptable financial assurance in a fixed amount as specified by</u>	605

the director plus the fixed per cubic yard cost of 606  
transportation to and disposal of mixed construction and 607  
demolition debris at an authorized disposal facility. 608

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

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

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

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

(B) The director, the director's authorized 632  
representative, a board of health, or an authorized 633  
representative of the board may assist an applicant for a permit 634

to install during the permitting process by providing guidance 635  
and technical assistance. 636

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

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

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

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

(4) An application fee of two thousand dollars. A board of 655  
health shall deposit money collected under division (C)(4) of 656  
this section into the special fund of the health district 657  
created under section 3714.07 of the Revised Code. The director 658  
shall transmit money collected under division (C)(4) of this 659  
section to the treasurer of state to be credited to the waste 660  
management fund created in section 3734.061 of the Revised Code. 661  
Not later than six months after a facility that is issued a 662  
permit to install begins accepting construction and demolition 663

debris for disposal, a board of health or the director, as 664  
applicable, shall refund the application fee received under 665  
division (C) (4) of this section to the person that submitted the 666  
application for the permit to install. 667

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

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

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

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

(G) A board of health shall notify the director of its 688  
receipt of an application for a permit to install. A board of 689  
health, or its authorized representative, may request the 690  
director to review an application, or part of an application, 691  
for a permit to install and also may request that the director 692



issue or deny it when the board determines that additional 693  
expertise is required. The director shall comply with such a 694  
request. 695

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

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

(I) A permit to install for a processing facility may be 714  
issued with terms and conditions that a board of health or the 715  
director, as applicable, finds necessary to ensure that the 716  
facility will comply with this chapter and rules adopted under 717  
it and to protect public health and safety and the environment. 718  
The director or a board of health, as applicable, may issue, 719  
deny, modify, suspend, or revoke a permit to install in 720  
accordance with rules. 721

**Sec. 3714.06.** (A) (1) No person shall operate or maintain a 722

construction and demolition debris facility or processing 723  
facility without an annual construction and demolition debris 724  
facility or processing facility operation license issued by 725  
either of the following: 726

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

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

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

(B) During the month of December, but before the first day 740  
of January of the next year, each person proposing to continue 741  
with operation of a construction and demolition debris facility 742  
or processing facility shall procure a license for the facility 743  
for that year from the board of health of the appropriate health 744  
district ~~in which the facility is located or, if the facility is~~ 745  
~~located in a health district that is not on the approved list~~ 746  
~~under section 3714.09 of the Revised Code,~~ from the director, as 747  
applicable. The person shall submit the application for a 748  
license ~~shall be submitted~~ to the board of health or the 749  
director, as appropriate, on or before the last day of September 750  
of the year preceding that for which the license is sought. ~~An A~~ 751  
person shall submit an application for a license for a new 752

facility ~~shall be submitted or processing facility~~ prior to 753  
operation of the new facility. The license ~~shall be~~ is valid 754  
until the time that the next annual license is required to be 755  
obtained for the facility or processing facility under this 756  
section. 757

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

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

(2) Upon issuance of a license, the licensee shall pay to 777  
the board of health or director an annual license fee of six 778  
hundred fifty dollars. The annual license fee applies to private 779  
operators and the state and its political subdivisions. The 780  
licensee shall pay the annual license fee within thirty days 781  
after issuance of the license. Each license shall specify that 782

it is conditioned upon payment of the annual license fee to the 783  
board of health or the director, as appropriate, within thirty 784  
days after issuance of the license. 785

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

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

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

(1) Within one hundred feet of a perennial stream as 807  
defined by the United States geological survey seven and one- 808  
half minute quadrangle map or a category 3 wetland; 809

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

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

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

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

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

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

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

**Sec. 3714.062.** (A) The director of environmental 833  
protection, in consultation with boards of health and a 834  
statewide association representing construction and demolition 835  
debris facilities and processing facilities, shall establish a 836  
program for the certification of operators of construction and 837  
demolition debris facilities and processing facilities and shall 838  
establish continuing education training requirements for those 839  
operators as part of the certification program. 840

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

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

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

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

(D) An operator shall successfully complete a minimum of 864  
ten hours of continuing education training each calendar year. 865  
No operator shall fail to comply with this division. 866

**Sec. 3714.082.** (A) Except as provided in division (B) of 867  
this section, a construction and demolition debris facility may 868  
request a ~~transfer~~ processing facility to certify that material 869

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

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

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

~~(B) The director of environmental protection shall use 895  
money in the fund as follows: 896~~

~~(1) Money credited to the fund under division (C) (4) of 897  
section 3714.051, divisions (A) (4) and (B) of section 3714.07, 898  
division (D) of section 3714.08, and division (B) (4) of section 899~~

~~3714.09 of the Revised Code exclusively for the administration and enforcement of Chapter 3714. of the Revised Code and rules adopted under it;~~ 900  
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~~(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;~~ 903  
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~~(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~~ 913  
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. 914  
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**Sec. 3734.19.** (A) If the legislative or executive authority of a municipal corporation, county, or township has 928  
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evidence to indicate that locations within its boundaries once 930  
served as hazardous waste facilities or that significant 931  
quantities of hazardous waste were disposed of in solid waste or 932  
construction and demolition debris facilities within its 933  
boundaries, it may file a formal written request with the 934  
director of environmental protection, accompanied by supporting 935  
evidence, to survey the locations or facilities. 936

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

For the purpose of conducting investigations under this 952  
section, the director or the director's authorized 953  
representative may enter upon any public or private property. 954  
The director or the director's authorized representative may 955  
apply for, and any judge of a court of common pleas shall issue, 956  
an appropriate search warrant necessary to achieve the purposes 957  
of this section within the court's territorial jurisdiction. 958  
When conducting investigations under this section, the director 959  
shall cause no unnecessary damage to any property. The director 960

may expend moneys from the hazardous waste facility management 961  
fund created in section 3734.18 of the Revised Code, the 962  
hazardous waste clean-up fund created in section 3734.28 of the 963  
Revised Code, or the environmental protection remediation fund 964  
created in section 3734.281 of the Revised Code for conducting 965  
investigations. 966

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

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

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

**Sec. 3734.20.** (A) (1) If the director of environmental 985  
protection has reason to believe that hazardous waste was 986  
treated, stored, or disposed of at any ~~location~~ facility or 987  
property located within the state or that solid waste or 988  
construction and demolition debris was disposed of at any 989  
facility or property in the state, the director may conduct such 990

investigations and make such inquiries, ~~including obtaining~~ 991  
~~samples and examining and copying records,~~ as are reasonable or 992  
necessary to determine if conditions at ~~a hazardous waste~~ 993  
~~facility, solid waste facility, or other location where the~~ 994  
~~director has reason to believe hazardous waste was treated,~~ 995  
~~stored, or disposed of constitute~~ the facility or property: 996

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

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

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

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

(3) The director may expend ~~moneys~~ money from the 1009  
hazardous waste facility management fund created in section 1010  
3734.18 of the Revised Code, the hazardous waste clean-up fund 1011  
created in section 3734.28 of the Revised Code, or the 1012  
environmental protection remediation fund created in section 1013  
3734.281 of the Revised Code for conducting investigations ~~under~~ 1014  
this section at any facility or property where the director has 1015  
reason to believe that hazardous waste was treated, stored, or 1016  
disposed of. The director may expend money from the 1017  
environmental protection remediation fund established in section 1018  
3734.281 of the Revised Code for conducting investigations at 1019

any facility or property where the director has reason to 1020  
believe that solid waste or construction and demolition debris 1021  
was disposed of. 1022

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

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

If an order of the director to abate or prevent air or 1042  
water pollution or soil contamination or to remedy a threat to 1043  
public health or safety caused by conditions at such a facility 1044  
or property issued pursuant to this chapter or Chapter 3704.,  1045  
3714., or 6111. of the Revised Code is not wholly complied with 1046  
within the time prescribed in the order, the director may, 1047  
through officers or employees of the environmental protection 1048  
agency or through contractors employed for that purpose ~~in~~ 1049

~~accordance with the bidding procedure established in division~~ 1050  
~~(C) of section 3734.23 of the Revised Code, enter upon the~~ 1051  
facility or property and perform ~~those~~ measures ~~necessary~~ to 1052  
abate or prevent air or water pollution or soil contamination 1053  
from the facility or property or to protect public health or 1054  
safety, including, but not limited to, measures prescribed in 1055  
division (B) of section 3734.23 of the Revised Code. ~~The~~ 1056

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

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

Upon written request of the director, the attorney general 1071  
shall institute a civil action to recover the cost of the 1072  
investigation or other measures, as applicable. Any ~~moneys~~ money 1073  
so received shall be credited to the hazardous waste facility 1074  
management fund, the hazardous waste clean-up fund, or the 1075  
environmental protection remediation fund, as applicable. 1076

When entering upon a facility or property under this 1077  
division, the director shall perform or cause to be performed 1078  
only those measures necessary or appropriate to abate or prevent 1079

air or water pollution or soil contamination caused by 1080  
conditions at the facility or property or to abate threats to 1081  
public health or safety caused by conditions at the facility or 1082  
property. For this purpose the director may expend ~~moneys~~ money 1083  
from the hazardous waste facility management fund, the hazardous 1084  
waste clean-up fund, or the environmental protection remediation 1085  
fund and may expend ~~moneys~~ money from loans from the Ohio water 1086  
development authority to the environmental protection agency 1087  
that pledge ~~moneys~~ money from the hazardous waste facility 1088  
management fund, the hazardous waste clean-up fund, or the 1089  
environmental protection remediation fund for the repayment of 1090  
and for the interest on such loans. 1091

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

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

(2) The payment of costs of the development and 1103  
construction of suitable hazardous waste facilities required by 1104  
division (B) of section 3734.23 of the Revised Code to the 1105  
extent the director determines that such facilities are not 1106  
available, ~~and for the~~ i 1107

(3) The payment of costs that are necessary to abate 1108  
conditions thereon that are causing or contributing to or 1109

threatening to cause or contribute to air or water pollution or 1110  
soil contamination or that constitute a substantial threat to 1111  
public health or safety. ~~In~~ 1112

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

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

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

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

(C) Before beginning ~~to clean up~~ activities at any 1131  
facility ~~property~~ under this section, the director shall develop 1132  
a plan for the ~~cleanup~~ activities and an estimate of the cost 1133  
thereof. The plan ~~shall~~ may include ~~only~~ those measures 1134  
necessary ~~to abate conditions thereon that are causing or~~ 1135  
~~contributing to or threatening to cause or contribute to air or~~ 1136  
~~water pollution or soil contamination or that constitute a~~ 1137  
~~substantial threat to public health or safety~~ and activities 1138

authorized by division (A) or (B) of this section, including, 1139  
but not limited to, establishment and maintenance of an adequate 1140  
cover of soil and vegetation ~~on any facility for the burial of~~ 1141  
~~hazardous waste~~ to prevent the infiltration of water into ~~cells~~ 1142  
areas where hazardous waste, solid waste, or construction and 1143  
demolition debris is buried, the accumulation or runoff of 1144  
contaminated surface water, the production of leachate, and air 1145  
emissions ~~of hazardous waste~~; the collection and treatment of 1146  
contaminated surface water runoff; the collection and treatment 1147  
of leachate; or, if conditions so require, the removal of 1148  
hazardous waste ~~from the facility~~, solid waste, or construction 1149  
and demolition debris and the treatment or disposal of ~~the waste~~ 1150  
such wastes at a suitable ~~hazardous waste~~ facility. The plan or 1151  
any part of the plan ~~for the cleanup of the facility~~ shall be 1152  
carried out by entering into contracts therefor in accordance 1153  
with the procedures established in division (C) of section 1154  
3734.23 of the Revised Code. 1155

**Sec. 3734.22.** Before beginning ~~to clean up any facility~~ 1156  
activities under section 3734.21 of the Revised Code, the 1157  
director of environmental protection shall endeavor to enter 1158  
into an agreement with the owner of the land on which the 1159  
~~facility is located, or with the owner of the facility~~ 1160  
activities will be conducted, specifying the ~~measures~~ activities 1161  
to be performed and authorizing the director, employees of the 1162  
agency, or contractors retained by the director to enter upon 1163  
the land and perform the specified ~~measures~~ activities. The 1164  
director also may enter into an agreement with any other owner 1165  
of real or personal property for purposes of conducting those 1166  
activities, including obtaining soil that may be used on the 1167  
land where the activities will be conducted. 1168

Each agreement may contain provisions for the 1169



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

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

The agreement may require the owner to execute an easement 1180  
whereby the director, an authorized employee of the agency, or a 1181  
contractor employed by the agency in accordance with the bidding 1182  
procedure established in division (C) of section 3734.23 of the 1183  
Revised Code may enter upon the facility to sample, repair, or 1184  
reconstruct air and water quality monitoring equipment 1185  
constructed under the agreement, or to construct, maintain, 1186  
repair, remove, or make any other alterations or improvements, 1187  
as determined appropriate by the director. The director also may 1188  
obtain an easement under this section from any other person to 1189  
address the use of resources or materials for purposes of 1190  
conducting activities pursuant to section 3734.20 or 3734.21 of 1191  
the Revised Code. Such easements shall be for a specified period 1192  
of years and may be extinguished by agreement between the owner 1193  
and the director. When necessary or appropriate to protect the 1194  
public health or safety, the agreement may require the owner to 1195  
enter into an environmental covenant with the director in 1196  
accordance with sections 5301.80 to 5301.92 of the Revised Code. 1197

Upon a breach of the reimbursement provisions of the 1198  
agreement by the owner of the land or facility, or upon 1199

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

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

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

**Sec. 3734.23.** (A) The director of environmental protection 1218  
may acquire by purchase, gift, donation, contribution, or 1219  
appropriation in accordance with sections 163.01 to 163.21 of 1220  
the Revised Code any hazardous waste facility or any solid waste 1221  
facility containing significant quantities of hazardous waste 1222  
that, because of its condition and the types and quantities of 1223  
hazardous waste contained in the facility, constitutes an 1224  
imminent and substantial threat to public health or safety or 1225  
results in air pollution, pollution of the waters of the state, 1226  
or soil contamination. For this purpose and for the purposes of 1227  
division (B) of this section, the director may expend moneys 1228  
from the hazardous waste facility management fund created in 1229

section 3734.18 of the Revised Code, the hazardous waste clean- 1230  
up fund created in section 3734.28 of the Revised Code, or the 1231  
environmental protection remediation fund created in section 1232  
3734.281 of the Revised Code and may expend moneys from loans 1233  
from the Ohio water development authority to the environmental 1234  
protection agency that pledge moneys from the hazardous waste 1235  
facility management fund, the hazardous waste clean-up fund, or 1236  
the environmental protection remediation fund for the repayment 1237  
of and for the interest on such loans. Any lands or facilities 1238  
purchased or acquired under this section shall be deeded to the 1239  
state, but no deed shall be accepted or the purchase price paid 1240  
until the title has been approved by the attorney general. 1241

(B) The director shall, with respect to any land or 1242  
facility acquired under this section or cleaned up under section 1243  
3734.20 of the Revised Code, perform closure, post closure care, 1244  
or other measures necessary to abate conditions thereon that are 1245  
causing or contributing to or threatening to cause or contribute 1246  
to air or water pollution or soil contamination or that 1247  
constitute a substantial threat to public health or safety, 1248  
including, but not limited to, establishment and maintenance of 1249  
an adequate cover of soil and vegetation on any facility for the 1250  
burial of hazardous waste to prevent the infiltration of water 1251  
into cells where hazardous waste is buried, the accumulation or 1252  
runoff of contaminated surface water, the production of 1253  
leachate, and air emissions of hazardous waste; the collection 1254  
and treatment of contaminated surface water runoff; the 1255  
collection and treatment of leachate; or, if conditions so 1256  
require, the removal of hazardous waste from the facility and 1257  
the treatment or disposal of the waste at a suitable hazardous 1258  
waste facility. After performing these measures, the director 1259  
shall provide for the post-closure care, maintenance, and 1260

monitoring of facilities cleaned up under this section. 1261

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

(D) The director shall keep an itemized record of the 1286  
costs of any acquisition under division (A) of this section and 1287  
the costs of cleanup under division (B) of this section. 1288

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

following:	1291
(A) Operation of a hazardous waste facility, <u>solid waste facility, or construction and demolition debris facility</u> by a person other than an agency, department, or institution of the state;	1292 1293 1294 1295
(B) Conditions present at a facility that is acquired by the state by gift or devise;	1296 1297
(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>	1298 1299 1300 1301 1302 1303 1304
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.	1305 1306 1307 1308
<b>Sec. 5301.80.</b> As used in sections 5301.80 to 5301.92 of the Revised Code:	1309 1310
(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.	1311 1312 1313
(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.	1314 1315 1316 1317
(C) "Common interest community" means a condominium, a	1318

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

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

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

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

(a) A corrective action, closure, or post-closure pursuant 1337  
to the "Resource Conservation and Recovery Act of 1976," 90 1338  
Stat. 2806, 42 U.S.C.A. 6921, et seq., as amended, or any 1339  
regulation adopted under that act, or Chapter 3714. or 3734. of 1340  
the Revised Code or any rule adopted ~~under it those chapters,~~ 1341  
including the use or reservation of soil to be used in the 1342  
performance of the corrective action, closure, or post-closure 1343  
care; 1344

(b) A removal or remedial action pursuant to the 1345  
"Comprehensive Environmental Response, Compensation, and 1346  
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, et 1347

seq., as amended, or any regulation adopted under that act, or 1348  
Chapter 3734. or 6111. of the Revised Code or any rule adopted 1349  
under those chapters; 1350

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 6109.08.** (A) The director of environmental protection 1391  
shall not approve plans for construction, installation, or 1392  
substantial modification of a community water system ~~which that~~ 1393  
serves fewer than five hundred service connections, or any part 1394  
of such a system, except a system owned and operated by a public 1395  
entity, ~~a system which supplies water only to premises owned by~~ 1396  
~~the water supplier,~~ or a system regulated by the public 1397  
utilities commission, unless the owner or operator of ~~such the~~ 1398  
system or part thereof has ~~deposited in escrow provided~~ 1399  
financial assurance, in a form acceptable to the director, in an 1400  
amount equal to fifteen per cent of the cost of the system or 1401  
part thereof owned by ~~him~~ the owner or operator, but not to 1402  
exceed ~~fifty one hundred~~ thousand dollars. 1403

(B) If a system for which ~~an escrow financial assurance is~~ 1404



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

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

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

**Sec. 6109.24.** ~~A public water system that is a community-~~ 1422  
~~water system, or that is not a community water system and serves-~~ 1423  
~~a nontransient population, and that proposes to commence-~~ 1424  
~~providing water to the public after October 1, 1999, shall-~~ 1425  
~~include with the submission of plans required under section-~~ 1426  
~~6109.07 of the Revised Code documentation that demonstrates the-~~ 1427  
~~technical, managerial, and financial capability of the system to-~~ 1428  
~~comply with this chapter and rules adopted under it. (A) The~~ 1429  
director of environmental protection shall adopt, and may amend 1430  
and rescind, rules pursuant to section 6109.04 of the Revised 1431  
Code establishing requirements governing the demonstration of 1432  
technical, managerial, and financial capability for the purposes 1433  
of this section. 1434

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

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

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

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

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

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

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

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

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

(C) If requested by the director, a public water system 1459  
shall submit a written description of the system's asset 1460  
management program to the director. The system shall submit the 1461  
written description not later than thirty days after the date of 1462

the request. A small public water system may meet the written 1463  
description requirement by doing both of the following: 1464

(1) Submitting the template made available by the director 1465  
under division (F)(1) of this section; 1466

(2) Including with the completed template a statement that 1467  
the activities described in the template are being implemented. 1468

(D) If a public water system fails to ~~demonstrate~~ submit 1469  
an acceptable written description of the system's asset 1470  
management program or otherwise fails to demonstrate technical, 1471  
managerial, and financial capability in accordance with this 1472  
section and rules adopted under it, the director may request the 1473  
owner or operator of the system to revise and resubmit the 1474  
written description. Environmental protection agency staff may 1475  
provide technical guidance to a public water system in preparing 1476  
the asset management program or while addressing deficiencies 1477  
noted in the asset management program. 1478

(E) If a public water system fails to demonstrate 1479  
technical, managerial, and financial capability in accordance 1480  
with this section and rules adopted under it, the director may 1481  
take any action authorized by this chapter or rules adopted 1482  
under it to improve and ensure the capability of the public 1483  
water system, including denying a plan submitted under section 1484  
6109.07 of the Revised Code. 1485

(F) The director shall make available both of the 1486  
following either on the environmental protection agency's web 1487  
site or via another public forum: 1488

(1) A template for small public water systems to prepare 1489  
an asset management program; 1490

(2) Information about sources of funding available to 1491

assist public water systems with preparing and completing an 1492  
asset management program. 1493

**Sec. 6109.25.** (A) (1) Upon petition by the director of 1494  
environmental protection, a court of common pleas may appoint a 1495  
receiver to take possession of and operate a public water system 1496  
that serves fewer than five hundred service connections only 1497  
when conditions existing at the public water system present a 1498  
threat to public health or welfare. However, division (A) (1) of 1499  
this section does not apply to a system owned and operated by a 1500  
public entity or a system regulated by the public utilities 1501  
commission. 1502

(2) The director shall include all of the following in a 1503  
petition: 1504

(a) A description of the specific conditions existing at 1505  
the public water system which present a threat to public health 1506  
or welfare; 1507

(b) A statement of the absence of other adequate remedies 1508  
at law; 1509

(c) The population served by the public water system; 1510

(d) A statement that declares both of the following: 1511

(i) The facts concerning the conditions at the public 1512  
water system have been brought to the attention of the owner and 1513  
operator or that efforts to contact the owner or operator have 1514  
been unsuccessful; 1515

(ii) The conditions have not been remedied within a 1516  
reasonable period of time or that the conditions, though 1517  
remedied periodically, habitually exist at the public water 1518  
system as a pattern or practice. 1519

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

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

(a) The appropriate local board of health; 1524

(b) Customers of the public water system; 1525

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

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

(2) The court shall conduct a hearing on the petition within five court days of the day it is filed, except that the court may appoint a receiver prior to that time if the court determines that the circumstances necessitate such action. If the court appoints a receiver prior to conducting a hearing on the petition, the court shall provide notice of the appointment to any party with a known ownership interest in the system. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the director, any party with a known ownership interest in the system, and any other appropriate persons of the appointment. 1530  
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(C) All of the following apply to the court's appointment of a receiver under this section: 1542  
1543

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

(2) In selecting a receiver, the court shall give priority consideration to any qualified persons nominated by the 1546  
1547

director. However, the court is not required to select a 1548  
qualified person nominated by the director. 1549

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

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

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

(F) Under control of the appointing court, a receiver may 1572  
bring and defend actions in the receiver's own name as receiver 1573  
and take and keep possession of property. The court shall 1574  
authorize the receiver to do the following: 1575

(1) Collect payment for all goods and services provided to 1576

persons served by the public water system during the period of 1577  
the receivership at the same rate as was charged by the owner at 1578  
the time the petition for receivership was filed, unless a 1579  
different rate is set by the court; 1580

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

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

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

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

(4) Compromise demands or claims; 1592

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

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

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

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

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

(2) Circumstances no longer exist at the public water system that present a threat to public health or welfare, and there is no deficiency in the public water system that is likely to create a future risk of harm. 1607  
1608  
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Notwithstanding division (H) (2) of this section, the court shall not terminate a receivership for a public water system that has previously operated under another receivership, under the same owner, unless the responsibility for the operation of the public water system is transferred to an owner or operator approved by the court and the director. 1611  
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(I) The director shall provide technical assistance to any receiver appointed under this section. 1617  
1618

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

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

(B) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, and interstate agencies and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter. 1624  
1625  
1626  
1627  
Before adopting, amending, or rescinding a standard or rule pursuant to division (G) of this section or section 6111.041 or 6111.042 of the Revised Code, the director shall do all of the following: 1628  
1629  
1630  
1631

(1) Mail notice to each statewide organization that the director determines represents persons who would be affected by 1632  
1633



the proposed standard or rule, amendment thereto, or rescission 1634  
thereof at least thirty-five days before any public hearing 1635  
thereon; 1636

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

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

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

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

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

(E) Encourage, participate in, or conduct studies, 1656  
investigations, research, and demonstrations relating to water 1657  
pollution, and the causes, prevention, control, and abatement 1658  
thereof, that are advisable and necessary for the discharge of 1659  
the director's duties under this chapter; 1660

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

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

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

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

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

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

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

In the making of those orders, wherever compliance with a 1683  
rule adopted under section 6111.042 of the Revised Code is not 1684  
involved, consistent with the Federal Water Pollution Control 1685  
Act, the director shall give consideration to, and base the 1686  
determination on, evidence relating to the technical feasibility 1687  
and economic reasonableness of complying with those orders and 1688  
to evidence relating to conditions calculated to result from 1689  
compliance with those orders, and their relation to benefits to 1690  
the people of the state to be derived from such compliance in 1691

accomplishing the purposes of this chapter. 1692

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

(J) (1) Issue, revoke, modify, or deny sludge management 1697  
permits and permits for the discharge of sewage, industrial 1698  
waste, or other wastes into the waters of the state, and for the 1699  
installation or modification of disposal systems or any parts 1700  
thereof in compliance with all requirements of the Federal Water 1701  
Pollution Control Act and mandatory regulations adopted 1702  
thereunder, including regulations adopted under section 405 of 1703  
the Federal Water Pollution Control Act, and set terms and 1704  
conditions of permits, including schedules of compliance, where 1705  
necessary. In issuing permits for sludge management, the 1706  
director shall not allow the placement of sewage sludge on 1707  
frozen ground in conflict with rules adopted under this chapter. 1708  
Any person who discharges, transports, or handles storm water 1709  
from an animal feeding facility, as defined in section 903.01 of 1710  
the Revised Code, or pollutants from a concentrated animal 1711  
feeding operation, as both terms are defined in that section, is 1712  
not required to obtain a permit under division (J) (1) of this 1713  
section for the installation or modification of a disposal 1714  
system involving pollutants or storm water or any parts of such 1715  
a system on and after the date on which the director of 1716  
agriculture has finalized the program required under division 1717  
(A) (1) of section 903.02 of the Revised Code. In addition, any 1718  
person who discharges, transports, or handles storm water from 1719  
an animal feeding facility, as defined in section 903.01 of the 1720  
Revised Code, or pollutants from a concentrated animal feeding 1721  
operation, as both terms are defined in that section, is not 1722

required to obtain a permit under division (J) (1) of this 1723  
section for the discharge of storm water from an animal feeding 1724  
facility or pollutants from a concentrated animal feeding 1725  
operation on and after the date on which the United States 1726  
environmental protection agency approves the NPDES program 1727  
submitted by the director of agriculture under section 903.08 of 1728  
the Revised Code. 1729

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

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

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

(b) Prior to receipt at the sanitary landfill, the entity 1747  
has ensured that the sewage sludge meets the requirements 1748  
established in rules adopted by the director under section 1749  
3734.02 of the Revised Code concerning disposal of municipal 1750  
solid waste in a sanitary landfill. 1751

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

As used in division (J) (1) of this section, "sanitary landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed as a solid waste facility under section 3734.05 of the Revised Code. 1755  
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(2) An application for a permit or renewal thereof shall be denied if any of the following applies: 1760  
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(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby; 1762  
1763

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

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

(d) The application is for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the United States. 1772  
1773  
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(3) To achieve and maintain applicable standards of quality for the waters of the state adopted pursuant to section 6111.041 of the Revised Code, the director shall impose, where necessary and appropriate, as conditions of each permit, water quality related effluent limitations in accordance with sections 301, 302, 306, 307, and 405 of the Federal Water Pollution 1775  
1776  
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Control Act and, to the extent consistent with that act, shall 1781  
give consideration to, and base the determination on, evidence 1782  
relating to the technical feasibility and economic 1783  
reasonableness of removing the polluting properties from those 1784  
wastes and to evidence relating to conditions calculated to 1785  
result from that action and their relation to benefits to the 1786  
people of the state and to accomplishment of the purposes of 1787  
this chapter. 1788

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

(5) The director shall specify in permits for the 1807  
discharge of sewage, industrial waste, and other wastes, the net 1808  
volume, net weight, duration, frequency, and, where necessary, 1809  
concentration of the sewage, industrial waste, and other wastes 1810  
that may be discharged into the waters of the state. The 1811

director shall specify in those permits and in sludge management 1812  
permits that the permit is conditioned upon payment of 1813  
applicable fees as required by section 3745.11 of the Revised 1814  
Code and upon the right of the director's authorized 1815  
representatives to enter upon the premises of the person to whom 1816  
the permit has been issued for the purpose of determining 1817  
compliance with this chapter, rules adopted thereunder, or the 1818  
terms and conditions of a permit, order, or other determination. 1819  
The director shall issue or deny an application for a sludge 1820  
management permit or a permit for a new discharge, for the 1821  
installation or modification of a disposal system, or for the 1822  
renewal of a permit, within one hundred eighty days of the date 1823  
on which a complete application with all plans, specifications, 1824  
construction schedules, and other pertinent information required 1825  
by the director is received. 1826

(6) The director may condition permits upon the 1827  
installation of discharge or water quality monitoring equipment 1828  
or devices and the filing of periodic reports on the amounts and 1829  
contents of discharges and the quality of receiving waters that 1830  
the director prescribes. The director shall condition each 1831  
permit for a government-owned disposal system or any other 1832  
"treatment works" as defined in the Federal Water Pollution 1833  
Control Act upon the reporting of new introductions of 1834  
industrial waste or other wastes and substantial changes in 1835  
volume or character thereof being introduced into those systems 1836  
or works from "industrial users" as defined in section 502 of 1837  
that act, as necessary to comply with section 402(b)(8) of that 1838  
act; upon the identification of the character and volume of 1839  
pollutants subject to pretreatment standards being introduced 1840  
into the system or works; and upon the existence of a program to 1841  
ensure compliance with pretreatment standards by "industrial 1842

users" of the system or works. In requiring monitoring devices 1843  
and reports, the director, to the extent consistent with the 1844  
Federal Water Pollution Control Act, shall give consideration to 1845  
technical feasibility and economic reasonableness and shall 1846  
allow reasonable time for compliance. 1847

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

(K) Institute or cause to be instituted in any court of 1866  
competent jurisdiction proceedings to compel compliance with 1867  
this chapter or with the orders of the director issued under 1868  
this chapter, or to ensure compliance with sections 204(b), 307, 1869  
308, and 405 of the Federal Water Pollution Control Act; 1870

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



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

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

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

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

(1) Issue or deny a section 401 water quality certification to, or, pursuant to an appealable action, waive a section 401 water quality certification for, any applicant for a federal license or permit to conduct any activity that may

result in any discharge into the waters of the state ~~that the~~ 1903  
~~discharge will comply with the Federal Water Pollution Control~~ 1904  
~~Act.~~ Any waiver shall contain a justification for the action. 1905

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

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

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

(1) Apply and enforce pretreatment standards; 1916

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

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

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

(c) There is no pretreatment program currently being 1925  
implemented by the publicly owned treatment works; 1926

(d) The publicly owned treatment works has requested the 1927  
director to implement, in whole or in part, the pretreatment 1928  
program. 1929

(3) Require that a publicly owned treatment works 1930  
pretreatment program be incorporated in a permit issued to a 1931  
publicly owned treatment works as required by the Federal Water 1932  
Pollution Control Act, require compliance by publicly owned 1933  
treatment works with those programs, and require compliance by 1934  
industrial users with pretreatment standards; 1935

(4) Approve and deny requests for authority to modify 1936  
categorical pretreatment standards to reflect removal of 1937  
pollutants achieved by publicly owned treatment works; 1938

(5) Deny and recommend approval of requests for 1939  
fundamentally different factors variances submitted by 1940  
industrial users; 1941

(6) Make determinations on categorization of industrial 1942  
users; 1943

(7) Adopt, amend, or rescind rules and issue, modify, or 1944  
revoke orders necessary for the administration and enforcement 1945  
of the publicly owned treatment works pretreatment program. 1946

Any approval of a publicly owned treatment works 1947  
pretreatment program may contain any terms and conditions, 1948  
including schedules of compliance, that are necessary to achieve 1949  
compliance with this chapter. 1950

(R) Except as otherwise provided in this division, adopt 1951  
rules in accordance with Chapter 119. of the Revised Code 1952  
establishing procedures, methods, and equipment and other 1953  
requirements for equipment to prevent and contain discharges of 1954  
oil and hazardous substances into the waters of the state. The 1955  
rules shall be consistent with and equivalent in scope, content, 1956  
and coverage to section 311(j)(1)(c) of the Federal Water 1957  
Pollution Control Act and regulations adopted under it. The 1958

director shall not adopt rules under this division relating to 1959  
discharges of oil from oil production facilities and oil 1960  
drilling and workover facilities as those terms are defined in 1961  
that act and regulations adopted under it. 1962

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

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

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

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

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

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

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

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

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

(2) As a part of the program established under division (S)(1) of this section, the director has exclusive authority to regulate sewage sludge management in this state. For purposes of division (S)(2) of this section, that program shall be consistent with section 405 of the Federal Water Pollution Control Act and regulations adopted under it and with this section, except that the director may adopt rules under division (S) of this section that establish requirements that are more

stringent than section 405 of the Federal Water Pollution Control Act and regulations adopted under it with regard to monitoring sewage sludge and sewage sludge materials and establishing acceptable sewage sludge management practices and pollutant levels in sewage sludge and sewage sludge materials.

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

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

(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: 2048

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

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

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

This section does not apply to residual farm products and 2055  
manure disposal systems and related management and conservation 2056  
practices subject to rules adopted pursuant to division (E) (1) 2057  
of section 939.02 of the Revised Code. For purposes of this 2058  
exclusion, "residual farm products" and "manure" have the same 2059  
meanings as in section 939.01 of the Revised Code. However, 2060  
until the date on which the United States environmental 2061  
protection agency approves the NPDES program submitted by the 2062  
director of agriculture under section 903.08 of the Revised 2063  
Code, this exclusion does not apply to animal waste treatment 2064  
works having a controlled direct discharge to the waters of the 2065  
state or any concentrated animal feeding operation, as defined 2066  
in 40 C.F.R. 122.23(b) (2). On and after the date on which the 2067  
United States environmental protection agency approves the NPDES 2068  
program submitted by the director of agriculture under section 2069  
903.08 of the Revised Code, this section does not apply to storm 2070  
water from an animal feeding facility, as defined in section 2071  
903.01 of the Revised Code, or to pollutants discharged from a 2072  
concentrated animal feeding operation, as both terms are defined 2073  
in that section. Neither of these exclusions applies to the 2074  
discharge of animal waste into a publicly owned treatment works. 2075

Not later than December 1, 2016, a publicly owned 2076

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

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

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

(2) Such an action prohibited under division (A) (1) of 2102  
this section is hereby declared to be a public nuisance. 2103

Divisions (A) (1) and (2) of this section do not apply if 2104  
the person causing pollution or placing or causing to be placed 2105  
wastes in a location in which they cause pollution of any waters 2106



of the state holds a valid, unexpired permit, or renewal of a 2107  
permit, governing the causing or placement as provided in 2108  
sections 6111.01 to 6111.08 of the Revised Code or if the 2109  
person's application for renewal of such a permit is pending. 2110

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

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

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

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

(C) No person to whom a permit has been issued shall place 2127  
or discharge, or cause to be placed or discharged, in any waters 2128  
of the state any sewage, sludge, sludge materials, industrial 2129  
waste, or other wastes in excess of the permissive discharges 2130  
specified under an existing permit without first receiving a 2131  
permit from the director to do so. 2132

(D) No person to whom a sludge management permit has been 2133  
issued shall place on the land or release into the air of the 2134  
state any sludge or sludge materials in excess of the permissive 2135

amounts specified under the existing sludge management permit 2136  
without first receiving a modification of the existing sludge 2137  
management permit or a new sludge management permit to do so 2138  
from the director. 2139

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

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

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

(2) Water, gas, or other material injected into a well to 2152  
facilitate, or that is incidental to, the production of oil, 2153  
gas, artificial brine, or water derived in association with oil 2154  
or gas production and disposed of in a well, in compliance with 2155  
a permit issued under Chapter 1509. of the Revised Code, or 2156  
sewage, industrial waste, or other wastes injected into a well 2157  
in compliance with an injection well operating permit. Division 2158  
(F) (2) of this section does not authorize, without a permit, any 2159  
discharge that is prohibited by, or for which a permit is 2160  
required by, regulation of the United States environmental 2161  
protection agency. 2162

(3) Application of any materials to land for agricultural 2163  
purposes or runoff of the materials from that application or 2164

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

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

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

(6) The discharge of sewage, industrial waste, or other 2186  
wastes into a sewerage system tributary to a treatment works. 2187  
Division (F) (6) of this section does not authorize any discharge 2188  
into a publicly owned treatment works in violation of a 2189  
pretreatment program applicable to the publicly owned treatment 2190  
works or any discharge to a privately owned treatment works in 2191  
violation of any permit conditions established in accordance 2192  
with 40 C.F.R. 122.44(m). 2193

(7) A household sewage treatment system or a small flow 2194

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

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

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

**Sec. 6111.052.** (A) As used in this section: 2221

(1) "Blast furnace slag" means a nonmetallic material that 2222  
is an intended output or intended result of the melting of iron 2223  
ore or iron pellets together with coke and a flux in a blast 2224

<u>furnace, that is sold and distributed in the stream of commerce</u>	2225
<u>as a product.</u>	2226
<u>(2) "Steel slag" means an intended output or intended</u>	2227
<u>result of the use of an electric arc furnace or basic oxygen</u>	2228
<u>furnace to make steel that is all of the following:</u>	2229
<u>(a) Not a hazardous waste;</u>	2230
<u>(b) Poured from the furnace in a molten state, cooled, and</u>	2231
<u>processed to remove all free metallic;</u>	2232
<u>(c) Sold and distributed in the stream of commerce as a</u>	2233
<u>product.</u>	2234
<u>(B) For purposes of this chapter, "industrial waste" and</u>	2235
<u>"other wastes" do not include blast furnace slag or steel slag</u>	2236
<u>regardless of whether it is placed on the ground, placed below</u>	2237
<u>grade, or used in products that come into contact with the</u>	2238
<u>ground or are placed below grade.</u>	2239
<u>(C) No person shall place or manage blast furnace slag or</u>	2240
<u>steel slag in a manner that results in any of the following:</u>	2241
<u>(1) An exceedance of a water quality standard, including</u>	2242
<u>narrative standards, adopted under section 6111.041 of the</u>	2243
<u>Revised Code;</u>	2244
<u>(2) An exceedance of a primary or secondary maximum</u>	2245
<u>contaminant level in ground water adopted under section 6109.04</u>	2246
<u>of the Revised Code;</u>	2247
<u>(3) A discharge that is prohibited by, or for which a</u>	2248
<u>permit is required by, United States environmental protection</u>	2249
<u>agency regulations, except in accordance with such permit;</u>	2250
<u>(4) A threat to public health or safety or the</u>	2251

environment. 2252

(D) The director of environmental protection or the 2253  
director's duly authorized representative may enter at 2254  
reasonable times on any private or public property to inspect 2255  
and investigate conditions or examine records relating to 2256  
alleged noncompliance with this section. 2257

**Sec. 6111.07.** (A) No person shall violate or fail to 2258  
perform any duty imposed by sections 6111.01 to 6111.08 or 2259  
division (B) of section 6111.33 of the Revised Code or violate 2260  
any order, rule, or term or condition of a permit issued or 2261  
adopted by the director of environmental protection pursuant to 2262  
those sections. Each day of violation is a separate offense. 2263

(B) The attorney general, upon the written request of the 2264  
director, shall prosecute any person who violates, or who fails 2265  
to perform any duty imposed by, sections 6111.01 to 6111.08 or 2266  
division (B) of section 6111.33 of the Revised Code or who 2267  
violates any order, rule, or condition of a permit issued or 2268  
adopted by the director pursuant to those sections. 2269

The attorney general, upon written request of the 2270  
director, shall bring an action for an injunction against any 2271  
person violating or threatening to violate this chapter or 2272  
violating or threatening to violate any order, rule, or 2273  
condition of a permit issued or adopted by the director pursuant 2274  
to this chapter. In an action for injunction to enforce any 2275  
final order of the director brought pursuant to this section, 2276  
the finding by the director, after hearing, is prima-facie 2277  
evidence of the facts found therein. 2278

(C) No person knowingly shall submit false information or 2279  
records or fail to submit information or records pertaining to 2280

discharges of sewage, industrial wastes, or other wastes or to 2281  
sludge management required as a condition of a permit or 2282  
knowingly render inaccurate any monitoring device or other 2283  
method required to be maintained by the director. 2284

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

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

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

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

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

(5) Applicable fees; 2304

(6) Site photographs; 2305

(7) Adequate documentation confirming that the applicant 2306  
has requested comments from the department of natural resources 2307  
and the United States fish and wildlife service regarding 2308

threatened and endangered species, including the presence or 2309  
absence of critical habitat; 2310

(8) Descriptions, schematics, and appropriate economic 2311  
information concerning the applicant's preferred alternative, 2312  
nondegradation alternatives, and minimum degradation 2313  
alternatives for the design and operation of the project; 2314

(9) The applicant's investigation report of the waters of 2315  
the United States in support of a section 404 permit application 2316  
concerning the project; 2317

(10) A copy of the United States army corps of engineers' 2318  
public notice regarding the section 404 permit application 2319  
concerning the project. 2320

(B) Not later than fifteen business days after the receipt 2321  
of an application for a section 401 water quality certification, 2322  
the director shall review the application to determine if it is 2323  
complete and shall notify the applicant in writing as to whether 2324  
the application is complete. If the director fails to notify the 2325  
applicant within fifteen business days regarding the 2326  
completeness of the application, the application is considered 2327  
complete. If the director determines that the application is not 2328  
complete, the director shall include with the written 2329  
notification an itemized list of the information or materials 2330  
that are necessary to complete the application. If the applicant 2331  
fails to provide the information or materials within sixty days 2332  
after the director's receipt of the application, the director 2333  
may return the incomplete application to the applicant and take 2334  
no further action on the application. If the application is 2335  
returned to the applicant because it is incomplete, the director 2336  
shall return the review fee levied under division (A) (1), (2), 2337  
or (3) of section 3745.114 of the Revised Code to the applicant, 2338



but shall retain the application fee levied under that section. 2339

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

(D) If the director determines that there is significant 2354  
public interest in a public hearing as evidenced by the public 2355  
comments received concerning the application and by other 2356  
requests for a public hearing on the application, the director 2357  
or the director's representative shall conduct a public hearing 2358  
concerning the application. Notice of the public hearing shall 2359  
be published by the applicant, subject to review and approval by 2360  
the director, at least thirty days prior to the date of the 2361  
hearing in a newspaper of general circulation in the county in 2362  
which the project that is the subject of the application is to 2363  
take place. If a public hearing is requested concerning an 2364  
application, the director shall accept comments concerning the 2365  
application until five business days after the public hearing. A 2366  
public hearing conducted under this division shall take place 2367  
not later than one hundred days after the application is 2368  
determined to be complete. 2369

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

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

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

(H) The director shall maintain an accessible database 2392  
that includes environmentally beneficial water restoration and 2393  
protection projects that may serve as potential mitigation 2394  
projects for projects in the state for which a section 401 water 2395  
quality certification is required. A project's inclusion in the 2396  
database does not constitute an approval of the project. 2397

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

(1) Purchasing credits at a mitigation bank approved in accordance with 33 C.F.R. 332.8;	2400 2401
(2) Participating in an in-lieu fee mitigation program approved in accordance with 33 C.F.R. 332.8;	2402 2403
(3) Constructing individual mitigation projects.	2404
Notwithstanding the mitigation hierarchy specified in section 3745-1-54 of the Administrative Code, mitigation projects shall be approved in accordance with the hierarchy specified in 33 C.F.R. 332.3 unless the director determines that the size or quality of the impacted resource necessitates reasonably identifiable, available, and practicable mitigation conducted by the applicant. The director shall adopt rules in accordance with Chapter 119. of the Revised Code consistent with the mitigation hierarchy specified in 33 C.F.R. 332.3.	2405 2406 2407 2408 2409 2410 2411 2412 2413
(J) The director <del>may</del> <u>shall</u> establish a program and adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of certifying water quality professionals to assess streams to determine existing aquatic life use and to categorize wetlands in support of applications for section 401 water quality certification under divisions (A) (2) and (3) of this section and isolated wetland permits under sections 6111.022 to 6111.024 of the Revised Code. <u>The director shall establish a multi-sector work group to assist in the development of rules adopted under this division.</u> The director shall use information submitted by certified water quality professionals in the review of those applications.	2414 2415 2416 2417 2418 2419 2420 2421 2422 2423 2424 2425
Rules adopted under this division shall do all of the following:	2426 2427
(1) Provide for the certification of water quality	2428

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

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

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

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

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

(e) Require periodic renewal of a water quality 2452  
professional's certification and establish continuing education 2453  
requirements for purposes of that renewal. 2454

(2) Establish an annual fee to be paid by water quality 2455  
professionals certified under rules adopted under division (J) 2456  
(1) of this section in an amount calculated to defray the costs 2457

incurred by the environmental protection agency for reviewing 2458  
applications for water quality professional certification and 2459  
for issuing those certifications; 2460

(3) Authorize the director to suspend or revoke the 2461  
certification of a water quality professional if the director 2462  
finds that the professional's performance has resulted in 2463  
submission of documentation that is inconsistent with standards 2464  
established in rules adopted under division (J) (7) of this 2465  
section; 2466

(4) Authorize the director to review documentation 2467  
submitted by a certified water quality professional to ensure 2468  
compliance with requirements established in rules adopted under 2469  
division (J) (7) of this section; 2470

(5) Require a certified water quality professional to 2471  
submit any documentation developed in support of an application 2472  
for a section 401 water quality certification or an isolated 2473  
wetland permit upon the request of the director; 2474

(6) Authorize ~~random~~ audits by the director of 2475  
documentation developed or submitted by certified water quality 2476  
professionals to ensure compliance with requirements established 2477  
in rules adopted under division (J) (7) of this section; 2478

(7) Establish technical standards to be used by certified 2479  
water quality professionals in conducting stream assessments and 2480  
wetlands categorizations; 2481

(8) Authorize the director to require public disclosure, 2482  
including publication on the environmental protection agency's 2483  
web site, of all of the following information for each certified 2484  
water quality professional: 2485

(a) Name; 2486

<u>(b) Qualifications and credentials;</u>	2487
<u>(c) Status of the professional's certifications;</u>	2488
<u>(d) Documents and reports submitted by the certified water quality professional;</u>	2489 2490
<u>(e) Documentation and results of agency audits of the certified water quality professional's work;</u>	2491 2492
<u>(f) Any final disciplinary action related to the certified water quality professional's performance.</u>	2493 2494
<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>	2495 2496 2497 2498
<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>	2499 2500 2501 2502 2503 2504 2505
<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>	2506 2507 2508 2509
<u>(B) No person shall use, manage, or place dredged material in any location except in accordance with the following:</u>	2510 2511
<u>(1) Section 6111.32 of the Revised Code;</u>	2512
<u>(2) Rules adopted under Chapter 6111. of the Revised Code;</u>	2513

<u>(3) A permit issued under any other section of this</u>	2514
<u>chapter or under rules adopted under any such section; or</u>	2515
<u>(4) Any other authorization issued by the director of</u>	2516
<u>environmental protection.</u>	2517
<u><b>Sec. 6111.34.</b> (A) The director of environmental</u>	2518
<u>protection, in accordance with Chapter 119. of the Revised Code,</u>	2519
<u>may adopt rules governing the beneficial use of dredged material</u>	2520
<u>and the beneficial use of material excavated or dredged from</u>	2521
<u>adjacent or connected commercial maritime port facilities that</u>	2522
<u>are necessary to protect public health, safety, and the</u>	2523
<u>environment.</u>	2524
<u>(B) The director shall ensure that rules adopted under</u>	2525
<u>this section establish both of the following:</u>	2526
<u>(1) Criteria for determining when dredged material and</u>	2527
<u>material excavated or dredged from adjacent or connected</u>	2528
<u>commercial maritime port facilities does not constitute either</u>	2529
<u>of the following:</u>	2530
<u>(a) Solid wastes;</u>	2531
<u>(b) Other wastes.</u>	2532
<u>(2) Requirements and procedures for the issuance,</u>	2533
<u>modification, suspension, revocation, and denial of an</u>	2534
<u>authorization, authorization by rule, and general and individual</u>	2535
<u>permits for the beneficial use of dredged material and the</u>	2536
<u>beneficial use of material excavated or dredged from adjacent or</u>	2537
<u>connected commercial maritime port facilities.</u>	2538
<u>(C) The director shall ensure that the criteria and</u>	2539
<u>requirements established in rules adopted under this section are</u>	2540
<u>no less stringent than any applicable standard established under</u>	2541

federal environmental laws and regulations adopted under them, 2542  
including the "Federal Water Pollution Control Act Amendments of 2543  
1972," 86 Stat. 886, 33 U.S.C. 1251; the "Resource Conservation 2544  
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C. 6921; the 2545  
"Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C. 2546  
2601; the "Comprehensive Environmental Response, Compensation, 2547  
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C. 9601; and 2548  
the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C. 2549  
300f. 2550

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

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

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

**Section 4.** (A) As used in this section, "processing 2565  
facility" means a processing facility as defined in section 2566  
3714.01 of the Revised Code to which either of the following 2567  
apply: 2568

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



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

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

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

(2) The location of the processing facility or proposed 2595  
processing facility, including the address and parcel numbers of 2596  
the location; 2597

(3) The name, phone number, and address of the property 2598  
owner of the location where the processing facility is or is 2599  
proposed to be located; 2600

(4) Documentation of the property owner's written consent 2601  
to the location of the processing facility on the property if 2602  
the property owner is not the same person as the owner or 2603  
operator or proposed owner or operator of the processing 2604  
facility; 2605

(5) A plan view drawing depicting the location of areas 2606  
within the property boundary, whether on the ground or in 2607  
buildings, to be used for the receipt, storage, transferring, or 2608  
processing of construction and demolition debris. 2609

(C) If the application concerns a processing facility that 2610  
was not in operation on the effective date of this section, the 2611  
applicant shall submit with the application a notarized 2612  
statement certifying that the proposed horizontal limits of 2613  
construction and demolition debris processing at the time the 2614  
application is submitted are not located: 2615

(1) Within one hundred feet of a perennial stream as 2616  
defined by the United States Geological Survey seven and one- 2617  
half minute quadrangle map or a category 3 wetland; 2618

(2) Within one hundred feet of the facility's property 2619  
line; 2620

(3) Within five hundred feet of an occupied dwelling. 2621

(D) Upon written concurrence by the board of health of the 2622  
appropriate health district or the Director, as applicable, that 2623  
the registration application for the processing facility meets 2624  
the criteria set forth in this section, the board or Director 2625  
shall issue the registration. 2626

(E) Upon written notification by the board of health or 2627  
the Director, as applicable, that the registration application 2628  
is incomplete, the applicant shall correct noted deficiencies 2629

and resubmit the registration application not later than thirty 2630  
days after receipt of the notification. 2631

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

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

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