

AN ACT

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

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

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

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

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

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

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

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

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

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

(3) Membership on the commission does not constitute holding a public office or position of

employment under the laws of this state and is not grounds for removal of public officers or employees from their offices or positions of employment. Members may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The members of the commission annually shall designate a director or director's designee as chairperson, who shall preside at the meetings of the commission, and a secretary.

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

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

(1) Ensure the coordination of funding and monitoring federal, state, and local policies and programs, and priorities pertaining to Lake Erie water quality, toxic pollution control, including issues related to nutrient-related water quality and the beneficial use of dredged material. The commission shall prioritize policies, programs, and resource-priorities identified in the Lake Erie protection and restoration strategy;

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

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

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

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

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

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

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

(9) ~~(7) Develop and implement a marketing program promoting the sale of the Lake Erie license plate created under section 4503.52 of the Revised Code and other public and private fundraising initiatives to support the commission's programs;~~

(8) Establish and dissolve public advisory councils as considered necessary to assist in programs established under this section and sections 1506.22 and 1506.23 of the Revised Code. Members of the public advisory councils shall represent a broad cross section of interests, shall have

experience or expertise in the subject for which the advisory council was established, and shall serve without compensation. Membership on a public advisory council does not constitute holding a public office or position of employment under the laws of this state and is not grounds for removal of public officers or employees from their offices or positions of employment. Members of a public advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

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

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

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

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

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

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

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

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

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

~~(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 the Lake Erie basin regarding the strategy. The commission shall submit the strategy to the governor, the president of the senate, and the speaker of the house of representatives.~~

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

Sec. 3714.01. As used in this chapter:

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

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

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

~~(D)~~ "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any construction and demolition debris into or on any land or ground or surface water or

into the air, except if the disposition or placement constitutes storage.

~~(E)~~ "Facility" means any site, location, tract of land, installation, or building used for the disposal of construction and demolition debris. "Facility" does not include any construction site where construction debris and trees and brush removed in clearing the construction site are used as fill material on the site where the materials are generated or removed and does not include any site where materials composed exclusively of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes or to bring the site up to a consistent grade.

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

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

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

~~(I)~~ "Processing facility" means a site, location, tract of land, installation, or building that is used or intended to be used for the purpose of processing, transferring, or recycling construction and demolition debris that was generated off the premises of the facility. As used in this paragraph, "transferring" means the receipt or storage of construction and demolition debris, or the movement of construction and demolition debris from vehicles or containers to a working surface and into other vehicles or containers, for purposes of transporting the debris to a solid waste landfill facility, a construction and demolition debris facility, or a processing facility. As used in this paragraph, "processing" means the receipt or storage of construction and demolition debris, or the movement of construction and demolition debris from vehicles or containers to a working surface, for purposes of separating the debris into individual types of materials as a commodity for use in a beneficial manner that does not constitute disposal. "Processing facility" does not include a facility that is licensed under section 3734.05 of the Revised Code as a solid waste transfer facility or solid waste facility.

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

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

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

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

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

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

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

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

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

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

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

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

(6) Criteria for establishing time periods after which a permit to install expires;

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

(B) Standards for the design and construction of facilities. The standards may include, without limitation, requirements for diking around the areas where debris is buried to prevent runoff of surface water onto adjacent property.

(C) Standards for control over access to facilities and for the operation of facilities, including, without limitation, standards for the compaction and covering of debris disposed of and standards regarding equipment used for the operation of facilities;

(D) Criteria and procedures for granting authorization to the owner or operator of a facility to dispose of asbestos or asbestos-containing materials or products at the owner's or operator's facility;

(E) Requirements for the installation of ground water monitoring wells and the monitoring of ground water quality at any facility where the operation of the facility threatens to contaminate ground water. The rules shall require that ground water monitoring be capable of determining impacts resulting from the operation of construction and demolition debris facilities. The rules also shall include provisions for ground water assessment and corrective actions for impacts to ground

water. Further, the rules shall require that the owner or operator of a construction and demolition debris facility submit a monitoring report to the director or a board of health, as applicable, that has been prepared by a qualified ground water scientist and that includes all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(1) The rules establishing the financial assurance requirements for the closure of facilities shall require that the owner or operator of a facility, before being issued an initial license for the facility under section 3714.06 of the Revised Code, submit a surety bond, a letter of credit, or other acceptable financial assurance, as specified by the director in the rules, in an amount determined by the director or the appropriate board of health, as applicable. The rules shall include a list of the activities for which financial assurance may be required. The rules shall allow the director or board

of health, as applicable, to adjust the amount of a surety bond, a letter of credit, or other acceptable financial assurance in conjunction with the issuance of an annual license. However, the rules shall require that the amount of a surety bond, letter of credit, or other acceptable financial assurance for the closure of a facility be not less than thirteen thousand dollars per acre of land that has been or is being used for the disposal of construction and demolition debris. The rules shall require an explanation of the rationale for financial assurance amounts exceeding thirteen thousand dollars per acre.

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

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

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

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

(1) With respect to a facility that permanently ceases acceptance of construction and demolition debris in calendar year 2006, the post-closure care and post-closure care financial assurance requirements do not apply, provided that the owner or operator of the facility gives written notice of the date of the cessation to the applicable board of health or the director, the owner or operator of the facility does not submit a subsequent application for a license renewal for the facility after that cessation, and no order was issued by the applicable board of health, the director, or a court

of competent jurisdiction governing the post-closure care of and post-closure financial assurance for that facility prior to the date specified in the written notice.

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

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

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

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

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

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

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

Rules adopted under divisions (E) and (F) of this section apply to all new construction and demolition debris facilities for which a permit to install is required under section 3714.051 of the Revised Code on and after ~~the effective date of this amendment~~ December 22, 2005. With respect to a facility that is licensed under section 3714.06 of the Revised Code and operating on ~~the effective date of this amendment~~ December 22, 2005: if the facility does not have a ground water monitoring or leachate monitoring system, the facility is not required to comply with rules adopted under division (E) or (F) of this section; if the facility has a ground water monitoring system, but not a leachate monitoring system, the facility shall comply only with rules adopted under divisions (E) and (F)(3) of this section; and if the facility has a leachate monitoring system, but not a ground water monitoring system, the facility shall comply only with rules adopted under division (F) of this section.

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

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

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

(2) Requirements for the acceptance, storage, and accumulation of materials, including the

accumulation of material for product development;

(3) The authorized maximum daily receipts;

(4) Fire prevention measures;

(5) Record-keeping procedures;

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

(7) Financial assurance requirements;

(8) The management of stormwater and leachate;

(9) Standards and procedures for the issuance of permits to install under divisions (H) and (I) of section 3714.051 of the Revised Code that shall include all of the following:

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

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

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

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

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

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

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

(C) Rules establishing financial assurance requirements for the closure of a processing facility shall require that prior to being issued an initial license for the facility under section 3714.06 of the Revised Code, the owner or operator of a facility submit a surety bond, a letter of credit, or other acceptable financial assurance in a fixed amount as specified by the director plus the fixed per cubic yard cost of transportation to and disposal of mixed construction and demolition debris at an authorized disposal facility.

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

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

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

(2) On and after December 22, 2005, no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located or from the director if the facility is or is

to be located in a health district that is not on the approved list under section 3714.09 of the Revised Code or if a board of health requests the director to issue the permit to install under division (G) of this section.

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

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

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

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

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

(4) An application fee of two thousand dollars. A board of health shall deposit money collected under division (C)(4) of this section into the special fund of the health district created under section 3714.07 of the Revised Code. The director shall transmit money collected under division (C)(4) of this section to the treasurer of state to be credited to the waste management fund created in section 3734.061 of the Revised Code. Not later than six months after a facility that is issued a permit to install begins accepting construction and demolition debris for disposal, a board of health or the director, as applicable, shall refund the application fee received under division (C)(4) of this section to the person that submitted the application for the permit to install.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) During the month of December, but before the first day of January of the next year, each person proposing to continue with operation of a construction and demolition debris facility or processing facility shall procure a license for the facility for that year from the board of health of the appropriate health district ~~in which the facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, from the director,~~ as applicable. The person shall submit the application for a license ~~shall be submitted to the board of health or the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. An~~ A person shall submit an application for a license for a new facility shall be submitted or processing facility prior to operation of the new facility. The license shall be is valid until the time that the next annual license is required to be obtained for the facility or processing facility under this section.

A person who has received a license, upon sale or disposition of the facility or processing

facility, may, with the approval of the board or the director, as appropriate, have the license as well as a permit to install for the facility or the processing facility transferred to another person. The board or director may disapprove the transfer of the permit or license, as applicable, for any of the reasons specified in division (B) of section 3714.052 of the Revised Code for the denial of an application for a permit to install.

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

(2) Upon issuance of a license, the licensee shall pay to the board of health or director an annual license fee of six hundred fifty dollars. The annual license fee applies to private operators and the state and its political subdivisions. The licensee shall pay the annual license fee within thirty days after issuance of the license. Each license shall specify that it is conditioned upon payment of the annual license fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3734.551, and division (A)(2) of section 3734.57 of the Revised Code.~~

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

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

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

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

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

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

For the purpose of conducting investigations under this section, the director or the director's authorized representative may enter upon any public or private property. The director or the director's authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction. When conducting investigations under this section, the director shall cause no unnecessary damage to any property. The director may expend moneys from the hazardous waste

facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code for conducting investigations.

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

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

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

Sec. 3734.20. (A)(1) If the director of environmental protection has reason to believe that hazardous waste was treated, stored, or disposed of at any ~~location~~ facility or property located within the state or that solid waste or construction and demolition debris was disposed of at any facility or property in the state, the director may conduct such investigations and make such inquiries, ~~including obtaining samples and examining and copying records,~~ as are reasonable or necessary to determine if conditions at a ~~hazardous waste facility, solid waste facility, or other location where the director has reason to believe hazardous waste was treated, stored, or disposed of~~ constitute the facility or property:

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

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

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

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

(3) ~~The~~ director may expend ~~moneys~~ money from the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code for conducting investigations ~~under this section~~ at any facility or property where the director has reason to believe that hazardous waste was treated, stored, or disposed of. The director may expend money from the environmental protection remediation fund established in section 3734.281 of the Revised Code for conducting investigations at any facility or property where the director has reason to believe that solid waste or construction and demolition debris was disposed of.

(B) If the director determines that conditions at a hazardous waste facility, solid waste facility, or other ~~location~~ facility or property where hazardous waste was treated, stored, or disposed

of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination, the director shall initiate appropriate action under this chapter or Chapter 3704. or 6111. of the Revised Code or seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

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

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

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

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

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

When entering upon a facility or property under this division, the director shall perform or cause to be performed only those measures necessary or appropriate to abate or prevent air or water pollution or soil contamination caused by conditions at the facility or property or to abate threats to public health or safety caused by conditions at the facility or property. For this purpose the director may expend ~~moneys~~ money from the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund and may expend ~~moneys~~ money from loans from the Ohio water development authority to the environmental protection agency that pledge ~~moneys~~ money from the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment

of and for the interest on such loans.

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

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

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

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

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

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

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

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

(C) ~~Before beginning to clean up activities at any facility property under this section, the director shall develop a plan for the cleanup activities and an estimate of the cost thereof. The plan shall may include only those measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety and activities authorized by division (A) or (B) of this section, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into eells areas where hazardous waste, solid waste, or construction and demolition debris is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility, solid waste, or construction and demolition debris and the treatment or disposal of the waste such wastes at a suitable hazardous waste facility. The plan or any part of the plan for the cleanup of the facility shall be carried out by entering into contracts therefor in accordance with the procedures established in division (C) of section 3734.23 of the Revised~~

Code.

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

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

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

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

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

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

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

Sec. 3734.23. (A) The director of environmental protection may acquire by purchase, gift,

donation, contribution, or appropriation in accordance with sections 163.01 to 163.21 of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

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

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

~~opened, and published.~~

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

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

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

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

(C) 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.

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

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

(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.

(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.

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

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

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

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

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

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

any regulation adopted under that act, or Chapter 3734. or 6111. of the Revised Code or any rule adopted under those chapters;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) If a system for which an escrow financial assurance is required under division (A) of this section is not properly constructed, maintained, repaired, or operated, the director may order the owner or operator of such the system or part thereof to correct the deficiencies, and shall authorize the use of the funds in the escrow money from the financial assurance as necessary to enable compliance with his the order. When funds are withdrawn from an escrow account money from the

~~financial assurance is used, they shall be replaced by the owner or the operator of such the system or part thereof shall replace such money within six months of withdrawal its use.~~

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

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

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

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

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

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

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

(b) Public water system operation and maintenance programs;

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

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

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

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

(C) If requested by the director, a public water system shall submit a written description of the system's asset management program to the director. The system shall submit the written description not later than thirty days after the date of the request. A small public water system may meet the written description requirement by doing both of the following:

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

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

(D) If a public water system fails to demonstrate-submit an acceptable written description of the system's asset management program or otherwise fails to demonstrate technical, managerial, and

financial capability in accordance with this section and rules adopted under it, the director may request the owner or operator of the system to revise and resubmit the written description. Environmental protection agency staff may provide technical guidance to a public water system in preparing the asset management program or while addressing deficiencies noted in the asset management program.

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

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

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

(2) Information about sources of funding available to assist public water systems with preparing and completing an asset management program.

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

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

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

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

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

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

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

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

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

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

(a) The appropriate local board of health;

(b) Customers of the public water system;

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

(4) Compromise demands or claims;

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

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

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

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

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

(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.

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.

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

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

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

(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. 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

terms are defined in that section, is not required to obtain a permit under division (J)(1) of this section for the discharge of storm water from an animal feeding facility or pollutants from a concentrated animal feeding operation on and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code.

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

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

- (a) The entity or sanitary landfill does not generate the sewage sludge.
- (b) Prior to receipt at the sanitary landfill, the entity has ensured that the sewage sludge meets the requirements established in rules adopted by the director under section 3734.02 of the Revised Code concerning disposal of municipal solid waste in a sanitary landfill.
- (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.

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.

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

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

(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 Control Act and, to the extent consistent with that act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of removing the polluting properties from those wastes and to evidence relating to conditions calculated to result from that action and their

relation to benefits to the people of the state and to accomplishment of the purposes of this chapter.

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

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

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

(7) A permit may be issued for a period not to exceed five years and may be renewed upon application for renewal. In renewing a permit, the director shall consider the compliance history of the permit holder and may deny the renewal if the director determines that the permit holder has not complied with the terms and conditions of the existing permit. A permit may be modified, suspended,

or revoked for cause, including, but not limited to, violation of any condition of the permit, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts of the permitted discharge or of the sludge use, storage, treatment, or disposal practice, or changes in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity. No application shall be denied or permit revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

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

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

(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 discharge will comply with the Federal Water Pollution Control Act; Any waiver shall contain a justification for the action.

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

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

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

(1) Apply and enforce pretreatment standards;

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

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

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

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

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

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

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

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

(6) Make determinations on categorization of industrial users;

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

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

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

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

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

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

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

waters of the state;

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

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by residual farm products, manure, or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by

Chapter 307. or 939. of the Revised Code. Division (F)(3) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it. As used in division (F)(3) of this section, "residual farm products" and "manure" have the same meanings as in section 939.01 of the Revised Code.

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

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

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

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

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

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

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

(1) "Blast furnace slag" means a nonmetallic material that is an intended output or intended result of the melting of iron ore or iron pellets together with coke and a flux in a blast furnace, that is sold and distributed in the stream of commerce as a product.

(2) "Steel slag" means an intended output or intended result of the use of an electric arc furnace or basic oxygen furnace to make steel that is all of the following:

(a) Not a hazardous waste:

(b) Poured from the furnace in a molten state, cooled, and processed to remove all free metallic:

(c) Sold and distributed in the stream of commerce as a product.

(B) For purposes of this chapter, "industrial waste" and "other wastes" do not include blast furnace slag or steel slag regardless of whether it is placed on the ground, placed below grade, or used in products that come into contact with the ground or are placed below grade.

(C) No person shall place or manage blast furnace slag or steel slag in a manner that results in any of the following:

(1) An exceedance of a water quality standard, including narrative standards, adopted under section 6111.041 of the Revised Code;

(2) An exceedance of a primary or secondary maximum contaminant level in ground water adopted under section 6109.04 of the Revised Code;

(3) A discharge that is prohibited by, or for which a permit is required by, United States environmental protection agency regulations, except in accordance with such permit;

(4) A threat to public health or safety or the environment.

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

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

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

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

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

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

(1) A copy of a letter from the United States army corps of engineers documenting its

jurisdiction over the wetlands, streams, or other waters of the state that are the subject of the section 401 water quality certification application;

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

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

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

(5) Applicable fees;

(6) Site photographs;

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

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

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

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

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

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

(D) If the director determines that there is significant public interest in a public hearing as

evidenced by the public comments received concerning the application and by other requests for a public hearing on the application, the director or the director's representative shall conduct a public hearing concerning the application. Notice of the public hearing shall be published by the applicant, subject to review and approval by the director, at least thirty days prior to the date of the hearing in a newspaper of general circulation in the county in which the project that is the subject of the application is to take place. If a public hearing is requested concerning an application, the director shall accept comments concerning the application until five business days after the public hearing. A public hearing conducted under this division shall take place not later than one hundred days after the application is determined to be complete.

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

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

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

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

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

- (1) Purchasing credits at a mitigation bank approved in accordance with 33 C.F.R. 332.8;
- (2) Participating in an in-lieu fee mitigation program approved in accordance with 33 C.F.R. 332.8;
- (3) Constructing individual mitigation projects.

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.

(J) The director ~~may~~ shall 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. The director shall establish a multi-sector work group to assist in the development of rules adopted under this division. The director shall use information submitted by certified water quality professionals in the review of those applications.

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

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

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

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

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

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

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

(2) Establish an annual fee to be paid by water quality professionals certified under rules adopted under division (J)(1) of this section in an amount calculated to defray the costs incurred by the environmental protection agency for reviewing applications for water quality professional certification and for issuing those certifications;

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

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

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

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

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

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

(a) Name;

(b) Qualifications and credentials;

(c) Status of the professional's certifications;

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

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

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

(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.

(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.

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.

(B) No person shall use, manage, or place dredged material in any location except in accordance with the following:

(1) Section 6111.32 of the Revised Code;

(2) Rules adopted under Chapter 6111. of the Revised Code;

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

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

Sec. 6111.34. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, may adopt rules governing the beneficial use of dredged material and the beneficial use of material excavated or dredged from adjacent or connected commercial maritime port facilities that are necessary to protect public health, safety, and the environment.

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

(1) Criteria for determining when dredged material and material excavated or dredged from adjacent or connected commercial maritime port facilities does not constitute either of the following:

(a) Solid wastes;

(b) Other wastes.

(2) Requirements and procedures for the issuance, modification, suspension, revocation, and denial of an authorization, authorization by rule, and general and individual permits for the beneficial use of dredged material and the beneficial use of material excavated or dredged from adjacent or connected commercial maritime port facilities.

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

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

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

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

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

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

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

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

(1) The applicant's name and phone number, and the address of the owner or operator of the processing facility or the proposed owner or operator of the processing facility. If the owner or operator or proposed owner or operator is an entity, the application shall include the name, phone number, and address of the agent of the owner or operator or proposed owner or operator. The application also shall include the emergency contact information of the owner or operator or proposed owner or operator.

(2) The location of the processing facility or proposed processing facility, including the

address and parcel numbers of the location;

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

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

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

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

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

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

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

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

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

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____