

As Introduced

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

S. B. No. 333

Senator Hite

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Accelerating the pace of cooperative research into, 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; 139
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(2) ~~Funding cooperative research and data collection regarding Lake Erie water quality and toxic contamination;~~ 145
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~~(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;~~ 147
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~~(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;~~ 151
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~~(5) Supplementing, in a stable and predictable manner, state commitments to policies and programs pertaining to Lake Erie water quality and resource protection;~~ 154
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~~(6) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, institutions of higher education, environmental organizations, and conservation groups within the Lake Erie basin;~~ 157
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~~(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 162
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organization for the development and implementation of projects 166
and programs that are designed to ~~protect~~address priorities 167
outlined in the Lake Erie ~~by reducing toxic contamination of or~~ 168
~~improving water quality in Lake Erie~~ protection and restoration 169
strategy; 170

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

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

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

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

Sec. 3714.01. As used in this chapter: 204

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

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

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

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

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

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

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

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

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

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

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

~~(K)~~—"Recycling" means processing construction and 303
demolition debris that would otherwise be disposed of and 304
returning the material to commerce as a commodity for use or 305
exchange in a legitimate market or for use in a beneficial 306
manner that does not constitute disposal. 307

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

under division (K) of this section. 462

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

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

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

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

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

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

(M) Procedures and requirements governing the

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

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

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

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

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

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

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

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

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

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

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

(3) The authorized maximum daily receipts; 570

(4) Fire prevention measures; 571

(5) Record-keeping procedures; 572

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

(7) Financial assurance requirements; 574

(8) The management of stormwater and leachate; 575

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

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

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

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

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

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

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

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

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

(C) Rules establishing financial assurance requirements 600
for the closure of a processing facility shall require that 601
prior to being issued an initial license for the facility under 602
section 3714.06 of the Revised Code, the owner or operator of a 603
facility submit a surety bond, a letter of credit, or other 604
acceptable financial assurance in a fixed amount as specified by 605

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The laws governing construction and demolition debris 840

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

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

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

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

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

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

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

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

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

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

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

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

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

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

facilities. 931

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

county recorder of the county in which the land or facility is 1204
located. The costs so recorded constitute a lien against the 1205
property on which the ~~facility is located until discharged~~ 1206
activities were conducted. Upon 1207

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

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

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

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

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

monitoring of facilities cleaned up under this section. 1265

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The appropriate local board of health; 1493

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

to create a future risk of harm. 1523

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

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

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

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

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

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

different rate is set by the court; 1552

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

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

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

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

(4) Compromise demands or claims; 1562
1563

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

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

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

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

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

Sec. 6111.03. The director of environmental protection may 1578

do any of the following: 1579

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Apply and enforce pretreatment standards; 1871

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

on the air and waters of the state; 1933

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

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

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

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

An approval of a treatment works sludge disposal program 1961

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

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

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

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

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

(1) Data on water quality and stream flow;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Applicable fees; 2222

(6) Site photographs; 2223

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Name; 2404

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

Code; 2432

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

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

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

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

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

(a) Solid wastes; 2446

(b) Other wastes. 2447

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Code. 2519

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