

**As Introduced**

**126th General Assembly  
Regular Session  
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**H. B. No. 75**

**Representatives Harwood, Law, Carano, Kearns, S. Patton, Miller, Distel,  
Skindell**

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**A B I L L**

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 1  
3714.05, 3714.06, 3714.08, and 3714.09, to enact 2  
sections 3714.051, 3714.101, and 3714.30 to 3  
3714.40, and to repeal section 3714.021 of the 4  
Revised Code to revise the siting criteria for a 5  
construction and demolition debris facility, to 6  
establish an application fee for an initial 7  
construction and demolition debris facility 8  
license, to require monthly inspections of 9  
construction and demolition debris facilities, to 10  
require background checks for the operation of 11  
such a facility, to require post-closure bonding 12  
for certain construction and demolition debris 13  
facilities, and to make other changes in the 14  
Construction and Demolition Debris Law. 15

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

**Section 1.** That sections 3714.01, 3714.02, 3714.03, 3714.04, 16  
3714.05, 3714.06, 3714.08, and 3714.09 be amended and sections 17  
3714.051, 3714.101, 3714.30, 3714.31, 3714.32, 3714.33, 3714.34, 18  
3714.35, 3714.36, 3714.37, 3714.38, 3714.39, and 3714.40 of the 19  
Revised Code be enacted to read as follows: 20

Sec. 3714.01. As used in this chapter: 21

(A) "Board of health" means the board of health of a city or 22  
general health district or the authority having the duties of a 23  
board of health in any city as authorized by section 3709.05 of 24  
the Revised Code. 25

(B) "Closure" means either the time at which a construction 26  
and demolition debris facility will no longer accept construction 27  
and demolition debris for disposal or the effective date of an 28  
order revoking the license of the facility. "Closure" includes 29  
measures performed to protect public health or safety, to prevent 30  
air or water pollution, or to make the facility suitable for other 31  
uses, if any, including, without limitation, the establishment and 32  
maintenance of suitable cover of soil and vegetation over areas 33  
where construction and demolition debris is buried and the 34  
minimization of erosion, the infiltration of surface water into 35  
such areas, the production of leachate, and the accumulation and 36  
runoff of contaminated surface water. 37

(C) "Construction and demolition debris" means those 38  
materials resulting from the alteration, construction, 39  
destruction, rehabilitation, or repair of any physical structure 40  
that is built by humans, including, without limitation, houses, 41  
buildings, industrial or commercial facilities, or roadways. 42  
~~"Construction and demolition debris" includes particles and dust~~ 43  
~~created during demolition activities.~~ "Construction and demolition 44  
debris" does not include materials identified or listed as solid 45  
wastes or hazardous waste pursuant to Chapter 3734. of the Revised 46  
Code and rules adopted under it; materials from mining operations, 47  
nontoxic fly ash, spent nontoxic foundry sand, and slag; or 48  
reinforced or nonreinforced concrete, asphalt, building or paving 49  
brick, or building or paving stone that is stored for a period of 50  
less than two years for recycling into a usable construction 51

material. 52

(D) "Disposal" means the discharge, deposit, injection, 53  
dumping, spilling, leaking, emitting, or placing of any 54  
construction and demolition debris into or on any land or ground 55  
or surface water or into the air, except if the disposition or 56  
placement constitutes storage. 57

(E) "Facility" means any site, location, tract of land, 58  
installation, or building used for the disposal of construction 59  
and demolition debris. "Facility" does not include any 60  
construction site where construction debris and trees and brush 61  
removed in clearing the construction site are used as fill 62  
material on the site where the materials are generated or removed 63  
and does not include any site where materials composed exclusively 64  
of reinforced or nonreinforced concrete, asphalt, clay tile, 65  
building or paving brick, or building or paving stone are used as 66  
fill material, either alone or in conjunction with clean soil, 67  
sand, gravel, or other clean aggregates, in legitimate fill 68  
operations for construction purposes or to bring the site up to a 69  
consistent grade. 70

(F) "Health district" means a city or general health district 71  
created by or under the authority of Chapter 3709. of the Revised 72  
Code. 73

(G) "Person" includes the state, any political subdivision of 74  
the state or other state or local body, the United States and any 75  
agency or instrumentality thereof, and any legal entity or 76  
organization defined as a person under section 1.59 of the Revised 77  
Code. 78

(H) "Storage" means the holding of construction and 79  
demolition debris for a temporary period in such a manner that it 80  
remains retrievable and substantially unchanged and, at the end of 81  
the period, is disposed of or reused or recycled in a beneficial 82

manner.

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~~Sec. 3714.02. Within twelve months after July 24, 1990, the~~  
The director of environmental protection shall adopt, and may  
amend and rescind, rules in accordance with Chapter 119. of the  
Revised Code governing construction and demolition debris  
facilities and the inspection of and issuance of licenses for  
those facilities. The rules shall ensure that the facilities will  
not create a nuisance, fire hazard, or health hazard or cause or  
contribute to air or water pollution. The rules shall establish  
all of the following:

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

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(B) Standards for control over access to facilities;

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

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

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(E) Requirements for the installation of ground water  
monitoring wells and the monitoring of ground water quality at any  
facility where the operation of the facility threatens to  
contaminate ground water+. The rules shall require annual sampling  
and laboratory analysis of ground water and leachate samples and  
testing for the presence of organic compounds and heavy metals  
that the director determines to be necessary and any other factor

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that the director determines to be necessary. 113

(F) Requirements respecting written, narrative plans for the 114  
operation of facilities; 115

(G) Requirements respecting contingency plans for effective 116  
action in response to fire or explosion at a facility; 117

(H) Financial assurance requirements for the closure and 118  
post-closure care of facilities. The rules shall require that the 119  
owner or operator of a facility, before being issued a license for 120  
the facility under section 3714.06 of the Revised Code, submit a 121  
surety bond, a letter of credit, or other acceptable financial 122  
assurance, as specified by the director in the rules, in an amount 123  
equal to the estimated costs for closure and post-closure care of 124  
those portions of the facility that have been, are being, or are 125  
to be used for the disposal of construction and demolition debris 126  
~~as contained in the closure plan for the facility approved by the~~ 127  
~~board of health of the health district in which the facility is or~~ 128  
~~is to be located or, if the facility is or is to be located in a~~ 129  
~~health district that is not on the approved list under division~~ 130  
~~(A) or (B)(1) or (2) of section 3714.09 of the Revised Code, by~~ 131  
~~the director. The rules establishing financial assurance~~ 132  
~~requirements for the post-closure care of facilities do not apply~~ 133  
~~for twenty-four months after the effective date of this amendment~~ 134  
~~to a facility for which a license was issued on or before the~~ 135  
~~effective date of this amendment.~~ 136

(I) Requirements for the closure of facilities. The 137  
requirements shall include minimum requirements for the closure of 138  
all facilities and such additional requirements as are reasonably 139  
related to the location of the facility and the type and quantity 140  
of materials disposed of in the facility. 141

(J) Requirements for the post-closure care of facilities that 142  
are reasonably related to the continued maintenance of ground 143

water monitoring wells and to the monitoring of ground water at a 144  
facility as provided under section 3714.101 of the Revised Code. 145

The rules adopted under this section shall not prohibit the 146  
open burning of construction debris on a construction site in 147  
compliance with division (C)(1) of section 3704.11 of the Revised 148  
Code. 149

**Sec. 3714.03. (A) As used in this section:** 150

(1) "Aquifer system" means one or more geologic units or 151  
formations that are wholly or partly saturated with water and are 152  
capable of storing, transmitting, or yielding ground water at a 153  
time weighted average rate greater than one-tenth of a gallon per 154  
minute over a twenty-four-hour period unless the geologic units or 155  
formations yield less than three gallons per minute, but more than 156  
one-tenth of a gallon per minute and the ground water yield is 157  
less than fifty per cent of the yield of another saturated zone 158  
under a construction and demolition debris facility that is the 159  
likely source of water used for any purpose within one mile of the 160  
facility. 161

(2) "Category 3 wetland" means a category 3 wetland as 162  
described in rule 3745-1-54 of the Administrative Code as that 163  
rule existed on the effective date of this amendment. 164

(3) "Community water system" has the same meaning as in 165  
section 6109.01 of the Revised Code. 166

(4) "Drinking water source protection area for a community 167  
water system using ground water" means the surface and subsurface 168  
areas surrounding a public water supply well that will provide 169  
water from an aquifer to the well within five years as delineated 170  
or endorsed by the environmental protection agency in accordance 171  
with the wellhead protection program or the source water 172  
assessment protection program established pursuant to section 173

<u>6109.04 of the Revised Code.</u>	174
<u>(5) "Limits of construction and demolition debris placement"</u>	175
<u>means the areal and vertical limits of debris placement within a</u>	176
<u>construction and demolition debris facility and includes the</u>	177
<u>volume of debris placement.</u>	178
<u>(6) "Natural area" means any of the following:</u>	179
<u>(a) An area designated by the director of natural resources</u>	180
<u>as a scenic river under section 1517.14 of the Revised Code;</u>	181
<u>(b) An area designated by the United States department of the</u>	182
<u>interior as a national scenic river;</u>	183
<u>(c) An area designated by the United States forest service as</u>	184
<u>either a special interest area or a research natural area in the</u>	185
<u>Wayne national forest;</u>	186
<u>(d) An area designated, owned, and managed by the Ohio</u>	187
<u>historical society as a nature preserve;</u>	188
<u>(e) A stream segment designated by the environmental</u>	189
<u>protection agency under Chapter 6111. of the Revised Code and</u>	190
<u>rules adopted under it as a state resource water, a coldwater</u>	191
<u>habitat, or an exceptional warmwater habitat.</u>	192
<u>(B) Neither the director of environmental protection nor any</u>	193
<u>board of health shall issue a license under section 3714.06 of the</u>	194
<u>Revised Code to establish and operate a new construction and</u>	195
<u>demolition debris facility when <del>any portion</del> <u>the limits of</u></u>	196
<u>construction and demolition debris placement of the facility <del>is</del></u>	197
<u><u>are</u> proposed to be located in <del>either</del> <u>any</u> of the following</u>	198
<u>locations:</u>	199
<u>(A)(1) Within the boundaries of <del>the</del> <u>a</u> one-hundred-year flood</u>	200
<u>plain <del>of a watercourse</del>, as those boundaries are shown on the</u>	201
<u>applicable maps prepared under the "National Flood Insurance Act</u>	202
<u>of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the</u>	203

owner or operator has obtained an exemption from ~~this~~ division 204  
(B)(1) of this section in accordance with section 3714.04 of the 205  
Revised Code. ~~With respect to watercourses or portions thereof for~~ 206  
~~which~~ If no such maps have been prepared, the boundaries of ~~the a~~ 207  
one-hundred-year flood plain shall be determined by the applicant 208  
for a license based upon ~~a design storm of seven inches of~~ 209  
~~precipitation in twenty-four hours and upon~~ standard methodologies 210  
set forth in "urban hydrology for small watersheds" (soil 211  
conservation service technical release number 55) and section 4 of 212  
the "national engineering hydrology handbook" of the soil 213  
conservation service of the United States department of 214  
agriculture. 215

~~(B)(2)~~ Within the boundaries of a sole source aquifer 216  
designated by the administrator of the United States environmental 217  
protection agency under the "Safe Drinking Water Act," 88 Stat. 218  
1660 (1974), 42 U.S.C.A. 300f, as amended; 219

(3) Above an unconsolidated aquifer system that sustains a 220  
one hundred gallon per minute yield for a twenty-four-hour period 221  
to an existing or future water supply well located within one 222  
thousand feet of the limits of construction and demolition debris 223  
placement of the facility. The existence of such an aquifer system 224  
shall be determined through publicly available information or 225  
hydrogeologic site investigation. 226

(C) Except as provided in division (I) of this section, 227  
neither the director nor any board shall issue a license under 228  
section 3714.06 of the Revised Code to establish and operate a new 229  
construction and demolition debris facility or to modify an 230  
existing facility when the limits of construction and demolition 231  
debris placement at the new facility or at any new portion of the 232  
existing facility are proposed to be located in any of the 233  
following locations: 234

(1) Within one thousand feet of a water supply well; 235

<u>(2) Within two hundred feet of a stream, lake, or category 3 wetland;</u>	236
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<u>(3) Within two hundred feet of the facility's property line;</u>	238
<u>(4) Within one thousand feet of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any area located in this state that is recommended by the secretary for study for potential inclusion in the national park system in accordance with "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;</u>	239
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<u>(5) If a liner and a leachate management system are used at the facility, above the subsurface area of potential subsidence to an underground mine.</u>	250
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<u>(D) Except as provided in division (I) of this section, neither the director nor any board shall issue a license under section 3714.06 of the Revised Code to establish and operate a new construction and demolition debris facility or to modify an existing facility when the limits of construction and demolition debris placement at the new facility or at any new portion of an existing facility are proposed to be located less than five feet above the uppermost aquifer system.</u>	253
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<u>(E) Except as provided in division (I) of this section, neither the director nor any board shall issue a license under section 3714.06 of the Revised Code to establish and operate a new construction and demolition debris facility or to modify an existing facility when the limits of construction and demolition debris placement at the new facility or at any new portion of an</u>	261
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existing facility are proposed to be located in a drinking water 267  
source protection area for a community water system using ground 268  
water. 269

(F) Neither the director nor any board shall issue a license 270  
under section 3714.06 of the Revised Code to establish and operate 271  
a new construction and demolition debris facility when the limits 272  
of construction and demolition debris placement of the new 273  
facility are proposed to be located within one thousand feet of a 274  
natural area, any area established by the department of natural 275  
resources as a state wildlife area under Chapter 1531. of the 276  
Revised Code and rules adopted under it, any area that is formally 277  
dedicated as a nature preserve under section 1517.05 of the 278  
Revised Code, or any area designated by the United States 279  
department of the interior as a national wildlife refuge. 280

(G) Neither the director nor any board shall issue a license 281  
under section 3714.06 of the Revised Code to establish and operate 282  
a new construction and demolition debris facility unless the areas 283  
at the new facility where construction and demolition debris will 284  
be placed will have a liner comprised of not less than eighteen 285  
inches of compacted clay and the new facility will install and 286  
operate a ground water monitoring system and leachate management 287  
system. 288

(H) As used in this section, "new portion of an existing 289  
facility" means any area of an existing facility that has not been 290  
designated as an active or inactive licensed disposal area for the 291  
facility. 292

(I) Divisions (C), (D), and (E) of this section do not apply 293  
for twenty-four months after the effective date of this amendment 294  
to a facility for which a license was issued on or before the 295  
effective date of this amendment. 296

**Sec. 3714.04.** The director of environmental protection or the board of health having territorial jurisdiction may by order exempt any person disposing of or proposing to dispose of construction and demolition debris in such quantities or under such circumstances that, in the determination of the director or board of health, are unlikely to adversely affect the public health or safety or the environment, or to create a fire hazard, from any provision of this chapter or a rule adopted or order issued under it, other than division (B)(2) of section 3714.03 or division (E) of section 3714.13 of the Revised Code. Neither the director nor any board of health shall grant an exemption under this section from division ~~(A)~~ (B)(1) of section 3714.03 of the Revised Code if the director or board finds from the license application that the establishment of a new construction or demolition debris facility in the one-hundred-year flood plain of a watercourse would result in an increase of more than one foot in the elevation of the flood stage of the watercourse upstream or downstream from the proposed facility. The applicant for a license shall determine the increase in the flood stage resulting from the location of the proposed facility within the one-hundred-year flood plain of a watercourse based upon ~~a design storm of seven inches of precipitation in twenty-four hours and upon~~ standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

**Sec. 3714.05.** The board of health of each health district maintaining a program on the approved list under division (A) or (B)(1) or (2) of section 3714.09 of the Revised Code shall provide for the inspection ~~or~~ of, licensing of, and enforcement of standards governing construction and demolition debris facilities

under this chapter and rules adopted under it. The director of 329  
environmental protection shall provide for the inspection and 330  
licensing of construction and demolition debris facilities, and 331  
enforcement of standards in health districts that are not on the 332  
approved list under those divisions and may provide for the 333  
inspection of the facilities and enforcement of standards in 334  
health districts that are on the approved list under those 335  
divisions. 336

Sec. 3714.051. Each person proposing to open a new 337  
construction and demolition debris facility, prior to the 338  
submission of an application for an initial license, shall hold a 339  
public meeting in the township or municipal corporation, whichever 340  
is applicable, where the proposed facility is to be located. The 341  
director of environmental protection or the director's designee or 342  
the board of health of the health district in which the facility 343  
is to be located or the board's designee may attend the public 344  
meeting. At least thirty days prior to the public meeting, the 345  
person proposing to open a facility shall provide notice of the 346  
time, day, and location of the public meeting in a newspaper of 347  
general circulation in the locality of the proposed facility and 348  
mail a copy of the notice to the director or board of health, 349  
whichever is applicable. 350

**Sec. 3714.06.** (A) No person shall establish, modify, operate, 351  
or maintain a construction and demolition debris facility without 352  
a construction and demolition debris facility installation and 353  
operation license issued by the board of health of the health 354  
district in which the facility is or is to be located or, if the 355  
facility is or is to be located in a health district that is not 356  
on the approved list under division (A) or (B)(1) or (2) of 357  
section 3714.09 of the Revised Code, from the director of 358  
environmental protection. Each person proposing to open a new 359

construction and demolition debris facility or to modify an 360  
existing facility shall, at least ninety days before proposed 361  
operation of the facility, submit an application for a license 362  
with accompanying plans, specifications, and information regarding 363  
the facility and its method of operation to the board of health of 364  
the health district in which the facility is located or proposed 365  
for approval as complying with the rules adopted under section 366  
3714.02 of the Revised Code and the standards set forth in 367  
~~divisions (A) and (B) of~~ section 3714.03 of the Revised Code or, 368  
if the health district in which the facility is located or 369  
proposed to be located is not on the approved list under division 370  
(A) or (B)(1) or (2) of section 3714.09 of the Revised Code, to 371  
the director for approval as complying with those rules and 372  
standards. If the board of health or the director, as appropriate, 373  
finds that the proposed facility or modification complies with 374  
those rules and standards, the board or director shall issue a 375  
license for the facility. Any such license may be issued with such 376  
terms and conditions as the board or the director, as appropriate, 377  
finds necessary to ensure that the facility will comply with this 378  
chapter and the rules adopted under it and to protect the public 379  
health and safety and the environment. Licenses issued under this 380  
section expire annually on the thirty-first day of December. 381

An application for a license to open a new construction and 382  
demolition debris facility shall be accompanied by the fee 383  
established in section 3714.061 of the Revised Code. 384

(B) During the month of December, but before the first day of 385  
January of the next year, each person proposing to continue with 386  
construction or operation of a construction and demolition debris 387  
facility shall procure a license for the facility for that year 388  
from the board of health of the health district in which the 389  
facility is located or, if the facility is located in a health 390  
district that is not on the approved list under division (A) or 391

(B)(1) or (2) of section 3714.09 of the Revised Code, from the 392  
director. The application for a license shall be submitted to the 393  
board of health or the director, as appropriate, on or before the 394  
last day of September of the year preceding that for which the 395  
license is sought. ~~A person who has received a license, upon sale 396  
or disposition of the facility, may, with the consent of the board 397  
or the director, as appropriate, have the license transferred to 398  
another person.~~ 399

(C) ~~The owner or operator of a construction and demolition 400  
debris facility that is in operation or under construction on the 401  
effective date of this section shall, within six months after the 402  
effective date of the rules adopted under section 3714.02 of the 403  
Revised Code, submit to the board of the health district in which 404  
the facility is located or under construction an application for a 405  
construction and demolition debris facility installation and 406  
operation license and accompanying plans, specifications, and 407  
information regarding the facility and its method of operation. If 408  
the health district in which such an existing facility is not on 409  
the approved list under division (A) or (B)(1) or (2) of section 410  
3714.09 of the Revised Code, the owner or operator of the facility 411  
shall submit the application for a license and accompanying plans, 412  
specifications, and information regarding the facility and its 413  
method of operation to the director within that time. The board or 414  
the director, as appropriate, shall issue a license for such an 415  
existing facility within ninety days after receiving a complete 416  
application therefor and accompanying plans, specifications, and 417  
information if the board or the director finds that the facility 418  
complies with the rules adopted under section 3714.02 of the 419  
Revised Code. When issuing a license under this division for an 420  
existing facility or a license to expand any existing facility 421  
that was initially licensed under this division onto contiguous 422  
land owned by the owner or operator of the existing facility on 423~~

~~the date on which the application for a license for the facility 424  
was submitted under this division, neither the board nor the 425  
director shall consider whether the existing facility complies 426  
with the standards set forth in divisions (A) and (B) of section 427  
3714.03 of the Revised Code. 428~~

~~If the board of health or the director denies an application 429  
submitted under this division, the board or the director shall 430  
include in the order denying the application the requirements that 431  
the owner or operator of the facility submit a plan for closure of 432  
the facility to the board or the director, as appropriate, for 433  
approval within six months after issuance of the order; cease 434  
accepting construction and demolition debris for disposal; and 435  
commence closure of the facility within one year after issuance of 436  
the order. 437~~

~~(D) Upon issuance of a license under this section, the a 438  
board of health shall mail a copy of the license to the director. 439  
If a license authorizes construction of a new facility or 440  
modification of an existing facility, the board shall also mail 441  
with the license a copy of the approved plans, specifications, and 442  
information regarding the facility and its method of operation. 443~~

Sec. 3714.061. The fee for an application for an initial 444  
construction and demolition debris facility installation and 445  
operation license issued under section 3714.06 of the Revised Code 446  
is five thousand dollars. The fee shall accompany the application 447  
for the initial license submitted under that section and is 448  
nonrefundable. 449

A board of health issuing licenses under section 3714.06 of 450  
the Revised Code shall pay the money from the fee into the special 451  
fund of the health district created in section 3714.07 of the 452  
Revised Code. If the director of environmental protection issues 453  
licenses under section 3714.06 of the Revised Code, the director 454

shall transmit money from the fee to the treasurer of state to be 455  
credited to the construction and demolition debris facility 456  
oversight fund created in section 3714.07 of the Revised Code. 457

**Sec. 3714.08.** (A) At least ~~annually~~ once each month, the 458  
board of health of a health district or the director of 459  
environmental protection shall cause each construction and 460  
demolition debris facility for which the board or the director, as 461  
appropriate, issued a license under section 3714.06 of the Revised 462  
Code to be inspected and shall cause a record to be made of each 463  
inspection. The board or the director shall require each such 464  
facility to be in substantial compliance with this chapter and 465  
rules adopted under it. 466

(B) Within thirty days after the issuance of a license, the 467  
board of health shall certify to the director of environmental 468  
protection that the construction and demolition debris facility 469  
has been inspected and is in substantial compliance with this 470  
chapter and rules adopted under it. Each board of health shall 471  
provide the director with such other information as ~~he~~ the 472  
director may require from time to time. 473

(C) The board of health or its authorized representative and 474  
the director or ~~his~~ the director's authorized representative, upon 475  
proper identification and upon stating the purpose and necessity 476  
of an inspection, may enter at reasonable times upon any public or 477  
private property, real or personal, to inspect or investigate, 478  
obtain samples, and examine or copy records to determine 479  
compliance with this chapter and rules adopted under it. The board 480  
of health or its authorized representative or the director or ~~his~~ 481  
the director's authorized representative may apply for, and any 482  
judge of a court of record may issue, an appropriate search 483  
warrant necessary to achieve the purposes of this chapter and 484  
rules adopted under it within the court's territorial 485

jurisdiction. If entry is refused or inspection or investigation 486  
is refused, hindered, or thwarted, the board of health or the 487  
director may suspend or revoke the construction and demolition 488  
debris facility's license. 489

(D) If the entry authorized by division (C) of this section 490  
is refused or if the inspection or investigation so authorized is 491  
refused, hindered, or thwarted by intimidation or otherwise and if 492  
the director, the board of health, or authorized representative of 493  
either applies for and obtains a search warrant under division (C) 494  
of this section to conduct the inspection or investigation, the 495  
owner or operator of the premises where entry was refused or 496  
inspection or investigation was refused, hindered, or thwarted is 497  
liable to the director or board of health for the reasonable costs 498  
incurred by either for the regular salaries and fringe benefit 499  
costs of personnel assigned to conduct the inspection or 500  
investigation from the time the entry, inspection, or 501  
investigation was refused, hindered, or thwarted until the search 502  
warrant is executed; for the salary, fringe benefits, and travel 503  
expenses of the attorney general, prosecuting attorney of the 504  
county, or city director of law, or an authorized assistant, 505  
incurred in obtaining the search warrant; and for expenses 506  
necessarily incurred for the assistance of local law enforcement 507  
officers in executing the search warrant. In the application for a 508  
search warrant, the director or board of health may request and 509  
the court, in its order granting the search warrant, may order the 510  
owner or operator of the premises to reimburse the director or 511  
board of health for such of those costs as the court finds 512  
reasonable. From moneys recovered under this division, the 513  
director shall reimburse the attorney general for the costs 514  
incurred by ~~him~~ the attorney general or ~~his~~ the attorney general's 515  
authorized assistant in connection with proceedings for obtaining 516  
the search warrant, shall reimburse the political subdivision in 517  
which the premises is located for the assistance of its law 518

enforcement officers in executing the search warrant, and shall 519  
deposit the remainder to the credit of the construction and 520  
demolition debris facility oversight fund created in section 521  
3714.07 of the Revised Code. From moneys recovered under this 522  
division, the board of health shall reimburse the prosecuting 523  
attorney of the county or the city director of law for the costs 524  
incurred by ~~him~~ the prosecuting attorney or the city director of 525  
law or ~~his~~ the authorized assistant of the prosecuting attorney or 526  
the city director of law in connection with proceedings for 527  
obtaining the search warrant, shall reimburse the political 528  
subdivision in which the premises is located for the assistance of 529  
its law enforcement officers in executing the search warrant, and 530  
shall deposit the remainder of any such moneys to the credit of 531  
the special fund of the health district created in section 3714.07 532  
of the Revised Code. 533

**Sec. 3714.09.** (A) The director of environmental protection 534  
shall place each health district that is on the approved list 535  
under division (A) or (B) of section 3734.08 of the Revised Code 536  
on the approved list for the purposes of issuing licenses under 537  
section 3714.06 of the Revised Code. Any survey or resurvey of any 538  
such health district conducted under section 3734.08 of the 539  
Revised Code shall also determine whether there is substantial 540  
compliance with this chapter. If the director removes any such 541  
health district from the approved list under division (B) of that 542  
section, the director shall also remove the health district from 543  
the approved list under this division and shall administer and 544  
enforce this chapter in the health district until the health 545  
district is placed on the approved list under division (B) of 546  
section 3734.08 of the Revised Code or division (B)(1) of this 547  
section. 548

(B)(1) Upon the request of the board of health of a health 549  
district that is not on the approved list under division (A) or 550

(B) of section 3734.08 of the Revised Code, the director may place  
the board on the approved list for the purpose of licensing  
construction and demolition debris facilities under section  
3714.06 of the Revised Code if the director determines that the  
board is both capable of and willing to enforce all of the  
applicable requirements of this chapter and rules adopted under  
it.

(2) The director shall annually survey each health district  
on the approved list under division (B)(1) of this section to  
determine whether there is substantial compliance with this  
chapter and rules adopted under it. Upon determining that there is  
substantial compliance, the director shall place the health  
district on the approved list under that division. The director  
shall make a resurvey when in the director's opinion a resurvey is  
necessary and shall remove from the approved list under division  
(B)(1) of this section any health district not substantially  
complying with this chapter and rules adopted under it.

(3) If, after a survey or resurvey is made under division  
(B)(2) of this section, the director determines that a health  
district is not eligible to be placed on the approved list or to  
continue on that list, the director shall certify that fact to the  
board of health of the health district and shall administer and  
enforce this chapter and rules adopted under it in the health  
district until such time as the health district is placed on the  
approved list.

(4) Whenever the director is required to administer and  
enforce this chapter in any health district under division (A) or  
(B)(3) of this section, the director is hereby vested with all of  
the authority and all the duties granted to or imposed upon a  
board of health under this chapter and rules adopted under it  
within the health district. All application fees required to be  
paid to a board of health by section 3714.061 of the Revised Code,

all disposal fees required to be paid to a board of health by 583  
section 3714.07 of the Revised Code, and all such previous fees 584  
paid to the board, together with any money from construction and 585  
demolition debris facility license fees that were required to be 586  
paid to the board under section 3714.07 of the Revised Code as 587  
that section existed prior to ~~the effective date of this amendment~~ 588  
April 15, 2005, that have not been expended or encumbered shall be 589  
paid to the director and deposited by the director to the credit 590  
of the construction and demolition debris facility oversight fund 591  
created in section 3714.07 of the Revised Code. 592

(C) Nothing in this chapter limits the authority of the 593  
director to initiate and pursue any administrative remedy or to 594  
request the attorney general, the prosecuting attorney of the 595  
appropriate county, or the city director of law of the appropriate 596  
city to initiate and pursue any appropriate judicial remedy 597  
available under this chapter to enforce any provision of this 598  
chapter and any rules or terms or conditions of any license or 599  
order adopted or issued under this chapter with respect to any 600  
construction and demolition debris facility regardless of whether 601  
the facility is located in a health district that is on the 602  
approved list under division (A) or (B)(1) or (2) of this section. 603

Sec. 3714.101. If the owner or operator of a construction and 604  
demolition debris facility has been issued a license and the 605  
facility is required to install ground water monitoring wells and 606  
monitor the quality of ground water under this chapter and rules 607  
adopted under it, the owner or operator shall maintain the ground 608  
water monitoring wells and monitor the quality of ground water for 609  
ten years after the closure of the facility. In addition, the 610  
owner or operator shall provide financial assurance for the 611  
continued maintenance of ground water monitoring wells and for 612  
monitoring the quality of ground water for ten years after the 613  
closure of the facility in accordance with rules adopted under 614

this chapter.

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Sec. 3714.30. As used in sections 3714.30 to 3714.40 of the Revised Code:

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(A) "Applicant" means any person who submits an application for a license for a construction and demolition debris facility.

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(B) "Application" means the forms and documents submitted for a license for a construction and demolition debris facility.

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(C) "Business concern" means any corporation, association, partnership, sole proprietorship, or other entity organized for profit.

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(D) "Debt liability" means bonds, debentures, notes, mortgages, loans of any kind, secured or unsecured, and other debt instruments.

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(E) "Disclosure statement" means a written statement submitted to the attorney general that contains all of the information required under section 3714.32 of the Revised Code.

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(F) "Employed in a supervisory capacity" means that an individual has been delegated authority in the interest of the individual's employer to exercise the individual's independent judgment to perform or effectively recommend any one or more of the following actions: hiring, firing, transferring, suspending, laying off, recalling, promoting, discharging, assigning, rewarding, disciplining, directing, or adjusting grievances of employees whose duties include, but are not limited to, the evaluation, identification, labeling, monitoring of the effect of, or disposal of construction and demolition debris.

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(G) "Empowered to make discretionary decisions" means that an individual has been delegated authority in the interest of the individual's employer to exercise the individual's independent

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judgment in the management and disposal of construction and  
demolition debris. 644  
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(H) "Equity" means any ownership interest in a business  
concern. 646  
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(I) "Government entity" means a state, any agency of a state,  
any political subdivision of a state, the United States, and any  
agency or instrumentality of it. 648  
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(J) "Key employee" means an individual, other than a public  
official or employee as defined in division (B) of section 102.01  
of the Revised Code who is required to file a statement under  
section 102.02 of the Revised Code, who is employed by an  
applicant in a supervisory capacity or empowered to make  
discretionary decisions with respect to the construction and  
demolition debris operations of the business concern, but does not  
include any employee who is exclusively engaged in the physical or  
mechanical collection, transportation, or disposal of construction  
and demolition debris. If the applicant has entered into a  
contract with another person to operate the facility that is the  
subject of the license application, "key employee" includes those  
employees of the contractor who act in a supervisory capacity or  
who are empowered to make discretionary decisions with respect to  
the construction and demolition debris operations of the business  
concern. An officer or director of a business concern that is  
required to file a disclosure statement under section 3714.31 of  
the Revised Code who meets the definition of "key employee" shall  
be considered a key employee for the purposes of the filing and  
disclosure requirements of sections 3714.30 to 3714.40 of the  
Revised Code. 651  
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(K) "License" means the annual license required by section  
3714.06 of the Revised Code for a construction and demolition  
debris facility. 672  
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(L) "Licensee" means any person who has received a license for a construction and demolition debris facility and who is either the owner or operator of the facility. 675  
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(M) "Operator" means the person who is responsible for the direct control or overall operation of a facility. 678  
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(N) "Owns or controls" means either of the following: 680

(1) Holding at least five per cent of the equity of a publicly traded corporation or twenty-five per cent of the equity of any other business concern either directly or through a holding company or subsidiary; 681  
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(2) Possessing the ability to control the purchase or sale of at least five per cent of the equity of a publicly traded corporation or twenty-five per cent of the equity of any other business concern either directly or through a holding company or subsidiary. 685  
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(O) "Partner" means a person who holds a position as, or similar to, a general partner as defined in section 1782.01 of the Revised Code or a limited partner as defined in that section or a person who shares profits and liability and has management powers of a partnership, as "partnership" is defined in section 1775.05 of the Revised Code. 690  
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(P) "Publicly traded corporation" means a corporation in which the shares are listed on a national securities exchange, the shares are regularly quoted by one or more members of a national or affiliated securities association, or the shares are held by fifty or more shareholders. 696  
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(Q) "Relative" means a mother, father, sister, brother, aunt, uncle, spouse, child, adopted child, step-child, or grandparent or the parent, brother, or sister of a spouse. 701  
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(R) "Sole proprietorship" means a form of business, other 704

than a partnership or corporation, in which one person owns all of  
the assets and is solely liable for all the debts of the business.  
"Sole proprietor" includes any individual or entity that is an  
applicant or prospective owner.

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**Sec. 3714.31.** (A) Not later than one hundred eighty days  
prior to the submission of an application to the director of  
environmental protection or a board of health for a license for a  
construction and demolition debris facility, the applicant shall  
submit a disclosure statement to the attorney general. Upon  
receipt of the disclosure statement, the attorney general shall  
prepare an investigative report and send the report to the  
director. The director shall review the report and may review the  
disclosure statement. The director or a board of health shall  
either approve or deny the license in accordance with this chapter  
and rules adopted under it. However, if the director determines  
that the report contains information that if submitted with a  
license application would require a denial of the license under  
section 3714.37 of the Revised Code, the director shall deny the  
license. If a board of health is reviewing the application for a  
license and the director determines that the report contains  
information that if submitted with a license application would  
require a denial of the license under section 3714.37 of the  
Revised Code, the director shall notify the board of health  
reviewing the application, and the board shall deny the license. A  
board of health reviewing an application for a license shall not  
deny the license because of information contained in an  
investigative report unless the director notifies the board that  
the board must deny the license. The director's notification to a  
board of health is not a final action and is not appealable under  
Chapter 3745. of the Revised Code.

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(B)(1) Not later than one hundred eighty days prior to the

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change of ownership of a licensed construction and demolition 736  
debris facility, the prospective owner shall submit a disclosure 737  
statement to the attorney general and shall submit to a board of 738  
health or the director, as appropriate, an application for a 739  
license. Upon receipt of the disclosure statement, the attorney 740  
general shall prepare an investigative report and send the report 741  
to the director. The director shall review the report and may 742  
review the disclosure statement. The director shall either approve 743  
or deny the change in ownership in accordance with this chapter 744  
and rules adopted under it. However, if the director determines 745  
that the report contains information that if submitted with a 746  
license application would require a denial of the license under 747  
section 3714.37 of the Revised Code, the director shall deny the 748  
change in ownership. 749

If the director approves the change in ownership, a board of 750  
health or the director shall issue a license to the new owner or 751  
operator in accordance with this chapter and rules adopted under 752  
it. Upon the issuance of a license to the new owner or operator, 753  
the license issued to the former owner or operator is invalid. 754

(2) Not later than one hundred eighty days prior to the 755  
change of ownership of a closed construction and demolition debris 756  
facility and if a prospective owner intends to submit an 757  
application for a license to operate the facility as a 758  
construction and demolition debris facility, the prospective owner 759  
shall submit a disclosure statement to the attorney general. Upon 760  
receipt of the disclosure statement, the attorney general shall 761  
prepare an investigative report and send the report to the 762  
director. The director shall review the report and may review the 763  
disclosure statement. The director shall either approve or deny 764  
the change in ownership in accordance with this chapter and rules 765  
adopted under it. However, if the director determines that the 766  
report contains information that if submitted with a license 767

application would require a denial of the license under section 768  
3714.37 of the Revised Code, the director shall deny the change in 769  
ownership. 770

(3) If the parties to a change in ownership of a construction 771  
and demolition debris facility proceed with the change prior to 772  
the director's approval or denial of the change in ownership, the 773  
parties shall include in all contracts or other documents 774  
concerning the change language expressly making the change in 775  
ownership subject to the approval of the director and expressly 776  
negating the change in ownership if the director denies the change 777  
in ownership under division (B)(1) or (2) of this section. 778

(4) As used in division (B) of this section, "change in 779  
ownership" includes any change in names, other than those of 780  
officers, directors, or key employees, that are contained in the 781  
disclosure statement. 782

(C) On the anniversary date of the submission of the initial 783  
disclosure statement under division (A) or (B) of this section for 784  
a specific facility to the attorney general, or on another date 785  
assigned by the attorney general, the person that was required to 786  
file the disclosure statement annually shall submit to the 787  
attorney general all information required to be included in a 788  
disclosure statement that has changed or been added in the 789  
immediately preceding year. If there have been no changes in or 790  
additions to that information, the person shall submit to the 791  
attorney general an affidavit stating that there have been no 792  
changes or additions during that time period. 793

In addition to the annual submission of information, the 794  
following information shall be submitted to the attorney general 795  
within the periods specified: 796

(1) Not later than ninety days after the addition of a new 797  
officer, director, partner, or key employee, all the information 798

that is required to be included in the disclosure statement for an 799  
officer, director, partner, or key employee; 800

(2) Not later than ninety days after the addition of a new 801  
business concern, all the information that is required to be 802  
included in the disclosure statement for a business concern; 803

(3) Not later than ninety days after the judgment entry of a 804  
new criminal conviction, all the information that is required to 805  
be included in the disclosure statement regarding a conviction. 806

The failure to timely provide the information may constitute 807  
the basis for the revocation or denial of a license issued under 808  
this chapter and rules adopted under it. However, prior to the 809  
revocation or denial of a license, the director shall notify the 810  
applicant of the director's intention to do so and allow the 811  
applicant to explain, not later than fourteen days after the date 812  
of the notice, why the information was not provided. The director 813  
shall consider an explanation received during that period before 814  
determining whether to revoke or deny the license. 815

Nothing in this chapter affects the authority of the director 816  
or the attorney general under sections 3714.31 to 3714.40 of the 817  
Revised Code to request information from a person at any other 818  
time. 819

(D) Not later than one hundred eighty days after receipt of a 820  
disclosure statement under this section, the attorney general 821  
shall prepare an investigative report and send the report to the 822  
director. However, the attorney general or the director may extend 823  
the deadline for a reasonable period for good cause. In preparing 824  
the investigative report, the attorney general may request and 825  
receive criminal history information from the federal bureau of 826  
investigation and any other law enforcement agency or 827  
organization. The attorney general may provide confidentiality 828  
regarding the information received from a law enforcement agency 829

that may be imposed by that law enforcement agency as a condition 830  
for providing the information to the attorney general. 831

(E) The attorney general shall develop and provide the forms 832  
required under this section. 833

**Sec. 3714.32.** A disclosure statement shall include all of the 834  
following: 835

(A) A general narrative that describes the operations of the 836  
applicant in terms of tonnage or cubic yards of construction and 837  
demolition debris received, number of facilities operated, and any 838  
other aspect that the applicant determines will accurately 839  
represent the operations of the applicant. The applicant may 840  
supplement the general narrative with recent photographs, 841  
statistics, reports, or other materials. 842

(B) The full name, business address and telephone number, 843  
home address and telephone number, date of birth, social security 844  
number, driver's license number, and any other names or aliases of 845  
the applicant or, if the applicant is a business concern, of all 846  
officers, directors, partners, and key employees of it and of all 847  
individuals or business concerns holding more than five per cent 848  
of the equity in or debt liability of that business concern or, if 849  
the business concern is a publicly traded corporation, all 850  
individuals or business concerns holding more than five per cent 851  
of the equity in or debt liability of that business concern, 852  
except that when the debt liability is held by a chartered lending 853  
institution, the applicant need supply only the name and business 854  
address of the lending institution; 855

(C) The full name, business address and telephone number, and 856  
federal tax identification number of any business concern in which 857  
the applicant holds more than five per cent of the equity interest 858  
and that disposes of construction and demolition debris; 859

(D) A diagram showing the organization of the applicant's 860  
business concerns; 861

(E) A list of all officers, directors, partners, and key 862  
employees of the applicant, as applicable, containing a summary of 863  
their credentials and their responsibilities relevant to the 864  
applicant and the applicant's facilities; 865

(F) A description of the experience and credentials possessed 866  
by the applicant, including any past or present licenses for the 867  
disposal of construction and demolition debris, or, if the 868  
applicant is a business concern, by the officers, directors, 869  
partners, and key employees of it; 870

(G) For the applicant and each business concern that is 871  
required to be listed in the disclosure statement, a summary of 872  
the history of environmental compliance for five years prior to 873  
the date of submission of the disclosure statement for each 874  
facility owned or operated by the applicant and each listed 875  
business concern. If the applicant or a business concern listed in 876  
the disclosure statement owns or operates one or more construction 877  
and demolition debris facilities in this state, the applicant or 878  
the business concern listed in the disclosure statement shall 879  
submit the environmental compliance history only for each facility 880  
located in this state. However, if an applicant or a business 881  
concern listed in the disclosure statement does not own or operate 882  
or has not previously owned or operated a construction and 883  
demolition debris facility in this state, but has owned or 884  
operated a construction and demolition debris facility in another 885  
state, the applicant or the business concern listed in the 886  
disclosure statement shall submit an environmental compliance 887  
history for each facility located in another state. The 888  
environmental compliance summary shall include all of the 889  
following for each facility: 890

- (1) The name and address of the facility; 891
- (2) A list of all notices of violation issued for the facility during the five years prior to the date of submission of the disclosure statement; 892  
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- (3) A listing and explanation of any pending or final civil prosecutions or administrative enforcement actions by government agencies for the enforcement of environmental laws or rules adopted under those laws against the applicant or a business concern listed in the disclosure statement that result in a finding or a settlement of a violation of any law or rule related to the disposal of construction and demolition debris or of any other environmental law or rule adopted under such a law that results in the imposition of sanctions or in revocations or denials of licenses issued by any state or federal authority during the five years prior to the submission of the disclosure statement. At a minimum, the listing shall include all of the following for each action: 895  
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- (a) The docket number or other means of identifying the action; 908  
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- (b) The agency or tribunal that issued the action; 910
- (c) The current status of the action; 911
- (d) The commencement date of the action; 912
- (e) A description of the alleged violation that includes the location and date of the alleged violation; 913  
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- (f) For a resolved action, a summary of any sanctions, fines, penalties, payment that is made or work or service that is performed in lieu of a fine or penalty, corrective measures, cessation or suspension of operations of a facility, revocation of licenses or permits, or similar actions; 915  
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- (g) Any explanation of the action or alleged violation that 920

<u>the applicant may submit.</u>	921
<u>(H) A listing and explanation of any criminal prosecutions</u>	922
<u>pending against the applicant or any individuals or business</u>	923
<u>concerns that are required to be listed in the disclosure</u>	924
<u>statement. The listing shall include at a minimum all of the</u>	925
<u>following:</u>	926
<u>(1) The number of the indictment, information, or complaint;</u>	927
<u>(2) The date of the indictment, information, or complaint;</u>	928
<u>(3) A description of the crimes allegedly committed;</u>	929
<u>(4) The name and location of the court in which the</u>	930
<u>prosecution is occurring;</u>	931
<u>(5) The current status of the prosecution;</u>	932
<u>(6) Any explanation of the prosecution or alleged violations</u>	933
<u>that the applicant, individuals, or business concerns may submit.</u>	934
<u>(I) A listing and explanation of any criminal convictions</u>	935
<u>against the applicant and any individuals or business concerns</u>	936
<u>required to be listed in the disclosure statement. The listing</u>	937
<u>shall include at a minimum all of the following:</u>	938
<u>(1) The number of the indictment, information, or complaint;</u>	939
<u>(2) The date of the indictment, information, or complaint;</u>	940
<u>(3) A description of the crimes of which the applicant,</u>	941
<u>individual, or business concern was convicted;</u>	942
<u>(4) The name and location of the court in which the</u>	943
<u>prosecution occurred;</u>	944
<u>(5) A summary of any sentence or fine imposed;</u>	945
<u>(6) Any explanation of the prosecution that the applicant,</u>	946
<u>individuals, or business concerns may submit.</u>	947
<u>(J) Any written evidence or arguments submitted under</u>	948

division (B) of section 3714.37 of the Revised Code that 949  
demonstrates rehabilitation with regard to a conviction of a crime 950  
specified in division (B) of section 3734.44 of the Revised Code; 951

(K) A description of any program that the applicant has 952  
instituted at a facility to ensure compliance with the 953  
environmental laws of this state or any other state. 954

**Sec. 3714.33.** (A) For purposes of section 3714.31 of the 955  
Revised Code, an applicant shall provide any assistance or 956  
information that is requested by the director of environmental 957  
protection or the attorney general and shall cooperate in any 958  
inquiry or investigation conducted by the director or the attorney 959  
general and any hearing conducted by the director. If the director 960  
or attorney general issues a formal request to answer any inquiry 961  
or produce information, evidence, or testimony and an applicant, 962  
officer, director, or partner of a business concern or a key 963  
employee of the applicant refuses to comply with the request, the 964  
director or a board of health may deny or revoke the license of 965  
the applicant. 966

(B) An applicant or prospective owner who is required to 967  
submit a disclosure statement under section 3714.31 of the Revised 968  
Code for more than one facility located in this state may submit 969  
all required disclosure statements at one time. If the applicant 970  
or prospective owner is required to submit a disclosure statement 971  
for two or more facilities, only one disclosure statement need be 972  
submitted when the disclosure statement describes the relationship 973  
of the individual or business concern to each of the facilities. 974  
Submission of a disclosure statement under this division does not 975  
eliminate the requirement under section 3714.34 of the Revised 976  
Code to pay a disclosure statement fee or maintenance fee for each 977  
facility. 978

(C) An applicant or prospective owner may submit a written 979

guidance request to the attorney general for an informal, 980  
nonbinding explanation of a requirement regarding the disclosure 981  
statement that is required to be submitted under section 3714.31 982  
of the Revised Code. Upon the receipt of a written guidance 983  
request, the attorney general may provide assistance to the 984  
applicant or prospective owner concerning the request. Assistance 985  
provided by the attorney general concerning a written guidance 986  
request under this division is not binding on any person or 987  
entity, including, but not limited to, an applicant, a prospective 988  
owner, the attorney general, the director of environmental 989  
protection, or a local board of health. The submission of a 990  
written guidance request under this division does not alter any 991  
obligation or requirement of this chapter. 992

(D)(1) When a person who is submitting information in a 993  
disclosure statement believes that certain information contained 994  
in the statement is confidential and excepted from disclosure 995  
under section 149.43 of the Revised Code, the person shall send to 996  
the attorney general a written document that contains all of the 997  
following: 998

(a) An identification of the specific information in the 999  
disclosure statement that the person who is submitting the 1000  
information believes is confidential; 1001

(b) A request that the identified specific information be 1002  
treated as confidential and excluded from disclosure; 1003

(c) An explanation that includes citations to specific 1004  
statutes, rules, or cases or to similar authority in order to 1005  
support the request of confidentiality of the identified specific 1006  
information; 1007

(d) An amount of evidence necessary to support the request to 1008  
exclude the identified specific information from disclosure as 1009  
determined by the attorney general. 1010

(2) The attorney general shall keep confidential any 1011  
identified specific information submitted under division (D)(1) of 1012  
this section for a minimum of seven days after the date on which 1013  
the attorney general determines that the information is not within 1014  
the exception to disclosure under section 149.43 of the Revised 1015  
Code. 1016

(E) For purposes of sections 3714.31 and 3714.32 of the 1017  
Revised Code, all of the following apply: 1018

(1) The individuals who prepared information or directed that 1019  
information be provided on behalf of a business concern regarding 1020  
a disclosure statement shall swear or affirm to the truth and 1021  
accuracy of the information. 1022

(2) Any information provided in a disclosure statement may be 1023  
supplemented with a written explanation. 1024

(3) The attorney general shall comply with section 7(b) of 1025  
the "Privacy Act of 1974," 88 Stat. 1897, 5 U.S.C. 552(a), as 1026  
amended, concerning the disclosure of social security numbers. 1027

(F) Nothing in sections 3714.31 and 3714.32 of the Revised 1028  
Code shall be construed to restrict or limit the scope of 1029  
information that the attorney general may seek pursuant to the 1030  
procedures established under sections 3714.31 to 3714.40 of the 1031  
Revised Code. 1032

**Sec. 3714.34.** (A) The attorney general may charge fees that 1033  
are necessary to pay the costs of administering and enforcing 1034  
sections 3714.31 to 3714.40 of the Revised Code. The attorney 1035  
general shall transmit the money collected under this section to 1036  
the treasurer of state who shall credit the money to the 1037  
construction and demolition debris background investigation fund, 1038  
which is hereby created in the state treasury. Money in the fund 1039  
shall be used solely to pay the attorney general's costs of 1040

administering and enforcing sections 3714.31 to 3714.40 of the 1041  
Revised Code. 1042

(B) An applicant or prospective owner of a construction and 1043  
demolition debris facility shall pay an initial disclosure 1044  
statement fee established by the attorney general. 1045

(C) An applicant or prospective owner of a construction and 1046  
demolition debris facility shall pay an annual update disclosure 1047  
statement fee established by the attorney general. 1048

(D) An applicant or prospective owner of a construction and 1049  
demolition debris facility who is required to pay a fee under 1050  
division (B) or (C) of this section shall pay the fee to the 1051  
attorney general not later than the date on which the disclosure 1052  
statement is due. The payment of the fee shall be in a form that 1053  
is acceptable to the attorney general. 1054

(E) The attorney general shall adopt rules in accordance with 1055  
Chapter 119. of the Revised Code establishing the amount of the 1056  
fees required under this section. 1057

**Sec. 3714.35.** (A) An individual who is required to be listed 1058  
in a disclosure statement shall be fingerprinted in accordance 1059  
with the procedures established by the attorney general for 1060  
identification and investigation purposes. 1061

(B) Fingerprints shall be submitted only on a form prescribed 1062  
by the attorney general or on any fingerprint form that is 1063  
acceptable to the federal bureau of investigation. 1064

(C) Complete fingerprint forms shall be submitted with the 1065  
disclosure statement to the attorney general. 1066

(D) An applicant or prospective owner shall arrange for 1067  
fingerprints to be taken of all individuals who are required to be 1068  
fingerprinted under this section. Fingerprints shall be taken and 1069

certified by an employee of a government entity that is approved 1070  
by the attorney general to take fingerprints. 1071

Sec. 3714.36. (A) As used in this section: 1072

(1) "Documentary material" means the original or a copy of a 1073  
writing, drawing, graph, chart, photograph, phonorecord, or other 1074  
data compilation from which intelligence, relevant to any 1075  
investigation conducted to determine if a person is or has been 1076  
engaged in a violation of this chapter or rules adopted under it, 1077  
may be perceived with or without the use of detection devices. 1078

(2) "Investigative demand" means the written request of the 1079  
attorney general to require an individual or business concern to 1080  
produce documentary material for inspection, copying, or 1081  
reproduction, to answer written interrogatories under oath, to 1082  
appear before the attorney general and testify under oath, or to 1083  
do a combination of any of those demands. 1084

(B) When the attorney general has reasonable cause to believe 1085  
that an individual or business concern may be in possession, 1086  
custody, or control of any documentary material or may have 1087  
knowledge of any fact that is relevant to an investigation of an 1088  
applicant under sections 3714.31 to 3714.40 of the Revised Code, 1089  
the attorney general may issue in writing or cause to be served an 1090  
investigative demand upon the individual or business concern or 1091  
the representative or agent of the individual or business concern. 1092

(C) An investigative demand shall contain all of the 1093  
following: 1094

(1) A description of the conduct that is under investigation 1095  
and a statement of the provisions of law that are applicable to 1096  
the investigation; 1097

(2) If the investigative demand is for the production of 1098  
documentary material, all of the following: 1099

<u>(a) A description of reasonable particularity of the</u>	1100
<u>documentary material to be produced;</u>	1101
<u>(b) A date on which the documentary material shall be</u>	1102
<u>assembled and made available for inspection, copying, or</u>	1103
<u>reproduction;</u>	1104
<u>(c) An identification of the representative of the attorney</u>	1105
<u>general to whom the documentary material shall be made available;</u>	1106
<u>(d) An identification of the location at which the material</u>	1107
<u>is to be produced.</u>	1108
<u>(3) If the investigative demand is for answers to written</u>	1109
<u>interrogatories, both of the following:</u>	1110
<u>(a) An identification of the representative of the attorney</u>	1111
<u>general to whom the answers shall be delivered;</u>	1112
<u>(b) A date on which the answers shall be delivered to the</u>	1113
<u>representative of the attorney general.</u>	1114
<u>(4) If the investigative demand is for oral testimony, both</u>	1115
<u>of the following:</u>	1116
<u>(a) A date, time, and location for the oral testimony;</u>	1117
<u>(b) An identification of the representative of the attorney</u>	1118
<u>general who will conduct the oral examination.</u>	1119
<u>(D) An investigative demand shall not contain any requirement</u>	1120
<u>that would be unreasonable if that requirement was contained in a</u>	1121
<u>subpoena or subpoena duces tecum issued by a court in the aid of a</u>	1122
<u>grand jury investigation. In addition, except as provided in</u>	1123
<u>division (G) of this section, an investigative demand shall not</u>	1124
<u>require answers to any written interrogatories, the giving of oral</u>	1125
<u>testimony, or the production of any documentary material that</u>	1126
<u>would be privileged from disclosure if demanded by a subpoena or</u>	1127
<u>subpoena duces tecum issued by a court in the aid of a grand jury</u>	1128
<u>investigation.</u>	1129

(E) Service of an investigative demand may be made and is 1130  
complete by either of the following: 1131

(1) Sending the investigative demand by certified mail to the 1132  
individual or business concern or to the individual's residence or 1133  
to the business concern's principal office or principal place of 1134  
business; 1135

(2) Delivering the investigative demand to the individual or 1136  
business concern or to a representative or agent of the individual 1137  
or business concern. 1138

(F) Not later than twenty days after receipt of an 1139  
investigative demand or at any time before the compliance date 1140  
specified in the demand, whichever is earlier, the individual or 1141  
business concern may file in the court of common pleas of the 1142  
county in which the individual resides or in which the individual 1143  
or business concern conducts business and serve the attorney 1144  
general a request for an order of the court to modify or set aside 1145  
the demand. However, if the individual or business concern 1146  
conducts business in more than one county, the request shall be 1147  
filed either in the county in which the individual or business 1148  
concern maintains the principal place of business or in the county 1149  
that may be agreed on between the individual or business concern 1150  
and the attorney general. 1151

(G)(1) When an individual who is served with an investigative 1152  
demand refuses to produce documentary material, to provide oral 1153  
testimony, or to answer written interrogatories on the basis of 1154  
the individual's privilege against self-incrimination, the 1155  
attorney general may file a written request with a court of common 1156  
pleas to compel compliance with the investigative demand. Unless 1157  
the court finds that to compel compliance with the investigative 1158  
demand would not further the administration of justice, the court 1159  
shall compel the individual to comply with the investigative 1160

demand when all of the following apply:

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(a) The attorney general makes a written request to the court of common pleas to compel compliance with the investigative demand in spite of a claim of privilege.

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(b) The written request to compel compliance is filed with the court of common pleas of the county in which the individual is found or where the individual conducts business, except that if the individual conducts business in more than one county, the request is filed in the county in which the individual maintains a principal place of business.

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(c) The court of common pleas informs the individual that by complying with the investigative demand the individual will receive immunity under division (G)(2) of this section.

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(2) If, but for division (G)(1) of this section, the individual would have been privileged to withhold any documentary material, answers to interrogatories, or oral testimony and the individual complies with a court order under division (G)(1) of this section compelling the individual to provide documentary material, answer interrogatories, or provide testimony, the documentary material, answers to interrogatories, or oral testimony or any evidence derived from them shall not be used against the individual in the prosecution of a crime or offense concerning the documentary material, answers to interrogatories, or oral testimony provided when the documentary material, answers to interrogatories, or oral testimony is responsive to the questions propounded. However, an individual who is granted immunity under this division may be subject to criminal prosecution for a violation of section 2921.11, 2921.12, or 2921.13 of the Revised Code or for contempt committed in providing documentary material, answers to interrogatories, or oral testimony when complying with the court order under division

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(G)(1) of this section. 1192

(H) The attorney general is responsible for the custody, use, and preservation of the documentary material that is obtained pursuant to an investigative demand and for the return of the documentary material as provided under this section. The attorney general shall compile all documentary material, answers to interrogatories, and transcripts of oral testimony that are obtained pursuant to an investigative demand in a reasonable manner. 1193  
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The documentary material, answers to interrogatories, and transcripts of oral testimony are confidential and not subject to disclosure. Unless otherwise ordered by a court of common pleas, the documentary material, answers to interrogatories, and transcripts of oral testimony shall not be available for examination or copying by an individual other than an authorized representative of the attorney general without the written consent of the individual or business concern that provided them. However, the documentary material, answers to interrogatories, and transcripts of oral testimony may be used in a grand jury investigation, a case, or another official proceeding that involves the issuance of a license under this chapter or that involves an alleged violation of this chapter or rules adopted under it. Materials and information compiled under this section are discoverable only to the extent authorized by the rules of the administrative or judicial tribunal in which a proceeding under this chapter is proceeding. 1201  
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(I) Not later than twenty-four months after the date on which the documentary material was made available to the attorney general pursuant to an investigative demand or when copies of documentary material obtained pursuant to an investigative demand are no longer required for the investigation or pending proceeding for which it was obtained, all copies of documentary material 1218  
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shall be returned to the individual or business concern that 1224  
provided it unless a request to extend the twenty-four-month 1225  
period has been filed in the court of common pleas in which a 1226  
request for an order compelling compliance under division (G) of 1227  
this section may be filed. This division does not apply to 1228  
documentary materials that are under the control of a court or 1229  
grand jury. 1230

(J) A public employee shall provide to the attorney general 1231  
all information and assistance that are requested by the attorney 1232  
general when the information and assistance are within the 1233  
employee's possession or power. The attorney general shall provide 1234  
the same degree of confidentiality for any information obtained 1235  
under this division as the public employee from whom the 1236  
information was received is required to provide by law with 1237  
respect to the information. 1238

(K) No individual or business concern with the intent to 1239  
avoid, evade, prevent, or obstruct compliance in whole or in part 1240  
with an investigative demand made under this section shall remove, 1241  
conceal, withhold, destroy, mutilate, alter, or by any other means 1242  
falsify any documentary material that is the subject of an 1243  
investigative demand served on an individual or business concern. 1244  
If a court finds that an individual or business concern does not 1245  
comply with an investigative demand and the noncompliance was in 1246  
bad faith or for the purpose of delay, the court may order the 1247  
individual or business concern to pay to the attorney general the 1248  
reasonable expenses, including attorney's fees, incurred in 1249  
defending the investigative demand. In addition, the court may 1250  
invoke the sanctions provided by Civil Rule 37. 1251

(L) Nothing in this section prohibits the attorney general 1252  
from filing a complaint that alleges a violation of this chapter 1253  
or rules adopted under it that is not described in an 1254  
investigative demand or from using any of the evidence obtained 1255

under this section or otherwise for purposes of the complaint. In 1256  
addition, nothing in this section prohibits the attorney general 1257  
from doing any of the following: 1258

(1) Presenting evidence obtained under this section or 1259  
otherwise to a grand jury impaneled for purposes of an alleged 1260  
violation of this chapter or rules adopted under it; 1261

(2) Requesting a court to compel the production of evidence 1262  
to present to a grand jury impaneled for purposes of an alleged 1263  
violation of this chapter or rules adopted under it; 1264

(3) Initiating a proceeding for the enforcement of a court 1265  
order to compel the production of evidence for purposes of an 1266  
alleged violation of this chapter or rules adopted under it; 1267

(4) Punishing a person for failure to comply with a court 1268  
order to compel the production of evidence for purposes of an 1269  
alleged violation of this chapter or rules adopted under it. 1270

(M) Except as provided in this section, no employee of the 1271  
office of the attorney general purposefully shall make available 1272  
documentary material, answers to interrogatories, or transcripts 1273  
of oral testimony that are obtained under an investigative demand 1274  
for copying or examination. 1275

(N) The court of common pleas in which the attorney general 1276  
files a request to enforce an investigative demand under this 1277  
section has jurisdiction to hear the matter presented. If the 1278  
attorney general demonstrates to the court in a proceeding 1279  
initiated under this section that the information sought is 1280  
relevant to an investigation authorized under this section, the 1281  
court shall order the individual or business concern to provide 1282  
the information requested by the attorney general. 1283

(O) If an individual or business concern neither resides nor 1284  
transacts business in this state, a judicial proceeding to 1285

challenge or enforce an investigative demand under this section 1286  
shall be initiated in the court of common pleas of Franklin 1287  
county. 1288

Sec. 3714.37. (A) Except as provided in division (B) of this 1289  
section, no license shall be issued or renewed under this chapter 1290  
by the director of environmental protection or a board of health: 1291

(1) Unless the director or a board finds that the applicant, 1292  
in a prior performance record for the disposal of construction and 1293  
demolition debris, has exhibited sufficient reliability, 1294  
expertise, and competency to operate the construction and 1295  
demolition debris facility given the potential for harm to human 1296  
health and the environment that could result from the 1297  
irresponsible operation of the facility or, if no prior record 1298  
exists, that the applicant is likely to exhibit that reliability, 1299  
expertise, and competence; 1300

(2) Except as provided in division (B) of this section, if an 1301  
individual or business concern that is required to be listed in 1302  
the disclosure statement or is shown to have a beneficial interest 1303  
in the business of the applicant, other than an equity interest or 1304  
debt liability, by the investigation of the business of the 1305  
applicant has been convicted of a crime specified in division (B) 1306  
of section 3734.44 of the Revised Code or a violation of an 1307  
equivalent law of another jurisdiction; 1308

(3) Unless the director or a board of health finds that the 1309  
applicant has a history of compliance with environmental laws in 1310  
this state and other jurisdictions and is currently in substantial 1311  
compliance with, or on a legally enforceable schedule that will 1312  
result in compliance with, environmental laws in this state and 1313  
other jurisdictions; 1314

(4) With respect to the approval of a license, if the 1315

director determines that current prosecutions or pending charges 1316  
in any jurisdiction for a crime specified in division (B) of 1317  
section 3734.44 of the Revised Code against an individual or 1318  
business concern required to be listed in the disclosure statement 1319  
or shown by the investigation to have a beneficial interest in the 1320  
business of the applicant, other than an equity interest or debt 1321  
liability, are of such magnitude that they prevent the finding 1322  
required under division (A)(1) of this section, provided that at 1323  
the request of the applicant or the individual or business concern 1324  
charged, the director or the board shall defer decision on the 1325  
application during the pendency of the charge. 1326

(B) No applicant shall be denied issuance or renewal of a 1327  
license on the basis of conviction of an individual or business 1328  
concern that is required to be listed in the disclosure statement 1329  
or shown to have a beneficial interest in the business of the 1330  
applicant, other than an equity interest or debt liability, by the 1331  
investigation of the business of the applicant for a crime 1332  
specified in division (B) of section 3734.44 of the Revised Code 1333  
if that applicant has affirmatively demonstrated rehabilitation of 1334  
the individual or business concern by a preponderance of the 1335  
evidence. If the individual was convicted of an offense that is a 1336  
felony, a license shall be denied unless five years have elapsed 1337  
since the individual was fully discharged from imprisonment and 1338  
parole for the offense or from a post-release control sanction 1339  
imposed under section 2967.28 of the Revised Code for the offense. 1340  
In determining whether an applicant has affirmatively demonstrated 1341  
rehabilitation, the director or a board of health shall request a 1342  
recommendation on the matter from the attorney general and shall 1343  
consider and base the determination on the following factors: 1344

(1) The nature and responsibilities of the position that a 1345  
convicted individual would hold; 1346

(2) The nature and seriousness of the offense; 1347

<u>(3) The circumstances under which the offense occurred;</u>	1348
<u>(4) The date of the offense;</u>	1349
<u>(5) The age of the individual when the offense was committed;</u>	1350
<u>(6) If the offense was an isolated or repeated incident;</u>	1351
<u>(7) Any social conditions that may have contributed to the offense;</u>	1352 1353
<u>(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision.</u>	1354 1355 1356 1357 1358 1359
<u>Additionally, if an applicant is a business concern, rehabilitation shall be established when the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in license denial or revocation or when the applicant has formalized those controls as a result of denial or revocation of a license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern.</u>	1360 1361 1362 1363 1364 1365 1366 1367 1368 1369 1370 1371 1372 1373 1374
<u>Sec. 3714.38. In addition to other causes for revocation of a license under this chapter, the director of environmental protection or a board of health may revoke a license for any of</u>	1375 1376 1377

the following causes: 1378

(A) Any cause that would require disqualification under 1379  
division (A)(1), (2), (3), or (4) of section 3714.37 of the 1380  
Revised Code from receiving a license upon original application; 1381

(B) Fraud, deceit, or misrepresentation in obtaining the 1382  
license or in the conduct of the licensed activity; 1383

(C) Offering, conferring, or agreeing to confer any benefit 1384  
to induce another individual or business concern to violate this 1385  
chapter, any rule adopted under it, or any other law relating to 1386  
the disposal of construction and demolition debris; 1387

(D) Coercion of a customer by violence or economic reprisal 1388  
or the threat of coercion by violence or economic reprisal to 1389  
utilize the services of the licensee; 1390

(E) Preventing, without authorization of the director or a 1391  
board of health, an individual or business concern from disposing 1392  
of construction and demolition debris at a licensed facility other 1393  
than a facility that is owned or operated by the applicant. 1394

**Sec. 3714.39.** Notwithstanding the disqualification of an 1395  
applicant pursuant to this chapter, the director of environmental 1396  
protection or a board of health may issue or renew a license if 1397  
the applicant severs the interest of or affiliation with the 1398  
individual or business concern that would otherwise cause that 1399  
disqualification or may issue or renew a license on a temporary 1400  
basis for a period not to exceed six months if the director or the 1401  
board of health determines that the issuance or renewal of the 1402  
license is necessitated by the public interest. 1403

**Sec. 3714.40.** (A) The attorney general may waive any of the 1404  
requirements established in sections 3714.31 to 3714.40 of the 1405  
Revised Code that are conditions for the issuance, renewal, or 1406

revocation of a license when the applicant demonstrates, to the 1407  
satisfaction of the attorney general, both of the following: 1408

(1) Compliance with a requirement will create a substantial 1409  
hardship. 1410

(2) Compliance with a requirement will not likely elicit 1411  
information that is responsive to the requirement. 1412

If the attorney general waives a requirement under division 1413  
(A) of this section, the attorney general shall send to the 1414  
director of environmental protection or a board of health, 1415  
whichever is applicable, a written notification that describes 1416  
every requirement that is waived and that includes the name and 1417  
address of the applicant. 1418

(B) The attorney general may waive in whole or in part a fee 1419  
established under section 3714.34 of the Revised Code when the 1420  
applicant demonstrates that the payment of the fee either would 1421  
create a substantial hardship to the applicant or would create an 1422  
unjustifiable burden on the applicant. 1423

**Section 2.** That existing sections 3714.01, 3714.02, 3714.03, 1424  
3714.04, 3714.05, 3714.06, 3714.08, and 3714.09 and section 1425  
3714.021 of the Revised Code are hereby repealed. 1426