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**Am. Sub. S. B. No. 265**

**Senators Spada, Carey, Mumper, Niehaus, Amstutz, Armbruster, Clancy,  
Stivers, Goodman, Harris, Wachtmann**

**Representatives Trakas, Hagan, Wolpert, Combs, Collier, Reinhard, Law,  
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McGregor, R., Patton, T., Schaffer, Seitz, Setzer, Uecker, Webster, Widener,  
Widowfield**

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**A B I L L**

To amend section 3704.03 of the Revised Code to make 1  
changes in the Air Pollution Control Law regarding 2  
the costs of compliance with rules, permits to 3  
install, air quality monitoring, and best 4  
available technology. 5

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

**Section 1.** That section 3704.03 of the Revised Code be 6  
amended to read as follows: 7

**Sec. 3704.03.** The director of environmental protection may do 8  
any of the following: 9

(A) Develop programs for the prevention, control, and 10  
abatement of air pollution; 11

(B) Advise, consult, contract, and cooperate with any 12  
governmental or private agency in the furtherance of the purposes 13  
of this chapter; 14

(C) Encourage, participate in, or conduct studies, 15  
investigations, and research relating to air pollution, collect 16  
and disseminate information, and conduct education and training 17  
programs relating to the causes, prevention, control, and 18  
abatement of air pollution; 19

(D) Adopt, modify, and rescind rules prescribing ambient air 20  
quality standards for the state as a whole or for various areas of 21  
the state that are consistent with and no more stringent than the 22  
national ambient air quality standards in effect under the federal 23  
Clean Air Act; 24

(E) Adopt, modify, suspend, and rescind rules for the 25  
prevention, control, and abatement of air pollution, including 26  
rules prescribing for the state as a whole or for various areas of 27  
the state emission standards for air contaminants, and other 28  
necessary rules for the purpose of achieving and maintaining 29  
compliance with ambient air quality standards in all areas within 30  
the state as expeditiously as practicable, but not later than any 31  
deadlines applicable under the federal Clean Air Act; rules for 32  
the prevention or control of the emission of hazardous or toxic 33  
air contaminants; rules prescribing fugitive dust limitations and 34  
standards that are related, on an areawide basis, to attainment 35  
and maintenance of ambient air quality standards; rules 36  
prescribing shade, density, or opacity limitations and standards 37  
for emissions, provided that with regard to air contaminant 38  
sources for which there are particulate matter emission standards 39  
in addition to a shade, density, or opacity rule, upon 40  
demonstration by such a source of compliance with those other 41  
standards, the shade, density, or opacity rule shall provide for 42  
establishment of a shade, density, or opacity limitation for that 43  
source that does not require the source to reduce emissions below 44  
the level specified by those other standards; rules for the 45  
prevention or control of odors and air pollution nuisances; rules 46

that prevent significant deterioration of air quality to the  
extent required by the federal Clean Air Act; rules for the  
protection of visibility as required by the federal Clean Air Act;  
and rules prescribing open burning limitations and standards. In  
adopting, modifying, suspending, or rescinding any such rules, the  
director, to the extent consistent with the federal Clean Air Act,  
shall hear and give consideration to evidence relating to all of  
the following:

(1) Conditions calculated to result from compliance with the  
rules, the overall cost within this state of compliance with the  
rules, and their relation to benefits to the people of the state  
to be derived from that compliance;

(2) The quantity and characteristics of air contaminants, the  
frequency and duration of their presence in the ambient air, and  
the dispersion and dilution of those contaminants;

(3) Topography, prevailing wind directions and velocities,  
physical conditions, and other factors that may or may combine to  
affect air pollution.

Consistent with division (K) of section 3704.036 of the  
Revised Code, the director shall consider alternative emission  
limits proposed by the owner or operator of an air contaminant  
source that is subject to an emission limit established in rules  
adopted under this division and shall accept those alternative  
emission limits that the director determines to be equivalent to  
emission limits established in rules adopted under this division.

(F)(1) Adopt, modify, suspend, and rescind rules consistent  
with the purposes of this chapter prohibiting the location,  
installation, construction, or modification of any air contaminant  
source or any machine, equipment, device, apparatus, or physical  
facility intended primarily to prevent or control the emission of  
air contaminants unless an installation permit therefor has been

obtained from the director or ~~his~~ the director's authorized 78  
representative. ~~Applications~~ 79

(2) Applications for installation permits shall be 80  
accompanied by plans, specifications, construction schedules, and 81  
such other pertinent information and data, including data on 82  
ambient air quality impact and a demonstration of best available 83  
technology, as the director may require. Installation permits 84  
shall be issued for a period specified by the director and are 85  
transferable. The director shall specify in each permit the 86  
applicable emission standards and that the permit is conditioned 87  
upon payment of the applicable fees as required by section 3745.11 88  
of the Revised Code and upon the right of ~~his~~ the director's 89  
authorized representatives to enter upon the premises of the 90  
person to whom the permit has been issued, at any reasonable time 91  
and subject to safety requirements of the person in control of the 92  
premises, for the purpose of determining compliance with such 93  
standards, this chapter, the rules adopted thereunder, and the 94  
conditions of any permit, variance, or order issued thereunder. 95  
Each proposed new or modified air contaminant source shall provide 96  
such notice of its proposed installation or modification to other 97  
states as is required under the federal Clean Air Act. 98  
Installation permits shall include the authorization to operate 99  
sources installed and operated in accordance with terms and 100  
conditions of the installation permits for a period not to exceed 101  
one year from commencement of operation, which authorization shall 102  
constitute an operating permit under division (G) of this section 103  
and rules adopted under it. 104

No installation permit shall be required for activities that 105  
are subject to and in compliance with a plant-wide applicability 106  
limit issued by the director in accordance with rules adopted 107  
under this section. 108

No installation permit shall be issued except in accordance 109

with all requirements of this chapter and rules adopted  
thereunder. No application shall be denied or permit revoked or  
modified without a written order stating the findings upon which  
denial, revocation, or modification is based. A copy of the order  
shall be sent to the applicant or permit holder by certified mail.

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(3) Not later than two years after the effective date of this  
amendment, the director shall adopt a rule in accordance with  
Chapter 119. of the Revised Code specifying that a permit to  
install is required only for new or modified air contaminant  
sources that emit any of the following air contaminants:

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(a) An air contaminant or precursor of an air contaminant for  
which a national ambient air quality standard has been adopted  
under the federal Clean Air Act;

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(b) An air contaminant for which the air contaminant source  
is regulated under the federal Clean Air Act;

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(c) An air contaminant that presents, or may present, through  
inhalation or other routes of exposure, a threat of adverse human  
health effects, including, but not limited to, substances that are  
known to be, or may reasonably be anticipated to be, carcinogenic,  
mutagenic, teratogenic, or neurotoxic, that cause reproductive  
dysfunction, or that are acutely or chronically toxic, or a threat  
of adverse environmental effects whether through ambient  
concentrations, bioaccumulation, deposition, or otherwise, and  
that is identified in the rule by chemical name and chemical  
abstract service number.

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The director may modify the rule adopted under division  
(F)(3)(c) of this section for the purpose of adding or deleting  
air contaminants. For each air contaminant that is contained in or  
deleted from the rule adopted under division (F)(3)(c) of this  
section, the director shall include in a notice accompanying any  
proposed or final rule an explanation of the director's

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determination that the air contaminant meets the criteria 141  
established in that division and should be added to, or no longer 142  
meets the criteria and should be deleted from, the list of air 143  
contaminants. The explanation shall include an identification of 144  
the scientific evidence on which the director relied in making the 145  
determination. Until adoption of the rule under division (F)(3)(c) 146  
of this section, nothing shall affect the director's authority to 147  
issue, deny, modify, or revoke permits to install under this 148  
chapter and rules adopted under it. 149

(4)(a) Applications for permits to install new or modified 150  
air contaminant sources shall contain sufficient information 151  
regarding air contaminants for which the director may require a 152  
permit to install to determine conformity with the environmental 153  
protection agency's document entitled "Review of New Sources of 154  
Air Toxics Emissions, Option A," dated May 1986, which the 155  
director shall use to evaluate toxic emissions from new or 156  
modified air contaminant sources. The director shall make copies 157  
of the document available to the public upon request at no cost 158  
and post the document on the environmental protection agency's web 159  
site. Any inconsistency between the document and division (F)(4) 160  
of this section shall be resolved in favor of division (F)(4) of 161  
this section. 162

(b) The maximum acceptable ground level concentration of an 163  
air contaminant shall be calculated in accordance with the 164  
document entitled "Review of New Sources of Air Toxics Emissions, 165  
Option A." Modeling shall be conducted to determine the increase 166  
in the ground level concentration of an air contaminant beyond the 167  
facility's boundary caused by the emissions from a new or modified 168  
source that is the subject of an application for a permit to 169  
install. Modeling shall be based on the maximum hourly rate of 170  
emissions from the source using information including, but not 171  
limited to, any emission control devices or methods, operational 172

restrictions, stack parameters, and emission dispersion devices or 173  
methods that may affect ground level concentrations, either 174  
individually or in combination. The director shall determine 175  
whether the activities for which a permit to install is sought 176  
will cause an increase in the ground level concentration of one or 177  
more relevant air contaminants beyond the facility's boundary by 178  
an amount in excess of the maximum acceptable ground level 179  
concentration. In making the determination as to whether the 180  
maximum acceptable ground level concentration will be exceeded, 181  
the director shall give consideration to the modeling conducted 182  
under division (F)(4)(b) of this section and other relevant 183  
information submitted by the applicant. 184

(c) If the modeling conducted under division (F)(4)(b) of 185  
this section with respect to an application for a permit to 186  
install demonstrates that the maximum ground level concentration 187  
from a new or modified source will be greater than or equal to 188  
eighty per cent, but less than one hundred per cent of the maximum 189  
acceptable ground level concentration for an air contaminant, the 190  
director may establish terms and conditions in the permit to 191  
install for the air contaminant source that will require the owner 192  
or operator of the air contaminant source to maintain emissions of 193  
that air contaminant commensurate with the modeled level, which 194  
shall be expressed as allowable emissions per day. In order to 195  
calculate the allowable emissions per day, the director shall 196  
multiply the hourly emission rate modeled under division (F)(4)(b) 197  
of this section to determine the ground level concentration by the 198  
operating schedule that has been identified in the permit to 199  
install application. Terms and conditions imposed under division 200  
(F)(4)(c) of this section are not federally enforceable 201  
requirements and, if included in a Title V permit, shall be placed 202  
in the portion of the permit that is only enforceable by the 203  
state. 204

(d) If the modeling conducted under division (F)(4)(b) of 205  
this section with respect to an application for a permit to 206  
install demonstrates that the maximum ground level concentration 207  
from a new or modified source will be less than eighty per cent of 208  
the maximum acceptable ground level concentration, the owner or 209  
operator of the source annually shall report to the director, on a 210  
form prescribed by the director, whether operations of the source 211  
are consistent with the information regarding the operations that 212  
was used to conduct the modeling with regard to the permit to 213  
install application. The annual report to the director shall be in 214  
lieu of an emission limit or other permit terms and conditions 215  
imposed pursuant to division (F)(4) of this section. The director 216  
may consider any significant departure from the operations of the 217  
source described in the permit to install application that results 218  
in greater emissions than the emissions rate modeled to determine 219  
the ground level concentration as a modification and require the 220  
owner or operator to submit a permit to install application for 221  
the increased emissions. The requirements established in division 222  
(F)(4)(d) of this section are not federally enforceable 223  
requirements and, if included in a Title V permit, shall be placed 224  
in the portion of the permit that is only enforceable by the 225  
state. 226

(e) Division (F)(4) of this section and the document entitled 227  
"Review of New Sources of Air Toxics Emissions, Option A" shall 228  
not be included in the state implementation plan under section 110 229  
of the federal Clean Air Act and do not apply to an air 230  
contaminant source that is subject to a maximum achievable control 231  
technology standard or residual risk standard under section 112 of 232  
the federal Clean Air Act, to a particular air contaminant 233  
identified under 40 C.F.R. 51.166, division (b)(23), for which the 234  
director has determined that the owner or operator of the source 235  
is required to install best available control technology for that 236

particular air contaminant, or to a particular air contaminant for 237  
which the director has determined that the source is required to 238  
meet the lowest achievable emission rate, as defined in 40 C.F.R. 239  
part 51, Appendix S, for that particular air contaminant. 240

(f)(i) Division (F)(4) of this section and the document 241  
entitled "Review of New Sources of Air Toxics Emissions, Option A" 242  
do not apply to parking lots, storage piles, storage tanks, 243  
transfer operations, grain silos, grain dryers, emergency 244  
generators, gasoline dispensing operations, air contaminant 245  
sources that emit air contaminants solely from the combustion of 246  
fossil fuels, or the emission of wood dust, sand, glass dust, coal 247  
dust, silica, and grain dust. 248

(ii) Notwithstanding division (F)(4)(f)(i) of this section, 249  
the director may require an individual air contaminant source that 250  
is within one of the source categories identified in division 251  
(F)(4)(f)(i) of this section to submit information in an 252  
application for a permit to install a new or modified source in 253  
order to determine the source's conformity to the document if the 254  
director has information to conclude that the particular new or 255  
modified source will potentially cause an increase in ground level 256  
concentration beyond the facility's boundary that exceeds the 257  
maximum acceptable ground level concentration as set forth in the 258  
document. 259

(iii) The director may adopt rules in accordance with Chapter 260  
119. of the Revised Code that are consistent with the purposes of 261  
this chapter and that add to or delete from the source category 262  
exemptions established in division (F)(4)(f)(i) of this section. 263

(5) Not later than one year after the effective date of this 264  
amendment, the director shall adopt rules in accordance with 265  
Chapter 119. of the Revised Code specifying activities that do 266  
not, by themselves, constitute beginning actual construction 267

activities related to the installation or modification of an air 268  
contaminant source for which a permit to install is required such 269  
as the grading and clearing of land, on-site storage of portable 270  
parts and equipment, and the construction of foundations or 271  
buildings that do not themselves emit air contaminants. The rules 272  
also shall allow specified initial activities that are part of the 273  
installation or modification of an air contaminant source, such as 274  
the installation of electrical and other utilities for the source, 275  
prior to issuance of a permit to install, provided that the owner 276  
or operator of the source has filed a complete application for a 277  
permit to install, the director or the director's designee has 278  
determined that the application is complete, and the owner or 279  
operator of the source has notified the director that this 280  
activity will be undertaken prior to the issuance of a permit to 281  
install. Any activity that is undertaken by the source under those 282  
rules shall be at the risk of the owner or operator. The rules 283  
shall not apply to activities that are precluded prior to permit 284  
issuance under section 111, section 112, Part C of Title I, and 285  
Part D of Title I of the federal Clean Air Act. 286

(G) Adopt, modify, suspend, and rescind rules prohibiting the 287  
operation or other use of any new, modified, or existing air 288  
contaminant source unless an operating permit has been obtained 289  
from the director or ~~his~~ the director's authorized representative, 290  
or the air contaminant source is being operated in compliance with 291  
the conditions of a variance issued pursuant to division (H) of 292  
this section. Applications for operating permits shall be 293  
accompanied by such plans, specifications, and other pertinent 294  
information as the director may require. Operating permits may be 295  
issued for a period determined by the director not to exceed five 296  
years, are renewable, and are transferable. The director shall 297  
specify in each operating permit that the permit is conditioned 298  
upon payment of the applicable fees as required by section 3745.11 299

of the Revised Code and upon the right of ~~his~~ the director's 300  
authorized representatives to enter upon the premises of the 301  
person to whom the permit has been issued, at any reasonable time 302  
and subject to safety requirements of the person in control of the 303  
premises, for the purpose of determining compliance with this 304  
chapter, the rules adopted thereunder, and the conditions of any 305  
permit, variance, or order issued thereunder. Operating permits 306  
may be denied or revoked for failure to comply with this chapter 307  
or the rules adopted thereunder. An operating permit shall be 308  
issued only upon a showing satisfactory to the director or ~~his~~ the 309  
director's representative that the air contaminant source is being 310  
operated in compliance with applicable emission standards and 311  
other rules or upon submission of a schedule of compliance 312  
satisfactory to the director for a source that is not in 313  
compliance with all applicable requirements at the time of permit 314  
issuance, provided that the compliance schedule shall be 315  
consistent with and at least as stringent as that contained in any 316  
judicial consent decree or administrative order to which the air 317  
contaminant source is subject. The rules shall provide for the 318  
issuance of conditional operating permits for such reasonable 319  
periods as the director may determine to allow the holder of an 320  
installation permit, who has constructed, installed, located, or 321  
modified a new air contaminant source in accordance with the 322  
provisions of an installation permit, to make adjustments or 323  
modifications necessary to enable the new air contaminant source 324  
to comply with applicable emission standards and other rules. 325  
Terms and conditions of operating permits issued pursuant to this 326  
division shall be federally enforceable for the purpose of 327  
establishing the potential to emit of a stationary source and 328  
shall be expressly designated as federally enforceable. Any such 329  
federally enforceable restrictions on a source's potential to emit 330  
shall include both an annual limit and a short-term limit of not 331  
more than thirty days for each pollutant to be restricted together 332

with adequate methods for establishing compliance with the 333  
restrictions. In other respects, operating permits issued pursuant 334  
to this division are enforceable as state law only. No application 335  
shall be denied or permit revoked or modified without a written 336  
order stating the findings upon which denial, revocation, or 337  
modification is based. A copy of the order shall be sent to the 338  
applicant or permit holder by certified mail. 339

(H) Adopt, modify, and rescind rules governing the issuance, 340  
revocation, modification, or denial of variances that authorize 341  
emissions in excess of the applicable emission standards. 342

No variance shall be issued except pursuant to those rules. 343  
The rules shall prescribe conditions and criteria in furtherance 344  
of the purposes of this chapter and consistent with the federal 345  
Clean Air Act governing eligibility for issuance of variances, 346  
which shall include all of the following: 347

(1) Provisions requiring consistency of emissions authorized 348  
by a variance with timely attainment and maintenance of ambient 349  
air quality standards; 350

(2) Provisions prescribing the classes and categories of air 351  
contaminants and air contaminant sources for which variances may 352  
be issued; 353

(3) Provisions defining the circumstances under which an 354  
applicant shall demonstrate that compliance with applicable 355  
emission standards is technically infeasible, economically 356  
unreasonable, or impossible because of conditions beyond the 357  
control of the applicant; 358

(4) Other provisions prescribed in furtherance of the goals 359  
of this chapter. 360

The rules shall prohibit the issuance of variances from any 361  
emission limitation that was applicable to a source pursuant to an 362  
installation permit and shall prohibit issuance of variances that 363

conflict with the federal Clean Air Act. 364

Applications for variances shall be accompanied by such 365  
information as the director may require. In issuing variances, the 366  
director may order the person to whom a variance is issued to 367  
furnish plans and specifications and such other information and 368  
data, including interim reports, as the director may require and 369  
to proceed to take such action within such time as the director 370  
may determine to be appropriate and reasonable to prevent, 371  
control, or abate ~~his~~ the person's existing emissions of air 372  
contaminants. The director shall specify in each variance that the 373  
variance is conditioned upon payment of the applicable fees as 374  
required by section 3745.11 of the Revised Code and upon the right 375  
of ~~his~~ the director's authorized representatives to enter upon the 376  
premises of the person to whom the variance has been issued, at 377  
any reasonable time and subject to safety requirements of the 378  
person in control of the premises, for the purpose of determining 379  
compliance with this chapter, the rules adopted thereunder, and 380  
the conditions of any permit, variance, or order issued 381  
thereunder. 382

The director may hold a public hearing on an application for 383  
a variance or renewal thereof at a location in the county where 384  
the variance is sought. The director shall give not less than 385  
twenty days' notice of the hearing to the applicant by certified 386  
mail and cause at least one publication of notice in a newspaper 387  
with general circulation in the county where the variance is 388  
sought. The director shall keep available for public inspection at 389  
the principal office of the environmental protection agency a 390  
current schedule of pending applications for variances and a 391  
current schedule of pending variance hearings. The director shall 392  
make a complete stenographic record of testimony and other 393  
evidence submitted at the hearing. The director shall make a 394  
written determination to issue, renew, or deny the variance and 395

shall enter ~~his~~ the determination and the basis therefor into the 396  
record of the hearing. The director shall issue, renew, or deny an 397  
application for a variance or renewal thereof, or issue a proposed 398  
action upon the application pursuant to section 3745.07 of the 399  
Revised Code, within six months of the date upon which the 400  
director receives a complete application with all pertinent 401  
information and data required by the director. 402

Any variance granted pursuant to rules adopted under this 403  
division shall be for a period specified by the director, not to 404  
exceed three years, and may be renewed from time to time on such 405  
terms and for such periods, not to exceed three years each, as the 406  
director determines to be appropriate. A variance may be revoked, 407  
or renewal denied, for failure to comply with conditions specified 408  
in the variance. No variance shall be issued, denied, revoked, or 409  
modified without a written order stating the findings upon which 410  
the issuance, denial, revocation, or modification is based. A copy 411  
of the order shall be sent to the applicant or variance holder by 412  
certified mail. 413

(I) Require the ~~person responsible for any~~ owner or operator 414  
of an air contaminant source to install, employ, maintain, and 415  
operate such emissions, ambient air quality, meteorological, or 416  
other monitoring devices or methods as the director shall 417  
prescribe; to sample those emissions at such locations, at such 418  
intervals, and in such manner as the director prescribes; to 419  
maintain records and file periodic reports with the director 420  
containing information as to location, size, and height of 421  
emission outlets, rate, duration, and composition of emissions, 422  
and any other pertinent information the director prescribes; and 423  
to provide such written notice to other states as the director 424  
shall prescribe. In requiring monitoring devices, records, and 425  
reports, the director, to the extent consistent with the federal 426  
Clean Air Act, shall give consideration to technical feasibility 427

and economic reasonableness and allow reasonable time for 428  
compliance. For sources where a specific monitoring, 429  
record-keeping, or reporting requirement is specified for a 430  
particular air contaminant from a particular air contaminant 431  
source in an applicable regulation adopted by the United States 432  
environmental protection agency under the federal Clean Air Act or 433  
in an applicable rule adopted by the director, the director shall 434  
not impose an additional requirement in a permit that is a 435  
different monitoring, record-keeping, or reporting requirement 436  
other than the requirement specified in the applicable regulation 437  
or rule for that air contaminant except as otherwise agreed to by 438  
the owner or operator of the air contaminant source and the 439  
director. If two or more regulations or rules impose different 440  
monitoring, record-keeping, or reporting requirements for the same 441  
air contaminant from the same air contaminant source, the director 442  
may impose permit terms and conditions that consolidate or 443  
streamline the monitoring, record-keeping, or reporting 444  
requirements in a manner that conforms with each applicable 445  
requirement. To the extent consistent with the federal Clean Air 446  
Act and except as otherwise agreed to by the owner or operator of 447  
an air contaminant source and the director, the director shall not 448  
require an operating restriction that has the practical effect of 449  
increasing the stringency of an existing applicable emission 450  
limitation or standard. 451

(J) Establish, operate, and maintain monitoring stations and 452  
other devices designed to measure air pollution and ~~to~~ enter into 453  
contracts with any public or private agency for the establishment, 454  
operation, or maintenance of such stations and devices; 455

(K) By rule adopt procedures for giving reasonable public 456  
notice and conducting public hearings on any plans for the 457  
prevention, control, and abatement of air pollution that the 458  
director is required to submit to the federal government; 459

(L) Through any employee, agent, or authorized representative 460  
of the director or the environmental protection agency, enter upon 461  
private or public property, including improvements thereon, at any 462  
reasonable time, to make inspections, take samples, conduct tests, 463  
and examine records or reports pertaining to any emission of air 464  
contaminants and any monitoring equipment or methods and to 465  
determine if there are any actual or potential emissions from such 466  
premises and, if so, to determine the sources, amounts, contents, 467  
and extent of those emissions, or to ascertain whether there is 468  
compliance with this chapter, any orders issued or rules adopted 469  
thereunder, or any other determination of the director. The 470  
director, at reasonable times, may have access to and copy any 471  
such records. If entry or inspection authorized by this division 472  
is refused, hindered, or thwarted, the director or ~~his~~ the 473  
director's authorized representative may by affidavit apply for, 474  
and any judge of a court of record may issue, an appropriate 475  
inspection warrant necessary to achieve the purposes of this 476  
chapter within the court's territorial jurisdiction. 477

(M) Accept and administer gifts or grants from the federal 478  
government and from any other source, public or private, for 479  
carrying out any of the functions under this chapter; 480

(N) Obtain necessary scientific, technical, and laboratory 481  
services; 482

(O) Establish advisory boards in accordance with section 483  
121.13 of the Revised Code; 484

(P) Delegate to any city or general health district or 485  
political subdivision of the state any of ~~his~~ the director's 486  
enforcement and monitoring powers and duties, other than 487  
rule-making powers, as the director elects to delegate, and in 488  
addition employ, compensate, and prescribe the powers and duties 489  
of such officers, employees, and consultants as are necessary to 490

enable the director to exercise ~~his~~ the authority and perform 491  
duties imposed upon ~~him~~ the director by law. Technical and other 492  
services shall be performed, insofar as practical, by personnel of 493  
the environmental protection agency. 494

(Q) Certify to the government of the United States or any 495  
agency thereof that an industrial air pollution facility is in 496  
conformity with the state program or requirements for control of 497  
air pollution whenever such certificate is required for a taxpayer 498  
pursuant to any federal law or requirements; 499

(R) Issue, modify, or revoke orders requiring abatement of or 500  
prohibiting emissions ~~which~~ that violate applicable emission 501  
standards or other requirements of this chapter and rules adopted 502  
thereunder, or requiring emission control devices or measures in 503  
order to comply with applicable emission standards or other 504  
requirements of this chapter and rules adopted thereunder. Any 505  
such order shall require compliance with applicable emission 506  
standards by a specified date and shall not conflict with any 507  
requirement of the federal Clean Air Act. In the making of such 508  
orders, the director, to the extent consistent with the federal 509  
Clean Air Act, shall give consideration to, and base ~~his~~ the 510  
determination on, evidence relating to the technical feasibility 511  
and economic reasonableness of compliance with such orders and 512  
their relation to benefits to the people of the state to be 513  
derived from such compliance. If, under the federal Clean Air Act, 514  
any such order shall provide for the posting of a bond or surety 515  
to secure compliance with the order as a condition of issuance of 516  
the order, the order shall so provide, but only to the extent 517  
required by the federal Clean Air Act. 518

(S) To the extent provided by the federal Clean Air Act, 519  
adopt, modify, and rescind rules providing for the administrative 520  
assessment and collection of monetary penalties, not in excess of 521  
those required pursuant to the federal Clean Air Act, for failure 522

to comply with any emission limitation or standard, compliance  
schedule, or other requirement of any rule, order, permit, or  
variance issued or adopted under this chapter or required under  
the applicable implementation plan whether or not the source is  
subject to a federal or state consent decree. The director may  
require the submission of compliance schedules, calculations of  
penalties for noncompliance, and related information. Any orders,  
payments, sanctions, or other requirements imposed pursuant to  
rules adopted under this division shall be in addition to any  
other permits, orders, payments, sanctions, or other requirements  
established under this chapter and shall not affect any civil or  
criminal enforcement proceedings brought under any provision of  
this chapter or any other provision of state or local law. This  
division does not apply to any requirement of this chapter  
regarding the prevention or abatement of odors.

~~(T) Adopt procedures under which the director shall consider  
best available technology for the pollutants regulated by the new  
source performance standards established pursuant to the federal  
Clean Air Act in order to establish emission limits in  
installation permits issued pursuant to division (F) of this  
section. The emission limits shall be equivalent to those new  
source performance standards unless the standards are more than  
five years old or have not been reviewed by the United States  
environmental protection agency for more than five years. In  
determining what technology is best for a specific source  
application, the director may consider the extent to which a  
technology generates pollution or waste other than air emissions  
and shall approve the most cost effective among essentially  
similar efficient control technologies as demonstrated by the  
permit applicant to the satisfaction of the director. Any facility  
that is subject to the federal prevention of significant  
deterioration regulations and major new source review shall comply~~

~~with those regulations~~ Require new or modified air contaminant 555  
sources to install best available technology, but only in 556  
accordance with this division. With respect to permits issued 557  
pursuant to division (F) of this section beginning three years 558  
after the effective date of this amendment, best available 559  
technology for air contaminant sources and air contaminants 560  
emitted by those sources that are subject to standards adopted 561  
under section 112, Part C of Title I, and Part D of Title I of the 562  
federal Clean Air Act shall be equivalent to and no more stringent 563  
than those standards. For an air contaminant or precursor of an 564  
air contaminant for which a national ambient air quality standard 565  
has been adopted under the federal Clean Air Act, best available 566  
technology only shall be required to the extent required by rules 567  
adopted under Chapter 119. of the Revised Code for permit to 568  
install applications filed three or more years after the effective 569  
date of this amendment. 570

Best available technology requirements established in rules 571  
adopted under this division shall be expressed only in one of the 572  
following ways that is most appropriate for the applicable source 573  
or source categories: 574

(1) Work practices; 575

(2) Source design characteristics or design efficiency of 576  
applicable air contaminant control devices; 577

(3) Raw material specifications or throughput limitations 578  
averaged over a twelve-month rolling period; 579

(4) Monthly allowable emissions averaged over a twelve-month 580  
rolling period. 581

Best available technology requirements shall not apply to an 582  
air contaminant source that has the potential to emit, taking into 583  
account air pollution controls installed on the source, less than 584  
ten tons per year of emissions of an air contaminant or precursor 585

of an air contaminant for which a national ambient air quality 586  
standard has been adopted under the federal Clean Air Act. In 587  
addition, best available technology requirements established in 588  
rules adopted under this division shall not apply to any existing, 589  
new, or modified air contaminant source that is subject to a 590  
plant-wide applicability limit that has been approved by the 591  
director. Further, best available technology requirements 592  
established in rules adopted under this division shall not apply 593  
to general permits issued prior to January 1, 2006, under rules 594  
adopted under this chapter. 595

For permits to install issued three or more years after the 596  
effective date of this amendment, any new or modified air 597  
contaminant source that has the potential to emit, taking into 598  
account air pollution controls installed on the source, ten or 599  
more tons per year of volatile organic compounds or nitrogen 600  
oxides shall meet, at a minimum, the requirements of any 601  
applicable reasonably available control technology rule in effect 602  
as of January 1, 2006, regardless of the location of the source. 603

(U) Consistent with section 507 of the federal Clean Air Act, 604  
adopt, modify, suspend, and rescind rules for the establishment of 605  
a small business stationary source technical and environmental 606  
compliance assistance program as provided in section 3704.18 of 607  
the Revised Code; 608

(V) Provide for emissions trading, marketable permits, 609  
auctions of emission rights, and economic incentives that would 610  
reduce the cost or increase the efficiency of achieving a 611  
specified level of environmental protection; 612

(W) Provide for the construction of an air contaminant source 613  
prior to obtaining a permit to install pursuant to division (F) of 614  
this section if the applicant demonstrates that the source will be 615  
installed to comply with all applicable emission limits and will 616

not adversely affect public health or safety or the environment 617  
and if the director determines that such an action will avoid an 618  
unreasonable hardship on the owner or operator of the source. Any 619  
such determination shall be consistent with the federal Clean Air 620  
Act. 621

(X) Exercise all incidental powers, including adoption of 622  
rules, required to carry out this chapter. 623

The environmental protection agency shall develop a plan to 624  
control air pollution resulting from state-operated facilities and 625  
property. 626

**Section 2.** That existing section 3704.03 of the Revised Code 627  
is hereby repealed. 628

**Section 3.** The General Assembly hereby finds and declares its 629  
intention that no part of this act shall be interpreted or applied 630  
to encourage, facilitate, allow, or otherwise result, directly or 631  
indirectly, in the establishment or reestablishment of a motor 632  
vehicle inspection and maintenance program in any part of this 633  
state in which a motor vehicle inspection and maintenance program 634  
is not operating on the effective date of this act. Further, the 635  
General Assembly hereby finds and declares its intention that no 636  
part of this act shall be interpreted or applied to encourage, 637  
facilitate, allow, or otherwise result, directly or indirectly, in 638  
the extension of the motor vehicle inspection and maintenance 639  
program in any part of this state in which it is operating on the 640  
effective date of this act beyond December 31, 2007, as required 641  
by section 3704.14 of the Revised Code. The General Assembly 642  
further directs the Director of Environmental Protection to take 643  
all necessary actions to ensure that, in implementing the 644  
provisions of this act, the Director does nothing to bring about 645  
the institution, reinstatement, or extension of the motor vehicle 646  
inspection and maintenance program, as applicable, in any part of 647

the state.

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