

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 730**

**Representative Ramos**

**Cosponsors: Representatives Lepore-Hagan, West, Ashford, Howse, Patterson,  
Smith, K., Miller**

---

**A BILL**

To amend section 3704.03 of the Revised Code to 1  
require all rules adopted by the Director of 2  
Environmental Protection governing the 3  
fabrication, manufacturing, usage, and disposal 4  
of asbestos, asbestos-containing materials, and 5  
asbestos-containing products to be consistent 6  
with the United States Environmental Protection 7  
Agency regulations governing asbestos as those 8  
regulations existed on August 1, 2018. 9

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

**Section 1.** That section 3704.03 of the Revised Code be 10  
amended to read as follows: 11

**Sec. 3704.03.** The director of environmental protection may 12  
do any of the following: 13

(A) Develop programs for the prevention, control, and 14  
abatement of air pollution; 15

(B) Advise, consult, contract, and cooperate with any 16  
governmental or private agency in the furtherance of the 17

purposes of this chapter;	18
(C) Encourage, participate in, or conduct studies,	19
investigations, and research relating to air pollution, collect	20
and disseminate information, and conduct education and training	21
programs relating to the causes, prevention, control, and	22
abatement of air pollution;	23
(D) Adopt, modify, and rescind rules prescribing ambient	24
air quality standards for the state as a whole or for various	25
areas of the state that are consistent with and no more	26
stringent than the national ambient air quality standards in	27
effect under the federal Clean Air Act;	28
(E) Adopt, modify, suspend, and rescind rules for the	29
prevention, control, and abatement of air pollution, including	30
rules prescribing for the state as a whole or for various areas	31
of the state emission standards for air contaminants, and other	32
necessary rules for the purpose of achieving and maintaining	33
compliance with ambient air quality standards in all areas	34
within the state as expeditiously as practicable, but not later	35
than any deadlines applicable under the federal Clean Air Act;	36
rules for the prevention or control of the emission of hazardous	37
or toxic air contaminants; rules prescribing fugitive dust	38
limitations and standards that are related, on an areawide	39
basis, to attainment and maintenance of ambient air quality	40
standards; rules prescribing shade, density, or opacity	41
limitations and standards for emissions, provided that with	42
regard to air contaminant sources for which there are	43
particulate matter emission standards in addition to a shade,	44
density, or opacity rule, upon demonstration by such a source of	45
compliance with those other standards, the shade, density, or	46
opacity rule shall provide for establishment of a shade,	47

density, or opacity limitation for that source that does not 48  
require the source to reduce emissions below the level specified 49  
by those other standards; rules for the prevention or control of 50  
odors and air pollution nuisances; rules that prevent 51  
significant deterioration of air quality to the extent required 52  
by the federal Clean Air Act; rules for the protection of 53  
visibility as required by the federal Clean Air Act; and rules 54  
prescribing open burning limitations and standards. In adopting, 55  
modifying, suspending, or rescinding any such rules, the 56  
director, to the extent consistent with the federal Clean Air 57  
Act, shall hear and give consideration to evidence relating to 58  
all of the following: 59

(1) Conditions calculated to result from compliance with 60  
the rules, the overall cost within this state of compliance with 61  
the rules, and their relation to benefits to the people of the 62  
state to be derived from that compliance; 63

(2) The quantity and characteristics of air contaminants, 64  
the frequency and duration of their presence in the ambient air, 65  
and the dispersion and dilution of those contaminants; 66

(3) Topography, prevailing wind directions and velocities, 67  
physical conditions, and other factors that may or may combine 68  
to affect air pollution. 69

Consistent with division (K) of section 3704.036 of the 70  
Revised Code, the director shall consider alternative emission 71  
limits proposed by the owner or operator of an air contaminant 72  
source that is subject to an emission limit established in rules 73  
adopted under this division and shall accept those alternative 74  
emission limits that the director determines to be equivalent to 75  
emission limits established in rules adopted under this 76  
division. 77

When adopting rules under division (E) of this section 78  
governing the fabrication, manufacturing, usage, or disposal of 79  
asbestos, asbestos-containing materials, or asbestos-containing 80  
products, the director shall ensure that the rules are 81  
consistent with the United States environmental protection 82  
agency regulations governing asbestos as those regulations 83  
existed on August 1, 2018. 84

(F)(1) Adopt, modify, suspend, and rescind rules 85  
consistent with the purposes of this chapter prohibiting the 86  
location, installation, construction, or modification of any air 87  
contaminant source or any machine, equipment, device, apparatus, 88  
or physical facility intended primarily to prevent or control 89  
the emission of air contaminants unless an installation permit 90  
therefor has been obtained from the director or the director's 91  
authorized representative. 92

(2)(a) Applications for installation permits shall be 93  
accompanied by plans, specifications, construction schedules, 94  
and such other pertinent information and data, including data on 95  
ambient air quality impact and a demonstration of best available 96  
technology, as the director may require. Installation permits 97  
shall be issued for a period specified by the director and are 98  
transferable. The director shall specify in each permit the 99  
applicable emission standards and that the permit is conditioned 100  
upon payment of the applicable fees as required by section 101  
3745.11 of the Revised Code and upon the right of the director's 102  
authorized representatives to enter upon the premises of the 103  
person to whom the permit has been issued, at any reasonable 104  
time and subject to safety requirements of the person in control 105  
of the premises, for the purpose of determining compliance with 106  
such standards, this chapter, the rules adopted thereunder, and 107  
the conditions of any permit, variance, or order issued 108

thereunder. Each proposed new or modified air contaminant source 109  
shall provide such notice of its proposed installation or 110  
modification to other states as is required under the federal 111  
Clean Air Act. Installation permits shall include the 112  
authorization to operate sources installed and operated in 113  
accordance with terms and conditions of the installation permits 114  
for a period not to exceed one year from commencement of 115  
operation, which authorization shall constitute an operating 116  
permit under division (G) of this section and rules adopted 117  
under it. 118

No installation permit shall be required for activities 119  
that are subject to and in compliance with a plant-wide 120  
applicability limit issued by the director in accordance with 121  
rules adopted under this section. 122

No installation permit shall be issued except in 123  
accordance with all requirements of this chapter and rules 124  
adopted thereunder. No application shall be denied or permit 125  
revoked or modified without a written order stating the findings 126  
upon which denial, revocation, or modification is based. A copy 127  
of the order shall be sent to the applicant or permit holder by 128  
certified mail. 129

(b) An air contaminant source that is the subject of an 130  
installation permit shall be installed or modified in accordance 131  
with the permit not later than eighteen months after the 132  
permit's effective date at which point the permit shall 133  
terminate unless one of the following applies: 134

(i) The owner or operator has undertaken a continuing 135  
program of installation or modification during the eighteen- 136  
month period. 137

(ii) The owner or operator has entered into a binding 138  
contractual obligation to undertake and complete within a 139  
reasonable period of time a continuing program of installation 140  
or modification of the air contaminant source during the 141  
eighteen-month period. 142

(iii) The director has extended the date by which the air 143  
contaminant source that is the subject of the installation 144  
permit must be installed or modified. 145

(iv) The installation permit is the subject of an appeal 146  
by a party other than the owner or operator of the air 147  
contaminant source that is the subject of the installation 148  
permit, in which case the date of termination of the permit is 149  
not later than eighteen months after the effective date of the 150  
permit plus the number of days between the date in which the 151  
permit was appealed and the date on which all appeals concerning 152  
the permit have been resolved. 153

(v) The installation permit has been superseded by a 154  
subsequent installation permit, in which case the original 155  
installation permit terminates on the effective date of the 156  
superseding installation permit. 157

Division (F) (2) (b) of this section applies to an 158  
installation permit that has not terminated as of ~~the effective~~ 159  
~~date of this amendment~~ October 16, 2009. 160

The director may adopt rules in accordance with Chapter 161  
119. of the Revised Code for the purpose of establishing 162  
additional requirements that are necessary for the 163  
implementation of division (F) (2) (b) of this section. 164

(3) Not later than two years after August 3, 2006, the 165  
director shall adopt a rule in accordance with Chapter 119. of 166

the Revised Code specifying that a permit to install is required 167  
only for new or modified air contaminant sources that emit any 168  
of the following air contaminants: 169

(a) An air contaminant or precursor of an air contaminant 170  
for which a national ambient air quality standard has been 171  
adopted under the federal Clean Air Act; 172

(b) An air contaminant for which the air contaminant 173  
source is regulated under the federal Clean Air Act; 174

(c) An air contaminant that presents, or may present, 175  
through inhalation or other routes of exposure, a threat of 176  
adverse human health effects, including, but not limited to, 177  
substances that are known to be, or may reasonably be 178  
anticipated to be, carcinogenic, mutagenic, teratogenic, or 179  
neurotoxic, that cause reproductive dysfunction, or that are 180  
acutely or chronically toxic, or a threat of adverse 181  
environmental effects whether through ambient concentrations, 182  
bioaccumulation, deposition, or otherwise, and that is 183  
identified in the rule by chemical name and chemical abstract 184  
service number. 185

The director may modify the rule adopted under division 186  
(F) (3) (c) of this section for the purpose of adding or deleting 187  
air contaminants. For each air contaminant that is contained in 188  
or deleted from the rule adopted under division (F) (3) (c) of 189  
this section, the director shall include in a notice 190  
accompanying any proposed or final rule an explanation of the 191  
director's determination that the air contaminant meets the 192  
criteria established in that division and should be added to, or 193  
no longer meets the criteria and should be deleted from, the 194  
list of air contaminants. The explanation shall include an 195  
identification of the scientific evidence on which the director 196

relied in making the determination. Until adoption of the rule 197  
under division (F) (3) (c) of this section, nothing shall affect 198  
the director's authority to issue, deny, modify, or revoke 199  
permits to install under this chapter and rules adopted under 200  
it. 201

(4) (a) Applications for permits to install new or modified 202  
air contaminant sources shall contain sufficient information 203  
regarding air contaminants for which the director may require a 204  
permit to install to determine conformity with the environmental 205  
protection agency's document entitled "Review of New Sources of 206  
Air Toxics Emissions, Option A," dated May 1986, which the 207  
director shall use to evaluate toxic emissions from new or 208  
modified air contaminant sources. The director shall make copies 209  
of the document available to the public upon request at no cost 210  
and post the document on the environmental protection agency's 211  
web site. Any inconsistency between the document and division 212  
(F) (4) of this section shall be resolved in favor of division 213  
(F) (4) of this section. 214

(b) The maximum acceptable ground level concentration of 215  
an air contaminant shall be calculated in accordance with the 216  
document entitled "Review of New Sources of Air Toxics 217  
Emissions, Option A." Modeling shall be conducted to determine 218  
the increase in the ground level concentration of an air 219  
contaminant beyond the facility's boundary caused by the 220  
emissions from a new or modified source that is the subject of 221  
an application for a permit to install. Modeling shall be based 222  
on the maximum hourly rate of emissions from the source using 223  
information including, but not limited to, any emission control 224  
devices or methods, operational restrictions, stack parameters, 225  
and emission dispersion devices or methods that may affect 226  
ground level concentrations, either individually or in 227



combination. The director shall determine whether the activities 228  
for which a permit to install is sought will cause an increase 229  
in the ground level concentration of one or more relevant air 230  
contaminants beyond the facility's boundary by an amount in 231  
excess of the maximum acceptable ground level concentration. In 232  
making the determination as to whether the maximum acceptable 233  
ground level concentration will be exceeded, the director shall 234  
give consideration to the modeling conducted under division (F) 235  
(4) (b) of this section and other relevant information submitted 236  
by the applicant. 237

(c) If the modeling conducted under division (F) (4) (b) of 238  
this section with respect to an application for a permit to 239  
install demonstrates that the maximum ground level concentration 240  
from a new or modified source will be greater than or equal to 241  
eighty per cent, but less than one hundred per cent of the 242  
maximum acceptable ground level concentration for an air 243  
contaminant, the director may establish terms and conditions in 244  
the permit to install for the air contaminant source that will 245  
require the owner or operator of the air contaminant source to 246  
maintain emissions of that air contaminant commensurate with the 247  
modeled level, which shall be expressed as allowable emissions 248  
per day. In order to calculate the allowable emissions per day, 249  
the director shall multiply the hourly emission rate modeled 250  
under division (F) (4) (b) of this section to determine the ground 251  
level concentration by the operating schedule that has been 252  
identified in the permit to install application. Terms and 253  
conditions imposed under division (F) (4) (c) of this section are 254  
not federally enforceable requirements and, if included in a 255  
Title V permit, shall be placed in the portion of the permit 256  
that is only enforceable by the state. 257

(d) If the modeling conducted under division (F) (4) (b) of 258

this section with respect to an application for a permit to 259  
install demonstrates that the maximum ground level concentration 260  
from a new or modified source will be less than eighty per cent 261  
of the maximum acceptable ground level concentration, the owner 262  
or operator of the source annually shall report to the director, 263  
on a form prescribed by the director, whether operations of the 264  
source are consistent with the information regarding the 265  
operations that was used to conduct the modeling with regard to 266  
the permit to install application. The annual report to the 267  
director shall be in lieu of an emission limit or other permit 268  
terms and conditions imposed pursuant to division (F) (4) of this 269  
section. The director may consider any significant departure 270  
from the operations of the source described in the permit to 271  
install application that results in greater emissions than the 272  
emissions rate modeled to determine the ground level 273  
concentration as a modification and require the owner or 274  
operator to submit a permit to install application for the 275  
increased emissions. The requirements established in division 276  
(F) (4) (d) of this section are not federally enforceable 277  
requirements and, if included in a Title V permit, shall be 278  
placed in the portion of the permit that is only enforceable by 279  
the state. 280

(e) Division (F) (4) of this section and the document 281  
entitled "Review of New Sources of Air Toxics Emissions, Option 282  
A" shall not be included in the state implementation plan under 283  
section 110 of the federal Clean Air Act and do not apply to an 284  
air contaminant source that is subject to a maximum achievable 285  
control technology standard or residual risk standard under 286  
section 112 of the federal Clean Air Act, to a particular air 287  
contaminant identified under 40 C.F.R. 51.166, division (b) (23), 288  
for which the director has determined that the owner or operator 289

of the source is required to install best available control 290  
technology for that particular air contaminant, or to a 291  
particular air contaminant for which the director has determined 292  
that the source is required to meet the lowest achievable 293  
emission rate, as defined in 40 C.F.R. part 51, Appendix S, for 294  
that particular air contaminant. 295

(f) (i) Division (F) (4) of this section and the document 296  
entitled "Review of New Sources of Air Toxics Emissions, Option 297  
A" do not apply to parking lots, storage piles, storage tanks, 298  
transfer operations, grain silos, grain dryers, emergency 299  
generators, gasoline dispensing operations, air contaminant 300  
sources that emit air contaminants solely from the combustion of 301  
fossil fuels, or the emission of wood dust, sand, glass dust, 302  
coal dust, silica, and grain dust. 303

(ii) Notwithstanding division (F) (4) (f) (i) of this 304  
section, the director may require an individual air contaminant 305  
source that is within one of the source categories identified in 306  
division (F) (4) (f) (i) of this section to submit information in 307  
an application for a permit to install a new or modified source 308  
in order to determine the source's conformity to the document if 309  
the director has information to conclude that the particular new 310  
or modified source will potentially cause an increase in ground 311  
level concentration beyond the facility's boundary that exceeds 312  
the maximum acceptable ground level concentration as set forth 313  
in the document. 314

(iii) The director may adopt rules in accordance with 315  
Chapter 119. of the Revised Code that are consistent with the 316  
purposes of this chapter and that add to or delete from the 317  
source category exemptions established in division (F) (4) (f) (i) 318  
of this section. 319

(5) Not later than one year after August 3, 2006, the 320  
director shall adopt rules in accordance with Chapter 119. of 321  
the Revised Code specifying activities that do not, by 322  
themselves, constitute beginning actual construction activities 323  
related to the installation or modification of an air 324  
contaminant source for which a permit to install is required 325  
such as the grading and clearing of land, on-site storage of 326  
portable parts and equipment, and the construction of 327  
foundations or buildings that do not themselves emit air 328  
contaminants. The rules also shall allow specified initial 329  
activities that are part of the installation or modification of 330  
an air contaminant source, such as the installation of 331  
electrical and other utilities for the source, prior to issuance 332  
of a permit to install, provided that the owner or operator of 333  
the source has filed a complete application for a permit to 334  
install, the director or the director's designee has determined 335  
that the application is complete, and the owner or operator of 336  
the source has notified the director that this activity will be 337  
undertaken prior to the issuance of a permit to install. Any 338  
activity that is undertaken by the source under those rules 339  
shall be at the risk of the owner or operator. The rules shall 340  
not apply to activities that are precluded prior to permit 341  
issuance under section 111, section 112, Part C of Title I, and 342  
Part D of Title I of the federal Clean Air Act. 343

(G) Adopt, modify, suspend, and rescind rules prohibiting 344  
the operation or other use of any new, modified, or existing air 345  
contaminant source unless an operating permit has been obtained 346  
from the director or the director's authorized representative, 347  
or the air contaminant source is being operated in compliance 348  
with the conditions of a variance issued pursuant to division 349  
(H) of this section. Applications for operating permits shall be 350

accompanied by such plans, specifications, and other pertinent 351  
information as the director may require. Operating permits may 352  
be issued for a period determined by the director not to exceed 353  
ten years, are renewable, and are transferable. The director 354  
shall specify in each operating permit that the permit is 355  
conditioned upon payment of the applicable fees as required by 356  
section 3745.11 of the Revised Code and upon the right of the 357  
director's authorized representatives to enter upon the premises 358  
of the person to whom the permit has been issued, at any 359  
reasonable time and subject to safety requirements of the person 360  
in control of the premises, for the purpose of determining 361  
compliance with this chapter, the rules adopted thereunder, and 362  
the conditions of any permit, variance, or order issued 363  
thereunder. Operating permits may be denied or revoked for 364  
failure to comply with this chapter or the rules adopted 365  
thereunder. An operating permit shall be issued only upon a 366  
showing satisfactory to the director or the director's 367  
representative that the air contaminant source is being operated 368  
in compliance with applicable emission standards and other rules 369  
or upon submission of a schedule of compliance satisfactory to 370  
the director for a source that is not in compliance with all 371  
applicable requirements at the time of permit issuance, provided 372  
that the compliance schedule shall be consistent with and at 373  
least as stringent as that contained in any judicial consent 374  
decree or administrative order to which the air contaminant 375  
source is subject. The rules shall provide for the issuance of 376  
conditional operating permits for such reasonable periods as the 377  
director may determine to allow the holder of an installation 378  
permit, who has constructed, installed, located, or modified a 379  
new air contaminant source in accordance with the provisions of 380  
an installation permit, to make adjustments or modifications 381  
necessary to enable the new air contaminant source to comply 382

with applicable emission standards and other rules. Terms and 383  
conditions of operating permits issued pursuant to this division 384  
shall be federally enforceable for the purpose of establishing 385  
the potential to emit of a stationary source and shall be 386  
expressly designated as federally enforceable. Any such 387  
federally enforceable restrictions on a source's potential to 388  
emit shall include both an annual limit and a short-term limit 389  
of not more than thirty days for each pollutant to be restricted 390  
together with adequate methods for establishing compliance with 391  
the restrictions. In other respects, operating permits issued 392  
pursuant to this division are enforceable as state law only. No 393  
application shall be denied or permit revoked or modified 394  
without a written order stating the findings upon which denial, 395  
revocation, or modification is based. A copy of the order shall 396  
be sent to the applicant or permit holder by certified mail. 397

(H) Adopt, modify, and rescind rules governing the 398  
issuance, revocation, modification, or denial of variances that 399  
authorize emissions in excess of the applicable emission 400  
standards. 401

No variance shall be issued except pursuant to those 402  
rules. The rules shall prescribe conditions and criteria in 403  
furtherance of the purposes of this chapter and consistent with 404  
the federal Clean Air Act governing eligibility for issuance of 405  
variances, which shall include all of the following: 406

(1) Provisions requiring consistency of emissions 407  
authorized by a variance with timely attainment and maintenance 408  
of ambient air quality standards; 409

(2) Provisions prescribing the classes and categories of 410  
air contaminants and air contaminant sources for which variances 411  
may be issued; 412

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

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

The rules shall prohibit the issuance of variances from any emission limitation that was applicable to a source pursuant to an installation permit and shall prohibit issuance of variances that conflict with the federal Clean Air Act.

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

The director may hold a public hearing on an application

for a variance or renewal thereof at a location in the county 443  
where the variance is sought. The director shall give not less 444  
than twenty days' notice of the hearing to the applicant by 445  
certified mail and cause at least one publication of notice in a 446  
newspaper with general circulation in the county where the 447  
variance is sought. The director shall keep available for public 448  
inspection at the principal office of the environmental 449  
protection agency a current schedule of pending applications for 450  
variances and a current schedule of pending variance hearings. 451  
The director shall make a complete stenographic record of 452  
testimony and other evidence submitted at the hearing. The 453  
director shall make a written determination to issue, renew, or 454  
deny the variance and shall enter the determination and the 455  
basis therefor into the record of the hearing. The director 456  
shall issue, renew, or deny an application for a variance or 457  
renewal thereof, or issue a proposed action upon the application 458  
pursuant to section 3745.07 of the Revised Code, within six 459  
months of the date upon which the director receives a complete 460  
application with all pertinent information and data required by 461  
the director. 462

Any variance granted pursuant to rules adopted under this 463  
division shall be for a period specified by the director, not to 464  
exceed three years, and may be renewed from time to time on such 465  
terms and for such periods, not to exceed three years each, as 466  
the director determines to be appropriate. A variance may be 467  
revoked, or renewal denied, for failure to comply with 468  
conditions specified in the variance. No variance shall be 469  
issued, denied, revoked, or modified without a written order 470  
stating the findings upon which the issuance, denial, 471  
revocation, or modification is based. A copy of the order shall 472  
be sent to the applicant or variance holder by certified mail. 473



(I) Require the owner or operator of an air contaminant source to install, employ, maintain, and operate such emissions, ambient air quality, meteorological, or other monitoring devices or methods as the director shall prescribe; to sample those emissions at such locations, at such intervals, and in such manner as the director prescribes; to maintain records and file periodic reports with the director containing information as to location, size, and height of emission outlets, rate, duration, and composition of emissions, and any other pertinent information the director prescribes; and to provide such written notice to other states as the director shall prescribe. In requiring monitoring devices, records, and reports, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to technical feasibility and economic reasonableness and allow reasonable time for compliance. For sources where a specific monitoring, record-keeping, or reporting requirement is specified for a particular air contaminant from a particular air contaminant source in an applicable regulation adopted by the United States environmental protection agency under the federal Clean Air Act or in an applicable rule adopted by the director, the director shall not impose an additional requirement in a permit that is a different monitoring, record-keeping, or reporting requirement other than the requirement specified in the applicable regulation or rule for that air contaminant except as otherwise agreed to by the owner or operator of the air contaminant source and the director. If two or more regulations or rules impose different monitoring, record-keeping, or reporting requirements for the same air contaminant from the same air contaminant source, the director may impose permit terms and conditions that consolidate or streamline the monitoring, record-keeping, or reporting requirements in a manner that conforms with each applicable

requirement. To the extent consistent with the federal Clean Air 506  
Act and except as otherwise agreed to by the owner or operator 507  
of an air contaminant source and the director, the director 508  
shall not require an operating restriction that has the 509  
practical effect of increasing the stringency of an existing 510  
applicable emission limitation or standard. 511

(J) Establish, operate, and maintain monitoring stations 512  
and other devices designed to measure air pollution and enter 513  
into contracts with any public or private agency for the 514  
establishment, operation, or maintenance of such stations and 515  
devices; 516

(K) By rule adopt procedures for giving reasonable public 517  
notice and conducting public hearings on any plans for the 518  
prevention, control, and abatement of air pollution that the 519  
director is required to submit to the federal government; 520

(L) Through any employee, agent, or authorized 521  
representative of the director or the environmental protection 522  
agency, enter upon private or public property, including 523  
improvements thereon, at any reasonable time, to make 524  
inspections, take samples, conduct tests, and examine records or 525  
reports pertaining to any emission of air contaminants and any 526  
monitoring equipment or methods and to determine if there are 527  
any actual or potential emissions from such premises and, if so, 528  
to determine the sources, amounts, contents, and extent of those 529  
emissions, or to ascertain whether there is compliance with this 530  
chapter, any orders issued or rules adopted thereunder, or any 531  
other determination of the director. The director, at reasonable 532  
times, may have access to and copy any such records. If entry or 533  
inspection authorized by this division is refused, hindered, or 534  
thwarted, the director or the director's authorized 535

representative may by affidavit apply for, and any judge of a 536  
court of record may issue, an appropriate inspection warrant 537  
necessary to achieve the purposes of this chapter within the 538  
court's territorial jurisdiction. 539

(M) Accept and administer gifts or grants from the federal 540  
government and from any other source, public or private, for 541  
carrying out any of the functions under this chapter; 542

(N) Obtain necessary scientific, technical, and laboratory 543  
services; 544

(O) Establish advisory boards in accordance with section 545  
121.13 of the Revised Code; 546

(P) Delegate to any city or general health district or 547  
political subdivision of the state any of the director's 548  
enforcement and monitoring powers and duties, other than rule- 549  
making powers, as the director elects to delegate, and in 550  
addition employ, compensate, and prescribe the powers and duties 551  
of such officers, employees, and consultants as are necessary to 552  
enable the director to exercise the authority and perform duties 553  
imposed upon the director by law. Technical and other services 554  
shall be performed, insofar as practical, by personnel of the 555  
environmental protection agency. 556

(Q) Certify to the government of the United States or any 557  
agency thereof that an industrial air pollution facility is in 558  
conformity with the state program or requirements for control of 559  
air pollution whenever such certificate is required for a 560  
taxpayer pursuant to any federal law or requirements; 561

(R) Issue, modify, or revoke orders requiring abatement of 562  
or prohibiting emissions that violate applicable emission 563  
standards or other requirements of this chapter and rules 564

adopted thereunder, or requiring emission control devices or 565  
measures in order to comply with applicable emission standards 566  
or other requirements of this chapter and rules adopted 567  
thereunder. Any such order shall require compliance with 568  
applicable emission standards by a specified date and shall not 569  
conflict with any requirement of the federal Clean Air Act. In 570  
the making of such orders, the director, to the extent 571  
consistent with the federal Clean Air Act, shall give 572  
consideration to, and base the determination on, evidence 573  
relating to the technical feasibility and economic 574  
reasonableness of compliance with such orders and their relation 575  
to benefits to the people of the state to be derived from such 576  
compliance. If, under the federal Clean Air Act, any such order 577  
shall provide for the posting of a bond or surety to secure 578  
compliance with the order as a condition of issuance of the 579  
order, the order shall so provide, but only to the extent 580  
required by the federal Clean Air Act. 581

(S) To the extent provided by the federal Clean Air Act, 582  
adopt, modify, and rescind rules providing for the 583  
administrative assessment and collection of monetary penalties, 584  
not in excess of those required pursuant to the federal Clean 585  
Air Act, for failure to comply with any emission limitation or 586  
standard, compliance schedule, or other requirement of any rule, 587  
order, permit, or variance issued or adopted under this chapter 588  
or required under the applicable implementation plan whether or 589  
not the source is subject to a federal or state consent decree. 590  
The director may require the submission of compliance schedules, 591  
calculations of penalties for noncompliance, and related 592  
information. Any orders, payments, sanctions, or other 593  
requirements imposed pursuant to rules adopted under this 594  
division shall be in addition to any other permits, orders, 595

payments, sanctions, or other requirements established under 596  
this chapter and shall not affect any civil or criminal 597  
enforcement proceedings brought under any provision of this 598  
chapter or any other provision of state or local law. This 599  
division does not apply to any requirement of this chapter 600  
regarding the prevention or abatement of odors. 601

(T) Require new or modified air contaminant sources to 602  
install best available technology, but only in accordance with 603  
this division. With respect to permits issued pursuant to 604  
division (F) of this section beginning three years after August 605  
3, 2006, best available technology for air contaminant sources 606  
and air contaminants emitted by those sources that are subject 607  
to standards adopted under section 112, Part C of Title I, and 608  
Part D of Title I of the federal Clean Air Act shall be 609  
equivalent to and no more stringent than those standards. For an 610  
air contaminant or precursor of an air contaminant for which a 611  
national ambient air quality standard has been adopted under the 612  
federal Clean Air Act, best available technology only shall be 613  
required to the extent required by rules adopted under Chapter 614  
119. of the Revised Code for permit to install applications 615  
filed three or more years after August 3, 2006. 616

Best available technology requirements established in 617  
rules adopted under this division shall be expressed only in one 618  
of the following ways that is most appropriate for the 619  
applicable source or source categories: 620

(1) Work practices; 621

(2) Source design characteristics or design efficiency of 622  
applicable air contaminant control devices; 623

(3) Raw material specifications or throughput limitations 624

averaged over a twelve-month rolling period; 625

(4) Monthly allowable emissions averaged over a twelve- 626  
month rolling period. 627

Best available technology requirements shall not apply to 628  
an air contaminant source that has the potential to emit, taking 629  
into account air pollution controls installed on the source, 630  
less than ten tons per year of emissions of an air contaminant 631  
or precursor of an air contaminant for which a national ambient 632  
air quality standard has been adopted under the federal Clean 633  
Air Act. In addition, best available technology requirements 634  
established in rules adopted under this division shall not apply 635  
to any existing, new, or modified air contaminant source that is 636  
subject to a plant-wide applicability limit that has been 637  
approved by the director. Further, best available technology 638  
requirements established in rules adopted under this division 639  
shall not apply to general permits issued prior to January 1, 640  
2006, under rules adopted under this chapter. 641

For permits to install issued three or more years after 642  
August 3, 2006, any new or modified air contaminant source that 643  
has the potential to emit, taking into account air pollution 644  
controls installed on the source, ten or more tons per year of 645  
volatile organic compounds or nitrogen oxides shall meet, at a 646  
minimum, the requirements of any applicable reasonably available 647  
control technology rule in effect as of January 1, 2006, 648  
regardless of the location of the source. 649

(U) Consistent with section 507 of the federal Clean Air 650  
Act, adopt, modify, suspend, and rescind rules for the 651  
establishment of a small business stationary source technical 652  
and environmental compliance assistance program as provided in 653  
section 3704.18 of the Revised Code; 654

(V) Provide for emissions trading, marketable permits, 655  
auctions of emission rights, and economic incentives that would 656  
reduce the cost or increase the efficiency of achieving a 657  
specified level of environmental protection; 658

(W) Provide for the construction of an air contaminant 659  
source prior to obtaining a permit to install pursuant to 660  
division (F) of this section if the applicant demonstrates that 661  
the source will be installed to comply with all applicable 662  
emission limits and will not adversely affect public health or 663  
safety or the environment and if the director determines that 664  
such an action will avoid an unreasonable hardship on the owner 665  
or operator of the source. Any such determination shall be 666  
consistent with the federal Clean Air Act. 667

(X) Exercise all incidental powers, including adoption of 668  
rules, required to carry out this chapter. 669

The environmental protection agency shall develop a plan 670  
to control air pollution resulting from state-operated 671  
facilities and property. 672

**Section 2.** That existing section 3704.03 of the Revised 673  
Code is hereby repealed. 674