

As Introduced

125th General Assembly
Regular Session
2003-2004

H. B. No. 152

Representatives Reinhard, Aslanides

A BILL

To amend sections 307.204, 505.266, 903.01, 903.02, 1
903.04, 903.08, 903.09, 903.10, 903.16, and 903.20 2
and to enact sections 903.081 and 903.082 of the 3
Revised Code to revise the statutes governing 4
animal feeding facilities. 5

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

Section 1. That sections 307.204, 505.266, 903.01, 903.02, 6
903.04, 903.08, 903.09, 903.10, 903.16, and 903.20 be amended and 7
sections 903.081 and 903.082 of the Revised Code be enacted to 8
read as follows: 9

Sec. 307.204. (A) As used in this section: 10

(1) "~~Animal unit,~~" "~~concentrated~~ Concentrated animal feeding 11
facility," and "major concentrated animal feeding facility" have 12
the same meanings as in section 903.01 of the Revised Code. 13

(2) "Facility" means a proposed new or expanded major 14
concentrated animal feeding facility. 15

(3) "Improvement" means the construction, modification, or 16
both of county infrastructure. 17

(B) A person who proposes to do any of the following shall 18
provide written notification as required under division (C) of 19

this section to the board of county commissioners of the county in 20
which a facility is or is to be located: 21

(1) Establish a new major concentrated animal feeding 22
facility; 23

(2) Increase the ~~number of animal units~~ of design capacity of 24
an existing major concentrated animal feeding facility by ten per 25
cent or more in excess of the design capacity set forth in the 26
current permit for construction or modification of the facility or 27
for installation or modification of the disposal system for manure 28
at the facility issued under section 903.02 or division (J) of 29
section 6111.03 of the Revised Code, as applicable; 30

(3) Increase the ~~number of animal units~~ of design capacity of 31
an existing concentrated animal feeding facility by ten per cent 32
or more in excess of the design capacity set forth in the current 33
permit for construction or modification of the facility or for 34
installation or modification of the disposal system for manure at 35
the facility issued under section 903.02 or division (J) of 36
section 6111.03 of the Revised Code, as applicable, and to a 37
design capacity of more than ten ~~thousand animal units~~ times the 38
number of animals specified in any of the categories in division 39
(H) of section 903.01 of the Revised Code. 40

(C) The person shall notify the board in writing by certified 41
mail of the proposed construction or expansion of the facility and 42
include the following information: 43

(1) The anticipated travel routes of motor vehicles to and 44
from the facility; 45

(2) The anticipated number and weights of motor vehicles 46
traveling to and from the facility. 47

(D) At the request of the board, the county engineer may 48
review the written notification and advise the board on both of 49
the following: 50

(1) Improvements and maintenance of improvements that are 51
reasonably needed in order to accommodate the impact on county 52
infrastructure that is anticipated as a result of the facility, 53
including increased travel or the types of vehicles on county 54
roads; 55

(2) The projected costs of the improvements and maintenance. 56

Not later than ten days after receiving the written 57
notification, the board may request the person to provide 58
additional reasonable and relevant information regarding the 59
impact of the facility on county infrastructure. The person shall 60
provide the information not later than ten days after the request 61
is made. 62

(E)(1) Not later than thirty days after the initial written 63
notification is received by the board, the board shall submit to 64
the person its recommendations, if any, concerning the 65
improvements that will be needed as a result of the facility and 66
the cost of those improvements. 67

(2) Not later than fifteen days after receipt of the board's 68
recommendations, the person shall notify the board either that the 69
person agrees with the recommendations and will implement them or 70
that the person is submitting reasonable alternative 71
recommendations or modifications to the board. If the person 72
agrees with the recommendations, they shall be considered to be 73
the board's final recommendations. 74

(3) If the board receives alternative recommendations or 75
modifications under division (E)(2) of this section, the board 76
shall select final recommendations and submit them to the person 77
not later than thirty days after the receipt of the alternative 78
recommendations or modifications. 79

(F) The board shall prepare a written, dated statement 80
certifying that the written notification required under this 81

section was submitted and that final recommendations were selected 82
regarding needed improvements and the costs of those improvements. 83
The board shall provide the person with the original of the 84
statement so that the person can include it with the application 85
for a permit to install for the facility as required under 86
division (C)(4) of section 903.02 of the Revised Code. The board 87
shall retain a copy of the statement for its records. 88

(G) The person shall construct, modify, and maintain or 89
finance the construction, modification, and maintenance of 90
improvements as provided in the board's final recommendations and 91
with the approval and oversight of the county engineer. If the 92
person fails to do so, the board shall notify the person by 93
certified mail that the board intends to initiate mediation with 94
the person if the person remains out of compliance with the final 95
recommendations. 96

The board shall allow sufficient time for the person to apply 97
for and proceed to obtain, for the purpose of financing the 98
construction, modification, or maintenance of the improvements, 99
exemptions from taxation under sections 5709.63, 5709.632, 100
5709.73, and 5709.78 of the Revised Code or state or federal 101
grants that may be available. 102

If the person remains out of compliance with the final 103
recommendations, the board may initiate mediation with the person 104
in order to resolve the differences between them. If mediation 105
fails to resolve the differences, the board and the person first 106
shall attempt to resolve the differences through any legal 107
remedies before seeking redress through a court of common pleas. 108

(H) If the person subsequently submits an application under 109
section 903.02 of the Revised Code for a permit to modify the 110
facility, or if the routes of travel to or from the facility 111
change for any reason other than road construction conducted by 112
the county, the board or the person may request that additional 113

information be provided in writing and shall proceed as provided 114
in this section for the notification and recommendation 115
proceedings. 116

Sec. 505.266. (A) As used in this section: 117

(1) ~~"Animal unit," "concentrated~~ Concentrated animal feeding 118
facility~~,"~~ and "major concentrated animal feeding facility" have 119
the same meanings as in section 903.01 of the Revised Code. 120

(2) "Facility" means a proposed new or expanded major 121
concentrated animal feeding facility. 122

(3) "Improvement" means the construction, modification, or 123
both of township infrastructure. 124

(B) A person who proposes to do any of the following shall 125
provide written notification as required under division (C) of 126
this section to the board of township trustees of the township in 127
which a facility is or is to be located: 128

(1) Establish a new major concentrated animal feeding 129
facility; 130

(2) Increase the ~~number of animal units~~ of design capacity of 131
an existing major concentrated animal feeding facility by ten per 132
cent or more in excess of the design capacity set forth in the 133
current permit for construction or modification of the facility or 134
for installation or modification of the disposal system for manure 135
at the facility issued under section 903.02 or division (J) of 136
section 6111.03 of the Revised Code, as applicable; 137

(3) Increase the ~~number of animal units~~ of design capacity of 138
an existing concentrated animal feeding facility by ten per cent 139
or more in excess of the design capacity set forth in the current 140
permit for construction or modification of the facility or for 141
installation or modification of the disposal system for manure at 142
the facility issued under section 903.02 or division (J) of 143

section 6111.03 of the Revised Code, as applicable, and to a 144
design capacity of more than ten ~~thousand animal units~~ times the 145
number of animals specified in any of the categories in division 146
(M) of section 903.01 of the Revised Code. 147

(C) The person shall notify the board in writing by certified 148
mail of the proposed construction or expansion of the facility and 149
include the following information: 150

(1) The anticipated travel routes of motor vehicles to and 151
from the facility; 152

(2) The anticipated number and weights of motor vehicles 153
traveling to and from the facility. 154

(D) At the request of the board, the county engineer may 155
review the written notification and advise the board on both of 156
the following: 157

(1) Improvements and maintenance of improvements that are 158
reasonably needed in order to accommodate the impact on township 159
infrastructure that is anticipated as a result of the facility, 160
including increased travel or the types of vehicles on township 161
roads; 162

(2) The projected costs of the improvements and maintenance. 163

Not later than ten days after receiving the written 164
notification, the board may request the person to provide 165
additional reasonable and relevant information regarding the 166
impact of the facility on township infrastructure. The person 167
shall provide the information not later than ten days after the 168
request is made. 169

(E)(1) Not later than thirty days after the initial written 170
notification is received by the board, the board shall submit to 171
the person its recommendations, if any, concerning the 172
improvements that will be needed as a result of the facility and 173

the cost of those improvements. 174

(2) Not later than fifteen days after receipt of the board's 175
recommendations, the person shall notify the board either that the 176
person agrees with the recommendations and will implement them or 177
that the person is submitting reasonable alternative 178
recommendations or modifications to the board. If the person 179
agrees with the recommendations, they shall be considered to be 180
the board's final recommendations. 181

(3) If the board receives alternative recommendations or 182
modifications under division (E)(2) of this section, the board 183
shall select final recommendations and submit them to the person 184
not later than thirty days after the receipt of the alternative 185
recommendations or modifications. 186

(F) The board shall prepare a written, dated statement 187
certifying that the written notification required under this 188
section was submitted and that final recommendations were selected 189
regarding needed improvements and the costs of those improvements. 190
The board shall provide the person with the original of the 191
statement so that the person can include it with the application 192
for a permit to install for the facility as required under 193
division (C)(4) of section 903.02 of the Revised Code. The board 194
shall retain a copy of the statement for its records. 195

(G) The person shall construct, modify, and maintain or 196
finance the construction, modification, and maintenance of 197
improvements as provided in the board's final recommendations and 198
with the approval and oversight of the county engineer. If the 199
person fails to do so, the board shall notify the person by 200
certified mail that the board intends to initiate mediation with 201
the person if the person remains out of compliance with the final 202
recommendations. 203

The board shall allow sufficient time for the person to apply 204

for and proceed to obtain, for the purpose of financing the 205
construction, modification, or maintenance of the improvements, 206
exemptions from taxation under sections 5709.63, 5709.632, 207
5709.73, and 5709.78 of the Revised Code or state or federal 208
grants that may be available. 209

If the person remains out of compliance with the final 210
recommendations, the board may initiate mediation with the person 211
in order to resolve the differences between them. If mediation 212
fails to resolve the differences, the board and the person first 213
shall attempt to resolve the differences through any legal 214
remedies before seeking redress through a court of common pleas. 215

(H) If the person subsequently submits an application under 216
section 903.02 of the Revised Code for a permit to modify the 217
facility, or if the routes of travel to or from the facility 218
change for any reason other than road construction conducted by 219
the township, the board or the person may request that additional 220
information be provided in writing and shall proceed as provided 221
in this section for the notification and recommendation 222
proceedings. 223

Sec. 903.01. As used in this chapter: 224

(A) "Agricultural animal" means any animal generally used for 225
food or in the production of food, including cattle, sheep, goats, 226
rabbits, poultry, and swine; horses; and any other animal included 227
by the director of agriculture by rule. "Agricultural animal" does 228
not include fish or other aquatic animals regardless of whether 229
they are raised at fish hatcheries, fish farms, or other 230
facilities that raise aquatic animals. 231

(B) "Animal feeding facility" means a lot, ~~or~~ building, or 232
structure where both of the following conditions are met: 233

(1) ~~Animals, other than aquatic~~ Agricultural animals, have 234

been, are, or will be stabled or confined and fed or maintained 235
there for a total of forty-five days or more in any twelve-month 236
period. 237

(2) Crops, vegetative forage growth, or post-harvest residues 238
are not sustained in the normal growing season over any portion of 239
the lot, building, or structure. 240

"Animal feeding facility" also includes land that is owned or 241
leased by or otherwise is under the control of the owner or 242
operator of the lot, building, or structure and on which manure 243
originating from agricultural animals in the lot, building, or 244
structure or a production area is applied. ~~"Animal feeding~~ 245
~~facility" does not include a hatchery, fish farm, or other~~ 246
~~facility that raises aquatic animals.~~ 247

Two or more animal feeding facilities under common ownership 248
shall be considered to be a single animal feeding facility for the 249
purposes of this chapter if they adjoin each other or if they use 250
a common area or ~~system for the disposal of wastes~~ manure storage 251
or treatment facility. 252

(C) ~~"Animal unit" means a unit of measurement calculated by~~ 253
~~adding the following numbers:~~ 254

~~(1) The number of slaughter and feeder cattle multiplied by~~ 255
~~one;~~ 256

~~(2) The number of mature dairy cattle whether milked or dry~~ 257
~~multiplied by one and four tenths;~~ 258

~~(3) The number of swine each weighing over fifty five pounds~~ 259
~~multiplied by four tenths;~~ 260

~~(4) The number of horses multiplied by two;~~ 261

~~(5) The number of sheep or lambs multiplied by one tenth;~~ 262

~~(6) The number of turkeys multiplied by two hundredths;~~ 263

~~(7) The number of laying hens or broilers multiplied by~~ 264

one hundredth;	265
(8) The number of ducks multiplied by two tenths.	266
(D) "Best management practices" means best management practices established in rules.	267 268
<u>(D) "Cattle" includes, but is not limited to, heifers, steers, bulls, and cow and calf pairs.</u>	269 270
<u>(E) "Concentrated animal feeding facility" means an animal feeding facility with a total design capacity of equal to or more than one thousand animal units the number of animals specified in any of the categories in division (M) of this section.</u>	271 272 273 274
<u>(F) "Concentrated animal feeding operation" has the same meaning as in regulations adopted by the United States environmental protection agency under the Federal Water Pollution Control Act means an animal feeding facility that complies with one of the following:</u>	275 276 277 278
<u>(1) Has a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section;</u>	279 280 281 282
<u>(2) Satisfies the criteria in division (M), (O), or (EE) of this section;</u>	283 284
<u>(3) Is designated by the director of agriculture as a medium or small concentrated animal feeding operation pursuant to rules;</u>	285 286
<u>(4) Is required to be permitted as a medium or small concentrated animal feeding operation under section 903.082 of the Revised Code.</u>	287 288 289
(G) "Discharge" means to add from a point source to waters of the state.	290 291
(H) "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 816, 33	292 293

U.S.C. 1251 et. seq., as amended, and regulations adopted under 294
it. 295

(I) "Finalized," with respect to the programs required under 296
division (A)(1) of section 903.02 and division (A)(1) of section 297
903.03 of the Revised Code, means that all rules that are 298
necessary for the administration of this chapter have been adopted 299
and all employees of the department of agriculture that are 300
necessary for the administration of this chapter have been 301
employed. 302

(J) "General permit" has the meaning that is established in 303
rules. 304

(K) "Individual permit" has the meaning that is established 305
in rules. 306

(L) "Installation permit" means a permit for the installation 307
or modification of a disposal system or any part of a disposal 308
system issued by the director of environmental protection under 309
division (J)(1) of section 6111.03 of the Revised Code. 310

(M) "Large concentrated animal feeding operation" means an 311
animal feeding facility that stables or confines at least the 312
number of animals specified in any of the following categories: 313

(1) Seven hundred mature dairy cattle whether milked or dry; 314

(2) One thousand veal calves; 315

(3) One thousand cattle other than mature dairy cattle or 316
veal calves; 317

(4) Two thousand five hundred swine that each weigh fifty-five 318
pounds or more; 319

(5) Ten thousand swine that each weigh less than fifty-five 320
pounds; 321

(6) Five hundred horses; 322

<u>(7) Ten thousand sheep or lambs;</u>	323
<u>(8) Fifty-five thousand turkeys;</u>	324
<u>(9) Thirty thousand laying hens or broilers if the animal feeding facility uses a liquid manure handling system;</u>	325 326
<u>(10) One hundred twenty-five thousand chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;</u>	327 328 329
<u>(11) Eighty-two thousand laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;</u>	330 331 332
<u>(12) Thirty thousand ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;</u>	333 334 335
<u>(13) Five thousand ducks if the animal feeding facility uses a liquid manure handling system.</u>	336 337
<u>(N) "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten thousand animal units times the number of animals specified in any of the categories in division (M) of this section.</u>	338 339 340 341 342
(N) <u>(O) "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta.</u>	343 344 345 346 347 348 349
(O) <u>(P) "Manure storage or treatment facility" means any excavated, diked, or walled structure or combination of structures designed for the biological stabilization, holding, or storage of</u>	350 351 352

manure.	353
<u>(P)(O) "Medium concentrated animal feeding operation" means</u>	354
<u>an animal feeding facility that satisfies both of the following:</u>	355
<u>(1) The facility stables or confines the number of animals</u>	356
<u>specified in any of the following categories:</u>	357
<u>(a) Two hundred to six hundred ninety-nine mature dairy</u>	358
<u>cattle whether milked or dry;</u>	359
<u>(b) Three hundred to nine hundred ninety nine veal calves;</u>	360
<u>(c) Three hundred to nine hundred ninety nine cattle other</u>	361
<u>than mature dairy cattle or veal calves;</u>	362
<u>(d) Seven hundred fifty to two thousand four hundred ninety</u>	363
<u>nine swine that each weigh fifty-five pounds or more;</u>	364
<u>(e) Three thousand to nine thousand nine hundred ninety-nine</u>	365
<u>swine that each weigh less than fifty-five pounds;</u>	366
<u>(f) One hundred fifty to four hundred ninety-nine horses;</u>	367
<u>(g) Three thousand to nine thousand nine hundred ninety-nine</u>	368
<u>sheep or lambs;</u>	369
<u>(h) Sixteen thousand five hundred to fifty-four thousand nine</u>	370
<u>hundred ninety-nine turkeys;</u>	371
<u>(i) Nine thousand to twenty-nine thousand nine hundred</u>	372
<u>ninety-nine laying hens or broilers if the animal feeding facility</u>	373
<u>uses a liquid manure handling system;</u>	374
<u>(j) Thirty-seven thousand five hundred to one hundred</u>	375
<u>twenty-four thousand nine hundred ninety-nine chickens, other than</u>	376
<u>laying hens, if the animal feeding facility uses a manure handling</u>	377
<u>system that is not a liquid manure handling system;</u>	378
<u>(k) Twenty-five thousand to eighty-one thousand nine hundred</u>	379
<u>ninety-nine laying hens if the animal feeding facility uses a</u>	380
<u>manure handling system that is not a liquid manure handling</u>	381

<u>system;</u>	382
<u>(l) Ten thousand to twenty-nine thousand nine hundred</u>	383
<u>ninety-nine ducks if the animal feeding facility uses a manure</u>	384
<u>handling system that is not a liquid manure handling system;</u>	385
<u>(m) One thousand five hundred to four thousand nine hundred</u>	386
<u>ninety-nine ducks if the animal feeding facility uses a liquid</u>	387
<u>manure handling system.</u>	388
<u>(2) The facility does one of the following:</u>	389
<u>(a) Discharges pollutants into waters of the United States</u>	390
<u>through an artificial ditch, an artificial flushing system, or an</u>	391
<u>other similar artificial device;</u>	392
<u>(b) Discharges pollutants directly into waters of the United</u>	393
<u>States that originate outside of and that pass over, across, or</u>	394
<u>through the facility or otherwise come into direct contact with</u>	395
<u>the animals at the facility.</u>	396
<u>"Medium concentrated animal feeding operation" includes an</u>	397
<u>animal feeding facility that is designated by the director as a</u>	398
<u>medium concentrated animal feeding operation pursuant to rules or</u>	399
<u>that is required to be permitted as a medium concentrated animal</u>	400
<u>feeding operation under section 903.082 of the Revised Code.</u>	401
<u>(R) "Mortality composting" means the controlled decomposition</u>	402
<u>of organic solid material consisting of dead animals that</u>	403
<u>stabilizes the organic fraction of the material.</u>	404
(Q) <u>(S) "NPDES permit" means a permit issued under the</u>	405
<u>national pollutant discharge elimination system established in</u>	406
<u>section 402 of the Federal Water Pollution Control Act and</u>	407
<u>includes the renewal of such a permit. "NPDES permit" includes the</u>	408
<u>federally enforceable provisions of a permit to operate into which</u>	409
<u>NPDES permit provisions have been incorporated.</u>	410
(R) <u>(T) "Permit" includes an initial, renewed, or modified</u>	411

permit to install, permit to operate, NPDES permit, and 412
installation permit unless expressly stated otherwise. 413

~~(S)~~(U) "Permit to install" means a permit issued under 414
section 903.02 of the Revised Code. 415

~~(T)~~(V) "Permit to operate" means a permit issued or renewed 416
under section 903.03 of the Revised Code and includes incorporated 417
NPDES permit provisions, if applicable. 418

~~(U)~~(W) "Person" means any legal entity defined as a person 419
under section 1.59 of the Revised Code, the state, any political 420
subdivision of the state, any interstate body created by compact, 421
the United States, or any department, agency, or instrumentality 422
of any of those entities. 423

~~(V)~~(X) "Point source" has the same meaning as in the Federal 424
Water Pollution Control Act. 425

~~(W)~~(Y) "Process generated waste water" means water that is 426
directly or indirectly used in the operation of an animal feeding 427
facility for any of the following: 428

(1) Spillage or overflow from animal watering systems; 429

(2) Washing, cleaning, or flushing pens, barns, manure pits, 430
or other areas of an animal feeding facility; 431

(3) Direct contact swimming, washing, or spray cooling of 432
animals; 433

(4) Dust control. 434

~~(X)~~(Z) "Process waste water" means any process generated 435
waste water and any precipitation, including rain or snow, that 436
comes into contact with manure, litter, bedding, or any other raw 437
material or intermediate or final material or product used in or 438
resulting from the production of animals or direct products such 439
as milk or eggs. 440

~~(Y)~~(AA) "Production area" means any of the following 441

<u>components of an animal feeding facility:</u>	442
<u>(1) Animal confinement areas, including, but not limited to,</u>	443
<u>open lots, housed lots, feedlots, confinement houses, stall barns,</u>	444
<u>free stall barns, milkrooms, milking centers, cowyards, barnyards,</u>	445
<u>medication pens, animal walkways, and stables;</u>	446
<u>(2) Manure storage areas, including, but not limited to,</u>	447
<u>manure storage or treatment facilities;</u>	448
<u>(3) Raw material storage areas, including, but not limited</u>	449
<u>to, feed silos, silage bunkers, commodity buildings, and bedding</u>	450
<u>materials;</u>	451
<u>(4) Waste containment areas, including, but not limited to,</u>	452
<u>any of the following:</u>	453
<u>(a) An egg washing or egg processing facility;</u>	454
<u>(b) An area used in the storage, handling, treatment, or</u>	455
<u>disposal of mortalities;</u>	456
<u>(c) Settling basins, runoff ponds, liquid impoundments, and</u>	457
<u>areas within berms and diversions that are designed and maintained</u>	458
<u>to separate uncontaminated storm water runoff from contaminated</u>	459
<u>water and to contain and treat contaminated storm water runoff.</u>	460
<u>(BB) "Public meeting" means a nonadversarial public hearing</u>	461
<u>at which a person may present written or oral statements for the</u>	462
<u>director of agriculture's consideration and includes public</u>	463
<u>hearings held under section 6111.12 of the Revised Code.</u>	464
(Z) <u>(CC) "Review compliance certificate" means a certificate</u>	465
<u>issued under section 903.04 of the Revised Code.</u>	466
(AA) <u>(DD) "Rule" means a rule adopted under section 903.10 of</u>	467
<u>the Revised Code.</u>	468
(BB) <u>(EE) "Small concentrated animal feeding operation" means</u>	469
<u>an animal feeding facility that is not a large or medium</u>	470
<u>concentrated animal feeding operation and that is designated by</u>	471

the director as a small concentrated animal feeding operation 472
pursuant to rules adopted under section 903.08 of the Revised Code 473
or is permitted as a small concentrated animal feeding operation 474
under section 903.082 of the Revised Code. 475

(FF) "Waters of the state" has the same meaning as in section 476
6111.01 of the Revised Code. 477

Sec. 903.02. (A)(1) Not later than one hundred eighty days 478
after ~~the effective date of this section~~ March 15, 2001, the 479
director of agriculture shall prepare a program for the issuance 480
of permits to install under this section. 481

(2) On and after the date on which the director has finalized 482
the program required under division (A)(1) of this section, no 483
person shall modify an existing or construct a new concentrated 484
animal feeding facility without first obtaining a permit to 485
install issued by the director under this section. 486

(B) The director or the director's authorized representative 487
may help an applicant for a permit to install during the 488
permitting process by providing guidance and technical assistance. 489

(C) An applicant for a permit to install shall submit an 490
application to the director on a form that the director prescribes 491
and provides together with a fee in an amount established by rule. 492
The applicant shall include with the application all of the 493
following information: 494

(1) The name and address of the applicant, of all partners if 495
the applicant is a partnership or of all officers and directors if 496
the applicant is a corporation, and of any other person who has a 497
right to control or in fact controls management of the applicant 498
or the selection of officers, directors, or managers of the 499
applicant; 500

(2) The type of livestock and the number of ~~animal units~~ 501

animals that the concentrated animal feeding facility would have 502
the design capacity to raise or maintain; 503

(3) Designs and plans for the proposed construction of the 504
concentrated animal feeding facility that include the proposed 505
location of the construction, design and construction plans and 506
specifications, anticipated beginning and ending dates for work 507
performed, and any other information that the director requires by 508
rule; 509

(4) In the case of an application for a concentrated animal 510
feeding facility that meets the criteria established in sections 511
307.204 and 505.266 of the Revised Code, written statements from 512
the board of county commissioners of the county and the board of 513
township trustees of the township in which the concentrated animal 514
feeding facility would be located certifying that, in accordance 515
with those sections, the applicant has provided the boards with 516
the required written notification and that final recommendations 517
were selected regarding improvements, if any, to county or 518
township infrastructure that are needed as a result of the new or 519
expanded concentrated animal feeding facility and the costs of 520
those improvements; 521

(5) A statement of the quantity of water that the 522
concentrated animal feeding facility will utilize on an average 523
daily and annual basis, a detailed description of the basis for 524
the calculation utilized in determining the quantity of water 525
utilized, and a statement identifying the source for the water; 526

(6) Information concerning the applicant's past compliance 527
with the Federal Water Pollution Control Act required to be 528
provided under section 903.05 of the Revised Code, if applicable; 529

(7) Any other information required by rule. 530

Information required to be included in an application for the 531
modification of a permit to install, together with the applicable 532

fee amount, shall be established in rules. 533

(D) The director shall issue permits to install in accordance 534
with section 903.09 of the Revised Code. The director shall deny a 535
permit to install if either of the following applies: 536

(1) The permit application contains misleading or false 537
information. 538

(2) The designs and plans fail to conform to best management 539
practices. 540

Additional grounds for the denial of a permit to install 541
shall be those established in this chapter and rules. 542

(E) A permit to install shall expire after a period specified 543
by the director unless the applicant has undertaken a continuing 544
program of construction or has entered into a binding contractual 545
obligation to undertake and complete a continuing program of 546
construction within a reasonable time. The director may extend the 547
expiration date of a permit to install upon request of the 548
applicant. 549

(F) The director may modify, suspend, or revoke a permit to 550
install in accordance with rules. 551

(G) Nothing in this chapter affects section 1521.16 of the 552
Revised Code. 553

Sec. 903.04. (A) As used in this section, "existing 554
concentrated animal feeding facility" or "existing facility" means 555
a concentrated animal feeding facility that was in existence prior 556
to the date on which the director of agriculture has finalized the 557
program required under division (A)(1) of section 903.03 of the 558
Revised Code and that has received an installation permit prior to 559
that date. 560

(B) On and after the date on which the director of 561
agriculture has finalized the program required under division 562

(A)(1) of section 903.02 of the Revised Code, the authority to 563
enforce terms and conditions of installation permits that 564
previously were issued to animal feeding facilities shall be 565
transferred from the director of environmental protection to the 566
director of agriculture. Thereafter, the director of environmental 567
protection shall have no authority to enforce the terms and 568
conditions of those installation permits. On and after the date on 569
which the director of agriculture has finalized the program 570
required under division (A)(1) of section 903.02 of the Revised 571
Code, an installation permit concerning which enforcement 572
authority has been transferred shall be deemed to have been issued 573
under this section. 574

(C) A person to whom an installation permit has been issued 575
by the director of environmental protection prior to the date on 576
which the director of agriculture has finalized the program 577
required under division (A)(1) of section 903.03 of the Revised 578
Code may continue to operate under that permit until either of the 579
following occurs: 580

(1) The installation permit is terminated through the denial 581
of a review compliance certificate under division (F) of this 582
section. 583

(2) The person is required under division (H) of this section 584
to obtain a permit to operate. 585

(D) Except as otherwise provided in this division, on and 586
after the date that is two years after the date on which the 587
director has finalized the program required under division (A)(1) 588
of section 903.03 of the Revised Code, and until the issuance of a 589
permit to operate, no person shall operate an existing 590
concentrated animal feeding facility unless the person holds a 591
review compliance certificate. 592

This division does not apply to a person who has made a 593

timely submittal of the information required under division (E)(2) 594
of this section and who is waiting for the director to issue or 595
deny a review compliance certificate. Such a person may continue 596
the operation of the existing concentrated animal feeding facility 597
until, if applicable, the director issues an order denying the 598
review compliance certificate. 599

(E) Not later than two years after the date on which the 600
director has finalized the program required under division (A)(1) 601
of section 903.03 of the Revised Code, both of the following 602
apply: 603

(1) The director shall review the installation permit that 604
previously was issued to an existing concentrated animal feeding 605
facility and shall inspect the facility to determine if it is in 606
compliance with that permit. 607

(2) Except as otherwise provided in division (E)(2) of this 608
section, the owner or operator of an existing concentrated animal 609
feeding facility shall furnish all of the following to the 610
director on a form prescribed by the director: 611

(a) The name and address of the owner, of all partners if the 612
owner is a partnership or of all officers and directors if the 613
owner is a corporation, and of any other person who has a right to 614
control or in fact controls management of the facility or the 615
selection of officers, directors, or managers of the facility; 616

(b) The type of livestock and number of ~~animal-units~~ animals 617
that the facility has the design capacity to raise or maintain; 618

(c) A manure management plan for the facility that conforms 619
to best management practices regarding the handling, storage, 620
transportation, and land application of manure generated at the 621
facility and that contains any other information required by rule; 622

(d) An insect and rodent control plan for the facility that 623
conforms to best management practices and is prepared in 624

accordance with section 903.06 of the Revised Code; 625

(e) In the case of a major concentrated animal feeding 626
facility, written proof that the person who would be responsible 627
for the supervision of the management and handling of manure at 628
the facility has been issued a livestock manager certification in 629
accordance with section 903.07 of the Revised Code. 630

The owner or operator need not furnish any information 631
otherwise required under division (E)(2) of this section if that 632
information is included in the installation permit that was issued 633
for the existing facility. 634

(F) After a review of the existing installation permit, an 635
inspection of the facility, and a review of the information 636
furnished under division (E)(2) of this section, and upon 637
determining that the existing facility is being operated in a 638
manner that protects the waters of the state and minimizes the 639
presence and negative effects of insects and rodents at the 640
facility and in surrounding areas, the director shall issue an 641
order issuing a review compliance certificate to the facility. In 642
issuing the certificate, the director shall consider technical 643
feasibility and economic costs. The director shall not require a 644
significant capital expenditure, as defined by rule, by the 645
facility before issuing a certificate. 646

The director may issue an order denying a review compliance 647
certificate if the facility's insect and rodent control plan or 648
manure management plan does not conform to best management 649
practices and the requirements established in section 903.06 of 650
the Revised Code and in rules. The denial of a review compliance 651
certificate terminates the existing installation permit that was 652
issued to the facility. 653

The issuance of a review compliance certificate shall not 654
require public notice or a public meeting. However, notice shall 655

be provided to persons who own property that is contiguous to the 656
production area of the concentrated animal feeding facility for 657
which the review compliance certificate is to be issued. Such 658
persons may submit written comments to the director within a time 659
established by the director. 660

The issuance of a review compliance certificate shall not be 661
subject to appeal under Chapter 119. or sections 3745.04 to 662
3745.06 of the Revised Code. The denial or revocation of a review 663
compliance certificate or the amendment of an installation permit 664
resulting from a certificate may be challenged by the applicant in 665
an administrative hearing in accordance with Chapter 119. of the 666
Revised Code, except that section 119.12 of the Revised Code does 667
not apply. An order of the director that denies or revokes a 668
certificate or amends an installation permit as a result of a 669
certificate may be appealed to the environmental review appeals 670
commission under sections 3745.04 to 3745.06 of the Revised Code. 671

(G) Upon the issuance of a review compliance certificate, the 672
certificate automatically shall merge and become a part of the 673
previously issued installation permit. If any of the terms and 674
conditions of the installation permit and the review compliance 675
certificate are in conflict, the terms and conditions of the 676
review compliance certificate are controlling. 677

(H)(1) A review compliance certificate is valid for a period 678
of five years. Not later than one hundred eighty days prior to the 679
expiration date of the review compliance certificate, the owner or 680
operator shall apply for a permit to operate. 681

(2) The director may revoke a review compliance certificate 682
issued to an existing facility after the director has issued an 683
order as a result of a hearing held under Chapter 119. of the 684
Revised Code in which the facility has been found to be in 685
violation of the terms and conditions of the review compliance 686
certificate. An existing facility whose review compliance 687

certificate is revoked shall obtain a permit to operate and, if 688
applicable, a NPDES permit in order to resume operating. 689

(I) An existing facility that is issued a review compliance 690
certificate shall comply with the previously issued installation 691
permit, as amended by the certificate. 692

Sec. 903.08. (A)(1) The director of agriculture is authorized 693
to participate in the national pollutant discharge elimination 694
system in accordance with the Federal Water Pollution Control Act. 695
Not later than one hundred eighty days after ~~the effective date of~~ 696
~~this section~~ March 15, 2001, the director shall prepare a state 697
program in accordance with 40 C.F.R. 123.21 for point sources that 698
are subject to this section and shall submit the program to the 699
United States environmental protection agency for approval. 700

(2) On and after the date on which the United States 702
environmental protection agency approves the state program 703
submitted under division (A)(1) of this section, the authority to 704
enforce terms and conditions of NPDES permits previously issued 705
under division (J) of section 6111.03 or under section 6111.035 of 706
the Revised Code for the discharging, transporting, or handling of 707
storm water from an animal feeding facility or of manure is 708
transferred from the director of environmental protection to the 709
director of agriculture. Thereafter, the director of environmental 710
protection shall have no authority to enforce the terms and 711
conditions of those NPDES permits. After the transfer of authority 712
under division (A)(2) of this section, the NPDES permits 713
concerning which authority has been transferred shall be 714
considered to have been issued under this section. 715

(B)(1) On and after the date on which the United States 716
environmental protection agency approves the NPDES program 717
submitted by the director of agriculture under this section, ~~ne~~ 718

~~person shall discharge manure from a point source into waters of~~ 719
~~the state without first obtaining~~ the owner or operator of a 720
concentrated animal feeding operation shall apply for an 721
individual NPDES permit or for coverage under a general NPDES 722
permit issued by the director of agriculture under this section. 723
However, if an owner or operator of a concentrated animal feeding 724
operation receives notice from the director that the director has 725
determined that the concentrated animal feeding operation has no 726
potential to discharge manure, the owner or operator is not 727
required to apply for an individual NPDES permit or for coverage 728
under a general NPDES permit for that operation. The director's 729
determination shall be made in accordance with rules. Violation of 730
division (B)(1) of this section is hereby declared to be a public 731
nuisance for purposes of state enforcement of this section. 732

(2) Persons that have been issued a permit by the director of 733
environmental protection under division (J) of section 6111.03 of 734
the Revised Code for the discharge of manure prior to the date on 735
which the United States environmental protection agency approves 736
the NPDES program submitted by the director of agriculture under 737
this section may continue to operate under that permit until it 738
expires or is modified or revoked. Such a permit shall be enforced 739
by the director of agriculture upon the transfer of authority to 740
enforce the terms and conditions of the permit under division 741
(A)(2) of this section. 742

(C)(1) On and after the date on which the United States 743
environmental protection agency approves the NPDES program 744
submitted by the director of agriculture under this section, no 745
person shall discharge storm water resulting from an animal 746
feeding facility without first obtaining a NPDES permit issued by 747
the director of agriculture in accordance with rules when such a 748
permit is required by the Federal Water Pollution Control Act. 749
Violation of division (C)(1) of this section is hereby declared to 750

be a public nuisance for purposes of state enforcement of this section. 751
752

(2) Persons that have been issued a NPDES permit by the director of environmental protection under Chapter 6111. of the Revised Code for the discharge of storm water from an animal feeding facility prior to the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. Such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit under division (A)(2) of this section. 753
754
755
756
757
758
759
760
761
762
763

(D) In accordance with rules, an applicant for a NPDES permit issued under this section shall submit a fee in an amount established by rule together with, except as otherwise provided in division (F) of this section, an application for the permit to the director of agriculture on a form prescribed by the director. The application shall include any information required by rule. The director or the director's authorized representative may help an applicant for a NPDES permit during the application process by providing guidance and technical assistance. 764
765
766
767
768
769
770
771
772

(E) The director of agriculture shall issue NPDES permits in accordance with this section and section 903.09 of the Revised Code. The director shall deny an application for a NPDES permit if any of the following applies: 773
774
775
776

(1) The application contains misleading or false information. 777

(2) The administrator of the United States environmental protection agency objects in writing to the issuance of the NPDES permit in accordance with section 402(d) of the Federal Water Pollution Control Act. 778
779
780
781

(3) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act.

Additional grounds for the denial of a NPDES permit shall be those established in this chapter and rules.

(F) To the extent consistent with the Federal Water Pollution Control Act, the director of agriculture shall issue general NPDES permits that will apply in lieu of individual NPDES permits for categories of point sources for which the director determines that all of the following apply:

(1) Any discharges authorized by a general permit will have only minimal cumulative adverse effects on the environment when the discharges are considered collectively and individually.

(2) The discharges are more appropriately authorized by a general permit than by an individual permit.

(3) Each category of point sources satisfies the criteria established in rules.

A person who is required to obtain a NPDES permit shall submit to the director a notice of the person's intent to be covered under an existing general permit or, at the person's option, an application for an individual NPDES permit. Upon receipt of a notice of intent for coverage under an existing general permit, the director shall notify the applicant in writing that the person is covered by the general permit if the person satisfies the criteria established in rules for eligibility for such coverage. If the person is ineligible for coverage under the general permit, the director shall require the submission of an application for an individual NPDES permit.

(G) The director of agriculture shall establish terms and

conditions of NPDES permits in accordance with rules. Terms and 812
conditions shall be designed to achieve and maintain full 813
compliance with national effluent limitations, national standards 814
of performance for new sources, the most current water quality 815
standards adopted under section 6111.041 of the Revised Code, the 816
most current antidegradation policy adopted under section 6111.12 817
of the Revised Code, and other requirements of the Federal Water 818
Pollution Control Act. In establishing the terms and conditions of 819
a NPDES permit, the director, to the extent consistent with that 820
act, shall consider technical feasibility and economic costs and 821
shall allow a reasonable period of time for coming into compliance 822
with the permit. 823

(H) An animal feeding facility that is required to obtain 824
both a NPDES permit and a permit to operate shall be issued a 825
single permit to operate incorporating the terms and conditions 826
established by both permits. The permit to operate expressly shall 827
designate the terms and conditions required under the NPDES 828
program as federally enforceable. All other provisions are 829
enforceable under state law only and expressly shall be designated 830
accordingly. 831

(I) A NPDES permit may be issued under this section for a 832
period not to exceed five years. 833

(J) A NPDES permit issued under this section may be renewed. 834
An application for renewal of a NPDES permit shall be submitted to 835
the director of agriculture at least one hundred eighty days prior 836
to the expiration date of the permit and shall comply with the 837
requirements governing applications for NPDES permits established 838
under this section and by rule. 839

(K)(1) No person shall make any false statement, 840
representation, or certification in an application for a NPDES 841
permit or in any form, notice, or report required to be submitted 842
to the director pursuant to terms and conditions established in a 843

NPDES permit issued under this section. 844

(2) No person shall render inaccurate any monitoring method 845
or device that is required under the terms and conditions of a 846
NPDES permit issued under this section. 847

(L) The director may modify, suspend, or revoke a NPDES 848
permit issued under this section for cause as established by rule. 849
No NPDES permit issued under this section shall be modified, 850
suspended, or revoked without a written order stating the findings 851
that led to the modification, suspension, or revocation. In 852
addition, the permittee has a right to an administrative hearing 853
in accordance with Chapter 119. of the Revised Code, except that 854
section 119.12 of the Revised Code does not apply. Further, an 855
order of the director modifying, suspending, or revoking a NPDES 856
permit may be appealed to the environmental review appeals 857
commission under sections 3745.04 to 3745.06 of the Revised Code. 858

(M)(1) No person shall violate any effluent limitation 859
established by rule. 860

(2) No person shall violate any other provision of a NPDES 861
permit issued under this section. 862

(3) Compliance with a NPDES permit issued under this section 863
constitutes compliance with this section. 864

(N) This section, including the state program authorized in 865
division (A)(1) of this section, shall be administered in a manner 866
consistent with the Federal Water Pollution Control Act. 867

Sec. 903.081. (A) For purposes of section 903.08 of the 868
Revised Code, no person shall issue a NPDES permit if the person 869
receives or has received during the two years prior to the receipt 870
of an application for an NPDES permit a significant portion of 871
income from a NPDES permittee or an applicant for a NPDES permit. 872
In addition, no person who, pursuant to an appeal of an action 873

regarding a NPDES permit, has the authority to require the 874
director of agriculture to issue or modify a NPDES permit shall 875
require the director to issue or modify a NPDES permit if the 876
person receives or has received during the two years prior to the 877
filing of the appeal a significant portion of income from a NPDES 878
permittee or an applicant for a NPDES permit. 879

(B) As used in this section: 880

(1) "Significant portion of income" means ten per cent or 881
more of gross personal income in a calendar year or fifty per cent 882
or more of gross personal income in a calendar year if the 883
recipient of the income is more than sixty years of age and is 884
receiving that portion of income under retirement benefits, 885
including a pension or similar arrangement. 886

(2) "Income" includes retirement benefits, consultant fees, 887
and stock dividends. "Income" does not include mutual fund 888
payments or other diversified investments for which the recipient 889
does not know the identity of the primary sources of the income. 890

(3) "Permittee" and "applicant for a NPDES permit" does not 891
include any department or agency of the state. 892

Sec. 903.082. (A) Notwithstanding divisions (O) and (EE) of 893
section 903.01 of the Revised Code, the director of agriculture 894
may determine that an animal feeding facility shall be required to 895
be permitted as a medium or small concentrated animal feeding 896
operation when all of the following apply: 897

(1) The director has received a written notification from the 898
chief of the division of soil and water conservation in the 899
department of natural resources that specifies that the animal 900
feeding facility has a record of noncompliance with Chapter 1511. 901
of the Revised Code and rules adopted under it. 902

(2) The director or the director's authorized representative 903
has inspected the animal feeding facility. 904

(3) The director or the director's authorized representative 905
finds that the facility is not being operated in a manner that 906
protects the waters of the state. 907

(B) If an animal feeding facility is required to be permitted 908
in accordance with this section, the owner or operator of the 909
facility shall apply to the director for an individual NPDES 910
permit or for coverage under a general NPDES permit and shall 911
apply for a permit to install, permit to operate, or both, 912
whichever is applicable, to operate as a concentrated animal 913
feeding operation. 914

Sec. 903.09. ~~(a)~~(A) Prior to issuing or modifying a permit to 915
install, permit to operate, or NPDES permit, the director of 916
agriculture shall issue a draft permit. The director or the 917
director's representative shall mail notice of the issuance of a 918
draft permit to the applicant and shall publish the notice once in 919
a newspaper of general circulation in the county in which the 920
concentrated animal feeding facility or discharger is located or 921
proposed to be located. The director shall mail notice of the 922
issuance of a draft permit and a copy of the draft permit to the 923
board of county commissioners of the county and the board of 924
township trustees of the township in which the concentrated animal 925
feeding facility or discharger is located or proposed to be 926
located. The director or the director's representative also shall 927
provide notice of the issuance of a draft NPDES to any other 928
persons that are entitled to notice under the Federal Water 929
Pollution Control Act. Notice of the issuance of a draft permit to 930
install, permit to operate, or NPDES permit shall include the 931
address where written comments concerning the draft permit may be 932
submitted and the period of time during which comments will be 933

accepted as established by rule. 934

If the director receives written comments in an amount that 935
demonstrates significant public interest, as defined by rule, in 936
the draft permit, the director shall schedule one public meeting 937
to provide information to the public and to hear comments 938
pertinent to the draft permit. The notice of the public meeting 939
shall be provided in the same manner as the notice of the issuance 940
of the draft permit. 941

(B) If a person is required to obtain both a permit to 942
install and a permit to operate, including any permit to operate 943
with NPDES provisions, and public meetings are required for both 944
permits, the public meetings for the permits shall be combined. 945

(C) The director shall apply the antidegradation policy 946
adopted under section 6111.12 of the Revised Code to permits 947
issued under this chapter to the same degree and under the same 948
circumstances as it applies to permits issued under Chapter 6111. 949
of the Revised Code. The director shall hold one public meeting to 950
consider antidegradation issues when such a meeting is required by 951
the antidegradation policy. When allowed by the antidegradation 952
policy, the director shall hold the public meeting on 953
antidegradation issues concurrently with any public meeting held 954
for the draft permit. 955

(D) The director or the director's representative shall 956
publish notice of the issuance of a final permit to install, 957
permit to operate, or NPDES permit once in a newspaper of general 958
circulation in the county in which the concentrated animal feeding 959
facility or discharger is located. 960

(E) Failure of the director to provide notice or a public 961
meeting shall invalidate a permit only if the failure is raised 962
by, and was relied upon to the detriment of, a person that is 963
entitled to appeal the permit. Notice or a public meeting is not 964

required for the modification of a permit made with the consent of 965
the permittee for the correction of typographical errors. 966

(F) The denial, modification, suspension, or revocation of a 967
permit to install, permit to operate, or NPDES permit without the 968
consent of the applicant or permittee shall be preceded by a 969
proposed action stating the director's intention to issue an order 970
with respect to the permit and the reasons for it. ~~The~~ 971

The director shall mail to the applicant or the permittee 972
notice of the director's proposed action to deny, suspend, or 973
revoke a permit to install, permit to operate, or NPDES permit. 974
The director shall publish the notice once in a newspaper of 975
general circulation in the county in which the concentrated animal 976
feeding facility or concentrated animal feeding operation is 977
located or proposed to be located. The director shall mail a copy 978
of the notice of the proposed action to the board of county 979
commissioners of the county and to the board of township trustees 980
of the township in which the concentrated animal feeding facility 981
or concentrated animal feeding operation is located or proposed to 982
be located. The director also shall provide notice of the 983
director's proposed action to deny, suspend, or revoke a permit to 984
install, permit to operate, or NPDES permit to any other person 985
that is entitled to notice under the Federal Water Pollution 986
Control Act. The notice of the director's proposed action to deny, 987
suspend, or revoke a permit to install, permit to operate, or 988
NPDES permit shall include the address where written comments 989
concerning the director's proposed action may be submitted and the 990
period of time during which comments will be accepted as 991
established by rule. If the director receives written comments in 992
an amount that demonstrates significant public interest, as 993
defined by rule, the director shall schedule one public meeting to 994
provide information to the public and to hear comments pertinent 995
to the proposed action. The notice of the public meeting shall be 996

provided in the same manner as the notice of the director's 997
proposed action. 998

The director shall not issue an order that makes the proposed 999
action final until the applicant or permittee has had an 1000
opportunity for an adjudication hearing in accordance with Chapter 1001
119. of the Revised Code, except that section 119.12 of the 1002
Revised Code does not apply. An order of the director that 1003
finalizes the proposed action or an order issuing a permit without 1004
a prior proposed action may be appealed to the environmental 1005
review appeals commission under sections 3745.04 to 3745.06 of the 1006
Revised Code. 1007

(G)(1) The director shall issue an order issuing or denying 1008
an application for a permit to operate that contains NPDES 1009
provisions or for a NPDES permit, as well as any application for a 1010
permit to install that is submitted simultaneously, not later than 1011
one hundred eighty days after receiving the application. 1012

(2) In the case of an application for a permit to install or 1013
permit to operate that is not connected with an application for a 1014
NPDES permit, the director shall issue or propose to deny the 1015
permit not later than ninety days after receiving the application. 1016
If the director has proposed to deny the permit to install or 1017
permit to operate under division (G)(2) of this section, the 1018
director shall issue an order denying the permit or, if the 1019
director decides against the proposed denial, issuing the permit 1020
not later than one hundred eighty days after receiving the 1021
application. If the director denies the permit, the director shall 1022
notify the applicant in writing of the reason for the denial. 1023

(H) All rulemaking and the issuance of civil penalties under 1024
this chapter shall comply with Chapter 119. of the Revised Code. 1025

(I) Upon the transfer of ownership of an animal feeding 1026
facility for which a permit to install, an installation permit, a 1027

review compliance certificate, or a permit to operate that 1028
contains no NPDES provisions has been issued, the permit or 1029
certificate shall be transferred to the new owner of the animal 1030
feeding facility except as provided in division (C) of section 1031
903.05 of the Revised Code. In the case of the transfer of 1032
ownership of a point source for which a NPDES permit or a permit 1033
to operate that contains NPDES provisions has been issued, the 1034
permit shall be transferred in accordance with rules. 1035

(J) Applications for installation permits for animal feeding 1036
facilities pending before the director of environmental protection 1037
on the date on which the director of agriculture has finalized the 1038
programs required under division (A)(1) of section 903.02 and 1039
division (A)(1) of section 903.03 of the Revised Code shall be 1040
transferred to the director of agriculture. In the case of an 1041
applicant who is required to obtain a permit to install and a 1042
permit to operate under sections 903.02 and 903.03, respectively, 1043
of the Revised Code, the director of agriculture shall process the 1044
pending application for an installation permit as an application 1045
for a permit to install and a permit to operate. 1046

(K) Applications for NPDES permits for either of the 1047
following that are pending before the director of environmental 1048
protection on the date on which the United States environmental 1049
protection agency approves the NPDES program submitted by the 1050
director of agriculture under section 903.08 of the Revised Code 1051
shall be transferred to the director of agriculture: 1052

(1) The discharge of manure; 1053

(2) The discharge of storm water resulting from an animal 1054
feeding facility. In the case of an applicant who is required to 1055
obtain a NPDES permit under section 903.08 of the Revised Code, 1056
the director of agriculture shall process the pending application 1057
as an application for a NPDES permit under that section. 1058

Sec. 903.10. The director of agriculture shall adopt rules in 1059
accordance with Chapter 119. of the Revised Code that do all of 1060
the following: 1061

(A) Establish all of the following concerning permits to 1062
install and permits to operate: 1063

(1) A description of what constitutes a modification of a 1064
concentrated animal feeding facility; 1065

(2) The amount of the fee that must be submitted with each 1066
permit application and each application for a permit modification; 1067

(3) Information that must be included in the designs and 1068
plans required to be submitted with an application for a permit to 1069
install and criteria for approving, disapproving, or requiring 1070
modification of the designs and plans; 1071

(4) Information that must be included in a manure management 1072
plan required to be submitted with an application for a permit to 1073
operate; 1074

(5) Information that must be included in an application for 1075
the modification of an installation permit, a permit to install, 1076
or a permit to operate; 1077

(6) Any additional information that must be included with a 1078
permit application; 1079

(7) Procedures for the issuance, denial, modification, 1080
transfer, suspension, and revocation of permits to install and 1081
permits to operate, including general permits; 1082

(8) Grounds for the denial, modification, suspension, or 1083
revocation of permits to install and permits to operate in 1084
addition to the grounds established in division (D) of section 1085
903.02 and division (D) of section 903.03 of the Revised Code; 1086

(9) A requirement that a person that is required to obtain 1087

both a permit to install and a permit to operate submit 1088
applications for those permits simultaneously; 1089

(10) A definition of "general permit to operate" that 1090
establishes categories of concentrated animal feeding facilities 1091
to be covered under such a permit and a definition of "individual 1092
permit to operate" together with the criteria for issuing a 1093
general permit to operate and the criteria for determining a 1094
person's eligibility to operate under a general permit to operate. 1095

(B) Establish all of the following for the purposes of review 1096
compliance certificates issued under section 903.04 of the Revised 1097
Code: 1098

(1) The form of a certificate; 1099

(2) Criteria for what constitutes a significant capital 1100
expenditure under division (D) of that section; 1101

(3) Deadlines and procedures for submitting information under 1102
division (E)(2) of that section. 1103

(C) Establish best management practices that minimize water 1104
pollution, odors, insects, and rodents, that govern the land 1105
application of manure that originated at a concentrated animal 1106
feeding facility, and that govern all of the following activities 1107
that occur at a concentrated animal feeding facility: 1108

(1) Manure management, including the storage, handling, 1109
transportation, and land application of manure. Rules adopted 1110
under division (C)(1) of this section shall include practices that 1111
prevent surface and ground water contamination caused by the 1112
storage of manure or the land application of manure and prevent 1113
the contamination of water in drainage tiles that may be caused by 1114
that application. 1115

(2) Disposal of dead livestock; 1116

(3) Any other activity that the director considers 1117

appropriate. 1118

Best management practices established in rules adopted under 1119
division (C) of this section shall not conflict with best 1120
management practices established in rules that have been adopted 1121
under any other section of the Revised Code and that are in effect 1122
on ~~the effective date of this section~~ March 15, 2001. The rules 1123
adopted under division (C) of this section shall establish 1124
guidelines that require owners or operators of concentrated animal 1125
feeding facilities to consult with and work with local officials, 1126
including boards of county commissioners and boards of township 1127
trustees, in addressing issues related to local government 1128
infrastructure needs and the financing of that infrastructure. 1129

(D) Establish all of the following concerning insect and 1130
rodent control plans required under section 903.06 of the Revised 1131
Code: 1132

(1) The information to be included in an insect and rodent 1133
control plan; 1134

(2) Criteria for approving, disapproving, or requiring 1135
modification of an insect and rodent control plan; 1136

(3) Criteria for determining compliance with or violation of 1137
an insect and rodent control plan; 1138

(4) Procedures and standards for monitoring insect and rodent 1139
control plans; 1140

(5) Procedures and standards for enforcing insect and rodent 1141
control plans at concentrated animal feeding facilities at which 1142
insects or rodents constitute a nuisance or adversely affect 1143
public health; 1144

(6) The amount of civil penalties for violation of an insect 1145
and rodent control plan assessed by the director of agriculture 1146
under division (B) of section 903.16 of the Revised Code, provided 1147

that the rules adopted under division (D)(6) of this section shall 1148
not establish a civil penalty of more than ten thousand dollars 1149
for a violation involving a concentrated animal feeding facility 1150
~~with a total design capacity of ten thousand or fewer animal units~~ 1151
that is not a major concentrated animal feeding facility and shall 1152
not establish a civil penalty of more than twenty-five thousand 1153
dollars for a violation involving a major concentrated animal 1154
feeding facility; 1155

(7) The time period within which the director must approve or 1156
deny an insect and rodent control plan after receiving it; 1157

(8) Any other provisions necessary to administer and enforce 1158
section 903.12 of the Revised Code. 1159

(E) Establish all of the following concerning livestock 1160
manager certification required under section 903.07 of the Revised 1161
Code: 1162

(1) The information to be included in an application for a 1163
livestock manager certification and the amount of the application 1164
fee; 1165

(2) The content of the training required to be completed and 1166
of the examination required to be passed by an applicant for a 1167
livestock manager certification. The training shall include and 1168
the examination shall test the applicant's knowledge of 1169
information on topics that include calculating nutrient values in 1170
manure, devising and implementing a plan for the land application 1171
of manure, removing manure held in a manure storage or treatment 1172
facility, and following best management practices established in 1173
rules for disposal of dead animals and manure management, 1174
including practices that control odor and protect the environment. 1175
The director may specify other types of recognized training 1176
programs that, if completed, are considered to satisfy the 1177
training and examination requirement. 1178

(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification;	1179 1180 1181
(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal;	1182 1183
(5) The volume of manure that must be transported, bought, or sold annually by a person in order for the person to be required to obtain a livestock manager certification under division (A)(2) of section 903.07 of the Revised Code;	1184 1185 1186 1187
(6) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code.	1188 1189
(F) Establish all of the following concerning NPDES permits:	1190
(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code. This designation shall include only those point sources for which the issuance of NPDES permits is required under the Federal Water Pollution Control Act.	1191 1192 1193 1194 1195
(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;	1196 1197
(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;	1198 1199 1200
(4) Terms and conditions to be included in a permit, including, as applicable, best management practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;	1201 1202 1203 1204 1205 1206 1207 1208

(5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;	1209 1210 1211
(6) The amount of the fee that must be submitted with an application for a permit;	1212 1213
(7) Procedures for processing permit applications, including public notice and participation requirements;	1214 1215
(8) Procedures for notifying the United States environmental protection agency of the submission of permit applications, the director's action on those applications, and any other reasonable and relevant information;	1216 1217 1218 1219
(9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a permit;	1220 1221 1222
(10) Procedures for the transfer of permits to new owners or operators;	1223 1224
(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;	1225 1226 1227
(12) A definition of "general NPDES permit" that establishes categories of point sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit.	1228 1229 1230 1231 1232 1233
The rules adopted under division (F) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.	1234 1235 1236
(G) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under	1237 1238

division (F)(7) of this section, for the issuance, denial, 1239
modification, transfer, suspension, and revocation of permits to 1240
install, permits to operate, and NPDES permits consistent with 1241
section 903.09 of the Revised Code, including a definition of what 1242
constitutes significant public interest for the purposes of 1243
~~division~~ divisions (A) and (F) of section 903.09 of the Revised 1244
Code and procedures for public meetings. The rules shall require 1245
that information that is presented at such a public meeting be 1246
limited to the criteria that are applicable to the permit 1247
application that is the subject of the public meeting. 1248

(H) Establish the amount of civil penalties assessed by the 1249
director of agriculture under division (B) of section 903.16 of 1250
the Revised Code for violation of the terms and conditions of a 1251
permit to install, permit to operate, or review compliance 1252
certificate, provided that the rules adopted under this division 1253
shall not establish a civil penalty of more than ten thousand 1254
dollars per day for each violation; 1255

(I) Establish procedures for the protection of trade secrets 1256
from public disclosure. The procedures shall authorize the release 1257
of trade secrets to officers, employees, or authorized 1258
representatives of the state, another state, or the United States 1259
when necessary for an enforcement action brought under this 1260
chapter or when otherwise required by the Federal Water Pollution 1261
Control Act. The rules shall require at least ten days' written 1262
notice to the person to whom a trade secret applies prior to the 1263
release of the trade secret. Rules adopted under this division do 1264
not apply to any information that is contained in applications, 1265
including attachments, for NPDES permits and that is required to 1266
be submitted under section 903.08 of the Revised Code or rules 1267
adopted under division (F) of this section. 1268

(J) Establish any other provisions necessary to administer 1269
and enforce this chapter. 1270

Sec. 903.16. (A) The director of agriculture may propose to 1271
require corrective actions and assess a civil penalty against an 1272
owner or operator of a concentrated animal feeding facility if the 1273
director or the director's authorized representative determines 1274
that the owner or operator is not in compliance with section 1275
903.02, 903.03, or 903.04 of the Revised Code, the terms and 1276
conditions of a permit to install, permit to operate, or review 1277
compliance certificate issued for the concentrated animal feeding 1278
facility, including the requirements established under division 1279
(C) of section 903.06 or division (A) of section 903.07 of the 1280
Revised Code, or rules adopted under division (A) of section 1281
903.10 of the Revised Code. However, the director may impose a 1282
civil penalty only if all of the following occur: 1283

(1) The owner or operator is notified in writing of the 1284
deficiencies resulting in noncompliance, the actions that the 1285
owner or operator must take to correct the deficiencies, and the 1286
time period within which the owner or operator must correct the 1287
deficiencies and attain compliance. 1288

(2) After the time period specified in the notice has 1289
elapsed, the director or the director's duly authorized 1290
representative has inspected the concentrated animal feeding 1291
facility, determined that the owner or operator is still not in 1292
compliance, and issued a notice of an adjudication hearing. 1293

(3) The director affords the owner or operator an opportunity 1294
for an adjudication hearing under Chapter 119. of the Revised Code 1295
to challenge the director's determination that the owner or 1296
operator is not in compliance or the imposition of the civil 1297
penalty, or both. However, the owner or operator may waive the 1298
right to an adjudication hearing. 1299

(B) If the opportunity for an adjudication hearing is waived 1300
or if, after an adjudication hearing, the director determines that 1301

a violation has occurred or is occurring, the director may issue 1302
an order requiring compliance and assess the civil penalty. The 1303
order and the assessment of the civil penalty may be appealed in 1304
accordance with section 119.12 of the Revised Code. 1305

Civil penalties shall be assessed under this division as 1306
follows: 1307

(1) A person who has violated section 903.02, 903.03, or 1308
903.04 of the Revised Code, the terms and conditions of a permit 1309
to install, permit to operate, or review compliance certificate, 1310
or rules adopted under division (A) of section 903.10 of the 1311
Revised Code shall pay a civil penalty in an amount established in 1312
rules unless the violation is of the requirements established 1313
under division (C) of section 903.06 or division (A) of section 1314
903.07 of the Revised Code. 1315

(2) A person who has violated the requirements established 1316
under division (C) of section 903.06 of the Revised Code shall pay 1317
a civil penalty in an amount established in rules for each 1318
violation. Each seven-day period during which a violation 1319
continues constitutes a separate violation. 1320

(3) A person who has violated the requirements established 1321
under division (A) of section 903.07 of the Revised Code shall pay 1322
a civil penalty of not more than ten thousand dollars for each 1323
violation. Each thirty-day period during which a violation 1324
continues constitutes a separate violation. 1325

(C) The attorney general, upon the written request of the 1326
director, shall bring an action for an injunction in any court of 1327
competent jurisdiction against any person violating or threatening 1328
to violate section 903.02, 903.03, or 903.04 of the Revised Code; 1329
the terms and conditions of a permit to install, permit to 1330
operate, or review compliance certificate, including the 1331
requirements established division (C) of section 903.06 or 1332

division (A) of section 903.07 of the Revised Code; rules adopted 1333
under division (A) of section 903.10 of the Revised Code; or an 1334
order issued under division (B) of this section. 1335

(D)(1) In lieu of seeking civil penalties under division (A) 1336
of this section, the director may request the attorney general, in 1337
writing, to bring an action for a civil penalty in a court of 1338
competent jurisdiction against any person that has violated or is 1339
violating the terms and conditions of a permit to install, permit 1340
to operate, or review compliance certificate, including the 1341
requirements established under division (C) of section 903.06 or 1342
division (A) of section 903.07 of the Revised Code. 1343

(2) The director may request the attorney general, in 1344
writing, to bring an action for a civil penalty in a court of 1345
competent jurisdiction against any person that has violated or is 1346
violating section 903.02, 903.03, or 903.04 of the Revised Code, 1347
rules adopted under division (A) of section 903.10 of the Revised 1348
Code, or an order issued under division (B) of this section. 1349

(3) A person who has committed a violation for which the 1350
attorney general may bring an action for a civil penalty under 1351
division (D)(1) or (2) of this section shall pay a civil penalty 1352
of not more than ten thousand dollars per violation. Each day that 1353
a violation continues constitutes a separate violation. 1354

Sec. 903.20. (A) There is hereby created the concentrated 1355
animal feeding facility advisory committee consisting of the 1356
directors of agriculture, development, environmental protection, 1357
and natural resources and the dean of the college of food, 1358
agricultural, and environmental sciences of the Ohio state 1359
university, or their designees, as members ex officio, and sixteen 1360
members to be appointed by the director of agriculture. Of the 1361
appointed members, one shall be an elected local government 1362
official whose jurisdiction has a concentrated animal feeding 1363

facility located in it at the time that the official is appointed 1364
to the committee, one shall be a person who is licensed to 1365
practice veterinary medicine under Chapter 4741. of the Revised 1366
Code, one shall represent the interests of poultry producers, one 1367
shall represent the interests of swine producers, one shall 1368
represent the interests of dairy farmers, one shall represent the 1369
interests of beef cattle producers, one shall represent the 1370
interests of sheep producers, one shall represent the interests of 1371
drinking water utilities, one shall represent the interests of 1372
wastewater utilities, one shall represent the Ohio environmental 1373
health association, two shall represent the interests of statewide 1374
environmental advocacy organizations, and four shall represent the 1375
interests of the public. Prior to making the appointment of the 1376
member who is an elected local government official, the director 1377
shall solicit a list of suggested candidates from the appropriate 1378
statewide associations that represent the interests of local 1379
governments. Prior to making an appointment of a member 1380
representing the interests of poultry, swine, beef cattle, or 1381
sheep producers or dairy farmers, the director shall solicit from 1382
the appropriate statewide trade associations a list of suggested 1383
candidates to represent the interests of the species category on 1384
the committee. The members representing the public shall not be 1385
owners or operators of concentrated animal feeding facilities or 1386
associated with such facilities by contract. 1387

Not later than thirty days after ~~the effective date of this~~ 1388
~~section~~ March 15, 2001, the director shall make appointments to 1389
the committee. Of the initial appointments, six shall be for terms 1390
ending one year after ~~the effective date of this section~~ March 15, 1391
2001, five shall be for terms ending two years after ~~the effective~~ 1392
~~date of this section~~ March 15, 2001, and five shall be for terms 1393
ending three years after ~~the effective date of this section~~ March 1394
15, 2001. Thereafter, terms of office shall be for three years, 1395

with each term ending on the same day of the same month as did the 1396
term that it succeeds. Each member shall hold office from the date 1397
of appointment until the end of the term for which the member was 1398
appointed. Members may be reappointed. Vacancies shall be filled 1399
in the manner provided for original appointments. Any member 1400
appointed to fill a vacancy occurring prior to the expiration date 1401
of the term for which the member's predecessor was appointed shall 1402
hold office for the remainder of that term. A member shall 1403
continue in office subsequent to the expiration date of the 1404
member's term until the member's successor takes office or until a 1405
period of sixty days has elapsed, whichever occurs first. 1406

The committee shall meet at times that the chairperson or a 1407
majority of the committee members considers appropriate, provided 1408
that no meeting shall be held on the call of the chairperson 1409
unless at least seven days' written notice first is provided to 1410
all members of the committee. At the first meeting of the 1411
committee in each calendar year, the director of agriculture shall 1412
designate one member of the committee to serve as its chairperson 1413
and one member to serve as its vice-chairperson. A majority vote 1414
of the members of the committee is necessary to take action on any 1415
matter. A vacancy on the committee does not impair the right of 1416
the other members to exercise all of the committee's powers. 1417

Serving as an appointed member of the committee does not 1418
constitute holding a public office or position of employment under 1419
the laws of this state and does not constitute grounds for removal 1420
of public officers or employees from their offices or positions of 1421
employment. The director of agriculture, after notice and a public 1422
meeting, may remove any appointed member of the committee for 1423
misfeasance, nonfeasance, or malfeasance in office. 1424

Appointed members of the committee shall serve without 1425
compensation for attending committee meetings. Members of the 1426
committee shall be reimbursed for their actual and necessary 1427

expenses incurred in the performance of official duties as members	1428
of the committee.	1429
(B) The committee may do either or both of the following:	1430
(1) Adopt rules or procedures governing the conduct of its	1431
internal affairs;	1432
(2) Request from the director of agriculture, and the	1433
director shall provide, meeting space, staff support, services,	1434
and data to enable it to carry out its functions.	1435
(C) The committee shall do all of the following:	1436
(1) Advise the director of agriculture in the administration	1437
of this chapter;	1438
(2) Keep abreast of advances in manure management practices	1439
and annually advise the directors of agriculture, environmental	1440
protection, and natural resources of the recent advances in those	1441
areas and regarding the need for amending what constitutes best	1442
management practices;	1443
(3) In consultation with the director of agriculture, prepare	1444
and, upon request, distribute written materials designed to assist	1445
persons who propose to establish a new or modify an existing	1446
concentrated animal feeding facility in applying for a permit to	1447
install or permit to operate. The materials also shall include	1448
information stating that, in addition to obtaining a permit to	1449
operate, it may be necessary to obtain a NPDES permit for the	1450
discharge of manure or storm water. In addition, the written	1451
materials shall include information on the meaning of a "complete	1452
application" for all of the permits, information on the public	1453
meeting process in connection with the relevant permits issued	1454
under this chapter, and a summary of the antidegradation policy	1455
established under section 6111.12 of the Revised Code together	1456
with an indication of the possibility that the owner's or	1457
operator's proposed new or modified disposal system for manure or	1458

discharges may be subject to that policy. 1459

~~(4) Not later than twelve months after the effective date of 1460
this section, conduct an examination of the scientific 1461
appropriateness of the definition of "animal unit" in section 1462
903.01 of the Revised Code and prepare and submit to the general 1463
assembly, the governor, and the directors of agriculture, 1464
environmental protection, and natural resources the committee's 1465
findings and any recommendations for legislative changes in that 1466
definition that are necessary or appropriate to reflect on a more 1467
scientific basis manure generation rates among livestock species 1468
and types of concentrated animal feeding facilities. 1469~~

(D) ~~Section 101.84~~ Sections 101.82 to 101.87 of the Revised 1470
Code ~~does~~ do not apply to the committee. 1471

Section 2. That existing sections 307.204, 505.266, 903.01, 1472
903.02, 903.04, 903.08, 903.09, 903.10, 903.16, and 903.20 of the 1473
Revised Code are hereby repealed. 1474