

# As Passed by the House

125th General Assembly

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Am. Sub. H. B. No. 152

Representatives Reinhard, Aslanides, Setzer, Niehaus, Gibbs, Distel,  
C. Evans, Schlichter, Faber, Carmichael, Widener, Walcher, Blasdel, Buehrer,  
Callender, Carano, Cates, Clancy, Collier, Core, Daniels, DeBose, DeWine,  
Fessler, Flowers, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes,  
Husted, Kearns, Key, McGregor, S. Patton, T. Patton, Peterson, Raga,  
Schmidt, Schneider, Seaver, Seitz, J. Stewart, Taylor, Webster, Wolpert

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## A B I L L

To amend sections 307.204, 505.266, 903.01, 903.02, 1  
903.04, 903.07, 903.08, 903.09, 903.10, 903.16, 2  
903.20, 6111.03, 6111.04, and 6111.44 and to enact 3  
sections 903.081 and 903.082 of the Revised Code 4  
to revise the statutes governing animal feeding 5  
facilities. 6

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

**Section 1.** That sections 307.204, 505.266, 903.01, 903.02, 7  
903.04, 903.07, 903.08, 903.09, 903.10, 903.16, 903.20, 6111.03, 8  
6111.04, and 6111.44 be amended and sections 903.081 and 903.082 9  
of the Revised Code be enacted to read as follows: 10

**Sec. 307.204.** (A) As used in this section: 11

(1) ~~"Animal unit," "concentrated~~ Concentrated animal feeding 12  
facility," and "major concentrated animal feeding facility" have 13  
the same meanings as in section 903.01 of the Revised Code. 14

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

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

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

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

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

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

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

(1) The anticipated travel routes of motor vehicles to and 45  
from the facility; 46

(2) The anticipated number and weights of motor vehicles 47  
traveling to and from the facility. 48

(D) At the request of the board, the county engineer may 49  
review the written notification and advise the board on both of 50  
the following: 51

(1) Improvements and maintenance of improvements that are 52  
reasonably needed in order to accommodate the impact on county 53  
infrastructure that is anticipated as a result of the facility, 54  
including increased travel or the types of vehicles on county 55  
roads; 56

(2) The projected costs of the improvements and maintenance. 57

Not later than ten days after receiving the written 58  
notification, the board may request the person to provide 59  
additional reasonable and relevant information regarding the 60  
impact of the facility on county infrastructure. The person shall 61  
provide the information not later than ten days after the request 62  
is made. 63

(E)(1) Not later than thirty days after the initial written 64  
notification is received by the board, the board shall submit to 65  
the person its recommendations, if any, concerning the 66  
improvements that will be needed as a result of the facility and 67  
the cost of those improvements. 68

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

the board's final recommendations. 75

(3) If the board receives alternative recommendations or 76  
modifications under division (E)(2) of this section, the board 77  
shall select final recommendations and submit them to the person 78  
not later than thirty days after the receipt of the alternative 79  
recommendations or modifications. 80

(F) The board shall prepare a written, dated statement 81  
certifying that the written notification required under this 82  
section was submitted and that final recommendations were selected 83  
regarding needed improvements and the costs of those improvements. 84  
The board shall provide the person with the original of the 85  
statement so that the person can include it with the application 86  
for a permit to install for the facility as required under 87  
division (C)(4) of section 903.02 of the Revised Code. The board 88  
shall retain a copy of the statement for its records. 89

(G) The person shall construct, modify, and maintain or 90  
finance the construction, modification, and maintenance of 91  
improvements as provided in the board's final recommendations and 92  
with the approval and oversight of the county engineer. If the 93  
person fails to do so, the board shall notify the person by 94  
certified mail that the board intends to initiate mediation with 95  
the person if the person remains out of compliance with the final 96  
recommendations. 97

The board shall allow sufficient time for the person to apply 98  
for and proceed to obtain, for the purpose of financing the 99  
construction, modification, or maintenance of the improvements, 100  
exemptions from taxation under sections 5709.63, 5709.632, 101  
5709.73, and 5709.78 of the Revised Code or state or federal 102  
grants that may be available. 103

If the person remains out of compliance with the final 104  
recommendations, the board may initiate mediation with the person 105

in order to resolve the differences between them. If mediation 106  
fails to resolve the differences, the board and the person first 107  
shall attempt to resolve the differences through any legal 108  
remedies before seeking redress through a court of common pleas. 109

(H) If the person subsequently submits an application under 110  
section 903.02 of the Revised Code for a permit to modify the 111  
facility, or if the routes of travel to or from the facility 112  
change for any reason other than road construction conducted by 113  
the county, the board or the person may request that additional 114  
information be provided in writing and shall proceed as provided 115  
in this section for the notification and recommendation 116  
proceedings. 117

**Sec. 505.266.** (A) As used in this section: 118

(1) ~~"Animal unit," "concentrated~~ Concentrated animal feeding 119  
facility," and "major concentrated animal feeding facility" have 120  
the same meanings as in section 903.01 of the Revised Code. 121

(2) "Facility" means a proposed new or expanded major 122  
concentrated animal feeding facility. 123

(3) "Improvement" means the construction, modification, or 124  
both of township infrastructure. 125

(B) A person who proposes to do any of the following shall 126  
provide written notification as required under division (C) of 127  
this section to the board of township trustees of the township in 128  
which a facility is or is to be located: 129

(1) Establish a new major concentrated animal feeding 130  
facility; 131

(2) Increase the ~~number of animal units of~~ design capacity of 132  
an existing major concentrated animal feeding facility by ten per 133  
cent or more in excess of the design capacity set forth in the 134  
current permit for construction or modification of the facility or 135

for installation or modification of the disposal system for manure 136  
at the facility issued under section 903.02 or division (J) of 137  
section 6111.03 of the Revised Code, as applicable; 138

(3) Increase the ~~number of animal units of~~ design capacity of 139  
an existing concentrated animal feeding facility by ten per cent 140  
or more in excess of the design capacity set forth in the current 141  
permit for construction or modification of the facility or for 142  
installation or modification of the disposal system for manure at 143  
the facility issued under section 903.02 or division (J) of 144  
section 6111.03 of the Revised Code, as applicable, and to a 145  
design capacity of more than ten ~~thousand animal units~~ times the 146  
number of animals specified in any of the categories in division 147  
(M) of section 903.01 of the Revised Code. 148

(C) The person shall notify the board in writing by certified 149  
mail of the proposed construction or expansion of the facility and 150  
include the following information: 151

(1) The anticipated travel routes of motor vehicles to and 152  
from the facility; 153

(2) The anticipated number and weights of motor vehicles 154  
traveling to and from the facility. 155

(D) At the request of the board, the county engineer may 156  
review the written notification and advise the board on both of 157  
the following: 158

(1) Improvements and maintenance of improvements that are 159  
reasonably needed in order to accommodate the impact on township 160  
infrastructure that is anticipated as a result of the facility, 161  
including increased travel or the types of vehicles on township 162  
roads; 163

(2) The projected costs of the improvements and maintenance. 164

Not later than ten days after receiving the written 165

notification, the board may request the person to provide 166  
additional reasonable and relevant information regarding the 167  
impact of the facility on township infrastructure. The person 168  
shall provide the information not later than ten days after the 169  
request is made. 170

(E)(1) Not later than thirty days after the initial written 171  
notification is received by the board, the board shall submit to 172  
the person its recommendations, if any, concerning the 173  
improvements that will be needed as a result of the facility and 174  
the cost of those improvements. 175

(2) Not later than fifteen days after receipt of the board's 176  
recommendations, the person shall notify the board either that the 177  
person agrees with the recommendations and will implement them or 178  
that the person is submitting reasonable alternative 179  
recommendations or modifications to the board. If the person 180  
agrees with the recommendations, they shall be considered to be 181  
the board's final recommendations. 182

(3) If the board receives alternative recommendations or 183  
modifications under division (E)(2) of this section, the board 184  
shall select final recommendations and submit them to the person 185  
not later than thirty days after the receipt of the alternative 186  
recommendations or modifications. 187

(F) The board shall prepare a written, dated statement 188  
certifying that the written notification required under this 189  
section was submitted and that final recommendations were selected 190  
regarding needed improvements and the costs of those improvements. 191  
The board shall provide the person with the original of the 192  
statement so that the person can include it with the application 193  
for a permit to install for the facility as required under 194  
division (C)(4) of section 903.02 of the Revised Code. The board 195  
shall retain a copy of the statement for its records. 196

(G) The person shall construct, modify, and maintain or 197  
finance the construction, modification, and maintenance of 198  
improvements as provided in the board's final recommendations and 199  
with the approval and oversight of the county engineer. If the 200  
person fails to do so, the board shall notify the person by 201  
certified mail that the board intends to initiate mediation with 202  
the person if the person remains out of compliance with the final 203  
recommendations. 204

The board shall allow sufficient time for the person to apply 205  
for and proceed to obtain, for the purpose of financing the 206  
construction, modification, or maintenance of the improvements, 207  
exemptions from taxation under sections 5709.63, 5709.632, 208  
5709.73, and 5709.78 of the Revised Code or state or federal 209  
grants that may be available. 210

If the person remains out of compliance with the final 211  
recommendations, the board may initiate mediation with the person 212  
in order to resolve the differences between them. If mediation 213  
fails to resolve the differences, the board and the person first 214  
shall attempt to resolve the differences through any legal 215  
remedies before seeking redress through a court of common pleas. 216

(H) If the person subsequently submits an application under 217  
section 903.02 of the Revised Code for a permit to modify the 218  
facility, or if the routes of travel to or from the facility 219  
change for any reason other than road construction conducted by 220  
the township, the board or the person may request that additional 221  
information be provided in writing and shall proceed as provided 222  
in this section for the notification and recommendation 223  
proceedings. 224

**Sec. 903.01.** As used in this chapter: 225

(A) "Agricultural animal" means any animal generally used for 226



food or in the production of food, including cattle, sheep, goats, 227  
rabbits, poultry, and swine; horses; and any other animal included 228  
by the director of agriculture by rule. "Agricultural animal" does 229  
not include fish or other aquatic animals regardless of whether 230  
they are raised at fish hatcheries, fish farms, or other 231  
facilities that raise aquatic animals. 232

(B) "Animal feeding facility" means a lot, ~~or~~ building, or 233  
structure where both of the following conditions are met: 234

(1) ~~Animals, other than aquatic~~ Agricultural animals, have 235  
been, are, or will be stabled or confined and fed or maintained 236  
there for a total of forty-five days or more in any twelve-month 237  
period. 238

(2) Crops, vegetative forage growth, or post-harvest residues 239  
are not sustained in the normal growing season over any portion of 240  
the lot, building, or structure. 241

"Animal feeding facility" also includes land that is owned or 242  
leased by or otherwise is under the control of the owner or 243  
operator of the lot, building, or structure and on which manure 244  
originating from agricultural animals in the lot, building, or 245  
structure or a production area is or may be applied. "Animal 246  
~~feeding facility" does not include a hatchery, fish farm, or other~~ 247  
~~facility that raises aquatic animals.~~ 248

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

<del>(2) The number of mature dairy cattle whether milked or dry</del>	257
<del>multiplied by one and four tenths;</del>	258
<del>(3) The number of swine each weighing over fifty five pounds</del>	259
<del>multiplied by four tenths;</del>	260
<del>(4) The number of horses multiplied by two;</del>	261
<del>(5) The number of sheep or lambs multiplied by one tenth;</del>	262
<del>(6) The number of turkeys multiplied by two hundredths;</del>	263
<del>(7) The number of laying hens or broilers multiplied by</del>	264
<del>one hundredth;</del>	265
<del>(8) The number of ducks multiplied by two tenths.</del>	266
<del>(D) "Best management practices" means best management</del>	267
<del>practices established in rules.</del>	268
<u>(D) "Cattle" includes, but is not limited to, heifers,</u>	269
<u>steers, bulls, and cow and calf pairs.</u>	270
(E) "Concentrated animal feeding facility" means an animal	271
feeding facility with a total design capacity <del>of</del> <u>equal to or more</u>	272
<del>than one thousand animal units</del> <u>the number of animals specified in</u>	273
<u>any of the categories in division (M) of this section.</u>	274
(F) "Concentrated animal feeding operation" <del>has the same</del>	275
<del>meaning as in regulations adopted by the United States</del>	276
<del>environmental protection agency under the Federal Water Pollution</del>	277
<del>Control Act</del> <u>means an animal feeding facility that complies with</u>	278
<u>one of the following:</u>	279
<u>(1) Has a total design capacity equal to or more than the</u>	280
<u>number of animals specified in any of the categories in division</u>	281
<u>(M) of this section;</u>	282
<u>(2) Satisfies the criteria in division (M), (O), or (EE) of</u>	283
<u>this section;</u>	284
<u>(3) Is designated by the director of agriculture as a medium</u>	285

<u>or small concentrated animal feeding operation pursuant to rules.</u>	286
(G) "Discharge" means to add from a point source to waters of the state.	287 288
(H) "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 816, 33 U.S.C. 1251 et. seq., as amended, and regulations adopted under it.	289 290 291 292
(I) "Finalized," with respect to the programs required under division (A)(1) of section 903.02 and division (A)(1) of section 903.03 of the Revised Code, means that all rules that are necessary for the administration of this chapter have been adopted and all employees of the department of agriculture that are necessary for the administration of this chapter have been employed.	293 294 295 296 297 298 299
(J) "General permit" has the meaning that is established in rules.	300 301
(K) "Individual permit" has the meaning that is established in rules.	302 303
(L) "Installation permit" means a permit for the installation or modification of a disposal system or any part of a disposal system issued by the director of environmental protection under division (J)(1) of section 6111.03 of the Revised Code.	304 305 306 307
(M) <u>"Large concentrated animal feeding operation" means an animal feeding facility that stables or confines at least the number of animals specified in any of the following categories:</u>	308 309 310
<u>(1) Seven hundred mature dairy cattle whether milked or dry;</u>	311
<u>(2) One thousand veal calves;</u>	312
<u>(3) One thousand cattle other than mature dairy cattle or veal calves;</u>	313 314

<u>(4) Two thousand five hundred swine that each weigh</u>	315
<u>fifty-five pounds or more;</u>	316
<u>(5) Ten thousand swine that each weigh less than fifty-five</u>	317
<u>pounds;</u>	318
<u>(6) Five hundred horses;</u>	319
<u>(7) Ten thousand sheep or lambs;</u>	320
<u>(8) Fifty-five thousand turkeys;</u>	321
<u>(9) Thirty thousand laying hens or broilers if the animal</u>	322
<u>feeding facility uses a liquid manure handling system;</u>	323
<u>(10) One hundred twenty-five thousand chickens, other than</u>	324
<u>laying hens, if the animal feeding facility uses a manure handling</u>	325
<u>system that is not a liquid manure handling system;</u>	326
<u>(11) Eighty-two thousand laying hens if the animal feeding</u>	327
<u>facility uses a manure handling system that is not a liquid manure</u>	328
<u>handling system;</u>	329
<u>(12) Thirty thousand ducks if the animal feeding facility</u>	330
<u>uses a manure handling system that is not a liquid manure handling</u>	331
<u>system;</u>	332
<u>(13) Five thousand ducks if the animal feeding facility uses</u>	333
<u>a liquid manure handling system.</u>	334
<u>(N) "Major concentrated animal feeding facility" means a</u>	335
<u>concentrated animal feeding facility with a total design capacity</u>	336
<u>of more than ten <del>thousand animal units</del> times the number of animals</u>	337
<u>specified in any of the categories in division (M) of this</u>	338
<u>section.</u>	339
<del>(N)</del> <u>(O) "Manure" means any of the following wastes used in or</u>	340
<u>resulting from the production of agricultural animals or direct</u>	341
<u>agricultural products such as milk or eggs: animal excreta,</u>	342
<u>discarded products, bedding, process waste water, process</u>	343

generated waste water, waste feed, silage drainage, and compost 344  
products resulting from mortality composting or the composting of 345  
animal excreta. 346

~~(O)~~(P) "Manure storage or treatment facility" means any 347  
excavated, diked, or walled structure or combination of structures 348  
designed for the biological stabilization, holding, or storage of 349  
manure. 350

~~(P)~~(Q) "Medium concentrated animal feeding operation" means 351  
an animal feeding facility that satisfies both of the following: 352

(1) The facility stables or confines the number of animals 353  
specified in any of the following categories: 354

(a) Two hundred to six hundred ninety-nine mature dairy 355  
cattle whether milked or dry; 356

(b) Three hundred to nine hundred ninety-nine veal calves; 357

(c) Three hundred to nine hundred ninety-nine cattle other 358  
than mature dairy cattle or veal calves; 359

(d) Seven hundred fifty to two thousand four hundred 360  
ninety-nine swine that each weigh fifty-five pounds or more; 361

(e) Three thousand to nine thousand nine hundred ninety-nine 362  
swine that each weigh less than fifty-five pounds; 363

(f) One hundred fifty to four hundred ninety-nine horses; 364

(g) Three thousand to nine thousand nine hundred ninety-nine 365  
sheep or lambs; 366

(h) Sixteen thousand five hundred to fifty-four thousand nine 367  
hundred ninety-nine turkeys; 368

(i) Nine thousand to twenty-nine thousand nine hundred 369  
ninety-nine laying hens or broilers if the animal feeding facility 370  
uses a liquid manure handling system; 371

(j) Thirty-seven thousand five hundred to one hundred 372

twenty-four thousand nine hundred ninety-nine chickens, other than 373  
laying hens, if the animal feeding facility uses a manure handling 374  
system that is not a liquid manure handling system; 375

(k) Twenty-five thousand to eighty-one thousand nine hundred 376  
ninety-nine laying hens if the animal feeding facility uses a 377  
manure handling system that is not a liquid manure handling 378  
system; 379

(l) Ten thousand to twenty-nine thousand nine hundred 380  
ninety-nine ducks if the animal feeding facility uses a manure 381  
handling system that is not a liquid manure handling system; 382

(m) One thousand five hundred to four thousand nine hundred 383  
ninety-nine ducks if the animal feeding facility uses a liquid 384  
manure handling system. 385

(2) The facility does one of the following: 386

(a) Discharges pollutants into waters of the United States 387  
through a ditch constructed by humans, a flushing system 388  
constructed by humans, or another similar device constructed by 389  
humans; 390

(b) Discharges pollutants directly into waters of the United 391  
States that originate outside of and that pass over, across, or 392  
through the facility or otherwise come into direct contact with 393  
the animals at the facility. 394

"Medium concentrated animal feeding operation" includes an 395  
animal feeding facility that is designated by the director as a 396  
medium concentrated animal feeding operation pursuant to rules. 397

(R) "Mortality composting" means the controlled decomposition 398  
of organic solid material consisting of dead animals that 399  
stabilizes the organic fraction of the material. 400

~~(Q)~~(S) "NPDES permit" means a permit issued under the 401  
national pollutant discharge elimination system established in 402

section 402 of the Federal Water Pollution Control Act and 403  
includes the renewal of such a permit. "NPDES permit" includes the 404  
federally enforceable provisions of a permit to operate into which 405  
NPDES permit provisions have been incorporated. 406

~~(R)~~(T) "Permit" includes an initial, renewed, or modified 407  
permit to install, permit to operate, NPDES permit, and 408  
installation permit unless expressly stated otherwise. 409

~~(S)~~(U) "Permit to install" means a permit issued under 410  
section 903.02 of the Revised Code. 411

~~(T)~~(V) "Permit to operate" means a permit issued or renewed 412  
under section 903.03 of the Revised Code and includes incorporated 413  
NPDES permit provisions, if applicable. 414

~~(U)~~(W) "Person" means any legal entity defined as a person 415  
under section 1.59 of the Revised Code, the state, any political 416  
subdivision of the state, any interstate body created by compact, 417  
the United States, or any department, agency, or instrumentality 418  
of any of those entities. 419

~~(V)~~(X) "Point source" has the same meaning as in the Federal 420  
Water Pollution Control Act. 421

~~(W)~~(Y) "Process generated waste water" means water that is 422  
directly or indirectly used in the operation of an animal feeding 423  
facility for any of the following: 424

(1) Spillage or overflow from animal watering systems; 425

(2) Washing, cleaning, or flushing pens, barns, manure pits, 426  
or other areas of an animal feeding facility; 427

(3) Direct contact swimming, washing, or spray cooling of 428  
animals; 429

(4) Dust control. 430

~~(X)~~(Z) "Process waste water" means any process generated 431  
waste water and any precipitation, including rain or snow, that 432

comes into contact with manure, litter, bedding, or any other raw 433  
material or intermediate or final material or product used in or 434  
resulting from the production of animals or direct products such 435  
as milk or eggs. 436

~~(Y)~~(AA) "Production area" means any of the following 437  
components of an animal feeding facility: 438

(1) Animal confinement areas, including, but not limited to, 439  
open lots, housed lots, feedlots, confinement houses, stall barns, 440  
free stall barns, milkrooms, milking centers, cowyards, barnyards, 441  
medication pens, animal walkways, and stables; 442

(2) Manure storage areas, including, but not limited to, 443  
manure storage or treatment facilities; 444

(3) Raw material storage areas, including, but not limited 445  
to, feed silos, silage bunkers, commodity buildings, and bedding 446  
materials; 447

(4) Waste containment areas, including, but not limited to, 448  
any of the following: 449

(a) An egg washing or egg processing facility; 450

(b) An area used in the storage, handling, treatment, or 451  
disposal of mortalities; 452

(c) Settling basins, runoff ponds, liquid impoundments, and 453  
areas within berms and diversions that are designed and maintained 454  
to separate uncontaminated storm water runoff from contaminated 455  
water and to contain and treat contaminated storm water runoff. 456

(BB) "Public meeting" means a nonadversarial public hearing 457  
at which a person may present written or oral statements for the 458  
director of agriculture's consideration and includes public 459  
hearings held under section 6111.12 of the Revised Code. 460

~~(Z)~~(CC) "Review compliance certificate" means a certificate 461  
issued under section 903.04 of the Revised Code. 462



~~(AA)~~(DD) "Rule" means a rule adopted under section 903.10 of  
the Revised Code.

~~(BB)~~(EE) "Small concentrated animal feeding operation" means  
an animal feeding facility that is not a large or medium  
concentrated animal feeding operation and that is designated by  
the director as a small concentrated animal feeding operation  
pursuant to rules.

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

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

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

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

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

(1) The name and address of the applicant, of all partners if  
the applicant is a partnership or of all officers and directors if  
the applicant is a corporation, and of any other person who has a  
right to control or in fact controls management of the applicant

or the selection of officers, directors, or managers of the 493  
applicant; 494

(2) The type of livestock and the number of ~~animal units~~ 495  
animals that the concentrated animal feeding facility would have 496  
the design capacity to raise or maintain; 497

(3) Designs and plans for the proposed construction of the 498  
concentrated animal feeding facility that include the proposed 499  
location of the construction, design and construction plans and 500  
specifications, anticipated beginning and ending dates for work 501  
performed, and any other information that the director requires by 502  
rule; 503

(4) In the case of an application for a concentrated animal 504  
feeding facility that meets the criteria established in sections 505  
307.204 and 505.266 of the Revised Code, written statements from 506  
the board of county commissioners of the county and the board of 507  
township trustees of the township in which the concentrated animal 508  
feeding facility would be located certifying that, in accordance 509  
with those sections, the applicant has provided the boards with 510  
the required written notification and that final recommendations 511  
were selected regarding improvements, if any, to county or 512  
township infrastructure that are needed as a result of the new or 513  
expanded concentrated animal feeding facility and the costs of 514  
those improvements; 515

(5) A statement of the quantity of water that the 516  
concentrated animal feeding facility will utilize on an average 517  
daily and annual basis, a detailed description of the basis for 518  
the calculation utilized in determining the quantity of water 519  
utilized, and a statement identifying the source for the water; 520

(6) Information concerning the applicant's past compliance 521  
with the Federal Water Pollution Control Act required to be 522  
provided under section 903.05 of the Revised Code, if applicable; 523

(7) Any other information required by rule. 524

Information required to be included in an application for the 525  
modification of a permit to install, together with the applicable 526  
fee amount, shall be established in rules. 527

(D) The director shall issue permits to install in accordance 528  
with section 903.09 of the Revised Code. The director shall deny a 529  
permit to install if either of the following applies: 530

(1) The permit application contains misleading or false 531  
information. 532

(2) The designs and plans fail to conform to best management 533  
practices. 534

Additional grounds for the denial of a permit to install 535  
shall be those established in this chapter and rules. 536

(E) A permit to install shall expire after a period specified 537  
by the director unless the applicant has undertaken a continuing 538  
program of construction or has entered into a binding contractual 539  
obligation to undertake and complete a continuing program of 540  
construction within a reasonable time. The director may extend the 541  
expiration date of a permit to install upon request of the 542  
applicant. 543

(F) The director may modify, suspend, or revoke a permit to 544  
install in accordance with rules. 545

(G) Nothing in this chapter affects section 1521.16 of the 546  
Revised Code. 547

**Sec. 903.04.** (A) As used in this section, "existing 548  
concentrated animal feeding facility" or "existing facility" means 549  
a concentrated animal feeding facility that was in existence prior 550  
to the date on which the director of agriculture has finalized the 551  
program required under division (A)(1) of section 903.03 of the 552

Revised Code and that has received an installation permit prior to 553  
that date. 554

(B) On and after the date on which the director of 555  
agriculture has finalized the program required under division 556  
(A)(1) of section 903.02 of the Revised Code, the authority to 557  
enforce terms and conditions of installation permits that 558  
previously were issued to animal feeding facilities shall be 559  
transferred from the director of environmental protection to the 560  
director of agriculture. Thereafter, the director of environmental 561  
protection shall have no authority to enforce the terms and 562  
conditions of those installation permits. On and after the date on 563  
which the director of agriculture has finalized the program 564  
required under division (A)(1) of section 903.02 of the Revised 565  
Code, an installation permit concerning which enforcement 566  
authority has been transferred shall be deemed to have been issued 567  
under this section. 568

(C) A person to whom an installation permit has been issued 569  
by the director of environmental protection prior to the date on 570  
which the director of agriculture has finalized the program 571  
required under division (A)(1) of section 903.03 of the Revised 572  
Code may continue to operate under that permit until either of the 573  
following occurs: 574

(1) The installation permit is terminated through the denial 575  
of a review compliance certificate under division (F) of this 576  
section. 577

(2) The person is required under division (H) of this section 578  
to obtain a permit to operate. 579

(D) Except as otherwise provided in this division, on and 580  
after the date that is two years after the date on which the 581  
director has finalized the program required under division (A)(1) 582  
of section 903.03 of the Revised Code, and until the issuance of a 583

permit to operate, no person shall operate an existing 584  
concentrated animal feeding facility unless the person holds a 585  
review compliance certificate. 586

This division does not apply to a person who has made a 587  
timely submittal of the information required under division (E)(2) 588  
of this section and who is waiting for the director to issue or 589  
deny a review compliance certificate. Such a person may continue 590  
the operation of the existing concentrated animal feeding facility 591  
until, if applicable, the director issues an order denying the 592  
review compliance certificate. 593

(E) Not later than two years after the date on which the 594  
director has finalized the program required under division (A)(1) 595  
of section 903.03 of the Revised Code, both of the following 596  
apply: 597

(1) The director shall review the installation permit that 598  
previously was issued to an existing concentrated animal feeding 599  
facility and shall inspect the facility to determine if it is in 600  
compliance with that permit. 601

(2) Except as otherwise provided in division (E)(2) of this 602  
section, the owner or operator of an existing concentrated animal 603  
feeding facility shall furnish all of the following to the 604  
director on a form prescribed by the director: 605

(a) The name and address of the owner, of all partners if the 606  
owner is a partnership or of all officers and directors if the 607  
owner is a corporation, and of any other person who has a right to 608  
control or in fact controls management of the facility or the 609  
selection of officers, directors, or managers of the facility; 610

(b) The type of livestock and number of ~~animal-units~~ animals 611  
that the facility has the design capacity to raise or maintain; 612

(c) A manure management plan for the facility that conforms 613  
to best management practices regarding the handling, storage, 614

transportation, and land application of manure generated at the 615  
facility and that contains any other information required by rule; 616

(d) An insect and rodent control plan for the facility that 617  
conforms to best management practices and is prepared in 618  
accordance with section 903.06 of the Revised Code; 619

(e) In the case of a major concentrated animal feeding 620  
facility, written proof that the person who would be responsible 621  
for the supervision of the management and handling of manure at 622  
the facility has been issued a livestock manager certification in 623  
accordance with section 903.07 of the Revised Code. 624

The owner or operator need not furnish any information 625  
otherwise required under division (E)(2) of this section if that 626  
information is included in the installation permit that was issued 627  
for the existing facility. 628

(F) After a review of the existing installation permit, an 629  
inspection of the facility, and a review of the information 630  
furnished under division (E)(2) of this section, and upon 631  
determining that the existing facility is being operated in a 632  
manner that protects the waters of the state and minimizes the 633  
presence and negative effects of insects and rodents at the 634  
facility and in surrounding areas, the director shall issue an 635  
order issuing a review compliance certificate to the facility. In 636  
issuing the certificate, the director shall consider technical 637  
feasibility and economic costs. The director shall not require a 638  
significant capital expenditure, as defined by rule, by the 639  
facility before issuing a certificate. 640

The director may issue an order denying a review compliance 641  
certificate if the facility's insect and rodent control plan or 642  
manure management plan does not conform to best management 643  
practices and the requirements established in section 903.06 of 644  
the Revised Code and in rules. The denial of a review compliance 645

certificate terminates the existing installation permit that was 646  
issued to the facility. 647

The issuance of a review compliance certificate shall not 648  
require public notice or a public meeting. However, notice shall 649  
be provided to persons who own property that is contiguous to the 650  
production area of the concentrated animal feeding facility for 651  
which the review compliance certificate is to be issued. Such 652  
persons may submit written comments to the director within a time 653  
established by the director. 654

The issuance of a review compliance certificate shall not be 655  
subject to appeal under Chapter 119. or sections 3745.04 to 656  
3745.06 of the Revised Code. The denial or revocation of a review 657  
compliance certificate or the amendment of an installation permit 658  
resulting from a certificate may be challenged by the applicant in 659  
an administrative hearing in accordance with Chapter 119. of the 660  
Revised Code, except that section 119.12 of the Revised Code does 661  
not apply. An order of the director that denies or revokes a 662  
certificate or amends an installation permit as a result of a 663  
certificate may be appealed to the environmental review appeals 664  
commission under sections 3745.04 to 3745.06 of the Revised Code. 665

(G) Upon the issuance of a review compliance certificate, the 666  
certificate automatically shall merge and become a part of the 667  
previously issued installation permit. If any of the terms and 668  
conditions of the installation permit and the review compliance 669  
certificate are in conflict, the terms and conditions of the 670  
review compliance certificate are controlling. 671

(H)(1) A review compliance certificate is valid for a period 672  
of five years. Not later than one hundred eighty days prior to the 673  
expiration date of the review compliance certificate, the owner or 674  
operator shall apply for a permit to operate. 675

(2) The director may revoke a review compliance certificate 676

issued to an existing facility after the director has issued an 677  
order as a result of a hearing held under Chapter 119. of the 678  
Revised Code in which the facility has been found to be in 679  
violation of the terms and conditions of the review compliance 680  
certificate. An existing facility whose review compliance 681  
certificate is revoked shall obtain a permit to operate and, if 682  
applicable, a NPDES permit in order to resume operating. 683

(I) An existing facility that is issued a review compliance 684  
certificate shall comply with the previously issued installation 685  
permit, as amended by the certificate. 686

**Sec. 903.07.** (A) On and after the date that is established in 687  
rules by the director of agriculture, both of the following apply: 688  
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(1) The management and handling of manure at a major 690  
concentrated animal feeding facility, including the land 691  
application of manure or the removal of manure from a manure 692  
storage or treatment facility, shall be conducted only by or under 693  
the supervision of a person holding a livestock manager 694  
certification issued under this section. A person managing or 695  
handling manure who is acting under the instructions and control 696  
of a person holding a livestock manager certification is 697  
considered to be under the supervision of the certificate holder 698  
if the certificate holder is responsible for the actions of the 699  
person and is available when needed even though the certificate 700  
holder is not physically present at the time of the manure 701  
management or handling. 702

(2) No person shall transport, and land apply annually or 703  
buy, or sell, or land apply annually the volume of manure 704  
established in rules adopted by the director under division (E)(5) 705  
of section 903.10 of the Revised Code unless the person holds a 706  
livestock manager certification issued under this section. 707



(B) The director shall issue a livestock manager 708  
certification to a person who has submitted a complete application 709  
for certification on a form prescribed and provided by the 710  
director, together with the appropriate application fee, and who 711  
has completed successfully the required training and has passed 712  
the required examination. The director may suspend or revoke a 713  
livestock manager certification and may reinstate a suspended or 714  
revoked livestock manager certification in accordance with rules. 715

(C) Information required to be included in an application for 716  
a livestock manager certification, the amount of the application 717  
fee, and requirements regarding training and the examination shall 718  
be established in rules. 719

**Sec. 903.08.** (A)(1) The director of agriculture is authorized 720  
to participate in the national pollutant discharge elimination 721  
system in accordance with the Federal Water Pollution Control Act. 722  
Not later than one hundred eighty days after ~~the effective date of~~ 723  
~~this section~~ March 15, 2001, the director shall prepare a state 724  
program in accordance with 40 C.F.R. 123.21 for point sources that 725  
are subject to this section and shall submit the program to the 726  
United States environmental protection agency for approval. 727

(2) On and after the date on which the United States 729  
environmental protection agency approves the state program 730  
submitted under division (A)(1) of this section, the authority to 731  
enforce terms and conditions of NPDES permits previously issued 732  
under division (J) of section 6111.03 or under section 6111.035 of 733  
the Revised Code for the discharging, transporting, or handling of 734  
storm water from an animal feeding facility or of manure is 735  
transferred from the director of environmental protection to the 736  
director of agriculture. Thereafter, the director of environmental 737  
protection shall have no authority to enforce the terms and 738

conditions of those NPDES permits. After the transfer of authority 739  
under division (A)(2) of this section, the NPDES permits 740  
concerning which authority has been transferred shall be 741  
considered to have been issued under this section. 742

(B)(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 manure from a point source into waters of 746  
the state without first obtaining a NPDES permit issued by the 747  
director of agriculture under this section. The owner or operator 748  
of a concentrated animal feeding operation shall apply to the 749  
director for an individual NPDES permit or for coverage under a 750  
general NPDES permit issued by the director of agriculture under 751  
this section. A concentrated animal feeding operation is deemed to 752  
be a point source that discharges manure into the waters of the 753  
state unless the director has determined that the concentrated 754  
animal feeding operation has no potential to discharge manure into 755  
the waters of the state. If an owner or operator of a concentrated 756  
animal feeding operation receives notice from the director that 757  
the director has determined that the concentrated animal feeding 758  
operation has no potential to discharge manure, the owner or 759  
operator is not required to apply for an individual NPDES permit 760  
or for coverage under a general NPDES permit for that operation. 761  
The director's determination shall be made in accordance with 762  
rules. Violation of division (B)(1) of this section is hereby 763  
declared to be a public nuisance for purposes of state enforcement 764  
of this section. 765

(2) Persons that have been issued a permit by the director of 766  
environmental protection under division (J) of section 6111.03 of 767  
the Revised Code for the discharge of manure prior to the date on 768  
which the United States environmental protection agency approves 769  
the NPDES program submitted by the director of agriculture under 770

this section may continue to operate under that permit until it 771  
expires or is modified or revoked. Such a permit shall be enforced 772  
by the director of agriculture upon the transfer of authority to 773  
enforce the terms and conditions of the permit under division 774  
(A)(2) of this section. 775

(C)(1) On and after the date on which the United States 776  
environmental protection agency approves the NPDES program 777  
submitted by the director of agriculture under this section, no 778  
person shall discharge storm water resulting from an animal 779  
feeding facility without first obtaining a NPDES permit issued by 780  
the director of agriculture in accordance with rules when such a 781  
permit is required by the Federal Water Pollution Control Act. 782  
Violation of division (C)(1) of this section is hereby declared to 783  
be a public nuisance for purposes of state enforcement of this 784  
section. 785

(2) Persons that have been issued a NPDES permit by the 786  
director of environmental protection under Chapter 6111. of the 787  
Revised Code for the discharge of storm water from an animal 788  
feeding facility prior to the date on which the United States 789  
environmental protection agency approves the NPDES program 790  
submitted by the director of agriculture under this section may 791  
continue to operate under that permit until it expires or is 792  
modified or revoked. Such a permit shall be enforced by the 793  
director of agriculture upon the transfer of authority to enforce 794  
the terms and conditions of the permit under division (A)(2) of 795  
this section. 796

(D) In accordance with rules, an applicant for a NPDES permit 797  
issued under this section shall submit a fee in an amount 798  
established by rule together with, except as otherwise provided in 799  
division (F) of this section, an application for the permit to the 800  
director of agriculture on a form prescribed by the director. The 801  
application shall include any information required by rule. The 802

director or the director's authorized representative may help an 803  
applicant for a NPDES permit during the application process by 804  
providing guidance and technical assistance. 805

(E) The director of agriculture shall issue NPDES permits in 806  
accordance with this section and section 903.09 of the Revised 807  
Code. The director shall deny an application for a NPDES permit if 808  
any of the following applies: 809

(1) The application contains misleading or false information. 810

(2) The administrator of the United States environmental 811  
protection agency objects in writing to the issuance of the NPDES 812  
permit in accordance with section 402(d) of the Federal Water 813  
Pollution Control Act. 814

(3) The director determines that the proposed discharge or 815  
source would conflict with an areawide waste treatment management 816  
plan adopted in accordance with section 208 of the Federal Water 817  
Pollution Control Act. 818

Additional grounds for the denial of a NPDES permit shall be 819  
those established in this chapter and rules. 820

(F) To the extent consistent with the Federal Water Pollution 821  
Control Act, the director of agriculture shall issue general NPDES 822  
permits that will apply in lieu of individual NPDES permits for 823  
categories of point sources for which the director determines that 824  
all of the following apply: 825

(1) Any discharges authorized by a general permit will have 826  
only minimal cumulative adverse effects on the environment when 827  
the discharges are considered collectively and individually. 828

(2) The discharges are more appropriately authorized by a 829  
general permit than by an individual permit. 830

(3) Each category of point sources satisfies the criteria 831  
established in rules. 832

A person who is required to obtain a NPDES permit shall 833  
submit to the director a notice of the person's intent to be 834  
covered under an existing general permit or, at the person's 835  
option, an application for an individual NPDES permit. Upon 836  
receipt of a notice of intent for coverage under an existing 837  
general permit, the director shall notify the applicant in writing 838  
that the person is covered by the general permit if the person 839  
satisfies the criteria established in rules for eligibility for 840  
such coverage. If the person is ineligible for coverage under the 841  
general permit, the director shall require the submission of an 842  
application for an individual NPDES permit. 843

(G) The director of agriculture shall establish terms and 844  
conditions of NPDES permits in accordance with rules. Terms and 845  
conditions shall be designed to achieve and maintain full 846  
compliance with national effluent limitations, national standards 847  
of performance for new sources, the most current water quality 848  
standards adopted under section 6111.041 of the Revised Code, the 849  
most current antidegradation policy adopted under section 6111.12 850  
of the Revised Code, and other requirements of the Federal Water 851  
Pollution Control Act. In establishing the terms and conditions of 852  
a NPDES permit, the director, to the extent consistent with that 853  
act, shall consider technical feasibility and economic costs and 854  
shall allow a reasonable period of time for coming into compliance 855  
with the permit. 856

(H) An animal feeding facility that is required to obtain 857  
both a NPDES permit and a permit to operate shall be issued a 858  
single permit to operate incorporating the terms and conditions 859  
established by both permits. The permit to operate expressly shall 860  
designate the terms and conditions required under the NPDES 861  
program as federally enforceable. All other provisions are 862  
enforceable under state law only and expressly shall be designated 863  
accordingly. 864

(I) A NPDES permit may be issued under this section for a 865  
period not to exceed five years. 866

(J) A NPDES permit issued under this section may be renewed. 867  
An application for renewal of a NPDES permit shall be submitted to 868  
the director of agriculture at least one hundred eighty days prior 869  
to the expiration date of the permit and shall comply with the 870  
requirements governing applications for NPDES permits established 871  
under this section and by rule. 872

(K)(1) No person shall make any false statement, 873  
representation, or certification in an application for a NPDES 874  
permit or in any form, notice, or report required to be submitted 875  
to the director pursuant to terms and conditions established in a 876  
NPDES permit issued under this section. 877

(2) No person shall render inaccurate any monitoring method 878  
or device that is required under the terms and conditions of a 879  
NPDES permit issued under this section. 880

(L) The director may modify, suspend, or revoke a NPDES 881  
permit issued under this section for cause as established by rule. 882  
No NPDES permit issued under this section shall be modified, 883  
suspended, or revoked without a written order stating the findings 884  
that led to the modification, suspension, or revocation. In 885  
addition, the permittee has a right to an administrative hearing 886  
in accordance with Chapter 119. of the Revised Code, except that 887  
section 119.12 of the Revised Code does not apply. Further, an 888  
order of the director modifying, suspending, or revoking a NPDES 889  
permit may be appealed to the environmental review appeals 890  
commission under sections 3745.04 to 3745.06 of the Revised Code. 891

(M)(1) No person shall violate any effluent limitation 892  
established by rule. 893

(2) No person shall violate any other provision of a NPDES 894  
permit issued under this section. 895

(3) Compliance with a NPDES permit issued under this section 896  
constitutes compliance with this section. 897

(N) This section, including the state program authorized in 898  
division (A)(1) of this section, shall be administered in a manner 899  
consistent with the Federal Water Pollution Control Act. 900

Sec. 903.081. (A) For purposes of section 903.08 of the 901  
Revised Code, no person shall issue a NPDES permit if the person 902  
receives or has received during the two years prior to the receipt 903  
of an application for a NPDES permit a significant portion of 904  
income from any NPDES permittee or any applicant for a NPDES 905  
permit. In addition, no person who, pursuant to an appeal of an 906  
action regarding a NPDES permit, has the authority to require or 907  
to order the director of agriculture to vacate or modify a NPDES 908  
permit shall require or order the director to vacate or modify a 909  
NPDES permit if the person receives or has received during the two 910  
years prior to the filing of the appeal a significant portion of 911  
income from any NPDES permittee or any applicant for a NPDES 912  
permit. 913

(B) As used in this section: 914

(1) "Significant portion of income" means ten per cent or 915  
more of gross personal income in a calendar year or fifty per cent 916  
or more of gross personal income in a calendar year if the 917  
recipient of the income is more than sixty years of age and is 918  
receiving that portion of income under retirement benefits, 919  
including a pension or similar arrangement. 920

(2) "Income" includes retirement benefits, consultant fees, 921  
and stock dividends. "Income" does not include mutual fund 922  
payments or other diversified investments for which the recipient 923  
does not know the identity of the primary sources of the income. 924

(3) "Permittee" and "applicant for a NPDES permit" does not 925

include any department or agency of the state.

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Sec. 903.082. (A) The director of agriculture may determine  
that an animal feeding facility that is not a medium concentrated  
animal feeding operation or small concentrated animal feeding  
operation as defined in section 903.01 of the Revised Code  
nevertheless shall be required to be permitted as a medium or  
small concentrated animal feeding operation when all of the  
following apply:

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(1) The director has received from the chief of the division  
of soil and water conservation in the department of natural  
resources a copy of an order issued under section 1511.02 of the  
Revised Code that specifies that the animal feeding facility has  
caused agricultural pollution by failure to comply with standards  
established under that section and that the animal feeding  
facility therefore should be required to be permitted as a medium  
or small concentrated animal feeding operation.

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

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

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(B) If an animal feeding facility is required to be permitted  
in accordance with this section, the owner or operator of the  
facility shall apply to the director for a permit to operate as a  
concentrated animal feeding operation. In a situation in which  
best management practices cannot be implemented without modifying  
the existing animal feeding facility, the owner or operator of the  
facility also shall apply for a permit to install for the  
facility.

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(C) In the case of an animal feeding facility for which a

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956 permit to operate is required under this section, a permit to  
957 operate shall not be required after the end of the five-year term  
958 of the permit if the problems that caused the facility to be  
959 required to obtain the permit have been corrected to the  
960 director's satisfaction.

**Sec. 903.09.** ~~(a)~~(A) Prior to issuing or modifying a permit to 961  
install, permit to operate, or NPDES permit, the director of 962  
agriculture shall issue a draft permit. The director or the 963  
director's representative shall mail notice of the issuance of a 964  
draft permit to the applicant and shall publish the notice once in 965  
a newspaper of general circulation in the county in which the 966  
concentrated animal feeding facility or discharger is located or 967  
proposed to be located. The director shall mail notice of the 968  
issuance of a draft permit and a copy of the draft permit to the 969  
board of county commissioners of the county and the board of 970  
township trustees of the township in which the concentrated animal 971  
feeding facility or discharger is located or proposed to be 972  
located. The director or the director's representative also shall 973  
provide notice of the issuance of a draft NPDES permit to any 974  
other persons that are entitled to notice under the Federal Water 975  
Pollution Control Act. Notice of the issuance of a draft permit to 976  
install, permit to operate, or NPDES permit shall include the 977  
address where written comments concerning the draft permit may be 978  
submitted and the period of time during which comments will be 979  
accepted as established by rule. 980

If the director receives written comments in an amount that 981  
demonstrates significant public interest, as defined by rule, in 982  
the draft permit, the director shall schedule one public meeting 983  
to provide information to the public and to hear comments 984  
pertinent to the draft permit. The notice of the public meeting 985  
shall be provided in the same manner as the notice of the issuance 986

of the draft permit. 987

(B) If a person is required to obtain both a permit to 988  
install and a permit to operate, including any permit to operate 989  
with NPDES provisions, and public meetings are required for both 990  
permits, the public meetings for the permits shall be combined. 991

(C) The director shall apply the antidegradation policy 992  
adopted under section 6111.12 of the Revised Code to permits 993  
issued under this chapter to the same degree and under the same 994  
circumstances as it applies to permits issued under Chapter 6111. 995  
of the Revised Code. The director shall hold one public meeting to 996  
consider antidegradation issues when such a meeting is required by 997  
the antidegradation policy. When allowed by the antidegradation 998  
policy, the director shall hold the public meeting on 999  
antidegradation issues concurrently with any public meeting held 1000  
for the draft permit. 1001

(D) The director or the director's representative shall 1002  
publish notice of the issuance of a final permit to install, 1003  
permit to operate, or NPDES permit once in a newspaper of general 1004  
circulation in the county in which the concentrated animal feeding 1005  
facility or discharger is located. 1006

(E) Failure of the director to provide notice or a public 1007  
meeting shall invalidate a permit only if the failure is raised 1008  
by, and was relied upon to the detriment of, a person that is 1009  
entitled to appeal the permit. Notice or a public meeting is not 1010  
required for the modification of a permit made with the consent of 1011  
the permittee for the correction of typographical errors. 1012

(F) The denial, modification, suspension, or revocation of a 1013  
permit to install, permit to operate, or NPDES permit without the 1014  
consent of the applicant or permittee shall be preceded by a 1015  
proposed action stating the director's intention to issue an order 1016  
with respect to the permit and the reasons for it. ~~The~~ 1017

The director shall mail to the applicant or the permittee 1018  
notice of the director's proposed action to deny, suspend, or 1019  
revoke a permit to install, permit to operate, or NPDES permit. 1020  
The director shall publish the notice once in a newspaper of 1021  
general circulation in the county in which the concentrated animal 1022  
feeding facility or concentrated animal feeding operation is 1023  
located or proposed to be located. The director shall mail a copy 1024  
of the notice of the proposed action to the board of county 1025  
commissioners of the county and to the board of township trustees 1026  
of the township in which the concentrated animal feeding facility 1027  
or concentrated animal feeding operation is located or proposed to 1028  
be located. The director also shall provide notice of the 1029  
director's proposed action to deny, suspend, or revoke a permit to 1030  
install, permit to operate, or NPDES permit to any other person 1031  
that is entitled to notice under the Federal Water Pollution 1032  
Control Act. The notice of the director's proposed action to deny, 1033  
suspend, or revoke a permit to install, permit to operate, or 1034  
NPDES permit shall include the address where written comments 1035  
concerning the director's proposed action may be submitted and the 1036  
period of time during which comments will be accepted as 1037  
established by rule. If the director receives written comments in 1038  
an amount that demonstrates significant public interest, as 1039  
defined by rule, the director shall schedule one public meeting to 1040  
provide information to the public and to hear comments pertinent 1041  
to the proposed action. The notice of the public meeting shall be 1042  
provided in the same manner as the notice of the director's 1043  
proposed action. 1044

The director shall not issue an order that makes the proposed 1045  
action final until the applicant or permittee has had an 1046  
opportunity for an adjudication hearing in accordance with Chapter 1047  
119. of the Revised Code, except that section 119.12 of the 1048  
Revised Code does not apply. An order of the director that 1049

finalizes the proposed action or an order issuing a permit without 1050  
a prior proposed action may be appealed to the environmental 1051  
review appeals commission under sections 3745.04 to 3745.06 of the 1052  
Revised Code. 1053

(G)(1) The director shall issue an order issuing or denying 1054  
an application for a permit to operate that contains NPDES 1055  
provisions or for a NPDES permit, as well as any application for a 1056  
permit to install that is submitted simultaneously, not later than 1057  
one hundred eighty days after receiving the application. 1058

(2) In the case of an application for a permit to install or 1059  
permit to operate that is not connected with an application for a 1060  
NPDES permit, the director shall issue or propose to deny the 1061  
permit not later than ninety days after receiving the application. 1062  
If the director has proposed to deny the permit to install or 1063  
permit to operate under division (G)(2) of this section, the 1064  
director shall issue an order denying the permit or, if the 1065  
director decides against the proposed denial, issuing the permit 1066  
not later than one hundred eighty days after receiving the 1067  
application. If the director denies the permit, the director shall 1068  
notify the applicant in writing of the reason for the denial. 1069

(H) All rulemaking and the issuance of civil penalties under 1070  
this chapter shall comply with Chapter 119. of the Revised Code. 1071

(I) Upon the transfer of ownership of an animal feeding 1072  
facility for which a permit to install, an installation permit, a 1073  
review compliance certificate, or a permit to operate that 1074  
contains no NPDES provisions has been issued, the permit or 1075  
certificate shall be transferred to the new owner of the animal 1076  
feeding facility except as provided in division (C) of section 1077  
903.05 of the Revised Code. In the case of the transfer of 1078  
ownership of a point source for which a NPDES permit or a permit 1079  
to operate that contains NPDES provisions has been issued, the 1080  
permit shall be transferred in accordance with rules. 1081

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

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

(1) The discharge of manure;

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

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

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

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

(2) The amount of the fee that must be submitted with each 1112  
permit application and each application for a permit modification; 1113

(3) Information that must be included in the designs and 1114  
plans required to be submitted with an application for a permit to 1115  
install and criteria for approving, disapproving, or requiring 1116  
modification of the designs and plans; 1117

(4) Information that must be included in a manure management 1118  
plan required to be submitted with an application for a permit to 1119  
operate; 1120

(5) Information that must be included in an application for 1121  
the modification of an installation permit, a permit to install, 1122  
or a permit to operate; 1123

(6) Any additional information that must be included with a 1124  
permit application; 1125

(7) Procedures for the issuance, denial, modification, 1126  
transfer, suspension, and revocation of permits to install and 1127  
permits to operate, including general permits; 1128

(8) Grounds for the denial, modification, suspension, or 1129  
revocation of permits to install and permits to operate in 1130  
addition to the grounds established in division (D) of section 1131  
903.02 and division (D) of section 903.03 of the Revised Code; 1132

(9) A requirement that a person that is required to obtain 1133  
both a permit to install and a permit to operate submit 1134  
applications for those permits simultaneously; 1135

(10) A definition of "general permit to operate" that 1136  
establishes categories of concentrated animal feeding facilities 1137  
to be covered under such a permit and a definition of "individual 1138  
permit to operate" together with the criteria for issuing a 1139  
general permit to operate and the criteria for determining a 1140  
person's eligibility to operate under a general permit to operate. 1141

(B) Establish all of the following for the purposes of review 1142  
compliance certificates issued under section 903.04 of the Revised 1143  
Code: 1144

(1) The form of a certificate; 1145

(2) Criteria for what constitutes a significant capital 1146  
expenditure under division (D) of that section; 1147

(3) Deadlines and procedures for submitting information under 1148  
division (E)(2) of that section. 1149

(C) Establish best management practices that minimize water 1150  
pollution, odors, insects, and rodents, that govern the land 1151  
application of manure that originated at a concentrated animal 1152  
feeding facility, and that govern all of the following activities 1153  
that occur at a concentrated animal feeding facility: 1154

(1) Manure management, including the storage, handling, 1155  
transportation, and land application of manure. Rules adopted 1156  
under division (C)(1) of this section shall include practices that 1157  
prevent surface and ground water contamination caused by the 1158  
storage of manure or the land application of manure and prevent 1159  
the contamination of water in drainage tiles that may be caused by 1160  
that application. 1161

(2) Disposal of dead livestock; 1162

(3) Any other activity that the director considers 1163  
appropriate. 1164

Best management practices established in rules adopted under 1165  
division (C) of this section shall not conflict with best 1166  
management practices established in rules that have been adopted 1167  
under any other section of the Revised Code and that are in effect 1168  
on ~~the effective date of this section~~ March 15, 2001. The rules 1169  
adopted under division (C) of this section shall establish 1170  
guidelines that require owners or operators of concentrated animal 1171

feeding facilities to consult with and work with local officials, 1172  
including boards of county commissioners and boards of township 1173  
trustees, in addressing issues related to local government 1174  
infrastructure needs and the financing of that infrastructure. 1175

(D) Establish all of the following concerning insect and 1176  
rodent control plans required under section 903.06 of the Revised 1177  
Code: 1178

(1) The information to be included in an insect and rodent 1179  
control plan; 1180

(2) Criteria for approving, disapproving, or requiring 1181  
modification of an insect and rodent control plan; 1182

(3) Criteria for determining compliance with or violation of 1183  
an insect and rodent control plan; 1184

(4) Procedures and standards for monitoring insect and rodent 1185  
control plans; 1186

(5) Procedures and standards for enforcing insect and rodent 1187  
control plans at concentrated animal feeding facilities at which 1188  
insects or rodents constitute a nuisance or adversely affect 1189  
public health; 1190

(6) The amount of civil penalties for violation of an insect 1191  
and rodent control plan assessed by the director of agriculture 1192  
under division (B) of section 903.16 of the Revised Code, provided 1193  
that the rules adopted under division (D)(6) of this section shall 1194  
not establish a civil penalty of more than ten thousand dollars 1195  
for a violation involving a concentrated animal feeding facility 1196  
~~with a total design capacity of ten thousand or fewer animal units~~ 1197  
~~that is not a major concentrated animal feeding facility~~ and shall 1198  
not establish a civil penalty of more than twenty-five thousand 1199  
dollars for a violation involving a major concentrated animal 1200  
feeding facility; 1201



(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it; 1202  
1203

(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code. 1204  
1205

(E) Establish all of the following concerning livestock manager certification required under section 903.07 of the Revised Code: 1206  
1207  
1208

(1) The information to be included in an application for a livestock manager certification and the amount of the application fee; 1209  
1210  
1211

(2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility, and following best management practices established in rules for disposal of dead animals and manure management, including practices that control odor and protect the environment. The director may specify other types of recognized training programs that, if completed, are considered to satisfy the training and examination requirement. 1212  
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(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification; 1225  
1226  
1227

(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal; 1228  
1229

(5) The volume of manure that must be transported, and land applied annually or the volume of manure that must be bought, or 1230  
1231

sold, or land applied annually by a person in order for the person 1232  
to be required to obtain a livestock manager certification under 1233  
division (A)(2) of section 903.07 of the Revised Code; 1234

(6) Any other provisions necessary to administer and enforce 1235  
section 903.07 of the Revised Code. 1236

(F) Establish all of the following concerning NPDES permits: 1237

(1) The designation of concentrated animal feeding operations 1238  
that are subject to NPDES permit requirements under section 903.08 1239  
of the Revised Code. This designation shall include only those 1240  
point sources for which the issuance of NPDES permits is required 1241  
under the Federal Water Pollution Control Act. 1242

(2) Effluent limitations governing discharges into waters of 1243  
the state that are authorized by permits; 1244

(3) Variances from effluent limitations and other permit 1245  
requirements to the extent that the variances are consistent with 1246  
the Federal Water Pollution Control Act; 1247

(4) Terms and conditions to be included in a permit, 1248  
including, as applicable, best management practices; installation 1249  
of discharge or water quality monitoring methods or equipment; 1250  
creation and retention of records; submission of periodic reports; 1251  
schedules of compliance; net volume, net weight, and, where 1252  
necessary, concentration and mass loading limits of manure that 1253  
may be discharged into waters of the state; and authorized 1254  
duration and frequency of any discharges into waters of the state; 1255

(5) Procedures for the submission of applications for permits 1256  
and notices of intent to be covered by general permits, including 1257  
information that must be included in the applications and notices; 1258

(6) The amount of the fee that must be submitted with an 1259  
application for a permit; 1260

(7) Procedures for processing permit applications, including 1261

public notice and participation requirements; 1262

(8) Procedures for notifying the United States environmental 1263  
protection agency of the submission of permit applications, the 1264  
director's action on those applications, and any other reasonable 1265  
and relevant information; 1266

(9) Procedures for notifying and receiving and responding to 1267  
recommendations from other states whose waters may be affected by 1268  
the issuance of a permit; 1269

(10) Procedures for the transfer of permits to new owners or 1270  
operators; 1271

(11) Grounds and procedures for the issuance, denial, 1272  
modification, suspension, or revocation of permits, including 1273  
general permits; 1274

(12) A definition of "general NPDES permit" that establishes 1275  
categories of point sources to be covered under such a permit and 1276  
a definition of "individual NPDES permit" together with the 1277  
criteria for issuing a general NPDES permit and the criteria for 1278  
determining a person's eligibility to discharge under a general 1279  
NPDES permit. 1280

The rules adopted under division (F) of this section shall be 1281  
consistent with the requirements of the Federal Water Pollution 1282  
Control Act. 1283

(G) Establish public notice and participation requirements, 1284  
in addition to the procedures established in rules adopted under 1285  
division (F)(7) of this section, for the issuance, denial, 1286  
modification, transfer, suspension, and revocation of permits to 1287  
install, permits to operate, and NPDES permits consistent with 1288  
section 903.09 of the Revised Code, including a definition of what 1289  
constitutes significant public interest for the purposes of 1290  
~~division~~ divisions (A) and (F) of section 903.09 of the Revised 1291  
Code and procedures for public meetings. The rules shall require 1292

that information that is presented at such a public meeting be 1293  
limited to the criteria that are applicable to the permit 1294  
application that is the subject of the public meeting. 1295

(H) Establish the amount of civil penalties assessed by the 1296  
director of agriculture under division (B) of section 903.16 of 1297  
the Revised Code for violation of the terms and conditions of a 1298  
permit to install, permit to operate, or review compliance 1299  
certificate, provided that the rules adopted under this division 1300  
shall not establish a civil penalty of more than ten thousand 1301  
dollars per day for each violation; 1302

(I) Establish procedures for the protection of trade secrets 1303  
from public disclosure. The procedures shall authorize the release 1304  
of trade secrets to officers, employees, or authorized 1305  
representatives of the state, another state, or the United States 1306  
when necessary for an enforcement action brought under this 1307  
chapter or when otherwise required by the Federal Water Pollution 1308  
Control Act. The rules shall require at least ten days' written 1309  
notice to the person to whom a trade secret applies prior to the 1310  
release of the trade secret. Rules adopted under this division do 1311  
not apply to any information that is contained in applications, 1312  
including attachments, for NPDES permits and that is required to 1313  
be submitted under section 903.08 of the Revised Code or rules 1314  
adopted under division (F) of this section. 1315

(J) Establish any other provisions necessary to administer 1316  
and enforce this chapter. 1317

**Sec. 903.16.** (A) The director of agriculture may propose to 1318  
require corrective actions and assess a civil penalty against an 1319  
owner or operator of a concentrated animal feeding facility if the 1320  
director or the director's authorized representative determines 1321  
that the owner or operator is not in compliance with section 1322  
903.02, 903.03, or 903.04 of the Revised Code, the terms and 1323

conditions of a permit to install, permit to operate, or review 1324  
compliance certificate issued for the concentrated animal feeding 1325  
facility, including the requirements established under division 1326  
(C) of section 903.06 or division (A) of section 903.07 of the 1327  
Revised Code, or rules adopted under division (A) of section 1328  
903.10 of the Revised Code. However, the director may impose a 1329  
civil penalty only if all of the following occur: 1330

(1) The owner or operator is notified in writing of the 1331  
deficiencies resulting in noncompliance, the actions that the 1332  
owner or operator must take to correct the deficiencies, and the 1333  
time period within which the owner or operator must correct the 1334  
deficiencies and attain compliance. 1335

(2) After the time period specified in the notice has 1336  
elapsed, the director or the director's duly authorized 1337  
representative has inspected the concentrated animal feeding 1338  
facility, determined that the owner or operator is still not in 1339  
compliance, and issued a notice of an adjudication hearing. 1340

(3) The director affords the owner or operator an opportunity 1341  
for an adjudication hearing under Chapter 119. of the Revised Code 1342  
to challenge the director's determination that the owner or 1343  
operator is not in compliance or the imposition of the civil 1344  
penalty, or both. However, the owner or operator may waive the 1345  
right to an adjudication hearing. 1346

(B) If the opportunity for an adjudication hearing is waived 1347  
or if, after an adjudication hearing, the director determines that 1348  
a violation has occurred or is occurring, the director may issue 1349  
an order requiring compliance and assess the civil penalty. The 1350  
order and the assessment of the civil penalty may be appealed in 1351  
accordance with section 119.12 of the Revised Code. 1352

Civil penalties shall be assessed under this division as 1353  
follows: 1354

(1) A person who has violated section 903.02, 903.03, or 1355  
903.04 of the Revised Code, the terms and conditions of a permit 1356  
to install, permit to operate, or review compliance certificate, 1357  
or rules adopted under division (A) of section 903.10 of the 1358  
Revised Code shall pay a civil penalty in an amount established in 1359  
rules unless the violation is of the requirements established 1360  
under division (C) of section 903.06 or division (A) of section 1361  
903.07 of the Revised Code. 1362

(2) A person who has violated the requirements established 1363  
under division (C) of section 903.06 of the Revised Code shall pay 1364  
a civil penalty in an amount established in rules for each 1365  
violation. Each seven-day period during which a violation 1366  
continues constitutes a separate violation. 1367

(3) A person who has violated the requirements established 1368  
under division (A) of section 903.07 of the Revised Code shall pay 1369  
a civil penalty of not more than ten thousand dollars for each 1370  
violation. Each thirty-day period during which a violation 1371  
continues constitutes a separate violation. 1372

(C) The attorney general, upon the written request of the 1373  
director, shall bring an action for an injunction in any court of 1374  
competent jurisdiction against any person violating or threatening 1375  
to violate section 903.02, 903.03, or 903.04 of the Revised Code; 1376  
the terms and conditions of a permit to install, permit to 1377  
operate, or review compliance certificate, including the 1378  
requirements established under division (C) of section 903.06 or 1379  
division (A) of section 903.07 of the Revised Code; rules adopted 1380  
under division (A) of section 903.10 of the Revised Code; or an 1381  
order issued under division (B) of this section. 1382

(D)(1) In lieu of seeking civil penalties under division (A) 1383  
of this section, the director may request the attorney general, in 1384  
writing, to bring an action for a civil penalty in a court of 1385

competent jurisdiction against any person that has violated or is 1386  
violating the terms and conditions of a permit to install, permit 1387  
to operate, or review compliance certificate, including the 1388  
requirements established under division (C) of section 903.06 or 1389  
division (A) of section 903.07 of the Revised Code. 1390

(2) The director may request the attorney general, in 1391  
writing, to bring an action for a civil penalty in a court of 1392  
competent jurisdiction against any person that has violated or is 1393  
violating section 903.02, 903.03, or 903.04 of the Revised Code, 1394  
rules adopted under division (A) of section 903.10 of the Revised 1395  
Code, or an order issued under division (B) of this section. 1396

(3) A person who has committed a violation for which the 1397  
attorney general may bring an action for a civil penalty under 1398  
division (D)(1) or (2) of this section shall pay a civil penalty 1399  
of not more than ten thousand dollars per violation. Each day that 1400  
a violation continues constitutes a separate violation. 1401

**Sec. 903.20.** (A) There is hereby created the concentrated 1402  
animal feeding facility advisory committee consisting of the 1403  
directors of agriculture, development, environmental protection, 1404  
and natural resources and the dean of the college of food, 1405  
agricultural, and environmental sciences of the Ohio state 1406  
university, or their designees, as members ex officio, and sixteen 1407  
members to be appointed by the director of agriculture. Of the 1408  
appointed members, one shall be an elected local government 1409  
official whose jurisdiction has a concentrated animal feeding 1410  
facility located in it at the time that the official is appointed 1411  
to the committee, one shall be a person who is licensed to 1412  
practice veterinary medicine under Chapter 4741. of the Revised 1413  
Code, one shall represent the interests of poultry producers, one 1414  
shall represent the interests of swine producers, one shall 1415  
represent the interests of dairy farmers, one shall represent the 1416

interests of beef cattle producers, one shall represent the 1417  
interests of sheep producers, one shall represent the interests of 1418  
drinking water utilities, one shall represent the interests of 1419  
wastewater utilities, one shall represent the Ohio environmental 1420  
health association, two shall represent the interests of statewide 1421  
environmental advocacy organizations, and four shall represent the 1422  
interests of the public. Prior to making the appointment of the 1423  
member who is an elected local government official, the director 1424  
shall solicit a list of suggested candidates from the appropriate 1425  
statewide associations that represent the interests of local 1426  
governments. Prior to making an appointment of a member 1427  
representing the interests of poultry, swine, beef cattle, or 1428  
sheep producers or dairy farmers, the director shall solicit from 1429  
the appropriate statewide trade associations a list of suggested 1430  
candidates to represent the interests of the species category on 1431  
the committee. The members representing the public shall not be 1432  
owners or operators of concentrated animal feeding facilities or 1433  
associated with such facilities by contract. 1434

Not later than thirty days after ~~the effective date of this~~ 1435  
~~section~~ March 15, 2001, the director shall make appointments to 1436  
the committee. Of the initial appointments, six shall be for terms 1437  
ending one year after ~~the effective date of this section~~ March 15, 1438  
2001, five shall be for terms ending two years after ~~the effective~~ 1439  
~~date of this section~~ March 15, 2001, and five shall be for terms 1440  
ending three years after ~~the effective date of this section~~ March 1441  
15, 2001. Thereafter, terms of office shall be for three years, 1442  
with each term ending on the same day of the same month as did the 1443  
term that it succeeds. Each member shall hold office from the date 1444  
of appointment until the end of the term for which the member was 1445  
appointed. Members may be reappointed. Vacancies shall be filled 1446  
in the manner provided for original appointments. Any member 1447  
appointed to fill a vacancy occurring prior to the expiration date 1448



of the term for which the member's predecessor was appointed shall 1449  
hold office for the remainder of that term. A member shall 1450  
continue in office subsequent to the expiration date of the 1451  
member's term until the member's successor takes office or until a 1452  
period of sixty days has elapsed, whichever occurs first. 1453

The committee shall meet at times that the chairperson or a 1454  
majority of the committee members considers appropriate, provided 1455  
that no meeting shall be held on the call of the chairperson 1456  
unless at least seven days' written notice first is provided to 1457  
all members of the committee. At the first meeting of the 1458  
committee in each calendar year, the director of agriculture shall 1459  
designate one member of the committee to serve as its chairperson 1460  
and one member to serve as its vice-chairperson. A majority vote 1461  
of the members of the committee is necessary to take action on any 1462  
matter. A vacancy on the committee does not impair the right of 1463  
the other members to exercise all of the committee's powers. 1464

Serving as an appointed member of the committee does not 1465  
constitute holding a public office or position of employment under 1466  
the laws of this state and does not constitute grounds for removal 1467  
of public officers or employees from their offices or positions of 1468  
employment. The director of agriculture, after notice and a public 1469  
meeting, may remove any appointed member of the committee for 1470  
misfeasance, nonfeasance, or malfeasance in office. 1471

Appointed members of the committee shall serve without 1472  
compensation for attending committee meetings. Members of the 1473  
committee shall be reimbursed for their actual and necessary 1474  
expenses incurred in the performance of official duties as members 1475  
of the committee. 1476

(B) The committee may do either or both of the following: 1477

(1) Adopt rules or procedures governing the conduct of its 1478  
internal affairs; 1479

(2) Request from the director of agriculture, and the 1480  
director shall provide, meeting space, staff support, services, 1481  
and data to enable it to carry out its functions. 1482

(C) The committee shall do all of the following: 1483

(1) Advise the director of agriculture in the administration 1484  
of this chapter; 1485

(2) Keep abreast of advances in manure management practices 1486  
and annually advise the directors of agriculture, environmental 1487  
protection, and natural resources of the recent advances in those 1488  
areas and regarding the need for amending what constitutes best 1489  
management practices; 1490

(3) In consultation with the director of agriculture, prepare 1491  
and, upon request, distribute written materials designed to assist 1492  
persons who propose to establish a new or modify an existing 1493  
concentrated animal feeding facility in applying for a permit to 1494  
install or permit to operate. The materials also shall include 1495  
information stating that, in addition to obtaining a permit to 1496  
operate, it may be necessary to obtain a NPDES permit for the 1497  
discharge of manure or storm water. In addition, the written 1498  
materials shall include information on the meaning of a "complete 1499  
application" for all of the permits, information on the public 1500  
meeting process in connection with the relevant permits issued 1501  
under this chapter, and a summary of the antidegradation policy 1502  
established under section 6111.12 of the Revised Code together 1503  
with an indication of the possibility that the owner's or 1504  
operator's proposed new or modified disposal system for manure or 1505  
discharges may be subject to that policy. 1506

~~(4) Not later than twelve months after the effective date of 1507  
this section, conduct an examination of the scientific 1508  
appropriateness of the definition of "animal unit" in section 1509  
903.01 of the Revised Code and prepare and submit to the general 1510~~

assembly, the governor, and the directors of agriculture, 1511  
environmental protection, and natural resources the committee's 1512  
findings and any recommendations for legislative changes in that 1513  
definition that are necessary or appropriate to reflect on a more 1514  
scientific basis manure generation rates among livestock species 1515  
and types of concentrated animal feeding facilities. 1516

(D) ~~Section 101.84~~ Sections 101.82 to 101.87 of the Revised 1517  
Code ~~does~~ do not apply to the committee. 1518

**Sec. 6111.03.** The director of environmental protection may do 1519  
any of the following: 1520

(A) Develop plans and programs for the prevention, control, 1521  
and abatement of new or existing pollution of the waters of the 1522  
state; 1523

(B) Advise, consult, and cooperate with other agencies of the 1524  
state, the federal government, other states, and interstate 1525  
agencies and with affected groups, political subdivisions, and 1526  
industries in furtherance of the purposes of this chapter. Before 1527  
adopting, amending, or rescinding a standard or rule pursuant to 1528  
division (G) of this section or section 6111.041 or 6111.042 of 1529  
the Revised Code, the director shall do all of the following: 1530

(1) Mail notice to each statewide organization that the 1531  
director determines represents persons who would be affected by 1532  
the proposed standard or rule, amendment thereto, or rescission 1533  
thereof at least thirty-five days before any public hearing 1534  
thereon; 1535

(2) Mail a copy of each proposed standard or rule, amendment 1536  
thereto, or rescission thereof to any person who requests a copy, 1537  
within five days after receipt of the request therefor; 1538

(3) Consult with appropriate state and local government 1539  
agencies or their representatives, including statewide 1540

organizations of local government officials, industrial 1541  
representatives, and other interested persons. 1542

Although the director is expected to discharge these duties 1543  
diligently, failure to mail any such notice or copy or to so 1544  
consult with any person shall not invalidate any proceeding or 1545  
action of the director. 1546

(C) Administer grants from the federal government and from 1547  
other sources, public or private, for carrying out any of its 1548  
functions, all such moneys to be deposited in the state treasury 1549  
and kept by the treasurer of state in a separate fund subject to 1550  
the lawful orders of the director; 1551

(D) Administer state grants for the construction of sewage 1552  
and waste collection and treatment works; 1553

(E) Encourage, participate in, or conduct studies, 1554  
investigations, research, and demonstrations relating to water 1555  
pollution, and the causes, prevention, control, and abatement 1556  
thereof, that are advisable and necessary for the discharge of the 1557  
director's duties under this chapter; 1558

(F) Collect and disseminate information relating to water 1559  
pollution and prevention, control, and abatement thereof; 1560

(G) Adopt, amend, and rescind rules in accordance with 1561  
Chapter 119. of the Revised Code governing the procedure for 1562  
hearings, the filing of reports, the issuance of permits, the 1563  
issuance of industrial water pollution control certificates, and 1564  
all other matters relating to procedure; 1565

(H) Issue, modify, or revoke orders to prevent, control, or 1566  
abate water pollution by such means as the following: 1567

(1) Prohibiting or abating discharges of sewage, industrial 1568  
waste, or other wastes into the waters of the state; 1569

(2) Requiring the construction of new disposal systems or any 1570

parts thereof, or the modification, extension, or alteration of 1571  
existing disposal systems or any parts thereof; 1572

(3) Prohibiting additional connections to or extensions of a 1573  
sewerage system when the connections or extensions would result in 1574  
an increase in the polluting properties of the effluent from the 1575  
system when discharged into any waters of the state; 1576

(4) Requiring compliance with any standard or rule adopted 1577  
under sections 6111.01 to 6111.05 of the Revised Code or term or 1578  
condition of a permit. 1579

In the making of those orders, wherever compliance with a 1580  
rule adopted under section 6111.042 of the Revised Code is not 1581  
involved, consistent with the Federal Water Pollution Control Act, 1582  
the director shall give consideration to, and base the 1583  
determination on, evidence relating to the technical feasibility 1584  
and economic reasonableness of complying with those orders and to 1585  
evidence relating to conditions calculated to result from 1586  
compliance with those orders, and their relation to benefits to 1587  
the people of the state to be derived from such compliance in 1588  
accomplishing the purposes of this chapter. 1589

(I) Review plans, specifications, or other data relative to 1590  
disposal systems or any part thereof in connection with the 1591  
issuance of orders, permits, and industrial water pollution 1592  
control certificates under this chapter; 1593

(J)(1) Issue, revoke, modify, or deny sludge management 1594  
permits and permits for the discharge of sewage, industrial waste, 1595  
or other wastes into the waters of the state, and for the 1596  
installation or modification of disposal systems or any parts 1597  
thereof in compliance with all requirements of the Federal Water 1598  
Pollution Control Act and mandatory regulations adopted 1599  
thereunder, including regulations adopted under section 405 of the 1600  
Federal Water Pollution Control Act, and set terms and conditions 1601

of permits, including schedules of compliance, where necessary. 1602  
Any person who discharges, transports, or handles storm water from 1603  
an animal feeding facility, as defined in section 903.01 of the 1604  
Revised Code, or manure, as defined in that section, is not 1605  
required to obtain a permit under division (J)(1) of this section 1606  
for the installation or modification of a disposal system 1607  
involving manure or storm water or any parts of such a system on 1608  
and after the date on which the director of agriculture has 1609  
finalized the program required under division (A)(1) of section 1610  
903.02 of the Revised Code. In addition, any person who 1611  
discharges, transports, or handles storm water from an animal 1612  
feeding facility, as defined in section 903.01 of the revised 1613  
code, or manure, as defined in that section, is not required to 1614  
obtain a permit under division (J)(1) of this section for the 1615  
discharge of storm water or manure on and after the date on which 1616  
the United States environmental protection agency approves the 1617  
NPDES program submitted by the director of agriculture under 1618  
section 903.08 of the Revised Code. 1619

Any permit terms and conditions set by the director shall be 1620  
designed to achieve and maintain full compliance with the national 1621  
effluent limitations, national standards of performance for new 1622  
sources, and national toxic and pretreatment effluent standards 1623  
set under that act, and any other mandatory requirements of that 1624  
act that are imposed by regulation of the administrator of the 1625  
United States environmental protection agency. If an applicant for 1626  
a sludge management permit also applies for a related permit for 1627  
the discharge of sewage, industrial waste, or other wastes into 1628  
the waters of the state, the director may combine the two permits 1629  
and issue one permit to the applicant. 1630

A sludge management permit is not required for an entity that 1631  
treats or transports sewage sludge or for a sanitary landfill when 1632  
all of the following apply: 1633

(a) The entity or sanitary landfill does not generate the 1634  
sewage sludge. 1635

(b) Prior to receipt at the sanitary landfill, the entity has 1636  
ensured that the sewage sludge meets the requirements established 1637  
in rules adopted by the director under section 3734.02 of the 1638  
Revised Code concerning disposal of municipal solid waste in a 1639  
sanitary landfill. 1640

(c) Disposal of the sewage sludge occurs at a sanitary 1641  
landfill that complies with rules adopted by the director under 1642  
section 3734.02 of the Revised Code. 1643

As used in division (J)(1) of this section, "sanitary 1644  
landfill" means a sanitary landfill facility, as defined in rules 1645  
adopted under section 3734.02 of the Revised Code, that is 1646  
licensed as a solid waste facility under section 3734.05 of the 1647  
Revised Code. 1648

(2) An application for a permit or renewal thereof shall be 1649  
denied if any of the following applies: 1650

(a) The secretary of the army determines in writing that 1651  
anchorage or navigation would be substantially impaired thereby; 1652

(b) The director determines that the proposed discharge or 1653  
source would conflict with an areawide waste treatment management 1654  
plan adopted in accordance with section 208 of the Federal Water 1655  
Pollution Control Act; 1656

(c) The administrator of the United States environmental 1657  
protection agency objects in writing to the issuance or renewal of 1658  
the permit in accordance with section 402 (d) of the Federal Water 1659  
Pollution Control Act; 1660

(d) The application is for the discharge of any radiological, 1661  
chemical, or biological warfare agent or high-level radioactive 1662  
waste into the waters of the United States. 1663

(3) To achieve and maintain applicable standards of quality 1664  
for the waters of the state adopted pursuant to section 6111.041 1665  
of the Revised Code, the director shall impose, where necessary 1666  
and appropriate, as conditions of each permit, water quality 1667  
related effluent limitations in accordance with sections 301, 302, 1668  
306, 307, and 405 of the Federal Water Pollution Control Act and, 1669  
to the extent consistent with that act, shall give consideration 1670  
to, and base the determination on, evidence relating to the 1671  
technical feasibility and economic reasonableness of removing the 1672  
polluting properties from those wastes and to evidence relating to 1673  
conditions calculated to result from that action and their 1674  
relation to benefits to the people of the state and to 1675  
accomplishment of the purposes of this chapter. 1676

(4) Where a discharge having a thermal component from a 1677  
source that is constructed or modified on or after October 18, 1678  
1972, meets national or state effluent limitations or more 1679  
stringent permit conditions designed to achieve and maintain 1680  
compliance with applicable standards of quality for the waters of 1681  
the state, which limitations or conditions will ensure protection 1682  
and propagation of a balanced, indigenous population of shellfish, 1683  
fish, and wildlife in or on the body of water into which the 1684  
discharge is made, taking into account the interaction of the 1685  
thermal component with sewage, industrial waste, or other wastes, 1686  
the director shall not impose any more stringent limitation on the 1687  
thermal component of the discharge, as a condition of a permit or 1688  
renewal thereof for the discharge, during a ten-year period 1689  
beginning on the date of completion of the construction or 1690  
modification of the source, or during the period of depreciation 1691  
or amortization of the source for the purpose of section 167 or 1692  
169 of the Internal Revenue Code of 1954, whichever period ends 1693  
first. 1694

(5) The director shall specify in permits for the discharge 1695



of sewage, industrial waste, and other wastes, the net volume, net  
weight, duration, frequency, and, where necessary, concentration  
of the sewage, industrial waste, and other wastes that may be  
discharged into the waters of the state. The director shall  
specify in those permits and in sludge management permits that the  
permit is conditioned upon payment of 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 permit has been issued for the purpose  
of determining compliance with this chapter, rules adopted  
thereunder, or the terms and conditions of a permit, order, or  
other determination. The director shall issue or deny an  
application for a sludge management permit or a permit for a new  
discharge, for the installation or modification of a disposal  
system, or for the renewal of a permit, within one hundred eighty  
days of the date on which a complete application with all plans,  
specifications, construction schedules, and other pertinent  
information required by the director is received.

(6) The director may condition permits upon the installation  
of discharge or water quality monitoring equipment or devices and  
the filing of periodic reports on the amounts and contents of  
discharges and the quality of receiving waters that the director  
prescribes. The director shall condition each permit for a  
government-owned disposal system or any other "treatment works" as  
defined in the Federal Water Pollution Control Act upon the  
reporting of new introductions of industrial waste or other wastes  
and substantial changes in volume or character thereof being  
introduced into those systems or works from "industrial users" as  
defined in section 502 of that act, as necessary to comply with  
section 402(b)(8) of that act; upon the identification of the  
character and volume of pollutants subject to pretreatment  
standards being introduced into the system or works; and upon the  
existence of a program to ensure compliance with pretreatment

standards by "industrial users" of the system or works. In 1729  
requiring monitoring devices and reports, the director, to the 1730  
extent consistent with the Federal Water Pollution Control Act, 1731  
shall give consideration to technical feasibility and economic 1732  
reasonableness and shall allow reasonable time for compliance. 1733

(7) A permit may be issued for a period not to exceed five 1734  
years and may be renewed upon application for renewal and upon a 1735  
finding by the director that the permit holder is making 1736  
satisfactory progress toward the achievement of all applicable 1737  
standards and has complied with the terms and conditions of the 1738  
existing permit. A permit may be modified, suspended, or revoked 1739  
for cause, including, but not limited to, violation of any 1740  
condition of the permit, obtaining a permit by misrepresentation 1741  
or failure to disclose fully all relevant facts of the permitted 1742  
discharge or of the sludge use, storage, treatment, or disposal 1743  
practice, or changes in any condition that requires either a 1744  
temporary or permanent reduction or elimination of the permitted 1745  
activity. No application shall be denied or permit revoked or 1746  
modified without a written order stating the findings upon which 1747  
the denial, revocation, or modification is based. A copy of the 1748  
order shall be sent to the applicant or permit holder by certified 1749  
mail. 1750

(K) Institute or cause to be instituted in any court of 1751  
competent jurisdiction proceedings to compel compliance with this 1752  
chapter or with the orders of the director issued under this 1753  
chapter, or to ensure compliance with sections 204(b), 307, 308, 1754  
and 405 of the Federal Water Pollution Control Act; 1755

(L) Issue, deny, revoke, or modify industrial water pollution 1756  
control certificates; 1757

(M) Certify to the government of the United States or any 1758  
agency thereof that an industrial water pollution control facility 1759  
is in conformity with the state program or requirements for the 1760

control of water pollution whenever the certification may be 1761  
required for a taxpayer under the Internal Revenue Code of the 1762  
United States, as amended; 1763

(N) Issue, modify, and revoke orders requiring any 1764  
"industrial user" of any publicly owned "treatment works" as 1765  
defined in sections 212(2) and 502(18) of the Federal Water 1766  
Pollution Control Act to comply with pretreatment standards; 1767  
establish and maintain records; make reports; install, use, and 1768  
maintain monitoring equipment or methods, including, where 1769  
appropriate, biological monitoring methods; sample discharges in 1770  
accordance with methods, at locations, at intervals, and in a 1771  
manner that the director determines; and provide other information 1772  
that is necessary to ascertain whether or not there is compliance 1773  
with toxic and pretreatment effluent standards. In issuing, 1774  
modifying, and revoking those orders, the director, to the extent 1775  
consistent with the Federal Water Pollution Control Act, shall 1776  
give consideration to technical feasibility and economic 1777  
reasonableness and shall allow reasonable time for compliance. 1778

(O) Exercise all incidental powers necessary to carry out the 1779  
purposes of this chapter; 1780

(P) Certify or deny certification to any applicant for a 1781  
federal license or permit to conduct any activity that may result 1782  
in any discharge into the waters of the state that the discharge 1783  
will comply with the Federal Water Pollution Control Act; 1784

(Q) Administer and enforce the publicly owned treatment works 1785  
pretreatment program in accordance with the Federal Water 1786  
Pollution Control Act. In the administration of that program, the 1787  
director may do any of the following: 1788

(1) Apply and enforce pretreatment standards; 1789

(2) Approve and deny requests for approval of publicly owned 1790  
treatment works pretreatment programs, oversee those programs, and 1791

implement, in whole or in part, those programs under any of the 1792  
following conditions: 1793

(a) The director has denied a request for approval of the 1794  
publicly owned treatment works pretreatment program; 1795

(b) The director has revoked the publicly owned treatment 1796  
works pretreatment program; 1797

(c) There is no pretreatment program currently being 1798  
implemented by the publicly owned treatment works; 1799

(d) The publicly owned treatment works has requested the 1800  
director to implement, in whole or in part, the pretreatment 1801  
program. 1802

(3) Require that a publicly owned treatment works 1803  
pretreatment program be incorporated in a permit issued to a 1804  
publicly owned treatment works as required by the Federal Water 1805  
Pollution Control Act, require compliance by publicly owned 1806  
treatment works with those programs, and require compliance by 1807  
industrial users with pretreatment standards; 1808

(4) Approve and deny requests for authority to modify 1809  
categorical pretreatment standards to reflect removal of 1810  
pollutants achieved by publicly owned treatment works; 1811

(5) Deny and recommend approval of requests for fundamentally 1812  
different factors variances submitted by industrial users; 1813

(6) Make determinations on categorization of industrial 1814  
users; 1815

(7) Adopt, amend, or rescind rules and issue, modify, or 1816  
revoke orders necessary for the administration and enforcement of 1817  
the publicly owned treatment works pretreatment program. 1818

Any approval of a publicly owned treatment works pretreatment 1819  
program may contain any terms and conditions, including schedules 1820  
of compliance, that are necessary to achieve compliance with this 1821

chapter. 1822

(R) Except as otherwise provided in this division, adopt 1823  
rules in accordance with Chapter 119. of the Revised Code 1824  
establishing procedures, methods, and equipment and other 1825  
requirements for equipment to prevent and contain discharges of 1826  
oil and hazardous substances into the waters of the state. The 1827  
rules shall be consistent with and equivalent in scope, content, 1828  
and coverage to section 311(j)(1)(c) of the Federal Water 1829  
Pollution Control Act and regulations adopted under it. The 1830  
director shall not adopt rules under this division relating to 1831  
discharges of oil from oil production facilities and oil drilling 1832  
and workover facilities as those terms are defined in that act and 1833  
regulations adopted under it. 1834

(S)(1) Administer and enforce a program for the regulation of 1835  
sludge management in this state. In administering the program, the 1836  
director, in addition to exercising the authority provided in any 1837  
other applicable sections of this chapter, may do any of the 1838  
following: 1839

(a) Develop plans and programs for the disposal and 1840  
utilization of sludge and sludge materials; 1841

(b) Encourage, participate in, or conduct studies, 1842  
investigations, research, and demonstrations relating to the 1843  
disposal and use of sludge and sludge materials and the impact of 1844  
sludge and sludge materials on land located in the state and on 1845  
the air and waters of the state; 1846

(c) Collect and disseminate information relating to the 1847  
disposal and use of sludge and sludge materials and the impact of 1848  
sludge and sludge materials on land located in the state and on 1849  
the air and waters of the state; 1850

(d) Issue, modify, or revoke orders to prevent, control, or 1851  
abate the use and disposal of sludge and sludge materials or the 1852

effects of the use of sludge and sludge materials on land located 1853  
in the state and on the air and waters of the state; 1854

(e) Adopt and enforce, modify, or rescind rules necessary for 1855  
the implementation of division (S) of this section. The rules 1856  
reasonably shall protect public health and the environment, 1857  
encourage the beneficial reuse of sludge and sludge materials, and 1858  
minimize the creation of nuisance odors. 1859

The director may specify in sludge management permits the net 1860  
volume, net weight, quality, and pollutant concentration of the 1861  
sludge or sludge materials that may be used, stored, treated, or 1862  
disposed of, and the manner and frequency of the use, storage, 1863  
treatment, or disposal, to protect public health and the 1864  
environment from adverse effects relating to those activities. The 1865  
director shall impose other terms and conditions to protect public 1866  
health and the environment, minimize the creation of nuisance 1867  
odors, and achieve compliance with this chapter and rules adopted 1868  
under it and, in doing so, shall consider whether the terms and 1869  
conditions are consistent with the goal of encouraging the 1870  
beneficial reuse of sludge and sludge materials. 1871

The director may condition permits on the implementation of 1872  
treatment, storage, disposal, distribution, or application 1873  
management methods and the filing of periodic reports on the 1874  
amounts, composition, and quality of sludge and sludge materials 1875  
that are disposed of, used, treated, or stored. 1876

An approval of a treatment works sludge disposal program may 1877  
contain any terms and conditions, including schedules of 1878  
compliance, necessary to achieve compliance with this chapter and 1879  
rules adopted under it. 1880

(2) As a part of the program established under division 1881  
(S)(1) of this section, the director has exclusive authority to 1882  
regulate sewage sludge management in this state. For purposes of 1883

division (S)(2) of this section, that program shall be consistent 1884  
with section 405 of the Federal Water Pollution Control Act and 1885  
regulations adopted under it and with this section, except that 1886  
the director may adopt rules under division (S) of this section 1887  
that establish requirements that are more stringent than section 1888  
405 of the Federal Water Pollution Control Act and regulations 1889  
adopted under it with regard to monitoring sewage sludge and 1890  
sewage sludge materials and establishing acceptable sewage sludge 1891  
management practices and pollutant levels in sewage sludge and 1892  
sewage sludge materials. 1893

This chapter authorizes the state to participate in any 1894  
national sludge management program and the national pollutant 1895  
discharge elimination system, to administer and enforce the 1896  
publicly owned treatment works pretreatment program, and to issue 1897  
permits for the discharge of dredged or fill materials, in 1898  
accordance with the Federal Water Pollution Control Act. This 1899  
chapter shall be administered, consistent with the laws of this 1900  
state and federal law, in the same manner that the Federal Water 1901  
Pollution Control Act is required to be administered. 1902

This section does not apply to animal waste disposal systems 1903  
and related management and conservation practices subject to rules 1904  
adopted pursuant to division (E)(4) of section 1511.02 of the 1905  
Revised Code ~~and involving less than one thousand animal units, as~~ 1906  
~~"animal units" is defined in the United States environmental~~ 1907  
~~protection agency regulations.~~ However, until the date on which 1908  
the United States environmental protection agency approves the 1909  
NPDES program submitted by the director of agriculture under 1910  
section 903.08 of the Revised Code, this exclusion does not apply 1911  
to animal waste treatment works having a controlled direct 1912  
discharge to the waters of the state or any concentrated animal 1913  
feeding operation, as defined in 40 C.F.R. 122.23(b)(2). On and 1914  
after the date on which the United States environmental protection 1915

agency approves the NPDES program submitted by the director of 1916  
agriculture under section 903.08 of the Revised Code, this section 1917  
does not apply to storm water from an animal feeding facility, as 1918  
defined in section 903.01 of the Revised Code, or to manure, as 1919  
defined in that section. Neither of these exclusions applies to 1920  
the discharge of animal waste into a publicly owned treatment 1921  
works. 1922

**Sec. 6111.04.** (A) Both of the following apply except as 1923  
otherwise provided in division (A) or (F) of this section: 1924

(1) No person shall cause pollution or place or cause to be 1925  
placed any sewage, sludge, sludge materials, industrial waste, or 1926  
other wastes in a location where they cause pollution of any 1927  
waters of the state. 1928

(2) Such an action prohibited under division (A)(1) of this 1929  
section is hereby declared to be a public nuisance. 1930

Divisions (A)(1) and (2) of this section do not apply if the 1931  
person causing pollution or placing or causing to be placed wastes 1932  
in a location in which they cause pollution of any waters of the 1933  
state holds a valid, unexpired permit, or renewal of a permit, 1934  
governing the causing or placement as provided in sections 6111.01 1935  
to 6111.08 of the Revised Code or if the person's application for 1936  
renewal of such a permit is pending. 1937

(B) If the director administers a sludge management program 1938  
pursuant to division (S) of section 6111.03 of the Revised Code, 1939  
both of the following apply except as otherwise provided in 1940  
division (B) or (F) of this section: 1941

(1) No person, in the course of sludge management, shall 1942  
place on land located in the state or release into the air of the 1943  
state any sludge or sludge materials. 1944

(2) An action prohibited under division (B)(1) of this 1945



section is hereby declared to be a public nuisance. 1946

Divisions (B)(1) and (2) of this section do not apply if the 1947  
person placing or releasing the sludge or sludge materials holds a 1948  
valid, unexpired permit, or renewal of a permit, governing the 1949  
placement or release as provided in sections 6111.01 to 6111.08 of 1950  
the Revised Code or if the person's application for renewal of 1951  
such a permit is pending. 1952

(C) No person to whom a permit has been issued shall place or 1953  
discharge, or cause to be placed or discharged, in any waters of 1954  
the state any sewage, sludge, sludge materials, industrial waste, 1955  
or other wastes in excess of the permissive discharges specified 1956  
under an existing permit without first receiving a permit from the 1957  
director to do so. 1958

(D) No person to whom a sludge management permit has been 1959  
issued shall place on the land or release into the air of the 1960  
state any sludge or sludge materials in excess of the permissive 1961  
amounts specified under the existing sludge management permit 1962  
without first receiving a modification of the existing sludge 1963  
management permit or a new sludge management permit to do so from 1964  
the director. 1965

(E) The director may require the submission of plans, 1966  
specifications, and other information that the director considers 1967  
relevant in connection with the issuance of permits. 1968

(F) This section does not apply to any of the following: 1969

(1) Waters used in washing sand, gravel, other aggregates, or 1970  
mineral products when the washing and the ultimate disposal of the 1971  
water used in the washing, including any sewage, industrial waste, 1972  
or other wastes contained in the waters, are entirely confined to 1973  
the land under the control of the person engaged in the recovery 1974  
and processing of the sand, gravel, other aggregates, or mineral 1975  
products and do not result in the pollution of waters of the 1976

state; 1977

(2) Water, gas, or other material injected into a well to 1978  
facilitate, or that is incidental to, the production of oil, gas, 1979  
artificial brine, or water derived in association with oil or gas 1980  
production and disposed of in a well, in compliance with a permit 1981  
issued under Chapter 1509. of the Revised Code, or sewage, 1982  
industrial waste, or other wastes injected into a well in 1983  
compliance with an injection well operating permit. Division 1984  
(F)(2) of this section does not authorize, without a permit, any 1985  
discharge that is prohibited by, or for which a permit is required 1986  
by, regulation of the United States environmental protection 1987  
agency. 1988

(3) Application of any materials to land for agricultural 1989  
purposes or runoff of the materials from that application or 1990  
pollution by animal waste or soil sediment, including attached 1991  
substances, resulting from farming, silvicultural, or earthmoving 1992  
activities regulated by Chapter 307. or 1515. of the Revised Code; 1993

(4) The excrement of domestic and farm animals defecated on 1994  
land or runoff therefrom into any waters of the state; 1995

(5) On and after the date on which the United States 1996  
environmental protection agency approves the NPDES program 1997  
submitted by the director of agriculture under section 903.08 of 1998  
the Revised Code, storm water from an animal feeding facility, as 1999  
defined in section 903.01 of the Revised Code, or manure, as 2000  
defined in that section; 2001

(6) The discharge of sewage, industrial waste, or other 2002  
wastes into a sewerage system tributary to a treatment works. 2003  
Division (F)~~(5)~~(6) of this section does not authorize any 2004  
discharge into a publicly owned treatment works in violation of a 2005  
pretreatment program applicable to the publicly owned treatment 2006  
works. 2007

(7) Septic tanks or any other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings in compliance with the sanitary code and section 3707.01 of the Revised Code. Division (F)~~(6)~~(7) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)~~(7)~~(8) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. The director shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code.

**Sec. 6111.44.** (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or

other land outside of a municipal corporation or any publicly or 2039  
privately owned building or group of buildings or place, used for 2040  
the assemblage, entertainment, recreation, education, correction, 2041  
hospitalization, housing, or employment of persons. 2042

In granting an approval, the director may stipulate 2043  
modifications, conditions, and rules that the public health and 2044  
prevention of pollution may require. Any action taken by the 2045  
director shall be a matter of public record and shall be entered 2046  
in the director's journal. Each period of thirty days that a 2047  
violation of this section continues, after a conviction for the 2048  
violation, constitutes a separate offense. 2049

(B) Sections 6111.45 and 6111.46 of the Revised Code and 2050  
division (A) of this section do not apply to any of the following: 2051

(1) Sewerage or treatment works for sewage installed or to be 2052  
installed for the use of a private residence or dwelling; 2053

(2) ~~On and after the date on which the director of~~ 2054  
~~agriculture has finalized the program required under division~~ 2055  
~~(A)(1) of section 903.02 of the Revised Code, sewerage~~ Sewerage 2056  
systems, treatment works, or disposal systems for storm water from 2057  
an animal feeding facility or manure, as "animal feeding facility" 2058  
and "manure" are defined in section 903.01 of the Revised Code; 2059

(3) Animal waste treatment or disposal works and related 2060  
management and conservation practices that are subject to rules 2061  
adopted under division (E)(2) of section 1511.02 of the Revised 2062  
Code ~~and involving less than one thousand animal units, as "animal~~ 2063  
~~unit" is defined in the United States environmental protection~~ 2064  
~~agency regulations.~~ 2065

~~The exclusions established in divisions (B)(2) and (3) of~~ 2066  
~~this section do not apply to animal waste treatment or disposal~~ 2067  
~~works having a controlled direct discharge to the waters of the~~ 2068

~~state until the date on which the director of agriculture~~ 2069  
~~finalizes the program required under section 903.02 of the Revised~~ 2070  
~~Code.~~ The exclusions established in divisions (B)(2) and (3) of 2071  
this section ~~also~~ do not apply to the construction or installation 2072  
of disposal systems, as defined in section 6111.01 of the Revised 2073  
Code, that are located at an animal feeding facility and that 2074  
store, treat, or discharge wastewaters that do not include storm 2075  
water or manure or that discharge to a publicly owned treatment 2076  
works. 2077

**Section 2.** That existing sections 307.204, 505.266, 903.01, 2078  
903.02, 903.04, 903.07, 903.08, 903.09, 903.10, 903.16, 903.20, 2079  
6111.03, 6111.04, and 6111.44 of the Revised Code are hereby 2080  
repealed. 2081