

## As Passed by the Senate

125th General Assembly

Regular Session

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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  
Senators Mumper, Carnes, Austria, DiDonato, Prentiss, Schuring,  
Wachtmann, Armbruster, Blessing, Harris, Stivers, Spada, White, Jacobson

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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, 903.082, and 903.25 of the 4  
Revised Code to revise the statutes governing 5  
animal feeding 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, 903.082, and 9  
903.25 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 15  
concentrated animal feeding facility. 16

(3) "Improvement" means the construction, modification, or 17  
both of county infrastructure. 18

(B) A person who proposes to do any of the following shall 19  
provide written notification as required under division (C) of 20  
this section to the board of county commissioners of the county in 21  
which a facility is or is to be located: 22

(1) Establish a new major concentrated animal feeding 23  
facility; 24

(2) Increase the ~~number of animal units of~~ design capacity of 25  
an existing major concentrated animal feeding facility by ten per 26  
cent or more in excess of the design capacity set forth in the 27  
current permit for construction or modification of the facility or 28  
for installation or modification of the disposal system for manure 29  
at the facility issued under section 903.02 or division (J) of 30  
section 6111.03 of the Revised Code, as applicable; 31

(3) Increase the ~~number of animal units of~~ design capacity of 32  
an existing concentrated animal feeding facility by ten per cent 33  
or more in excess of the design capacity set forth in the current 34  
permit for construction or modification of the facility or for 35  
installation or modification of the disposal system for manure at 36  
the facility issued under section 903.02 or division (J) of 37  
section 6111.03 of the Revised Code, as applicable, and to a 38  
design capacity of more than ten ~~thousand animal units~~ times the 39  
number of animals specified in any of the categories in division 40  
(H) of section 903.01 of the Revised Code. 41

(C) The person shall notify the board in writing by certified 42  
mail of the proposed construction or expansion of the facility and 43  
include the following information: 44

(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  
finance the construction, modification, and maintenance of  
improvements as provided in the board's final recommendations and  
with the approval and oversight of the county engineer. If the  
person fails to do so, the board shall notify the person by  
certified mail that the board intends to initiate mediation with  
the person if the person remains out of compliance with the final  
recommendations.

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

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

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

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

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



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 thousand animal units 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 616  
rule+. However, if a manure management plan submitted under 617  
division (E)(2)(c) of this section does not conform with best 618  
management practices regarding the handling, storage, 619  
transportation, and land application of manure generated at the 620  
facility, the director nevertheless shall deem the plan to conform 621  
with best management practices if the owner or operator does all 622  
of the following: 623

(i) Performs a phosphorous index risk assessment procedure or 624  
a phosphorous soil test risk assessment procedure in accordance 625  
with rules; 626

(ii) Demonstrates that the facility cannot comply with best 627  
management practices before the date on which the review 628  
compliance certificate is to be issued; 629

(iii) Includes in the manure management plan an 630  
implementation plan under which the facility will comply with best 631  
management practices on or before December 31, 2006. 632

(d) An insect and rodent control plan for the facility that 633  
conforms to best management practices and is prepared in 634  
accordance with section 903.06 of the Revised Code; 635

(e) In the case of a major concentrated animal feeding 636  
facility, written proof that the person who would be responsible 637  
for the supervision of the management and handling of manure at 638  
the facility has been issued a livestock manager certification in 639  
accordance with section 903.07 of the Revised Code. 640

The owner or operator need not furnish any information 641  
otherwise required under division (E)(2) of this section if that 642  
information is included in the installation permit that was issued 643  
for the existing facility. 644

(F) After a review of the existing installation permit, an 645

inspection of the facility, and a review of the information 646  
furnished under division (E)(2) of this section, and upon 647  
determining that the existing facility is being operated in a 648  
manner that protects the waters of the state and minimizes the 649  
presence and negative effects of insects and rodents at the 650  
facility and in surrounding areas, the director shall issue an 651  
order issuing a review compliance certificate to the facility. In 652  
issuing the certificate, the director shall consider technical 653  
feasibility and economic costs. The director shall not require a 654  
significant capital expenditure, as defined by rule, by the 655  
facility before issuing a certificate. 656

The director may issue an order denying a review compliance 657  
certificate if the facility's insect and rodent control plan or 658  
manure management plan does not conform to best management 659  
practices and the requirements established in section 903.06 of 660  
the Revised Code and in rules. The denial of a review compliance 661  
certificate terminates the existing installation permit that was 662  
issued to the facility. 663

The issuance of a review compliance certificate shall not 664  
require public notice or a public meeting. However, notice shall 665  
be provided to persons who own property that is contiguous to the 666  
production area of the concentrated animal feeding facility for 667  
which the review compliance certificate is to be issued. Such 668  
persons may submit written comments to the director within a time 669  
established by the director. 670

The issuance of a review compliance certificate shall not be 671  
subject to appeal under Chapter 119. or sections 3745.04 to 672  
3745.06 of the Revised Code. The denial or revocation of a review 673  
compliance certificate or the amendment of an installation permit 674  
resulting from a certificate may be challenged by the applicant in 675  
an administrative hearing in accordance with Chapter 119. of the 676  
Revised Code, except that section 119.12 of the Revised Code does 677

not apply. An order of the director that denies or revokes a 678  
certificate or amends an installation permit as a result of a 679  
certificate may be appealed to the environmental review appeals 680  
commission under sections 3745.04 to 3745.06 of the Revised Code. 681

(G) Upon the issuance of a review compliance certificate, the 682  
certificate automatically shall merge and become a part of the 683  
previously issued installation permit. If any of the terms and 684  
conditions of the installation permit and the review compliance 685  
certificate are in conflict, the terms and conditions of the 686  
review compliance certificate are controlling. 687

(H)(1) A review compliance certificate is valid for a period 688  
of five years. Not later than one hundred eighty days prior to the 689  
expiration date of the review compliance certificate, the owner or 690  
operator shall apply for a permit to operate. 691

(2) The director may revoke a review compliance certificate 692  
issued to an existing facility after the director has issued an 693  
order as a result of a hearing held under Chapter 119. of the 694  
Revised Code in which the facility has been found to be in 695  
violation of the terms and conditions of the review compliance 696  
certificate. An existing facility whose review compliance 697  
certificate is revoked shall obtain a permit to operate and, if 698  
applicable, a NPDES permit in order to resume operating. 699

(I) An existing facility that is issued a review compliance 700  
certificate shall comply with the previously issued installation 701  
permit, as amended by the certificate. 702

**Sec. 903.07.** (A) On and after the date that is established in 703  
rules by the director of agriculture, both of the following apply: 704  
705

(1) The management and handling of manure at a major 706  
concentrated animal feeding facility, including the land 707



application of manure or the removal of manure from a manure 708  
storage or treatment facility, shall be conducted only by or under 709  
the supervision of a person holding a livestock manager 710  
certification issued under this section. A person managing or 711  
handling manure who is acting under the instructions and control 712  
of a person holding a livestock manager certification is 713  
considered to be under the supervision of the certificate holder 714  
if the certificate holder is responsible for the actions of the 715  
person and is available when needed even though the certificate 716  
holder is not physically present at the time of the manure 717  
management or handling. 718

(2) No person shall transport, and land apply annually or 719  
buy, or sell, or land apply annually the volume of manure 720  
established in rules adopted by the director under division (E)(5) 721  
of section 903.10 of the Revised Code unless the person holds a 722  
livestock manager certification issued under this section. 723

(B) The director shall issue a livestock manager 724  
certification to a person who has submitted a complete application 725  
for certification on a form prescribed and provided by the 726  
director, together with the appropriate application fee, and who 727  
has completed successfully the required training and has passed 728  
the required examination. The director may suspend or revoke a 729  
livestock manager certification and may reinstate a suspended or 730  
revoked livestock manager certification in accordance with rules. 731

(C) Information required to be included in an application for 732  
a livestock manager certification, the amount of the application 733  
fee, and requirements regarding training and the examination shall 734  
be established in rules. 735

**Sec. 903.08.** (A)(1) The director of agriculture is authorized 736  
to participate in the national pollutant discharge elimination 737  
system in accordance with the Federal Water Pollution Control Act. 738

Not later than one hundred eighty days after ~~the effective date of~~ 739  
~~this section~~ March 15, 2001, the director shall prepare a state 740  
program in accordance with 40 C.F.R. 123.21 for point sources that 741  
are subject to this section and shall submit the program to the 742  
United States environmental protection agency for approval. 743

744

(2) On and after the date on which the United States 745  
environmental protection agency approves the state program 746  
submitted under division (A)(1) of this section, the authority to 747  
enforce terms and conditions of NPDES permits previously issued 748  
under division (J) of section 6111.03 or under section 6111.035 of 749  
the Revised Code for the discharging, transporting, or handling of 750  
storm water from an animal feeding facility or of manure is 751  
transferred from the director of environmental protection to the 752  
director of agriculture. Thereafter, the director of environmental 753  
protection shall have no authority to enforce the terms and 754  
conditions of those NPDES permits. After the transfer of authority 755  
under division (A)(2) of this section, the NPDES permits 756  
concerning which authority has been transferred shall be 757  
considered to have been issued under this section. 758

(B)(1) On and after the date on which the United States 759  
environmental protection agency approves the NPDES program 760  
submitted by the director of agriculture under this section, no 761  
person shall discharge manure from a point source into waters of 762  
the state without first obtaining a NPDES permit issued by the 763  
director of agriculture under this section. The owner or operator 764  
of a concentrated animal feeding operation shall apply to the 765  
director for an individual NPDES permit or for coverage under a 766  
general NPDES permit issued by the director of agriculture under 767  
this section. A concentrated animal feeding operation is deemed to 768  
be a point source that discharges manure into the waters of the 769  
state unless the director has determined that the concentrated 770

animal feeding operation has no potential to discharge manure into 771  
the waters of the state. If an owner or operator of a concentrated 772  
animal feeding operation receives notice from the director that 773  
the director has determined that the concentrated animal feeding 774  
operation has no potential to discharge manure, the owner or 775  
operator is not required to apply for an individual NPDES permit 776  
or for coverage under a general NPDES permit for that operation. 777  
The director's determination shall be made in accordance with 778  
rules. Violation of division (B)(1) of this section is hereby 779  
declared to be a public nuisance for purposes of state enforcement 780  
of this section. 781

(2) Persons that have been issued a permit by the director of 782  
environmental protection under division (J) of section 6111.03 of 783  
the Revised Code for the discharge of manure prior to the date on 784  
which the United States environmental protection agency approves 785  
the NPDES program submitted by the director of agriculture under 786  
this section may continue to operate under that permit until it 787  
expires or is modified or revoked. Such a permit shall be enforced 788  
by the director of agriculture upon the transfer of authority to 789  
enforce the terms and conditions of the permit under division 790  
(A)(2) of this section. 791

(C)(1) On and after the date on which the United States 792  
environmental protection agency approves the NPDES program 793  
submitted by the director of agriculture under this section, no 794  
person shall discharge storm water resulting from an animal 795  
feeding facility without first obtaining a NPDES permit issued by 796  
the director of agriculture in accordance with rules when such a 797  
permit is required by the Federal Water Pollution Control Act. 798  
Violation of division (C)(1) of this section is hereby declared to 799  
be a public nuisance for purposes of state enforcement of this 800  
section. 801

(2) Persons that have been issued a NPDES permit by the 802

director of environmental protection under Chapter 6111. of the 803  
Revised Code for the discharge of storm water from an animal 804  
feeding facility prior to the date on which the United States 805  
environmental protection agency approves the NPDES program 806  
submitted by the director of agriculture under this section may 807  
continue to operate under that permit until it expires or is 808  
modified or revoked. Such a permit shall be enforced by the 809  
director of agriculture upon the transfer of authority to enforce 810  
the terms and conditions of the permit under division (A)(2) of 811  
this section. 812

(D) In accordance with rules, an applicant for a NPDES permit 813  
issued under this section shall submit a fee in an amount 814  
established by rule together with, except as otherwise provided in 815  
division (F) of this section, an application for the permit to the 816  
director of agriculture on a form prescribed by the director. The 817  
application shall include any information required by rule. The 818  
director or the director's authorized representative may help an 819  
applicant for a NPDES permit during the application process by 820  
providing guidance and technical assistance. 821

(E) The director of agriculture shall issue NPDES permits in 822  
accordance with this section and section 903.09 of the Revised 823  
Code. The director shall deny an application for a NPDES permit if 824  
any of the following applies: 825

(1) The application contains misleading or false information. 826

(2) The administrator of the United States environmental 827  
protection agency objects in writing to the issuance of the NPDES 828  
permit in accordance with section 402(d) of the Federal Water 829  
Pollution Control Act. 830

(3) The director determines that the proposed discharge or 831  
source would conflict with an areawide waste treatment management 832  
plan adopted in accordance with section 208 of the Federal Water 833

Pollution Control Act. 834

Additional grounds for the denial of a NPDES permit shall be 835  
those established in this chapter and rules. 836

(F) To the extent consistent with the Federal Water Pollution 837  
Control Act, the director of agriculture shall issue general NPDES 838  
permits that will apply in lieu of individual NPDES permits for 839  
categories of point sources for which the director determines that 840  
all of the following apply: 841

(1) Any discharges authorized by a general permit will have 842  
only minimal cumulative adverse effects on the environment when 843  
the discharges are considered collectively and individually. 844

(2) The discharges are more appropriately authorized by a 845  
general permit than by an individual permit. 846

(3) Each category of point sources satisfies the criteria 847  
established in rules. 848

A person who is required to obtain a NPDES permit shall 849  
submit to the director a notice of the person's intent to be 850  
covered under an existing general permit or, at the person's 851  
option, an application for an individual NPDES permit. Upon 852  
receipt of a notice of intent for coverage under an existing 853  
general permit, the director shall notify the applicant in writing 854  
that the person is covered by the general permit if the person 855  
satisfies the criteria established in rules for eligibility for 856  
such coverage. If the person is ineligible for coverage under the 857  
general permit, the director shall require the submission of an 858  
application for an individual NPDES permit. 859

(G) The director of agriculture shall establish terms and 860  
conditions of NPDES permits in accordance with rules. Terms and 861  
conditions shall be designed to achieve and maintain full 862  
compliance with national effluent limitations, national standards 863  
of performance for new sources, the most current water quality 864

standards adopted under section 6111.041 of the Revised Code, the 865  
most current antidegradation policy adopted under section 6111.12 866  
of the Revised Code, and other requirements of the Federal Water 867  
Pollution Control Act. In establishing the terms and conditions of 868  
a NPDES permit, the director, to the extent consistent with that 869  
act, shall consider technical feasibility and economic costs and 870  
shall allow a reasonable period of time for coming into compliance 871  
with the permit. 872

(H) An animal feeding facility that is required to obtain 873  
both a NPDES permit and a permit to operate shall be issued a 874  
single permit to operate incorporating the terms and conditions 875  
established by both permits. The permit to operate expressly shall 876  
designate the terms and conditions required under the NPDES 877  
program as federally enforceable. All other provisions are 878  
enforceable under state law only and expressly shall be designated 879  
accordingly. 880

(I) A NPDES permit may be issued under this section for a 881  
period not to exceed five years. 882

(J) A NPDES permit issued under this section may be renewed. 883  
An application for renewal of a NPDES permit shall be submitted to 884  
the director of agriculture at least one hundred eighty days prior 885  
to the expiration date of the permit and shall comply with the 886  
requirements governing applications for NPDES permits established 887  
under this section and by rule. 888

(K)(1) No person shall make any false statement, 889  
representation, or certification in an application for a NPDES 890  
permit or in any form, notice, or report required to be submitted 891  
to the director pursuant to terms and conditions established in a 892  
NPDES permit issued under this section. 893

(2) No person shall render inaccurate any monitoring method 894  
or device that is required under the terms and conditions of a 895

NPDES permit issued under this section. 896

(L) The director may modify, suspend, or revoke a NPDES 897  
permit issued under this section for cause as established by rule. 898  
No NPDES permit issued under this section shall be modified, 899  
suspended, or revoked without a written order stating the findings 900  
that led to the modification, suspension, or revocation. In 901  
addition, the permittee has a right to an administrative hearing 902  
in accordance with Chapter 119. of the Revised Code, except that 903  
section 119.12 of the Revised Code does not apply. Further, an 904  
order of the director modifying, suspending, or revoking a NPDES 905  
permit may be appealed to the environmental review appeals 906  
commission under sections 3745.04 to 3745.06 of the Revised Code. 907

(M)(1) No person shall violate any effluent limitation 908  
established by rule. 909

(2) No person shall violate any other provision of a NPDES 910  
permit issued under this section. 911

(3) Compliance with a NPDES permit issued under this section 912  
constitutes compliance with this section. 913

(N) This section, including the state program authorized in 914  
division (A)(1) of this section, shall be administered in a manner 915  
consistent with the Federal Water Pollution Control Act. 916

Sec. 903.081. (A) For purposes of section 903.08 of the 917  
Revised Code, no person shall issue a NPDES permit if the person 918  
receives or has received during the two years prior to the receipt 919  
of an application for a NPDES permit a significant portion of 920  
income from any NPDES permittee or any applicant for a NPDES 921  
permit. In addition, no person who, pursuant to an appeal of an 922  
action regarding a NPDES permit, has the authority to require or 923  
to order the director of agriculture to vacate or modify a NPDES 924  
permit shall require or order the director to vacate or modify a 925

NPDES permit if the person receives or has received during the two  
years prior to the filing of the appeal a significant portion of  
income from any NPDES permittee or any applicant for a NPDES  
permit.

(B) As used in this section:

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

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

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

**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:

(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 956  
or small concentrated animal feeding operation. 957

(2) The director or the director's authorized representative 958  
has inspected the animal feeding facility. 959

(3) The director or the director's authorized representative 960  
finds that the facility is not being operated in a manner that 961  
protects the waters of the state. 962

(B) If an animal feeding facility is required to be permitted 963  
in accordance with this section, the owner or operator of the 964  
facility shall apply to the director for a permit to operate as a 965  
concentrated animal feeding operation. In a situation in which 966  
best management practices cannot be implemented without modifying 967  
the existing animal feeding facility, the owner or operator of the 968  
facility also shall apply for a permit to install for the 969  
facility. 970

(C) In the case of an animal feeding facility for which a 971  
permit to operate is required under this section, a permit to 972  
operate shall not be required after the end of the five-year term 973  
of the permit if the problems that caused the facility to be 974  
required to obtain the permit have been corrected to the 975  
director's satisfaction. 976

**Sec. 903.09.** ~~(a)~~(A) Prior to issuing or modifying a permit to 977  
install, permit to operate, or NPDES permit, the director of 978  
agriculture shall issue a draft permit. The director or the 979  
director's representative shall mail notice of the issuance of a 980  
draft permit to the applicant and shall publish the notice once in 981  
a newspaper of general circulation in the county in which the 982  
concentrated animal feeding facility or discharger is located or 983  
proposed to be located. The director shall mail notice of the 984  
issuance of a draft permit and a copy of the draft permit to the 985

board of county commissioners of the county and the board of 986  
township trustees of the township in which the concentrated animal 987  
feeding facility or discharger is located or proposed to be 988  
located. The director or the director's representative also shall 989  
provide notice of the issuance of a draft NPDES permit to any 990  
other persons that are entitled to notice under the Federal Water 991  
Pollution Control Act. Notice of the issuance of a draft permit to 992  
install, permit to operate, or NPDES permit shall include the 993  
address where written comments concerning the draft permit may be 994  
submitted and the period of time during which comments will be 995  
accepted as established by rule. 996

If the director receives written comments in an amount that 997  
demonstrates significant public interest, as defined by rule, in 998  
the draft permit, the director shall schedule one public meeting 999  
to provide information to the public and to hear comments 1000  
pertinent to the draft permit. The notice of the public meeting 1001  
shall be provided in the same manner as the notice of the issuance 1002  
of the draft permit. 1003

(B) If a person is required to obtain both a permit to 1004  
install and a permit to operate, including any permit to operate 1005  
with NPDES provisions, and public meetings are required for both 1006  
permits, the public meetings for the permits shall be combined. 1007

(C) The director shall apply the antidegradation policy 1008  
adopted under section 6111.12 of the Revised Code to permits 1009  
issued under this chapter to the same degree and under the same 1010  
circumstances as it applies to permits issued under Chapter 6111. 1011  
of the Revised Code. The director shall hold one public meeting to 1012  
consider antidegradation issues when such a meeting is required by 1013  
the antidegradation policy. When allowed by the antidegradation 1014  
policy, the director shall hold the public meeting on 1015  
antidegradation issues concurrently with any public meeting held 1016

for the draft permit. 1017

(D) The director or the director's representative shall 1018  
publish notice of the issuance of a final permit to install, 1019  
permit to operate, or NPDES permit once in a newspaper of general 1020  
circulation in the county in which the concentrated animal feeding 1021  
facility or discharger is located. 1022

(E) Failure of the director to provide notice or a public 1023  
meeting shall invalidate a permit only if the failure is raised 1024  
by, and was relied upon to the detriment of, a person that is 1025  
entitled to appeal the permit. Notice or a public meeting is not 1026  
required for the modification of a permit made with the consent of 1027  
the permittee for the correction of typographical errors. 1028

(F) The denial, modification, suspension, or revocation of a 1029  
permit to install, permit to operate, or NPDES permit without the 1030  
consent of the applicant or permittee shall be preceded by a 1031  
proposed action stating the director's intention to issue an order 1032  
with respect to the permit and the reasons for it. The 1033

The director shall mail to the applicant or the permittee 1034  
notice of the director's proposed action to deny, suspend, or 1035  
revoke a permit to install, permit to operate, or NPDES permit. 1036  
The director shall publish the notice once in a newspaper of 1037  
general circulation in the county in which the concentrated animal 1038  
feeding facility or concentrated animal feeding operation is 1039  
located or proposed to be located. The director shall mail a copy 1040  
of the notice of the proposed action to the board of county 1041  
commissioners of the county and to the board of township trustees 1042  
of the township in which the concentrated animal feeding facility 1043  
or concentrated animal feeding operation is located or proposed to 1044  
be located. The director also shall provide notice of the 1045  
director's proposed action to deny, suspend, or revoke a permit to 1046  
install, permit to operate, or NPDES permit to any other person 1047  
that is entitled to notice under the Federal Water Pollution 1048

Control Act. The notice of the director's proposed action to deny, 1049  
suspend, or revoke a permit to install, permit to operate, or 1050  
NPDES permit shall include the address where written comments 1051  
concerning the director's proposed action may be submitted and the 1052  
period of time during which comments will be accepted as 1053  
established by rule. If the director receives written comments in 1054  
an amount that demonstrates significant public interest, as 1055  
defined by rule, the director shall schedule one public meeting to 1056  
provide information to the public and to hear comments pertinent 1057  
to the proposed action. The notice of the public meeting shall be 1058  
provided in the same manner as the notice of the director's 1059  
proposed action. 1060

The director shall not issue an order that makes the proposed 1061  
action final until the applicant or permittee has had an 1062  
opportunity for an adjudication hearing in accordance with Chapter 1063  
119. of the Revised Code, except that section 119.12 of the 1064  
Revised Code does not apply. An order of the director that 1065  
finalizes the proposed action or an order issuing a permit without 1066  
a prior proposed action may be appealed to the environmental 1067  
review appeals commission under sections 3745.04 to 3745.06 of the 1068  
Revised Code. 1069

(G)(1) The director shall issue an order issuing or denying 1070  
an application for a permit to operate that contains NPDES 1071  
provisions or for a NPDES permit, as well as any application for a 1072  
permit to install that is submitted simultaneously, not later than 1073  
one hundred eighty days after receiving the application. 1074

(2) In the case of an application for a permit to install or 1075  
permit to operate that is not connected with an application for a 1076  
NPDES permit, the director shall issue or propose to deny the 1077  
permit not later than ninety days after receiving the application. 1078  
If the director has proposed to deny the permit to install or 1079  
permit to operate under division (G)(2) of this section, the 1080

director shall issue an order denying the permit or, if the 1081  
director decides against the proposed denial, issuing the permit 1082  
not later than one hundred eighty days after receiving the 1083  
application. If the director denies the permit, the director shall 1084  
notify the applicant in writing of the reason for the denial. 1085

(H) All rulemaking and the issuance of civil penalties under 1086  
this chapter shall comply with Chapter 119. of the Revised Code. 1087

(I) Upon the transfer of ownership of an animal feeding 1088  
facility for which a permit to install, an installation permit, a 1089  
review compliance certificate, or a permit to operate that 1090  
contains no NPDES provisions has been issued, the permit or 1091  
certificate shall be transferred to the new owner of the animal 1092  
feeding facility except as provided in division (C) of section 1093  
903.05 of the Revised Code. In the case of the transfer of 1094  
ownership of a point source for which a NPDES permit or a permit 1095  
to operate that contains NPDES provisions has been issued, the 1096  
permit shall be transferred in accordance with rules. 1097

(J) Applications for installation permits for animal feeding 1098  
facilities pending before the director of environmental protection 1099  
on the date on which the director of agriculture has finalized the 1100  
programs required under division (A)(1) of section 903.02 and 1101  
division (A)(1) of section 903.03 of the Revised Code shall be 1102  
transferred to the director of agriculture. In the case of an 1103  
applicant who is required to obtain a permit to install and a 1104  
permit to operate under sections 903.02 and 903.03, respectively, 1105  
of the Revised Code, the director of agriculture shall process the 1106  
pending application for an installation permit as an application 1107  
for a permit to install and a permit to operate. 1108

(K) Applications for NPDES permits for either of the 1109  
following that are pending before the director of environmental 1110  
protection on the date on which the United States environmental 1111  
protection agency approves the NPDES program submitted by the 1112

director of agriculture under section 903.08 of the Revised Code 1113  
shall be transferred to the director of agriculture: 1114

(1) The discharge of manure; 1115

(2) The discharge of storm water resulting from an animal 1116  
feeding facility. In the case of an applicant who is required to 1117  
obtain a NPDES permit under section 903.08 of the Revised Code, 1118  
the director of agriculture shall process the pending application 1119  
as an application for a NPDES permit under that section. 1120

**Sec. 903.10.** The director of agriculture shall adopt rules in 1121  
accordance with Chapter 119. of the Revised Code that do all of 1122  
the following: 1123

(A) Establish all of the following concerning permits to 1124  
install and permits to operate: 1125

(1) A description of what constitutes a modification of a 1126  
concentrated animal feeding facility; 1127

(2) The amount of the fee that must be submitted with each 1128  
permit application and each application for a permit modification; 1129

(3) Information that must be included in the designs and 1130  
plans required to be submitted with an application for a permit to 1131  
install and criteria for approving, disapproving, or requiring 1132  
modification of the designs and plans; 1133

(4) Information that must be included in a manure management 1134  
plan required to be submitted with an application for a permit to 1135  
operate; 1136

(5) Information that must be included in an application for 1137  
the modification of an installation permit, a permit to install, 1138  
or a permit to operate; 1139

(6) Any additional information that must be included with a 1140  
permit application; 1141

(7) Procedures for the issuance, denial, modification,	1142
transfer, suspension, and revocation of permits to install and	1143
permits to operate, including general permits;	1144
(8) Grounds for the denial, modification, suspension, or	1145
revocation of permits to install and permits to operate in	1146
addition to the grounds established in division (D) of section	1147
903.02 and division (D) of section 903.03 of the Revised Code;	1148
(9) A requirement that a person that is required to obtain	1149
both a permit to install and a permit to operate submit	1150
applications for those permits simultaneously;	1151
(10) A definition of "general permit to operate" that	1152
establishes categories of concentrated animal feeding facilities	1153
to be covered under such a permit and a definition of "individual	1154
permit to operate" together with the criteria for issuing a	1155
general permit to operate and the criteria for determining a	1156
person's eligibility to operate under a general permit to operate.	1157
(B) Establish all of the following for the purposes of review	1158
compliance certificates issued under section 903.04 of the Revised	1159
Code:	1160
(1) The form of a certificate;	1161
(2) Criteria for what constitutes a significant capital	1162
expenditure under division (D) of that section;	1163
(3) Deadlines and procedures for submitting information under	1164
division (E)(2) of that section.	1165
(C) Establish best management practices that minimize water	1166
pollution, odors, insects, and rodents, that govern the land	1167
application of manure that originated at a concentrated animal	1168
feeding facility, and that govern all of the following activities	1169
that occur at a concentrated animal feeding facility:	1170
(1) Manure management, including the storage, handling,	1171

transportation, and land application of manure. Rules adopted 1172  
under division (C)(1) of this section shall include practices that 1173  
prevent surface and ground water contamination caused by the 1174  
storage of manure or the land application of manure and prevent 1175  
the contamination of water in drainage tiles that may be caused by 1176  
that application. 1177

(2) Disposal of dead livestock; 1178

(3) Any other activity that the director considers 1179  
appropriate. 1180

Best management practices established in rules adopted under 1181  
division (C) of this section shall not conflict with best 1182  
management practices established in rules that have been adopted 1183  
under any other section of the Revised Code and that are in effect 1184  
on ~~the effective date of this section~~ March 15, 2001. The rules 1185  
adopted under division (C) of this section shall establish 1186  
guidelines that require owners or operators of concentrated animal 1187  
feeding facilities to consult with and work with local officials, 1188  
including boards of county commissioners and boards of township 1189  
trustees, in addressing issues related to local government 1190  
infrastructure needs and the financing of that infrastructure. 1191

(D) Establish all of the following concerning insect and 1192  
rodent control plans required under section 903.06 of the Revised 1193  
Code: 1194

(1) The information to be included in an insect and rodent 1195  
control plan; 1196

(2) Criteria for approving, disapproving, or requiring 1197  
modification of an insect and rodent control plan; 1198

(3) Criteria for determining compliance with or violation of 1199  
an insect and rodent control plan; 1200

(4) Procedures and standards for monitoring insect and rodent 1201



control plans; 1202

(5) Procedures and standards for enforcing insect and rodent 1203  
control plans at concentrated animal feeding facilities at which 1204  
insects or rodents constitute a nuisance or adversely affect 1205  
public health; 1206

(6) The amount of civil penalties for violation of an insect 1207  
and rodent control plan assessed by the director of agriculture 1208  
under division (B) of section 903.16 of the Revised Code, provided 1209  
that the rules adopted under division (D)(6) of this section shall 1210  
not establish a civil penalty of more than ten thousand dollars 1211  
for a violation involving a concentrated animal feeding facility 1212  
~~with a total design capacity of ten thousand or fewer animal units~~ 1213  
~~that is not a major concentrated animal feeding facility~~ and shall 1214  
not establish a civil penalty of more than twenty-five thousand 1215  
dollars for a violation involving a major concentrated animal 1216  
feeding facility; 1217

(7) The time period within which the director must approve or 1218  
deny an insect and rodent control plan after receiving it; 1219

(8) Any other provisions necessary to administer and enforce 1220  
section 903.12 of the Revised Code. 1221

(E) Establish all of the following concerning livestock 1222  
manager certification required under section 903.07 of the Revised 1223  
Code: 1224

(1) The information to be included in an application for a 1225  
livestock manager certification and the amount of the application 1226  
fee; 1227

(2) The content of the training required to be completed and 1228  
of the examination required to be passed by an applicant for a 1229  
livestock manager certification. The training shall include and 1230  
the examination shall test the applicant's knowledge of 1231  
information on topics that include calculating nutrient values in 1232

manure, devising and implementing a plan for the land application 1233  
of manure, removing manure held in a manure storage or treatment 1234  
facility, and following best management practices established in 1235  
rules for disposal of dead animals and manure management, 1236  
including practices that control odor and protect the environment. 1237  
The director may specify other types of recognized training 1238  
programs that, if completed, are considered to satisfy the 1239  
training and examination requirement. 1240

(3) Criteria and procedures for the issuance, denial, 1241  
suspension, revocation, or reinstatement of a livestock manager 1242  
certification; 1243

(4) The length of time during which livestock manager 1244  
certifications will be valid and procedures for their renewal; 1245

(5) The volume of manure that must be transported, and land 1246  
applied annually or the volume of manure that must be bought, or 1247  
sold, or land applied annually by a person in order for the person 1248  
to be required to obtain a livestock manager certification under 1249  
division (A)(2) of section 903.07 of the Revised Code; 1250

(6) Any other provisions necessary to administer and enforce 1251  
section 903.07 of the Revised Code. 1252

(F) Establish all of the following concerning NPDES permits: 1253

(1) The designation of concentrated animal feeding operations 1254  
that are subject to NPDES permit requirements under section 903.08 1255  
of the Revised Code. This designation shall include only those 1256  
point sources for which the issuance of NPDES permits is required 1257  
under the Federal Water Pollution Control Act. 1258

(2) Effluent limitations governing discharges into waters of 1259  
the state that are authorized by permits; 1260

(3) Variances from effluent limitations and other permit 1261  
requirements to the extent that the variances are consistent with 1262

the Federal Water Pollution Control Act; 1263

(4) Terms and conditions to be included in a permit, 1264  
including, as applicable, best management practices; installation 1265  
of discharge or water quality monitoring methods or equipment; 1266  
creation and retention of records; submission of periodic reports; 1267  
schedules of compliance; net volume, net weight, and, where 1268  
necessary, concentration and mass loading limits of manure that 1269  
may be discharged into waters of the state; and authorized 1270  
duration and frequency of any discharges into waters of the state; 1271

(5) Procedures for the submission of applications for permits 1272  
and notices of intent to be covered by general permits, including 1273  
information that must be included in the applications and notices; 1274

(6) The amount of the fee that must be submitted with an 1275  
application for a permit; 1276

(7) Procedures for processing permit applications, including 1277  
public notice and participation requirements; 1278

(8) Procedures for notifying the United States environmental 1279  
protection agency of the submission of permit applications, the 1280  
director's action on those applications, and any other reasonable 1281  
and relevant information; 1282

(9) Procedures for notifying and receiving and responding to 1283  
recommendations from other states whose waters may be affected by 1284  
the issuance of a permit; 1285

(10) Procedures for the transfer of permits to new owners or 1286  
operators; 1287

(11) Grounds and procedures for the issuance, denial, 1288  
modification, suspension, or revocation of permits, including 1289  
general permits; 1290

(12) A definition of "general NPDES permit" that establishes 1291  
categories of point sources to be covered under such a permit and 1292

a definition of "individual NPDES permit" together with the 1293  
criteria for issuing a general NPDES permit and the criteria for 1294  
determining a person's eligibility to discharge under a general 1295  
NPDES permit. 1296

The rules adopted under division (F) of this section shall be 1297  
consistent with the requirements of the Federal Water Pollution 1298  
Control Act. 1299

(G) Establish public notice and participation requirements, 1300  
in addition to the procedures established in rules adopted under 1301  
division (F)(7) of this section, for the issuance, denial, 1302  
modification, transfer, suspension, and revocation of permits to 1303  
install, permits to operate, and NPDES permits consistent with 1304  
section 903.09 of the Revised Code, including a definition of what 1305  
constitutes significant public interest for the purposes of 1306  
~~division~~ divisions (A) and (F) of section 903.09 of the Revised 1307  
Code and procedures for public meetings. The rules shall require 1308  
that information that is presented at such a public meeting be 1309  
limited to the criteria that are applicable to the permit 1310  
application that is the subject of the public meeting. 1311

(H) Establish the amount of civil penalties assessed by the 1312  
director of agriculture under division (B) of section 903.16 of 1313  
the Revised Code for violation of the terms and conditions of a 1314  
permit to install, permit to operate, or review compliance 1315  
certificate, provided that the rules adopted under this division 1316  
shall not establish a civil penalty of more than ten thousand 1317  
dollars per day for each violation; 1318

(I) Establish procedures for the protection of trade secrets 1319  
from public disclosure. The procedures shall authorize the release 1320  
of trade secrets to officers, employees, or authorized 1321  
representatives of the state, another state, or the United States 1322  
when necessary for an enforcement action brought under this 1323  
chapter or when otherwise required by the Federal Water Pollution 1324

Control Act. The rules shall require at least ten days' written 1325  
notice to the person to whom a trade secret applies prior to the 1326  
release of the trade secret. Rules adopted under this division do 1327  
not apply to any information that is contained in applications, 1328  
including attachments, for NPDES permits and that is required to 1329  
be submitted under section 903.08 of the Revised Code or rules 1330  
adopted under division (F) of this section. 1331

(J) Establish any other provisions necessary to administer 1332  
and enforce this chapter. 1333

**Sec. 903.16.** (A) The director of agriculture may propose to 1334  
require corrective actions and assess a civil penalty against an 1335  
owner or operator of a concentrated animal feeding facility if the 1336  
director or the director's authorized representative determines 1337  
that the owner or operator is not in compliance with section 1338  
903.02, 903.03, or 903.04 of the Revised Code, the terms and 1339  
conditions of a permit to install, permit to operate, or review 1340  
compliance certificate issued for the concentrated animal feeding 1341  
facility, including the requirements established under division 1342  
(C) of section 903.06 or division (A) of section 903.07 of the 1343  
Revised Code, or rules adopted under division (A) of section 1344  
903.10 of the Revised Code. However, the director may impose a 1345  
civil penalty only if all of the following occur: 1346

(1) The owner or operator is notified in writing of the 1347  
deficiencies resulting in noncompliance, the actions that the 1348  
owner or operator must take to correct the deficiencies, and the 1349  
time period within which the owner or operator must correct the 1350  
deficiencies and attain compliance. 1351

(2) After the time period specified in the notice has 1352  
elapsed, the director or the director's duly authorized 1353  
representative has inspected the concentrated animal feeding 1354  
facility, determined that the owner or operator is still not in 1355

compliance, and issued a notice of an adjudication hearing. 1356

(3) The director affords the owner or operator an opportunity 1357  
for an adjudication hearing under Chapter 119. of the Revised Code 1358  
to challenge the director's determination that the owner or 1359  
operator is not in compliance or the imposition of the civil 1360  
penalty, or both. However, the owner or operator may waive the 1361  
right to an adjudication hearing. 1362

(B) If the opportunity for an adjudication hearing is waived 1363  
or if, after an adjudication hearing, the director determines that 1364  
a violation has occurred or is occurring, the director may issue 1365  
an order requiring compliance and assess the civil penalty. The 1366  
order and the assessment of the civil penalty may be appealed in 1367  
accordance with section 119.12 of the Revised Code. 1368

Civil penalties shall be assessed under this division as 1369  
follows: 1370

(1) A person who has violated section 903.02, 903.03, or 1371  
903.04 of the Revised Code, the terms and conditions of a permit 1372  
to install, permit to operate, or review compliance certificate, 1373  
or rules adopted under division (A) of section 903.10 of the 1374  
Revised Code shall pay a civil penalty in an amount established in 1375  
rules unless the violation is of the requirements established 1376  
under division (C) of section 903.06 or division (A) of section 1377  
903.07 of the Revised Code. 1378

(2) A person who has violated the requirements established 1379  
under division (C) of section 903.06 of the Revised Code shall pay 1380  
a civil penalty in an amount established in rules for each 1381  
violation. Each seven-day period during which a violation 1382  
continues constitutes a separate violation. 1383

(3) A person who has violated the requirements established 1384  
under division (A) of section 903.07 of the Revised Code shall pay 1385  
a civil penalty of not more than ten thousand dollars for each 1386

violation. Each thirty-day period during which a violation 1387  
continues constitutes a separate violation. 1388

(C) The attorney general, upon the written request of the 1389  
director, shall bring an action for an injunction in any court of 1390  
competent jurisdiction against any person violating or threatening 1391  
to violate section 903.02, 903.03, or 903.04 of the Revised Code; 1392  
the terms and conditions of a permit to install, permit to 1393  
operate, or review compliance certificate, including the 1394  
requirements established under division (C) of section 903.06 or 1395  
division (A) of section 903.07 of the Revised Code; rules adopted 1396  
under division (A) of section 903.10 of the Revised Code; or an 1397  
order issued under division (B) of this section. 1398

(D)(1) In lieu of seeking civil penalties under division (A) 1399  
of this section, the director may request the attorney general, in 1400  
writing, to bring an action for a civil penalty in a court of 1401  
competent jurisdiction against any person that has violated or is 1402  
violating the terms and conditions of a permit to install, permit 1403  
to operate, or review compliance certificate, including the 1404  
requirements established under division (C) of section 903.06 or 1405  
division (A) of section 903.07 of the Revised Code. 1406

(2) The director may request the attorney general, in 1407  
writing, to bring an action for a civil penalty in a court of 1408  
competent jurisdiction against any person that has violated or is 1409  
violating section 903.02, 903.03, or 903.04 of the Revised Code, 1410  
rules adopted under division (A) of section 903.10 of the Revised 1411  
Code, or an order issued under division (B) of this section. 1412

(3) A person who has committed a violation for which the 1413  
attorney general may bring an action for a civil penalty under 1414  
division (D)(1) or (2) of this section shall pay a civil penalty 1415  
of not more than ten thousand dollars per violation. Each day that 1416  
a violation continues constitutes a separate violation. 1417

**Sec. 903.20.** (A) There is hereby created the concentrated 1418  
animal feeding facility advisory committee consisting of the 1419  
directors of agriculture, development, environmental protection, 1420  
and natural resources and the dean of the college of food, 1421  
agricultural, and environmental sciences of the Ohio state 1422  
university, or their designees, as members ex officio, and sixteen 1423  
members to be appointed by the director of agriculture. Of the 1424  
appointed members, one shall be an elected local government 1425  
official whose jurisdiction has a concentrated animal feeding 1426  
facility located in it at the time that the official is appointed 1427  
to the committee, one shall be a person who is licensed to 1428  
practice veterinary medicine under Chapter 4741. of the Revised 1429  
Code, one shall represent the interests of poultry producers, one 1430  
shall represent the interests of swine producers, one shall 1431  
represent the interests of dairy farmers, one shall represent the 1432  
interests of beef cattle producers, one shall represent the 1433  
interests of sheep producers, one shall represent the interests of 1434  
drinking water utilities, one shall represent the interests of 1435  
wastewater utilities, one shall represent the Ohio environmental 1436  
health association, two shall represent the interests of statewide 1437  
environmental advocacy organizations, and four shall represent the 1438  
interests of the public. Prior to making the appointment of the 1439  
member who is an elected local government official, the director 1440  
shall solicit a list of suggested candidates from the appropriate 1441  
statewide associations that represent the interests of local 1442  
governments. Prior to making an appointment of a member 1443  
representing the interests of poultry, swine, beef cattle, or 1444  
sheep producers or dairy farmers, the director shall solicit from 1445  
the appropriate statewide trade associations a list of suggested 1446  
candidates to represent the interests of the species category on 1447  
the committee. The members representing the public shall not be 1448  
owners or operators of concentrated animal feeding facilities or 1449



associated with such facilities by contract. 1450

Not later than thirty days after ~~the effective date of this~~ 1451  
~~section~~ March 15, 2001, the director shall make appointments to 1452  
the committee. Of the initial appointments, six shall be for terms 1453  
ending one year after ~~the effective date of this section~~ March 15, 1454  
2001, five shall be for terms ending two years after ~~the effective~~ 1455  
~~date of this section~~ March 15, 2001, and five shall be for terms 1456  
ending three years after ~~the effective date of this section~~ March 1457  
15, 2001. Thereafter, terms of office shall be for three years, 1458  
with each term ending on the same day of the same month as did the 1459  
term that it succeeds. Each member shall hold office from the date 1460  
of appointment until the end of the term for which the member was 1461  
appointed. Members may be reappointed. Vacancies shall be filled 1462  
in the manner provided for original appointments. Any member 1463  
appointed to fill a vacancy occurring prior to the expiration date 1464  
of the term for which the member's predecessor was appointed shall 1465  
hold office for the remainder of that term. A member shall 1466  
continue in office subsequent to the expiration date of the 1467  
member's term until the member's successor takes office or until a 1468  
period of sixty days has elapsed, whichever occurs first. 1469

The committee shall meet at times that the chairperson or a 1470  
majority of the committee members considers appropriate, provided 1471  
that no meeting shall be held on the call of the chairperson 1472  
unless at least seven days' written notice first is provided to 1473  
all members of the committee. At the first meeting of the 1474  
committee in each calendar year, the director of agriculture shall 1475  
designate one member of the committee to serve as its chairperson 1476  
and one member to serve as its vice-chairperson. A majority vote 1477  
of the members of the committee is necessary to take action on any 1478  
matter. A vacancy on the committee does not impair the right of 1479  
the other members to exercise all of the committee's powers. 1480

Serving as an appointed member of the committee does not 1481  
constitute holding a public office or position of employment under 1482  
the laws of this state and does not constitute grounds for removal 1483  
of public officers or employees from their offices or positions of 1484  
employment. The director of agriculture, after notice and a public 1485  
meeting, may remove any appointed member of the committee for 1486  
misfeasance, nonfeasance, or malfeasance in office. 1487

Appointed members of the committee shall serve without 1488  
compensation for attending committee meetings. Members of the 1489  
committee shall be reimbursed for their actual and necessary 1490  
expenses incurred in the performance of official duties as members 1491  
of the committee. 1492

(B) The committee may do either or both of the following: 1493

(1) Adopt rules or procedures governing the conduct of its 1494  
internal affairs; 1495

(2) Request from the director of agriculture, and the 1496  
director shall provide, meeting space, staff support, services, 1497  
and data to enable it to carry out its functions. 1498

(C) The committee shall do all of the following: 1499

(1) Advise the director of agriculture in the administration 1500  
of this chapter; 1501

(2) Keep abreast of advances in manure management practices 1502  
and annually advise the directors of agriculture, environmental 1503  
protection, and natural resources of the recent advances in those 1504  
areas and regarding the need for amending what constitutes best 1505  
management practices; 1506

(3) In consultation with the director of agriculture, prepare 1507  
and, upon request, distribute written materials designed to assist 1508  
persons who propose to establish a new or modify an existing 1509  
concentrated animal feeding facility in applying for a permit to 1510

install or permit to operate. The materials also shall include 1511  
information stating that, in addition to obtaining a permit to 1512  
operate, it may be necessary to obtain a NPDES permit for the 1513  
discharge of manure or storm water. In addition, the written 1514  
materials shall include information on the meaning of a "complete 1515  
application" for all of the permits, information on the public 1516  
meeting process in connection with the relevant permits issued 1517  
under this chapter, and a summary of the antidegradation policy 1518  
established under section 6111.12 of the Revised Code together 1519  
with an indication of the possibility that the owner's or 1520  
operator's proposed new or modified disposal system for manure or 1521  
discharges may be subject to that policy. 1522

~~(4) Not later than twelve months after the effective date of 1523  
this section, conduct an examination of the scientific 1524  
appropriateness of the definition of "animal unit" in section 1525  
903.01 of the Revised Code and prepare and submit to the general 1526  
assembly, the governor, and the directors of agriculture, 1527  
environmental protection, and natural resources the committee's 1528  
findings and any recommendations for legislative changes in that 1529  
definition that are necessary or appropriate to reflect on a more 1530  
scientific basis manure generation rates among livestock species 1531  
and types of concentrated animal feeding facilities. 1532~~

~~(D) Section 101.84 Sections 101.82 to 101.87 of the Revised 1533  
Code does do not apply to the committee. 1534~~

Sec. 903.25. An owner or operator of an animal feeding 1535  
facility who holds a permit to install, a permit to operate, a 1536  
review compliance certificate, or a NPDES permit or who is 1537  
operating under an operation and management plan, as defined in 1538  
section 1511.01 of the Revised Code, approved by the chief of the 1539  
division of soil and water conservation in the department of 1540  
natural resources under section 1511.02 of the Revised Code or by 1541

the supervisors of the appropriate soil and water conservation 1542  
district under section 1515.08 of the Revised Code shall not be 1543  
required by any political subdivision of the state or any officer, 1544  
employee, agency, board, commission, department, or other 1545  
instrumentality of a political subdivision to obtain a license, 1546  
permit, or other approval pertaining to manure, insects or 1547  
rodents, odor, or siting requirements for installation of an 1548  
animal feeding facility. 1549

**Sec. 6111.03.** The director of environmental protection may do 1550  
any of the following: 1551

(A) Develop plans and programs for the prevention, control, 1552  
and abatement of new or existing pollution of the waters of the 1553  
state; 1554

(B) Advise, consult, and cooperate with other agencies of the 1555  
state, the federal government, other states, and interstate 1556  
agencies and with affected groups, political subdivisions, and 1557  
industries in furtherance of the purposes of this chapter. Before 1558  
adopting, amending, or rescinding a standard or rule pursuant to 1559  
division (G) of this section or section 6111.041 or 6111.042 of 1560  
the Revised Code, the director shall do all of the following: 1561

(1) Mail notice to each statewide organization that the 1562  
director determines represents persons who would be affected by 1563  
the proposed standard or rule, amendment thereto, or rescission 1564  
thereof at least thirty-five days before any public hearing 1565  
thereon; 1566

(2) Mail a copy of each proposed standard or rule, amendment 1567  
thereto, or rescission thereof to any person who requests a copy, 1568  
within five days after receipt of the request therefor; 1569

(3) Consult with appropriate state and local government 1570  
agencies or their representatives, including statewide 1571

organizations of local government officials, industrial 1572  
representatives, and other interested persons. 1573

Although the director is expected to discharge these duties 1574  
diligently, failure to mail any such notice or copy or to so 1575  
consult with any person shall not invalidate any proceeding or 1576  
action of the director. 1577

(C) Administer grants from the federal government and from 1578  
other sources, public or private, for carrying out any of its 1579  
functions, all such moneys to be deposited in the state treasury 1580  
and kept by the treasurer of state in a separate fund subject to 1581  
the lawful orders of the director; 1582

(D) Administer state grants for the construction of sewage 1583  
and waste collection and treatment works; 1584

(E) Encourage, participate in, or conduct studies, 1585  
investigations, research, and demonstrations relating to water 1586  
pollution, and the causes, prevention, control, and abatement 1587  
thereof, that are advisable and necessary for the discharge of the 1588  
director's duties under this chapter; 1589

(F) Collect and disseminate information relating to water 1590  
pollution and prevention, control, and abatement thereof; 1591

(G) Adopt, amend, and rescind rules in accordance with 1592  
Chapter 119. of the Revised Code governing the procedure for 1593  
hearings, the filing of reports, the issuance of permits, the 1594  
issuance of industrial water pollution control certificates, and 1595  
all other matters relating to procedure; 1596

(H) Issue, modify, or revoke orders to prevent, control, or 1597  
abate water pollution by such means as the following: 1598

(1) Prohibiting or abating discharges of sewage, industrial 1599  
waste, or other wastes into the waters of the state; 1600

(2) Requiring the construction of new disposal systems or any 1601

parts thereof, or the modification, extension, or alteration of 1602  
existing disposal systems or any parts thereof; 1603

(3) Prohibiting additional connections to or extensions of a 1604  
sewerage system when the connections or extensions would result in 1605  
an increase in the polluting properties of the effluent from the 1606  
system when discharged into any waters of the state; 1607

(4) Requiring compliance with any standard or rule adopted 1608  
under sections 6111.01 to 6111.05 of the Revised Code or term or 1609  
condition of a permit. 1610

In the making of those orders, wherever compliance with a 1611  
rule adopted under section 6111.042 of the Revised Code is not 1612  
involved, consistent with the Federal Water Pollution Control Act, 1613  
the director shall give consideration to, and base the 1614  
determination on, evidence relating to the technical feasibility 1615  
and economic reasonableness of complying with those orders and to 1616  
evidence relating to conditions calculated to result from 1617  
compliance with those orders, and their relation to benefits to 1618  
the people of the state to be derived from such compliance in 1619  
accomplishing the purposes of this chapter. 1620

(I) Review plans, specifications, or other data relative to 1621  
disposal systems or any part thereof in connection with the 1622  
issuance of orders, permits, and industrial water pollution 1623  
control certificates under this chapter; 1624

(J)(1) Issue, revoke, modify, or deny sludge management 1625  
permits and permits for the discharge of sewage, industrial waste, 1626  
or other wastes into the waters of the state, and for the 1627  
installation or modification of disposal systems or any parts 1628  
thereof in compliance with all requirements of the Federal Water 1629  
Pollution Control Act and mandatory regulations adopted 1630  
thereunder, including regulations adopted under section 405 of the 1631  
Federal Water Pollution Control Act, and set terms and conditions 1632

of permits, including schedules of compliance, where necessary. 1633  
Any person who discharges, transports, or handles storm water from 1634  
an animal feeding facility, as defined in section 903.01 of the 1635  
Revised Code, or manure, as defined in that section, is not 1636  
required to obtain a permit under division (J)(1) of this section 1637  
for the installation or modification of a disposal system 1638  
involving manure or storm water or any parts of such a system on 1639  
and after the date on which the director of agriculture has 1640  
finalized the program required under division (A)(1) of section 1641  
903.02 of the Revised Code. In addition, any person who 1642  
discharges, transports, or handles storm water from an animal 1643  
feeding facility, as defined in section 903.01 of the revised 1644  
code, or manure, as defined in that section, is not required to 1645  
obtain a permit under division (J)(1) of this section for the 1646  
discharge of storm water or manure on and after the date on which 1647  
the United States environmental protection agency approves the 1648  
NPDES program submitted by the director of agriculture under 1649  
section 903.08 of the Revised Code. 1650

Any permit terms and conditions set by the director shall be 1651  
designed to achieve and maintain full compliance with the national 1652  
effluent limitations, national standards of performance for new 1653  
sources, and national toxic and pretreatment effluent standards 1654  
set under that act, and any other mandatory requirements of that 1655  
act that are imposed by regulation of the administrator of the 1656  
United States environmental protection agency. If an applicant for 1657  
a sludge management permit also applies for a related permit for 1658  
the discharge of sewage, industrial waste, or other wastes into 1659  
the waters of the state, the director may combine the two permits 1660  
and issue one permit to the applicant. 1661

A sludge management permit is not required for an entity that 1662  
treats or transports sewage sludge or for a sanitary landfill when 1663  
all of the following apply: 1664

(a) The entity or sanitary landfill does not generate the 1665  
sewage sludge. 1666

(b) Prior to receipt at the sanitary landfill, the entity has 1667  
ensured that the sewage sludge meets the requirements established 1668  
in rules adopted by the director under section 3734.02 of the 1669  
Revised Code concerning disposal of municipal solid waste in a 1670  
sanitary landfill. 1671

(c) Disposal of the sewage sludge occurs at a sanitary 1672  
landfill that complies with rules adopted by the director under 1673  
section 3734.02 of the Revised Code. 1674

As used in division (J)(1) of this section, "sanitary 1675  
landfill" means a sanitary landfill facility, as defined in rules 1676  
adopted under section 3734.02 of the Revised Code, that is 1677  
licensed as a solid waste facility under section 3734.05 of the 1678  
Revised Code. 1679

(2) An application for a permit or renewal thereof shall be 1680  
denied if any of the following applies: 1681

(a) The secretary of the army determines in writing that 1682  
anchorage or navigation would be substantially impaired thereby; 1683

(b) The director determines that the proposed discharge or 1684  
source would conflict with an areawide waste treatment management 1685  
plan adopted in accordance with section 208 of the Federal Water 1686  
Pollution Control Act; 1687

(c) The administrator of the United States environmental 1688  
protection agency objects in writing to the issuance or renewal of 1689  
the permit in accordance with section 402 (d) of the Federal Water 1690  
Pollution Control Act; 1691

(d) The application is for the discharge of any radiological, 1692  
chemical, or biological warfare agent or high-level radioactive 1693  
waste into the waters of the United States. 1694



(3) To achieve and maintain applicable standards of quality 1695  
for the waters of the state adopted pursuant to section 6111.041 1696  
of the Revised Code, the director shall impose, where necessary 1697  
and appropriate, as conditions of each permit, water quality 1698  
related effluent limitations in accordance with sections 301, 302, 1699  
306, 307, and 405 of the Federal Water Pollution Control Act and, 1700  
to the extent consistent with that act, shall give consideration 1701  
to, and base the determination on, evidence relating to the 1702  
technical feasibility and economic reasonableness of removing the 1703  
polluting properties from those wastes and to evidence relating to 1704  
conditions calculated to result from that action and their 1705  
relation to benefits to the people of the state and to 1706  
accomplishment of the purposes of this chapter. 1707

(4) Where a discharge having a thermal component from a 1708  
source that is constructed or modified on or after October 18, 1709  
1972, meets national or state effluent limitations or more 1710  
stringent permit conditions designed to achieve and maintain 1711  
compliance with applicable standards of quality for the waters of 1712  
the state, which limitations or conditions will ensure protection 1713  
and propagation of a balanced, indigenous population of shellfish, 1714  
fish, and wildlife in or on the body of water into which the 1715  
discharge is made, taking into account the interaction of the 1716  
thermal component with sewage, industrial waste, or other wastes, 1717  
the director shall not impose any more stringent limitation on the 1718  
thermal component of the discharge, as a condition of a permit or 1719  
renewal thereof for the discharge, during a ten-year period 1720  
beginning on the date of completion of the construction or 1721  
modification of the source, or during the period of depreciation 1722  
or amortization of the source for the purpose of section 167 or 1723  
169 of the Internal Revenue Code of 1954, whichever period ends 1724  
first. 1725

(5) The director shall specify in permits for the discharge 1726

of sewage, industrial waste, and other wastes, the net volume, net 1727  
weight, duration, frequency, and, where necessary, concentration 1728  
of the sewage, industrial waste, and other wastes that may be 1729  
discharged into the waters of the state. The director shall 1730  
specify in those permits and in sludge management permits that the 1731  
permit is conditioned upon payment of applicable fees as required 1732  
by section 3745.11 of the Revised Code and upon the right of the 1733  
director's authorized representatives to enter upon the premises 1734  
of the person to whom the permit has been issued for the purpose 1735  
of determining compliance with this chapter, rules adopted 1736  
thereunder, or the terms and conditions of a permit, order, or 1737  
other determination. The director shall issue or deny an 1738  
application for a sludge management permit or a permit for a new 1739  
discharge, for the installation or modification of a disposal 1740  
system, or for the renewal of a permit, within one hundred eighty 1741  
days of the date on which a complete application with all plans, 1742  
specifications, construction schedules, and other pertinent 1743  
information required by the director is received. 1744

(6) The director may condition permits upon the installation 1745  
of discharge or water quality monitoring equipment or devices and 1746  
the filing of periodic reports on the amounts and contents of 1747  
discharges and the quality of receiving waters that the director 1748  
prescribes. The director shall condition each permit for a 1749  
government-owned disposal system or any other "treatment works" as 1750  
defined in the Federal Water Pollution Control Act upon the 1751  
reporting of new introductions of industrial waste or other wastes 1752  
and substantial changes in volume or character thereof being 1753  
introduced into those systems or works from "industrial users" as 1754  
defined in section 502 of that act, as necessary to comply with 1755  
section 402(b)(8) of that act; upon the identification of the 1756  
character and volume of pollutants subject to pretreatment 1757  
standards being introduced into the system or works; and upon the 1758  
existence of a program to ensure compliance with pretreatment 1759

standards by "industrial users" of the system or works. In 1760  
requiring monitoring devices and reports, the director, to the 1761  
extent consistent with the Federal Water Pollution Control Act, 1762  
shall give consideration to technical feasibility and economic 1763  
reasonableness and shall allow reasonable time for compliance. 1764

(7) A permit may be issued for a period not to exceed five 1765  
years and may be renewed upon application for renewal and upon a 1766  
finding by the director that the permit holder is making 1767  
satisfactory progress toward the achievement of all applicable 1768  
standards and has complied with the terms and conditions of the 1769  
existing permit. A permit may be modified, suspended, or revoked 1770  
for cause, including, but not limited to, violation of any 1771  
condition of the permit, obtaining a permit by misrepresentation 1772  
or failure to disclose fully all relevant facts of the permitted 1773  
discharge or of the sludge use, storage, treatment, or disposal 1774  
practice, or changes in any condition that requires either a 1775  
temporary or permanent reduction or elimination of the permitted 1776  
activity. No application shall be denied or permit revoked or 1777  
modified without a written order stating the findings upon which 1778  
the denial, revocation, or modification is based. A copy of the 1779  
order shall be sent to the applicant or permit holder by certified 1780  
mail. 1781

(K) Institute or cause to be instituted in any court of 1782  
competent jurisdiction proceedings to compel compliance with this 1783  
chapter or with the orders of the director issued under this 1784  
chapter, or to ensure compliance with sections 204(b), 307, 308, 1785  
and 405 of the Federal Water Pollution Control Act; 1786

(L) Issue, deny, revoke, or modify industrial water pollution 1787  
control certificates; 1788

(M) Certify to the government of the United States or any 1789  
agency thereof that an industrial water pollution control facility 1790  
is in conformity with the state program or requirements for the 1791

control of water pollution whenever the certification may be 1792  
required for a taxpayer under the Internal Revenue Code of the 1793  
United States, as amended; 1794

(N) Issue, modify, and revoke orders requiring any 1795  
"industrial user" of any publicly owned "treatment works" as 1796  
defined in sections 212(2) and 502(18) of the Federal Water 1797  
Pollution Control Act to comply with pretreatment standards; 1798  
establish and maintain records; make reports; install, use, and 1799  
maintain monitoring equipment or methods, including, where 1800  
appropriate, biological monitoring methods; sample discharges in 1801  
accordance with methods, at locations, at intervals, and in a 1802  
manner that the director determines; and provide other information 1803  
that is necessary to ascertain whether or not there is compliance 1804  
with toxic and pretreatment effluent standards. In issuing, 1805  
modifying, and revoking those orders, the director, to the extent 1806  
consistent with the Federal Water Pollution Control Act, shall 1807  
give consideration to technical feasibility and economic 1808  
reasonableness and shall allow reasonable time for compliance. 1809

(O) Exercise all incidental powers necessary to carry out the 1810  
purposes of this chapter; 1811

(P) Certify or deny certification to any applicant for a 1812  
federal license or permit to conduct any activity that may result 1813  
in any discharge into the waters of the state that the discharge 1814  
will comply with the Federal Water Pollution Control Act; 1815

(Q) Administer and enforce the publicly owned treatment works 1816  
pretreatment program in accordance with the Federal Water 1817  
Pollution Control Act. In the administration of that program, the 1818  
director may do any of the following: 1819

(1) Apply and enforce pretreatment standards; 1820

(2) Approve and deny requests for approval of publicly owned 1821  
treatment works pretreatment programs, oversee those programs, and 1822

implement, in whole or in part, those programs under any of the 1823  
following conditions: 1824

(a) The director has denied a request for approval of the 1825  
publicly owned treatment works pretreatment program; 1826

(b) The director has revoked the publicly owned treatment 1827  
works pretreatment program; 1828

(c) There is no pretreatment program currently being 1829  
implemented by the publicly owned treatment works; 1830

(d) The publicly owned treatment works has requested the 1831  
director to implement, in whole or in part, the pretreatment 1832  
program. 1833

(3) Require that a publicly owned treatment works 1834  
pretreatment program be incorporated in a permit issued to a 1835  
publicly owned treatment works as required by the Federal Water 1836  
Pollution Control Act, require compliance by publicly owned 1837  
treatment works with those programs, and require compliance by 1838  
industrial users with pretreatment standards; 1839

(4) Approve and deny requests for authority to modify 1840  
categorical pretreatment standards to reflect removal of 1841  
pollutants achieved by publicly owned treatment works; 1842

(5) Deny and recommend approval of requests for fundamentally 1843  
different factors variances submitted by industrial users; 1844

(6) Make determinations on categorization of industrial 1845  
users; 1846

(7) Adopt, amend, or rescind rules and issue, modify, or 1847  
revoke orders necessary for the administration and enforcement of 1848  
the publicly owned treatment works pretreatment program. 1849

Any approval of a publicly owned treatment works pretreatment 1850  
program may contain any terms and conditions, including schedules 1851  
of compliance, that are necessary to achieve compliance with this 1852

chapter. 1853

(R) Except as otherwise provided in this division, adopt 1854  
rules in accordance with Chapter 119. of the Revised Code 1855  
establishing procedures, methods, and equipment and other 1856  
requirements for equipment to prevent and contain discharges of 1857  
oil and hazardous substances into the waters of the state. The 1858  
rules shall be consistent with and equivalent in scope, content, 1859  
and coverage to section 311(j)(1)(c) of the Federal Water 1860  
Pollution Control Act and regulations adopted under it. The 1861  
director shall not adopt rules under this division relating to 1862  
discharges of oil from oil production facilities and oil drilling 1863  
and workover facilities as those terms are defined in that act and 1864  
regulations adopted under it. 1865

(S)(1) Administer and enforce a program for the regulation of 1866  
sludge management in this state. In administering the program, the 1867  
director, in addition to exercising the authority provided in any 1868  
other applicable sections of this chapter, may do any of the 1869  
following: 1870

(a) Develop plans and programs for the disposal and 1871  
utilization of sludge and sludge materials; 1872

(b) Encourage, participate in, or conduct studies, 1873  
investigations, research, and demonstrations relating to the 1874  
disposal and use of sludge and sludge materials and the impact of 1875  
sludge and sludge materials on land located in the state and on 1876  
the air and waters of the state; 1877

(c) Collect and disseminate information relating to the 1878  
disposal and use of sludge and sludge materials and the impact of 1879  
sludge and sludge materials on land located in the state and on 1880  
the air and waters of the state; 1881

(d) Issue, modify, or revoke orders to prevent, control, or 1882  
abate the use and disposal of sludge and sludge materials or the 1883

effects of the use of sludge and sludge materials on land located 1884  
in the state and on the air and waters of the state; 1885

(e) Adopt and enforce, modify, or rescind rules necessary for 1886  
the implementation of division (S) of this section. The rules 1887  
reasonably shall protect public health and the environment, 1888  
encourage the beneficial reuse of sludge and sludge materials, and 1889  
minimize the creation of nuisance odors. 1890

The director may specify in sludge management permits the net 1891  
volume, net weight, quality, and pollutant concentration of the 1892  
sludge or sludge materials that may be used, stored, treated, or 1893  
disposed of, and the manner and frequency of the use, storage, 1894  
treatment, or disposal, to protect public health and the 1895  
environment from adverse effects relating to those activities. The 1896  
director shall impose other terms and conditions to protect public 1897  
health and the environment, minimize the creation of nuisance 1898  
odors, and achieve compliance with this chapter and rules adopted 1899  
under it and, in doing so, shall consider whether the terms and 1900  
conditions are consistent with the goal of encouraging the 1901  
beneficial reuse of sludge and sludge materials. 1902

The director may condition permits on the implementation of 1903  
treatment, storage, disposal, distribution, or application 1904  
management methods and the filing of periodic reports on the 1905  
amounts, composition, and quality of sludge and sludge materials 1906  
that are disposed of, used, treated, or stored. 1907

An approval of a treatment works sludge disposal program may 1908  
contain any terms and conditions, including schedules of 1909  
compliance, necessary to achieve compliance with this chapter and 1910  
rules adopted under it. 1911

(2) As a part of the program established under division 1912  
(S)(1) of this section, the director has exclusive authority to 1913  
regulate sewage sludge management in this state. For purposes of 1914

division (S)(2) of this section, that program shall be consistent 1915  
with section 405 of the Federal Water Pollution Control Act and 1916  
regulations adopted under it and with this section, except that 1917  
the director may adopt rules under division (S) of this section 1918  
that establish requirements that are more stringent than section 1919  
405 of the Federal Water Pollution Control Act and regulations 1920  
adopted under it with regard to monitoring sewage sludge and 1921  
sewage sludge materials and establishing acceptable sewage sludge 1922  
management practices and pollutant levels in sewage sludge and 1923  
sewage sludge materials. 1924

This chapter authorizes the state to participate in any 1925  
national sludge management program and the national pollutant 1926  
discharge elimination system, to administer and enforce the 1927  
publicly owned treatment works pretreatment program, and to issue 1928  
permits for the discharge of dredged or fill materials, in 1929  
accordance with the Federal Water Pollution Control Act. This 1930  
chapter shall be administered, consistent with the laws of this 1931  
state and federal law, in the same manner that the Federal Water 1932  
Pollution Control Act is required to be administered. 1933

This section does not apply to animal waste disposal systems 1934  
and related management and conservation practices subject to rules 1935  
adopted pursuant to division (E)(4) of section 1511.02 of the 1936  
Revised Code ~~and involving less than one thousand animal units, as~~ 1937  
~~"animal units" is defined in the United States environmental~~ 1938  
~~protection agency regulations.~~ However, until the date on which 1939  
the United States environmental protection agency approves the 1940  
NPDES program submitted by the director of agriculture under 1941  
section 903.08 of the Revised Code, this exclusion does not apply 1942  
to animal waste treatment works having a controlled direct 1943  
discharge to the waters of the state or any concentrated animal 1944  
feeding operation, as defined in 40 C.F.R. 122.23(b)(2). On and 1945  
after the date on which the United States environmental protection 1946



agency approves the NPDES program submitted by the director of 1947  
agriculture under section 903.08 of the Revised Code, this section 1948  
does not apply to storm water from an animal feeding facility, as 1949  
defined in section 903.01 of the Revised Code, or to manure, as 1950  
defined in that section. Neither of these exclusions applies to 1951  
the discharge of animal waste into a publicly owned treatment 1952  
works. 1953

**Sec. 6111.04.** (A) Both of the following apply except as 1954  
otherwise provided in division (A) or (F) of this section: 1955

(1) No person shall cause pollution or place or cause to be 1956  
placed any sewage, sludge, sludge materials, industrial waste, or 1957  
other wastes in a location where they cause pollution of any 1958  
waters of the state. 1959

(2) Such an action prohibited under division (A)(1) of this 1960  
section is hereby declared to be a public nuisance. 1961

Divisions (A)(1) and (2) of this section do not apply if the 1962  
person causing pollution or placing or causing to be placed wastes 1963  
in a location in which they cause pollution of any waters of the 1964  
state holds a valid, unexpired permit, or renewal of a permit, 1965  
governing the causing or placement as provided in sections 6111.01 1966  
to 6111.08 of the Revised Code or if the person's application for 1967  
renewal of such a permit is pending. 1968

(B) If the director administers a sludge management program 1969  
pursuant to division (S) of section 6111.03 of the Revised Code, 1970  
both of the following apply except as otherwise provided in 1971  
division (B) or (F) of this section: 1972

(1) No person, in the course of sludge management, shall 1973  
place on land located in the state or release into the air of the 1974  
state any sludge or sludge materials. 1975

(2) An action prohibited under division (B)(1) of this 1976

section is hereby declared to be a public nuisance. 1977

Divisions (B)(1) and (2) of this section do not apply if the 1978  
person placing or releasing the sludge or sludge materials holds a 1979  
valid, unexpired permit, or renewal of a permit, governing the 1980  
placement or release as provided in sections 6111.01 to 6111.08 of 1981  
the Revised Code or if the person's application for renewal of 1982  
such a permit is pending. 1983

(C) No person to whom a permit has been issued shall place or 1984  
discharge, or cause to be placed or discharged, in any waters of 1985  
the state any sewage, sludge, sludge materials, industrial waste, 1986  
or other wastes in excess of the permissive discharges specified 1987  
under an existing permit without first receiving a permit from the 1988  
director to do so. 1989

(D) No person to whom a sludge management permit has been 1990  
issued shall place on the land or release into the air of the 1991  
state any sludge or sludge materials in excess of the permissive 1992  
amounts specified under the existing sludge management permit 1993  
without first receiving a modification of the existing sludge 1994  
management permit or a new sludge management permit to do so from 1995  
the director. 1996

(E) The director may require the submission of plans, 1997  
specifications, and other information that the director considers 1998  
relevant in connection with the issuance of permits. 1999

(F) This section does not apply to any of the following: 2000

(1) Waters used in washing sand, gravel, other aggregates, or 2001  
mineral products when the washing and the ultimate disposal of the 2002  
water used in the washing, including any sewage, industrial waste, 2003  
or other wastes contained in the waters, are entirely confined to 2004  
the land under the control of the person engaged in the recovery 2005  
and processing of the sand, gravel, other aggregates, or mineral 2006  
products and do not result in the pollution of waters of the 2007

state; 2008

(2) Water, gas, or other material injected into a well to 2009  
facilitate, or that is incidental to, the production of oil, gas, 2010  
artificial brine, or water derived in association with oil or gas 2011  
production and disposed of in a well, in compliance with a permit 2012  
issued under Chapter 1509. of the Revised Code, or sewage, 2013  
industrial waste, or other wastes injected into a well in 2014  
compliance with an injection well operating permit. Division 2015  
(F)(2) of this section does not authorize, without a permit, any 2016  
discharge that is prohibited by, or for which a permit is required 2017  
by, regulation of the United States environmental protection 2018  
agency. 2019

(3) Application of any materials to land for agricultural 2020  
purposes or runoff of the materials from that application or 2021  
pollution by animal waste or soil sediment, including attached 2022  
substances, resulting from farming, silvicultural, or earthmoving 2023  
activities regulated by Chapter 307. or 1515. of the Revised Code; 2024

(4) The excrement of domestic and farm animals defecated on 2025  
land or runoff therefrom into any waters of the state; 2026

(5) On and after the date on which the United States 2027  
environmental protection agency approves the NPDES program 2028  
submitted by the director of agriculture under section 903.08 of 2029  
the Revised Code, storm water from an animal feeding facility, as 2030  
defined in section 903.01 of the Revised Code, or manure, as 2031  
defined in that section; 2032

(6) The discharge of sewage, industrial waste, or other 2033  
wastes into a sewerage system tributary to a treatment works. 2034  
Division (F)~~(5)~~(6) of this section does not authorize any 2035  
discharge into a publicly owned treatment works in violation of a 2036  
pretreatment program applicable to the publicly owned treatment 2037  
works. 2038

(7) Septic tanks or any other disposal systems for the 2039  
disposal or treatment of sewage from single-family, two-family, or 2040  
three-family dwellings in compliance with the sanitary code and 2041  
section 3707.01 of the Revised Code. Division (F)~~(6)~~(7) of this 2042  
section does not authorize, without a permit, any discharge that 2043  
is prohibited by, or for which a permit is required by, regulation 2044  
of the United States environmental protection agency. 2045

(8) Exceptional quality sludge generated outside of this 2046  
state and contained in bags or other containers not greater than 2047  
one hundred pounds in capacity. As used in division (F)~~(7)~~(8) of 2048  
this section, "exceptional quality sludge" has the same meaning as 2049  
in division (Y) of section 3745.11 of the Revised Code. 2050

(G) The holder of a permit issued under section 402 (a) of 2051  
the Federal Water Pollution Control Act need not obtain a permit 2052  
for a discharge authorized by the permit until its expiration 2053  
date. The director shall administer and enforce those permits 2054  
within this state and may modify their terms and conditions in 2055  
accordance with division (J) of section 6111.03 of the Revised 2056  
Code. 2057

**Sec. 6111.44.** (A) Except as otherwise provided in division 2058  
(B) of this section, in section 6111.14 of the Revised Code, or in 2059  
rules adopted under division (G) of section 6111.03 of the Revised 2060  
Code, no municipal corporation, county, public institution, 2061  
corporation, or officer or employee thereof or other person shall 2062  
provide or install sewerage or treatment works for sewage, sludge, 2063  
or sludge materials disposal or treatment or make a change in any 2064  
sewerage or treatment works until the plans therefor have been 2065  
submitted to and approved by the director of environmental 2066  
protection. Sections 6111.44 to 6111.46 of the Revised Code apply 2067  
to sewerage and treatment works of a municipal corporation or part 2068  
thereof, an unincorporated community, a county sewer district, or 2069

other land outside of a municipal corporation or any publicly or 2070  
privately owned building or group of buildings or place, used for 2071  
the assemblage, entertainment, recreation, education, correction, 2072  
hospitalization, housing, or employment of persons. 2073

In granting an approval, the director may stipulate 2074  
modifications, conditions, and rules that the public health and 2075  
prevention of pollution may require. Any action taken by the 2076  
director shall be a matter of public record and shall be entered 2077  
in the director's journal. Each period of thirty days that a 2078  
violation of this section continues, after a conviction for the 2079  
violation, constitutes a separate offense. 2080

(B) Sections 6111.45 and 6111.46 of the Revised Code and 2081  
division (A) of this section do not apply to any of the following: 2082

(1) Sewerage or treatment works for sewage installed or to be 2083  
installed for the use of a private residence or dwelling; 2084

(2) ~~On and after the date on which the director of~~ 2085  
~~agriculture has finalized the program required under division~~ 2086  
~~(A)(1) of section 903.02 of the Revised Code, sewerage~~ Sewerage 2087  
systems, treatment works, or disposal systems for storm water from 2088  
an animal feeding facility or manure, as "animal feeding facility" 2089  
and "manure" are defined in section 903.01 of the Revised Code; 2090

(3) Animal waste treatment or disposal works and related 2091  
management and conservation practices that are subject to rules 2092  
adopted under division (E)(2) of section 1511.02 of the Revised 2093  
Code ~~and involving less than one thousand animal units, as "animal~~ 2094  
~~unit" is defined in the United States environmental protection~~ 2095  
~~agency regulations.~~ 2096

~~The exclusions established in divisions (B)(2) and (3) of~~ 2097  
~~this section do not apply to animal waste treatment or disposal~~ 2098  
~~works having a controlled direct discharge to the waters of the~~ 2099

~~state until the date on which the director of agriculture~~ 2100  
~~finalizes the program required under section 903.02 of the Revised~~ 2101  
~~Code.~~ The exclusions established in divisions (B)(2) and (3) of 2102  
this section ~~also~~ do not apply to the construction or installation 2103  
of disposal systems, as defined in section 6111.01 of the Revised 2104  
Code, that are located at an animal feeding facility and that 2105  
store, treat, or discharge wastewaters that do not include storm 2106  
water or manure or that discharge to a publicly owned treatment 2107  
works. 2108

**Section 2.** That existing sections 307.204, 505.266, 903.01, 2109  
903.02, 903.04, 903.07, 903.08, 903.09, 903.10, 903.16, 903.20, 2110  
6111.03, 6111.04, and 6111.44 of the Revised Code are hereby 2111  
repealed. 2112