

**As Reported by the House Agriculture and Natural Resources
Committee**

**125th General Assembly
Regular Session
2003-2004**

Sub. H. B. No. 152

**Representatives Reinhard, Aslanides, Setzer, Niehaus, Gibbs, Distel,
C. Evans, Schlichter, Faber, Carmichael, Widener, Walcher**

A B I L L

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

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

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

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

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

(2) "Facility" means a proposed new or expanded major 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 notification is received by the board, the board shall submit to the person its recommendations, if any, concerning the improvements that will be needed as a result of the facility and the cost of those improvements.

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

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

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

(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 202
the person if the person remains out of compliance with the final 203
recommendations. 204

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

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

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

Sec. 903.01. As used in this chapter: 225

(A) "Agricultural animal" means any animal generally used for 226
food or in the production of food, including cattle, sheep, goats, 227
rabbits, poultry, and swine; horses; and any other animal included 228
by the director of agriculture by rule. "Agricultural animal" does 229
not include fish or other aquatic animals regardless of whether 230
they are raised at fish hatcheries, fish farms, or other 231
facilities that raise aquatic animals. 232

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

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

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

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

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

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

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

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

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

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

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

(6) The number of turkeys multiplied by two hundredths;	263
(7) The number of laying hens or broilers multiplied by one hundredth;	264 265
(8) The number of ducks multiplied by two tenths.	266
(D) "Best management practices" means best management practices established in rules.	267 268
<u>(D) "Cattle" includes, but is not limited to, heifers, steers, bulls, and cow and calf pairs.</u>	269 270
(E) "Concentrated animal feeding facility" means an animal feeding facility with a total design capacity of equal to or more than one thousand animal units <u>the number of animals specified in any of the categories in division (M) of this section.</u>	271 272 273 274
(F) "Concentrated animal feeding operation" has the same meaning as in regulations adopted by the United States environmental protection agency under the Federal Water Pollution Control Act <u>means an animal feeding facility that complies with one of the following:</u>	275 276 277 278 279
<u>(1) Has a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section;</u>	280 281 282
<u>(2) Satisfies the criteria in division (M), (O), or (EE) of this section;</u>	283 284
<u>(3) Is designated by the director of agriculture as a medium or small concentrated animal feeding operation pursuant to rules.</u>	285 286
(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	289 290 291

it.	292
(I) "Finalized," with respect to the programs required under	293
division (A)(1) of section 903.02 and division (A)(1) of section	294
903.03 of the Revised Code, means that all rules that are	295
necessary for the administration of this chapter have been adopted	296
and all employees of the department of agriculture that are	297
necessary for the administration of this chapter have been	298
employed.	299
(J) "General permit" has the meaning that is established in	300
rules.	301
(K) "Individual permit" has the meaning that is established	302
in rules.	303
(L) "Installation permit" means a permit for the installation	304
or modification of a disposal system or any part of a disposal	305
system issued by the director of environmental protection under	306
division (J)(1) of section 6111.03 of the Revised Code.	307
(M) <u>"Large concentrated animal feeding operation" means an</u>	308
<u>animal feeding facility that stables or confines at least the</u>	309
<u>number of animals specified in any of the following categories:</u>	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</u>	313
<u>veal calves;</u>	314
<u>(4) Two thousand five hundred swine that each weigh fifty-five</u>	315
<u>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 feeding facility uses a liquid manure handling system;</u>	322 323
<u>(10) One hundred twenty-five thousand chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;</u>	324 325 326
<u>(11) Eighty-two thousand laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;</u>	327 328 329
<u>(12) Thirty thousand ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;</u>	330 331 332
<u>(13) Five thousand ducks if the animal feeding facility uses a liquid manure handling system.</u>	333 334
<u>(N)</u> "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten thousand animal units <u>times the number of animals specified in any of the categories in division (M) of this section.</u>	335 336 337 338 339
(N) <u>(O)</u> "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta.	340 341 342 343 344 345 346
(O) <u>(P)</u> "Manure storage or treatment facility" means any excavated, diked, or walled structure or combination of structures designed for the biological stabilization, holding, or storage of manure.	347 348 349 350

<u>(P)(O) "Medium concentrated animal feeding operation" means</u>	351
<u>an animal feeding facility that satisfies both of the following:</u>	352
<u>(1) The facility stables or confines the number of animals</u>	353
<u>specified in any of the following categories:</u>	354
<u>(a) Two hundred to six hundred ninety-nine mature dairy</u>	355
<u>cattle whether milked or dry;</u>	356
<u>(b) Three hundred to nine hundred ninety nine veal calves;</u>	357
<u>(c) Three hundred to nine hundred ninety nine cattle other</u>	358
<u>than mature dairy cattle or veal calves;</u>	359
<u>(d) Seven hundred fifty to two thousand four hundred ninety</u>	360
<u>nine swine that each weigh fifty-five pounds or more;</u>	361
<u>(e) Three thousand to nine thousand nine hundred ninety-nine</u>	362
<u>swine that each weigh less than fifty-five pounds;</u>	363
<u>(f) One hundred fifty to four hundred ninety-nine horses;</u>	364
<u>(g) Three thousand to nine thousand nine hundred ninety-nine</u>	365
<u>sheep or lambs;</u>	366
<u>(h) Sixteen thousand five hundred to fifty-four thousand nine</u>	367
<u>hundred ninety-nine turkeys;</u>	368
<u>(i) Nine thousand to twenty-nine thousand nine hundred</u>	369
<u>ninety-nine laying hens or broilers if the animal feeding facility</u>	370
<u>uses a liquid manure handling system;</u>	371
<u>(j) Thirty-seven thousand five hundred to one hundred</u>	372
<u>twenty-four thousand nine hundred ninety-nine chickens, other than</u>	373
<u>laying hens, if the animal feeding facility uses a manure handling</u>	374
<u>system that is not a liquid manure handling system;</u>	375
<u>(k) Twenty-five thousand to eighty-one thousand nine hundred</u>	376
<u>ninety-nine laying hens if the animal feeding facility uses a</u>	377
<u>manure handling system that is not a liquid manure handling</u>	378
<u>system;</u>	379

(1) 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, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, animal walkways, and stables; 439
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441
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(2) Manure storage areas, including, but not limited to, manure storage or treatment facilities; 443
444

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

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

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

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

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

(BB) "Public meeting" means a nonadversarial public hearing at which a person may present written or oral statements for the director of agriculture's consideration and includes public hearings held under section 6111.12 of the Revised Code. 457
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~~(Z)~~(CC) "Review compliance certificate" means a certificate issued under section 903.04 of the Revised Code. 461
462

~~(AA)~~(DD) "Rule" means a rule adopted under section 903.10 of the Revised Code. 463
464

~~(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 465
466
467
468

pursuant to rules. 469

(FF) "Waters of the state" has the same meaning as in section 470
6111.01 of the Revised Code. 471

Sec. 903.02. (A)(1) Not later than one hundred eighty days 472
after ~~the effective date of this section~~ March 15, 2001, the 473
director of agriculture shall prepare a program for the issuance 474
of permits to install under this section. 475

(2) On and after the date on which the director has finalized 476
the program required under division (A)(1) of this section, no 477
person shall modify an existing or construct a new concentrated 478
animal feeding facility without first obtaining a permit to 479
install issued by the director under this section. 480

(B) The director or the director's authorized representative 481
may help an applicant for a permit to install during the 482
permitting process by providing guidance and technical assistance. 483

(C) An applicant for a permit to install shall submit an 484
application to the director on a form that the director prescribes 485
and provides together with a fee in an amount established by rule. 486
The applicant shall include with the application all of the 487
following information: 488

(1) The name and address of the applicant, of all partners if 489
the applicant is a partnership or of all officers and directors if 490
the applicant is a corporation, and of any other person who has a 491
right to control or in fact controls management of the applicant 492
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 information.	531 532
(2) The designs and plans fail to conform to best management practices.	533 534
Additional grounds for the denial of a permit to install shall be those established in this chapter and rules.	535 536
(E) A permit to install shall expire after a period specified by the director unless the applicant has undertaken a continuing program of construction or has entered into a binding contractual obligation to undertake and complete a continuing program of construction within a reasonable time. The director may extend the expiration date of a permit to install upon request of the applicant.	537 538 539 540 541 542 543
(F) The director may modify, suspend, or revoke a permit to install in accordance with rules.	544 545
(G) Nothing in this chapter affects section 1521.16 of the Revised Code.	546 547
Sec. 903.04. (A) As used in this section, "existing concentrated animal feeding facility" or "existing facility" means a concentrated animal feeding facility that was in existence prior to the date on which the director of agriculture has finalized the program required under division (A)(1) of section 903.03 of the Revised Code and that has received an installation permit prior to that date.	548 549 550 551 552 553 554
(B) On and after the date on which the director of agriculture has finalized the program required under division (A)(1) of section 903.02 of the Revised Code, the authority to enforce terms and conditions of installation permits that previously were issued to animal feeding facilities shall be	555 556 557 558 559

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

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

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

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

(D) Except as otherwise provided in this division, on and 580
after the date that is two years after the date on which the 581
director has finalized the program required under division (A)(1) 582
of section 903.03 of the Revised Code, and until the issuance of a 583
permit to operate, no person shall operate an existing 584
concentrated animal feeding facility unless the person holds a 585
review compliance certificate. 586

This division does not apply to a person who has made a 587
timely submittal of the information required under division (E)(2) 588
of this section and who is waiting for the director to issue or 589
deny a review compliance certificate. Such a person may continue 590

the operation of the existing concentrated animal feeding facility 591
until, if applicable, the director issues an order denying the 592
review compliance certificate. 593

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

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

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

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

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

(c) A manure management plan for the facility that conforms 613
to best management practices regarding the handling, storage, 614
transportation, and land application of manure generated at the 615
facility and that contains any other information required by rule; 616

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

(e) In the case of a major concentrated animal feeding 620

facility, written proof that the person who would be responsible 621
for the supervision of the management and handling of manure at 622
the facility has been issued a livestock manager certification in 623
accordance with section 903.07 of the Revised Code. 624

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

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

The director may issue an order denying a review compliance 641
certificate if the facility's insect and rodent control plan or 642
manure management plan does not conform to best management 643
practices and the requirements established in section 903.06 of 644
the Revised Code and in rules. The denial of a review compliance 645
certificate terminates the existing installation permit that was 646
issued to the facility. 647

The issuance of a review compliance certificate shall not 648
require public notice or a public meeting. However, notice shall 649
be provided to persons who own property that is contiguous to the 650
production area of the concentrated animal feeding facility for 651
which the review compliance certificate is to be issued. Such 652

persons may submit written comments to the director within a time 653
established by the director. 654

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

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

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

(2) The director may revoke a review compliance certificate 676
issued to an existing facility after the director has issued an 677
order as a result of a hearing held under Chapter 119. of the 678
Revised Code in which the facility has been found to be in 679
violation of the terms and conditions of the review compliance 680
certificate. An existing facility whose review compliance 681
certificate is revoked shall obtain a permit to operate and, if 682
applicable, a NPDES permit in order to resume operating. 683

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

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

(1) The management and handling of manure at a major concentrated animal feeding facility, including the land application of manure or the removal of manure from a manure storage or treatment facility, shall be conducted only by or under the supervision of a person holding a livestock manager certification issued under this section. A person managing or handling manure who is acting under the instructions and control of a person holding a livestock manager certification is considered to be under the supervision of the certificate holder if the certificate holder is responsible for the actions of the person and is available when needed even though the certificate holder is not physically present at the time of the manure management or handling.

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

(B) The director shall issue a livestock manager certification to a person who has submitted a complete application for certification on a form prescribed and provided by the director, together with the appropriate application fee, and who has completed successfully the required training and has passed the required examination. The director may suspend or revoke a livestock manager certification and may reinstate a suspended or

revoked livestock manager certification in accordance with rules. 715

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

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

(2) On and after the date on which the United States 729
environmental protection agency approves the state program 730
submitted under division (A)(1) of this section, the authority to 731
enforce terms and conditions of NPDES permits previously issued 732
under division (J) of section 6111.03 or under section 6111.035 of 733
the Revised Code for the discharging, transporting, or handling of 734
storm water from an animal feeding facility or of manure is 735
transferred from the director of environmental protection to the 736
director of agriculture. Thereafter, the director of environmental 737
protection shall have no authority to enforce the terms and 738
conditions of those NPDES permits. After the transfer of authority 739
under division (A)(2) of this section, the NPDES permits 740
concerning which authority has been transferred shall be 741
considered to have been issued under this section. 742

(B)(1) On and after the date on which the United States 743
environmental protection agency approves the NPDES program 744
submitted by the director of agriculture under this section, no 745

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

(2) Persons that have been issued a permit by the director of 766
environmental protection under division (J) of section 6111.03 of 767
the Revised Code for the discharge of manure prior to the date on 768
which the United States environmental protection agency approves 769
the NPDES program submitted by the director of agriculture under 770
this section may continue to operate under that permit until it 771
expires or is modified or revoked. Such a permit shall be enforced 772
by the director of agriculture upon the transfer of authority to 773
enforce the terms and conditions of the permit under division 774
(A)(2) of this section. 775

(C)(1) On and after the date on which the United States 776
environmental protection agency approves the NPDES program 777

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

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

(D) In accordance with rules, an applicant for a NPDES permit 797
issued under this section shall submit a fee in an amount 798
established by rule together with, except as otherwise provided in 799
division (F) of this section, an application for the permit to the 800
director of agriculture on a form prescribed by the director. The 801
application shall include any information required by rule. The 802
director or the director's authorized representative may help an 803
applicant for a NPDES permit during the application process by 804
providing guidance and technical assistance. 805

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

(1) The application contains misleading or false information.	810
(2) The administrator of the United States environmental protection agency objects in writing to the issuance of the NPDES permit in accordance with section 402(d) of the Federal Water Pollution Control Act.	811 812 813 814
(3) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act.	815 816 817 818
Additional grounds for the denial of a NPDES permit shall be those established in this chapter and rules.	819 820
(F) To the extent consistent with the Federal Water Pollution Control Act, the director of agriculture shall issue general NPDES permits that will apply in lieu of individual NPDES permits for categories of point sources for which the director determines that all of the following apply:	821 822 823 824 825
(1) Any discharges authorized by a general permit will have only minimal cumulative adverse effects on the environment when the discharges are considered collectively and individually.	826 827 828
(2) The discharges are more appropriately authorized by a general permit than by an individual permit.	829 830
(3) Each category of point sources satisfies the criteria established in rules.	831 832
A person who is required to obtain a NPDES permit shall submit to the director a notice of the person's intent to be covered under an existing general permit or, at the person's option, an application for an individual NPDES permit. Upon receipt of a notice of intent for coverage under an existing general permit, the director shall notify the applicant in writing that the person is covered by the general permit if the person	833 834 835 836 837 838 839

satisfies the criteria established in rules for eligibility for 840
such coverage. If the person is ineligible for coverage under the 841
general permit, the director shall require the submission of an 842
application for an individual NPDES permit. 843

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

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

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

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

under this section and by rule. 872

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

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

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

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

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

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

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

Sec. 903.081. (A) For purposes of section 903.08 of the 901

Revised Code, no person shall issue a NPDES permit if the person receives or has received during the two years prior to the receipt of an application for a NPDES permit a significant portion of income from any NPDES permittee or any applicant for a NPDES permit. In addition, no person who, pursuant to an appeal of an action regarding a NPDES permit, has the authority to require or to order the director of agriculture to vacate or modify a NPDES permit shall require or order the director to vacate or modify a 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.

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(B) As used in this section:

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(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.

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(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.

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

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

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small concentrated animal feeding operation when all of the 932
following apply: 933

(1) The director has received from the chief of the division 934
of soil and water conservation in the department of natural 935
resources a copy of an order issued under section 1511.02 of the 936
Revised Code that specifies that the animal feeding facility has 937
caused agricultural pollution by failure to comply with standards 938
established under that section and that the animal feeding 939
facility therefore should be required to be permitted as a medium 940
or small concentrated animal feeding operation. 941

(2) The director or the director's authorized representative 942
has inspected the animal feeding facility. 943

(3) The director or the director's authorized representative 944
finds that the facility is not being operated in a manner that 945
protects the waters of the state. 946

(B) If an animal feeding facility is required to be permitted 947
in accordance with this section, the owner or operator of the 948
facility shall apply to the director for a permit to operate as a 949
concentrated animal feeding operation. In a situation in which 950
best management practices cannot be implemented without modifying 951
the existing animal feeding facility, the owner or operator of the 952
facility also shall apply for a permit to install for the 953
facility. 954

(C) In the case of an animal feeding facility for which a 955
permit to operate is required under this section, a permit to 956
operate shall not be required after the end of the five-year term 957
of the permit if the problems that caused the facility to be 958
required to obtain the permit have been corrected to the 959
director's satisfaction. 960

Sec. 903.09. ~~(a)~~(A) Prior to issuing or modifying a permit to 961

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

If the director receives written comments in an amount that 981
demonstrates significant public interest, as defined by rule, in 982
the draft permit, the director shall schedule one public meeting 983
to provide information to the public and to hear comments 984
pertinent to the draft permit. The notice of the public meeting 985
shall be provided in the same manner as the notice of the issuance 986
of the draft permit. 987

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

(C) The director shall apply the antidegradation policy 992

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

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

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

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

The director shall mail to the applicant or the permittee 1018
notice of the director's proposed action to deny, suspend, or 1019
revoke a permit to install, permit to operate, or NPDES permit. 1020
The director shall publish the notice once in a newspaper of 1021
general circulation in the county in which the concentrated animal 1022
feeding facility or concentrated animal feeding operation is 1023
located or proposed to be located. The director shall mail a copy 1024

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

The director shall not issue an order that makes the proposed 1045
action final until the applicant or permittee has had an 1046
opportunity for an adjudication hearing in accordance with Chapter 1047
119. of the Revised Code, except that section 119.12 of the 1048
Revised Code does not apply. An order of the director that 1049
finalizes the proposed action or an order issuing a permit without 1050
a prior proposed action may be appealed to the environmental 1051
review appeals commission under sections 3745.04 to 3745.06 of the 1052
Revised Code. 1053

(G)(1) The director shall issue an order issuing or denying 1054
an application for a permit to operate that contains NPDES 1055
provisions or for a NPDES permit, as well as any application for a 1056

permit to install that is submitted simultaneously, not later than 1057
one hundred eighty days after receiving the application. 1058

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

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

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

(J) Applications for installation permits for animal feeding 1082
facilities pending before the director of environmental protection 1083
on the date on which the director of agriculture has finalized the 1084
programs required under division (A)(1) of section 903.02 and 1085
division (A)(1) of section 903.03 of the Revised Code shall be 1086
transferred to the director of agriculture. In the case of an 1087
applicant who is required to obtain a permit to install and a 1088

permit to operate under sections 903.02 and 903.03, respectively, 1089
of the Revised Code, the director of agriculture shall process the 1090
pending application for an installation permit as an application 1091
for a permit to install and a permit to operate. 1092

(K) Applications for NPDES permits for either of the 1093
following that are pending before the director of environmental 1094
protection on the date on which the United States environmental 1095
protection agency approves the NPDES program submitted by the 1096
director of agriculture under section 903.08 of the Revised Code 1097
shall be transferred to the director of agriculture: 1098

(1) The discharge of manure; 1099

(2) The discharge of storm water resulting from an animal 1100
feeding facility. In the case of an applicant who is required to 1101
obtain a NPDES permit under section 903.08 of the Revised Code, 1102
the director of agriculture shall process the pending application 1103
as an application for a NPDES permit under that section. 1104

Sec. 903.10. The director of agriculture shall adopt rules in 1105
accordance with Chapter 119. of the Revised Code that do all of 1106
the following: 1107

(A) Establish all of the following concerning permits to 1108
install and permits to operate: 1109

(1) A description of what constitutes a modification of a 1110
concentrated animal feeding facility; 1111

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

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

(4) Information that must be included in a manure management 1118

plan required to be submitted with an application for a permit to operate;	1119 1120
(5) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;	1121 1122 1123
(6) Any additional information that must be included with a permit application;	1124 1125
(7) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits;	1126 1127 1128
(8) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;	1129 1130 1131 1132
(9) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;	1133 1134 1135
(10) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate.	1136 1137 1138 1139 1140 1141
(B) Establish all of the following for the purposes of review compliance certificates issued under section 903.04 of the Revised Code:	1142 1143 1144
(1) The form of a certificate;	1145
(2) Criteria for what constitutes a significant capital expenditure under division (D) of that section;	1146 1147
(3) Deadlines and procedures for submitting information under	1148

division (E)(2) of that section.	1149
(C) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:	1150
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(1) Manure management, including the storage, handling, transportation, and land application of manure. Rules adopted under division (C)(1) of this section shall include practices that prevent surface and ground water contamination caused by the storage of manure or the land application of manure and prevent the contamination of water in drainage tiles that may be caused by that application.	1155
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(2) Disposal of dead livestock;	1162
(3) Any other activity that the director considers appropriate.	1163
	1164
Best management practices established in rules adopted under division (C) of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code and that are in effect on the effective date of this section <u>March 15, 2001</u> . The rules adopted under division (C) of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government infrastructure needs and the financing of that infrastructure.	1165
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(D) Establish all of the following concerning insect and rodent control plans required under section 903.06 of the Revised Code:	1176
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	1178
(1) The information to be included in an insect and rodent	1179

control plan;	1180
(2) Criteria for approving, disapproving, or requiring modification of an insect and rodent control plan;	1181 1182
(3) Criteria for determining compliance with or violation of an insect and rodent control plan;	1183 1184
(4) Procedures and standards for monitoring insect and rodent control plans;	1185 1186
(5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;	1187 1188 1189 1190
(6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (D)(6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility with a total design capacity of ten thousand or fewer animal units that is not a major concentrated animal feeding facility and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding facility;	1191 1192 1193 1194 1195 1196 1197 1198 1199 1200 1201
(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it;	1202 1203
(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code.	1204 1205
(E) Establish all of the following concerning livestock manager certification required under section 903.07 of the Revised Code:	1206 1207 1208
(1) The information to be included in an application for a	1209

livestock manager certification and the amount of the application 1210
fee; 1211

(2) The content of the training required to be completed and 1212
of the examination required to be passed by an applicant for a 1213
livestock manager certification. The training shall include and 1214
the examination shall test the applicant's knowledge of 1215
information on topics that include calculating nutrient values in 1216
manure, devising and implementing a plan for the land application 1217
of manure, removing manure held in a manure storage or treatment 1218
facility, and following best management practices established in 1219
rules for disposal of dead animals and manure management, 1220
including practices that control odor and protect the environment. 1221
The director may specify other types of recognized training 1222
programs that, if completed, are considered to satisfy the 1223
training and examination requirement. 1224

(3) Criteria and procedures for the issuance, denial, 1225
suspension, revocation, or reinstatement of a livestock manager 1226
certification; 1227

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

(5) The volume of manure that must be transported, and land 1230
applied annually or the volume of manure that must be bought, or 1231
sold, or land applied annually by a person in order for the person 1232
to be required to obtain a livestock manager certification under 1233
division (A)(2) of section 903.07 of the Revised Code; 1234

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

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

(1) The designation of concentrated animal feeding operations 1238
that are subject to NPDES permit requirements under section 903.08 1239
of the Revised Code. This designation shall include only those 1240

point sources for which the issuance of NPDES permits is required	1241
under the Federal Water Pollution Control Act.	1242
(2) Effluent limitations governing discharges into waters of	1243
the state that are authorized by permits;	1244
(3) Variances from effluent limitations and other permit	1245
requirements to the extent that the variances are consistent with	1246
the Federal Water Pollution Control Act;	1247
(4) Terms and conditions to be included in a permit,	1248
including, as applicable, best management practices; installation	1249
of discharge or water quality monitoring methods or equipment;	1250
creation and retention of records; submission of periodic reports;	1251
schedules of compliance; net volume, net weight, and, where	1252
necessary, concentration and mass loading limits of manure that	1253
may be discharged into waters of the state; and authorized	1254
duration and frequency of any discharges into waters of the state;	1255
(5) Procedures for the submission of applications for permits	1256
and notices of intent to be covered by general permits, including	1257
information that must be included in the applications and notices;	1258
(6) The amount of the fee that must be submitted with an	1259
application for a permit;	1260
(7) Procedures for processing permit applications, including	1261
public notice and participation requirements;	1262
(8) Procedures for notifying the United States environmental	1263
protection agency of the submission of permit applications, the	1264
director's action on those applications, and any other reasonable	1265
and relevant information;	1266
(9) Procedures for notifying and receiving and responding to	1267
recommendations from other states whose waters may be affected by	1268
the issuance of a permit;	1269
(10) Procedures for the transfer of permits to new owners or	1270

operators;	1271
(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;	1272 1273 1274
(12) A definition of "general NPDES permit" that establishes categories of point sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit.	1275 1276 1277 1278 1279 1280
The rules adopted under division (F) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.	1281 1282 1283
(G) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (F)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of permits to install, permits to operate, and NPDES permits consistent with section 903.09 of the Revised Code, including a definition of what constitutes significant public interest for the purposes of division <u>divisions</u> (A) <u>and</u> (F) of section 903.09 of the Revised Code and procedures for public meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that are applicable to the permit application that is the subject of the public meeting.	1284 1285 1286 1287 1288 1289 1290 1291 1292 1293 1294 1295
(H) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install, permit to operate, or review compliance certificate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand	1296 1297 1298 1299 1300 1301

dollars per day for each violation; 1302

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

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

Sec. 903.16. (A) The director of agriculture may propose to 1318
require corrective actions and assess a civil penalty against an 1319
owner or operator of a concentrated animal feeding facility if the 1320
director or the director's authorized representative determines 1321
that the owner or operator is not in compliance with section 1322
903.02, 903.03, or 903.04 of the Revised Code, the terms and 1323
conditions of a permit to install, permit to operate, or review 1324
compliance certificate issued for the concentrated animal feeding 1325
facility, including the requirements established under division 1326
(C) of section 903.06 or division (A) of section 903.07 of the 1327
Revised Code, or rules adopted under division (A) of section 1328
903.10 of the Revised Code. However, the director may impose a 1329
civil penalty only if all of the following occur: 1330

(1) The owner or operator is notified in writing of the 1331
deficiencies resulting in noncompliance, the actions that the 1332

owner or operator must take to correct the deficiencies, and the 1333
time period within which the owner or operator must correct the 1334
deficiencies and attain compliance. 1335

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

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

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

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

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

(2) A person who has violated the requirements established 1363

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

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

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

(D)(1) In lieu of seeking civil penalties under division (A) 1383
of this section, the director may request the attorney general, in 1384
writing, to bring an action for a civil penalty in a court of 1385
competent jurisdiction against any person that has violated or is 1386
violating the terms and conditions of a permit to install, permit 1387
to operate, or review compliance certificate, including the 1388
requirements established under division (C) of section 903.06 or 1389
division (A) of section 903.07 of the Revised Code. 1390

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

Code, or an order issued under division (B) of this section. 1396

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

Sec. 903.20. (A) There is hereby created the concentrated 1402
animal feeding facility advisory committee consisting of the 1403
directors of agriculture, development, environmental protection, 1404
and natural resources and the dean of the college of food, 1405
agricultural, and environmental sciences of the Ohio state 1406
university, or their designees, as members ex officio, and sixteen 1407
members to be appointed by the director of agriculture. Of the 1408
appointed members, one shall be an elected local government 1409
official whose jurisdiction has a concentrated animal feeding 1410
facility located in it at the time that the official is appointed 1411
to the committee, one shall be a person who is licensed to 1412
practice veterinary medicine under Chapter 4741. of the Revised 1413
Code, one shall represent the interests of poultry producers, one 1414
shall represent the interests of swine producers, one shall 1415
represent the interests of dairy farmers, one shall represent the 1416
interests of beef cattle producers, one shall represent the 1417
interests of sheep producers, one shall represent the interests of 1418
drinking water utilities, one shall represent the interests of 1419
wastewater utilities, one shall represent the Ohio environmental 1420
health association, two shall represent the interests of statewide 1421
environmental advocacy organizations, and four shall represent the 1422
interests of the public. Prior to making the appointment of the 1423
member who is an elected local government official, the director 1424
shall solicit a list of suggested candidates from the appropriate 1425
statewide associations that represent the interests of local 1426
governments. Prior to making an appointment of a member 1427

representing the interests of poultry, swine, beef cattle, or 1428
sheep producers or dairy farmers, the director shall solicit from 1429
the appropriate statewide trade associations a list of suggested 1430
candidates to represent the interests of the species category on 1431
the committee. The members representing the public shall not be 1432
owners or operators of concentrated animal feeding facilities or 1433
associated with such facilities by contract. 1434

Not later than thirty days after ~~the effective date of this~~ 1435
~~section~~ March 15, 2001, the director shall make appointments to 1436
the committee. Of the initial appointments, six shall be for terms 1437
ending one year after ~~the effective date of this section~~ March 15, 1438
2001, five shall be for terms ending two years after ~~the effective~~ 1439
~~date of this section~~ March 15, 2001, and five shall be for terms 1440
ending three years after ~~the effective date of this section~~ March 1441
15, 2001. Thereafter, terms of office shall be for three years, 1442
with each term ending on the same day of the same month as did the 1443
term that it succeeds. Each member shall hold office from the date 1444
of appointment until the end of the term for which the member was 1445
appointed. Members may be reappointed. Vacancies shall be filled 1446
in the manner provided for original appointments. Any member 1447
appointed to fill a vacancy occurring prior to the expiration date 1448
of the term for which the member's predecessor was appointed shall 1449
hold office for the remainder of that term. A member shall 1450
continue in office subsequent to the expiration date of the 1451
member's term until the member's successor takes office or until a 1452
period of sixty days has elapsed, whichever occurs first. 1453

The committee shall meet at times that the chairperson or a 1454
majority of the committee members considers appropriate, provided 1455
that no meeting shall be held on the call of the chairperson 1456
unless at least seven days' written notice first is provided to 1457
all members of the committee. At the first meeting of the 1458
committee in each calendar year, the director of agriculture shall 1459

designate one member of the committee to serve as its chairperson 1460
and one member to serve as its vice-chairperson. A majority vote 1461
of the members of the committee is necessary to take action on any 1462
matter. A vacancy on the committee does not impair the right of 1463
the other members to exercise all of the committee's powers. 1464

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

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

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

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

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

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

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

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

management practices; 1490

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

~~(4) Not later than twelve months after the effective date of 1507
this section, conduct an examination of the scientific 1508
appropriateness of the definition of "animal unit" in section 1509
903.01 of the Revised Code and prepare and submit to the general 1510
assembly, the governor, and the directors of agriculture, 1511
environmental protection, and natural resources the committee's 1512
findings and any recommendations for legislative changes in that 1513
definition that are necessary or appropriate to reflect on a more 1514
scientific basis manure generation rates among livestock species 1515
and types of concentrated animal feeding facilities. 1516~~

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

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

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

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

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

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

(3) Consult with appropriate state and local government 1539
agencies or their representatives, including statewide 1540
organizations of local government officials, industrial 1541
representatives, and other interested persons. 1542

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

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

(D) Administer state grants for the construction of sewage and waste collection and treatment works;	1552 1553
(E) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution, and the causes, prevention, control, and abatement thereof, that are advisable and necessary for the discharge of the director's duties under this chapter;	1554 1555 1556 1557 1558
(F) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;	1559 1560
(G) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code governing the procedure for hearings, the filing of reports, the issuance of permits, the issuance of industrial water pollution control certificates, and all other matters relating to procedure;	1561 1562 1563 1564 1565
(H) Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:	1566 1567
(1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;	1568 1569
(2) Requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof;	1570 1571 1572
(3) Prohibiting additional connections to or extensions of a sewerage system when the connections or extensions would result in an increase in the polluting properties of the effluent from the system when discharged into any waters of the state;	1573 1574 1575 1576
(4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.	1577 1578 1579
In the making of those orders, wherever compliance with a rule adopted under section 6111.042 of the Revised Code is not	1580 1581

involved, consistent with the Federal Water Pollution Control Act, 1582
the director shall give consideration to, and base the 1583
determination on, evidence relating to the technical feasibility 1584
and economic reasonableness of complying with those orders and to 1585
evidence relating to conditions calculated to result from 1586
compliance with those orders, and their relation to benefits to 1587
the people of the state to be derived from such compliance in 1588
accomplishing the purposes of this chapter. 1589

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

(J)(1) Issue, revoke, modify, or deny sludge management 1594
permits and permits for the discharge of sewage, industrial waste, 1595
or other wastes into the waters of the state, and for the 1596
installation or modification of disposal systems or any parts 1597
thereof in compliance with all requirements of the Federal Water 1598
Pollution Control Act and mandatory regulations adopted 1599
thereunder, including regulations adopted under section 405 of the 1600
Federal Water Pollution Control Act, and set terms and conditions 1601
of permits, including schedules of compliance, where necessary. 1602
Any person who discharges, transports, or handles storm water from 1603
an animal feeding facility, as defined in section 903.01 of the 1604
Revised Code, or manure, as defined in that section, is not 1605
required to obtain a permit under division (J)(1) of this section 1606
for the installation or modification of a disposal system 1607
involving manure or storm water or any parts of such a system on 1608
and after the date on which the director of agriculture has 1609
finalized the program required under division (A)(1) of section 1610
903.02 of the Revised Code. In addition, any person who 1611
discharges, transports, or handles storm water from an animal 1612
feeding facility, as defined in section 903.01 of the revised 1613

code, or manure, as defined in that section, is not required to 1614
obtain a permit under division (J)(1) of this section for the 1615
discharge of storm water or manure on and after the date on which 1616
the united states environmental protection agency approves the 1617
NPDES program submitted by the director of agriculture under 1618
section 903.08 of the Revised Code. 1619

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

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

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

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

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

As used in division (J)(1) of this section, "sanitary 1644

landfill" means a sanitary landfill facility, as defined in rules 1645
adopted under section 3734.02 of the Revised Code, that is 1646
licensed as a solid waste facility under section 3734.05 of the 1647
Revised Code. 1648

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

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

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

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

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

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

accomplishment of the purposes of this chapter. 1676

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

(5) The director shall specify in permits for the discharge 1695
of sewage, industrial waste, and other wastes, the net volume, net 1696
weight, duration, frequency, and, where necessary, concentration 1697
of the sewage, industrial waste, and other wastes that may be 1698
discharged into the waters of the state. The director shall 1699
specify in those permits and in sludge management permits that the 1700
permit is conditioned upon payment of applicable fees as required 1701
by section 3745.11 of the Revised Code and upon the right of the 1702
director's authorized representatives to enter upon the premises 1703
of the person to whom the permit has been issued for the purpose 1704
of determining compliance with this chapter, rules adopted 1705
thereunder, or the terms and conditions of a permit, order, or 1706
other determination. The director shall issue or deny an 1707

application for a sludge management permit or a permit for a new 1708
discharge, for the installation or modification of a disposal 1709
system, or for the renewal of a permit, within one hundred eighty 1710
days of the date on which a complete application with all plans, 1711
specifications, construction schedules, and other pertinent 1712
information required by the director is received. 1713

(6) The director may condition permits upon the installation 1714
of discharge or water quality monitoring equipment or devices and 1715
the filing of periodic reports on the amounts and contents of 1716
discharges and the quality of receiving waters that the director 1717
prescribes. The director shall condition each permit for a 1718
government-owned disposal system or any other "treatment works" as 1719
defined in the Federal Water Pollution Control Act upon the 1720
reporting of new introductions of industrial waste or other wastes 1721
and substantial changes in volume or character thereof being 1722
introduced into those systems or works from "industrial users" as 1723
defined in section 502 of that act, as necessary to comply with 1724
section 402(b)(8) of that act; upon the identification of the 1725
character and volume of pollutants subject to pretreatment 1726
standards being introduced into the system or works; and upon the 1727
existence of a program to ensure compliance with pretreatment 1728
standards by "industrial users" of the system or works. In 1729
requiring monitoring devices and reports, the director, to the 1730
extent consistent with the Federal Water Pollution Control Act, 1731
shall give consideration to technical feasibility and economic 1732
reasonableness and shall allow reasonable time for compliance. 1733

(7) A permit may be issued for a period not to exceed five 1734
years and may be renewed upon application for renewal and upon a 1735
finding by the director that the permit holder is making 1736
satisfactory progress toward the achievement of all applicable 1737
standards and has complied with the terms and conditions of the 1738
existing permit. A permit may be modified, suspended, or revoked 1739

for cause, including, but not limited to, violation of any 1740
condition of the permit, obtaining a permit by misrepresentation 1741
or failure to disclose fully all relevant facts of the permitted 1742
discharge or of the sludge use, storage, treatment, or disposal 1743
practice, or changes in any condition that requires either a 1744
temporary or permanent reduction or elimination of the permitted 1745
activity. No application shall be denied or permit revoked or 1746
modified without a written order stating the findings upon which 1747
the denial, revocation, or modification is based. A copy of the 1748
order shall be sent to the applicant or permit holder by certified 1749
mail. 1750

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

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

(M) Certify to the government of the United States or any 1758
agency thereof that an industrial water pollution control facility 1759
is in conformity with the state program or requirements for the 1760
control of water pollution whenever the certification may be 1761
required for a taxpayer under the Internal Revenue Code of the 1762
United States, as amended; 1763

(N) Issue, modify, and revoke orders requiring any 1764
"industrial user" of any publicly owned "treatment works" as 1765
defined in sections 212(2) and 502(18) of the Federal Water 1766
Pollution Control Act to comply with pretreatment standards; 1767
establish and maintain records; make reports; install, use, and 1768
maintain monitoring equipment or methods, including, where 1769
appropriate, biological monitoring methods; sample discharges in 1770
accordance with methods, at locations, at intervals, and in a 1771

manner that the director determines; and provide other information 1772
that is necessary to ascertain whether or not there is compliance 1773
with toxic and pretreatment effluent standards. In issuing, 1774
modifying, and revoking those orders, the director, to the extent 1775
consistent with the Federal Water Pollution Control Act, shall 1776
give consideration to technical feasibility and economic 1777
reasonableness and shall allow reasonable time for compliance. 1778

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

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

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

(1) Apply and enforce pretreatment standards; 1789

(2) Approve and deny requests for approval of publicly owned 1790
treatment works pretreatment programs, oversee those programs, and 1791
implement, in whole or in part, those programs under any of the 1792
following conditions: 1793

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

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

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

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

program.	1802
(3) Require that a publicly owned treatment works pretreatment program be incorporated in a permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards;	1803 1804 1805 1806 1807 1808
(4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works;	1809 1810 1811
(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;	1812 1813
(6) Make determinations on categorization of industrial users;	1814 1815
(7) Adopt, amend, or rescind rules and issue, modify, or revoke orders necessary for the administration and enforcement of the publicly owned treatment works pretreatment program.	1816 1817 1818
Any approval of a publicly owned treatment works pretreatment program may contain any terms and conditions, including schedules of compliance, that are necessary to achieve compliance with this chapter.	1819 1820 1821 1822
(R) Except as otherwise provided in this division, adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of oil and hazardous substances into the waters of the state. The rules shall be consistent with and equivalent in scope, content, and coverage to section 311(j)(1)(c) of the Federal Water Pollution Control Act and regulations adopted under it. The director shall not adopt rules under this division relating to discharges of oil from oil production facilities and oil drilling	1823 1824 1825 1826 1827 1828 1829 1830 1831 1832

and workover facilities as those terms are defined in that act and 1833
regulations adopted under it. 1834

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

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

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

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

(d) Issue, modify, or revoke orders to prevent, control, or 1851
abate the use and disposal of sludge and sludge materials or the 1852
effects of the use of sludge and sludge materials on land located 1853
in the state and on the air and waters of the state; 1854

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

The director may specify in sludge management permits the net 1860
volume, net weight, quality, and pollutant concentration of the 1861
sludge or sludge materials that may be used, stored, treated, or 1862
disposed of, and the manner and frequency of the use, storage, 1863

treatment, or disposal, to protect public health and the 1864
environment from adverse effects relating to those activities. The 1865
director shall impose other terms and conditions to protect public 1866
health and the environment, minimize the creation of nuisance 1867
odors, and achieve compliance with this chapter and rules adopted 1868
under it and, in doing so, shall consider whether the terms and 1869
conditions are consistent with the goal of encouraging the 1870
beneficial reuse of sludge and sludge materials. 1871

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

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

(2) As a part of the program established under division 1881
(S)(1) of this section, the director has exclusive authority to 1882
regulate sewage sludge management in this state. For purposes of 1883
division (S)(2) of this section, that program shall be consistent 1884
with section 405 of the Federal Water Pollution Control Act and 1885
regulations adopted under it and with this section, except that 1886
the director may adopt rules under division (S) of this section 1887
that establish requirements that are more stringent than section 1888
405 of the Federal Water Pollution Control Act and regulations 1889
adopted under it with regard to monitoring sewage sludge and 1890
sewage sludge materials and establishing acceptable sewage sludge 1891
management practices and pollutant levels in sewage sludge and 1892
sewage sludge materials. 1893

This chapter authorizes the state to participate in any 1894
national sludge management program and the national pollutant 1895

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

This section does not apply to animal waste disposal systems 1903
and related management and conservation practices subject to rules 1904
adopted pursuant to division (E)(4) of section 1511.02 of the 1905
Revised Code ~~and involving less than one thousand animal units, as~~ 1906
~~"animal units" is defined in the United States environmental~~ 1907
~~protection agency regulations.~~ However, until the date on which 1908
the United States environmental protection agency approves the 1909
NPDES program submitted by the director of agriculture under 1910
section 903.08 of the Revised Code, this exclusion does not apply 1911
to animal waste treatment works having a controlled direct 1912
discharge to the waters of the state or any concentrated animal 1913
feeding operation, as defined in 40 C.F.R. 122.23(b)(2). On and 1914
after the date on which the United States environmental protection 1915
agency approves the NPDES program submitted by the director of 1916
agriculture under section 903.08 of the Revised Code, this section 1917
does not apply to storm water from an animal feeding facility, as 1918
defined in section 903.01 of the Revised Code, or to manure, as 1919
defined in that section. Neither of these exclusions applies to 1920
the discharge of animal waste into a publicly owned treatment 1921
works. 1922

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

(1) No person shall cause pollution or place or cause to be 1925
placed any sewage, sludge, sludge materials, industrial waste, or 1926

other wastes in a location where they cause pollution of any 1927
waters of the state. 1928

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

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

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

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

(2) An action prohibited under division (B)(1) of this 1945
section is hereby declared to be a public nuisance. 1946

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

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

director to do so. 1958

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

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

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

(1) Waters used in washing sand, gravel, other aggregates, or 1970
mineral products when the washing and the ultimate disposal of the 1971
water used in the washing, including any sewage, industrial waste, 1972
or other wastes contained in the waters, are entirely confined to 1973
the land under the control of the person engaged in the recovery 1974
and processing of the sand, gravel, other aggregates, or mineral 1975
products and do not result in the pollution of waters of the 1976
state; 1977

(2) Water, gas, or other material injected into a well to 1978
facilitate, or that is incidental to, the production of oil, gas, 1979
artificial brine, or water derived in association with oil or gas 1980
production and disposed of in a well, in compliance with a permit 1981
issued under Chapter 1509. of the Revised Code, or sewage, 1982
industrial waste, or other wastes injected into a well in 1983
compliance with an injection well operating permit. Division 1984

(F)(2) of this section does not authorize, without a permit, any 1985
discharge that is prohibited by, or for which a permit is required 1986
by, regulation of the United States environmental protection 1987
agency. 1988

(3) Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by animal waste or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by Chapter 307. or 1515. of the Revised Code;	1989 1990 1991 1992 1993
(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state;	1994 1995
(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or manure, as defined in that section;	1996 1997 1998 1999 2000 2001
(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F) (5) <u>(6)</u> of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works.	2002 2003 2004 2005 2006 2007
(7) Septic tanks or any other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings in compliance with the sanitary code and section 3707.01 of the Revised Code. Division (F) (6) <u>(7)</u> of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.	2008 2009 2010 2011 2012 2013 2014
(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F) (7) <u>(8)</u> of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.	2015 2016 2017 2018 2019

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

Sec. 6111.44. (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons.

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

(B) Sections 6111.45 and 6111.46 of the Revised Code and

division (A) of this section do not apply to any of the following: 2051

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

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

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

~~The exclusions established in divisions (B)(2) and (3) of~~ 2066
~~this section do not apply to animal waste treatment or disposal~~ 2067
~~works having a controlled direct discharge to the waters of the~~ 2068
~~state until the date on which the director of agriculture~~ 2069
~~finalizes the program required under section 903.02 of the Revised~~ 2070
~~Code.~~ The exclusions established in divisions (B)(2) and (3) of 2071
this section ~~also~~ do not apply to the construction or installation 2072
of disposal systems, as defined in section 6111.01 of the Revised 2073
Code, that are located at an animal feeding facility and that 2074
store, treat, or discharge wastewaters that do not include storm 2075
water or manure or that discharge to a publicly owned treatment 2076
works. 2077

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