

As Reported by the Senate Agriculture 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, Blasdel, Buehrer,
Callender, Carano, Cates, Clancy, Collier, Core, Daniels, DeBose, DeWine,
Fessler, Flowers, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes,
Husted, Kearns, Key, McGregor, S. Patton, T. Patton, Peterson, Raga,
Schmidt, Schneider, Seaver, Seitz, J. Stewart, Taylor, Webster, Wolpert
Senator Carnes**

A B I L L

To amend sections 307.204, 505.266, 903.01, 903.02, 1
903.04, 903.07, 903.08, 903.09, 903.10, 903.16, 2
903.20, 6111.03, 6111.04, and 6111.44 and to enact 3
sections 903.081, 903.082, and 903.25 of the 4
Revised Code to revise the statutes governing 5
animal feeding facilities. 6

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

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

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

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

(2) "Facility" means a proposed new or expanded major concentrated animal feeding facility. 15
16

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the board's final recommendations. 75

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Not later than ten days after receiving the written 165

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

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

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

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

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

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

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

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

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

Sec. 903.01. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Dust control. 430

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(BB)~~(EE) "Small concentrated animal feeding operation" means 465
an animal feeding facility that is not a large or medium 466
concentrated animal feeding operation and that is designated by 467
the director as a small concentrated animal feeding operation 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 modification of a permit to install, together with the applicable fee amount, shall be established in rules.	525 526 527
(D) The director shall issue permits to install in accordance with section 903.09 of the Revised Code. The director shall deny a permit to install if either of the following applies:	528 529 530
(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	548 549 550 551 552

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

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

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

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

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

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

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

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

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

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

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

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

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

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

transportation, and land application of manure generated at the 615
facility and that contains any other information required by 616
rule. However, if a manure management plan submitted under 617
division (E)(2)(c) of this section does not conform with best 618
management practices regarding the handling, storage, 619
transportation, and land application of manure generated at the 620
facility, the director nevertheless shall deem the plan to conform 621
with best management practices if the owner or operator does all 622
of the following: 623

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

744

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

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

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

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

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

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

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

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

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

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

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

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

Pollution Control Act.	834
Additional grounds for the denial of a NPDES permit shall be those established in this chapter and rules.	835 836
(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:	837 838 839 840 841
(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.	842 843 844
(2) The discharges are more appropriately authorized by a general permit than by an individual permit.	845 846
(3) Each category of point sources satisfies the criteria established in rules.	847 848
A person who is required to obtain a NPDES permit shall submit to the director a notice of the person's intent to be covered under an existing general permit or, at the person's option, an application for an individual NPDES permit. Upon receipt of a notice of intent for coverage under an existing general permit, the director shall notify the applicant in writing that the person is covered by the general permit if the person satisfies the criteria established in rules for eligibility for such coverage. If the person is ineligible for coverage under the general permit, the director shall require the submission of an application for an individual NPDES permit.	849 850 851 852 853 854 855 856 857 858 859
(G) The director of agriculture shall establish terms and conditions of NPDES permits in accordance with rules. Terms and conditions shall be designed to achieve and maintain full compliance with national effluent limitations, national standards of performance for new sources, the most current water quality	860 861 862 863 864

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

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

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

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

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

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

NPDES permit issued under this section. 896

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

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

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

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

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

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

NPDES permit if the person receives or has received during the two 926
years prior to the filing of the appeal a significant portion of 927
income from any NPDES permittee or any applicant for a NPDES 928
permit. 929

(B) As used in this section: 930

(1) "Significant portion of income" means ten per cent or 931
more of gross personal income in a calendar year or fifty per cent 932
or more of gross personal income in a calendar year if the 933
recipient of the income is more than sixty years of age and is 934
receiving that portion of income under retirement benefits, 935
including a pension or similar arrangement. 936

(2) "Income" includes retirement benefits, consultant fees, 937
and stock dividends. "Income" does not include mutual fund 938
payments or other diversified investments for which the recipient 939
does not know the identity of the primary sources of the income. 940

(3) "Permittee" and "applicant for a NPDES permit" does not 941
include any department or agency of the state. 942

Sec. 903.082. (A) The director of agriculture may determine 943
that an animal feeding facility that is not a medium concentrated 944
animal feeding operation or small concentrated animal feeding 945
operation as defined in section 903.01 of the Revised Code 946
nevertheless shall be required to be permitted as a medium or 947
small concentrated animal feeding operation when all of the 948
following apply: 949

(1) The director has received from the chief of the division 950
of soil and water conservation in the department of natural 951
resources a copy of an order issued under section 1511.02 of the 952
Revised Code that specifies that the animal feeding facility has 953
caused agricultural pollution by failure to comply with standards 954
established under that section and that the animal feeding 955

facility therefore should be required to be permitted as a medium 956
or small concentrated animal feeding operation. 957

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

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

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

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

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

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

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

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

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

for the draft permit. 1017

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The discharge of manure; 1115

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

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

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

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

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

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

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

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

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

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

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

(2) Disposal of dead livestock; 1178

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

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

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

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

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

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

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

control plans;	1202
(5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;	1203 1204 1205 1206
(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;	1207 1208 1209 1210 1211 1212 1213 1214 1215 1216 1217
(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it;	1218 1219
(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code.	1220 1221
(E) Establish all of the following concerning livestock manager certification required under section 903.07 of the Revised Code:	1222 1223 1224
(1) The information to be included in an application for a livestock manager certification and the amount of the application fee;	1225 1226 1227
(2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in	1228 1229 1230 1231 1232

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

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

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

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

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

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

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

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

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

the Federal Water Pollution Control Act;	1263
(4) Terms and conditions to be included in a permit,	1264
including, as applicable, best management practices; installation	1265
of discharge or water quality monitoring methods or equipment;	1266
creation and retention of records; submission of periodic reports;	1267
schedules of compliance; net volume, net weight, and, where	1268
necessary, concentration and mass loading limits of manure that	1269
may be discharged into waters of the state; and authorized	1270
duration and frequency of any discharges into waters of the state;	1271
(5) Procedures for the submission of applications for permits	1272
and notices of intent to be covered by general permits, including	1273
information that must be included in the applications and notices;	1274
(6) The amount of the fee that must be submitted with an	1275
application for a permit;	1276
(7) Procedures for processing permit applications, including	1277
public notice and participation requirements;	1278
(8) Procedures for notifying the United States environmental	1279
protection agency of the submission of permit applications, the	1280
director's action on those applications, and any other reasonable	1281
and relevant information;	1282
(9) Procedures for notifying and receiving and responding to	1283
recommendations from other states whose waters may be affected by	1284
the issuance of a permit;	1285
(10) Procedures for the transfer of permits to new owners or	1286
operators;	1287
(11) Grounds and procedures for the issuance, denial,	1288
modification, suspension, or revocation of permits, including	1289
general permits;	1290
(12) A definition of "general NPDES permit" that establishes	1291
categories of point sources to be covered under such a permit and	1292

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

associated with such facilities by contract. 1450

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Apply and enforce pretreatment standards; 1820

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

implement, in whole or in part, those programs under any of the	1823
following conditions:	1824
(a) The director has denied a request for approval of the	1825
publicly owned treatment works pretreatment program;	1826
(b) The director has revoked the publicly owned treatment	1827
works pretreatment program;	1828
(c) There is no pretreatment program currently being	1829
implemented by the publicly owned treatment works;	1830
(d) The publicly owned treatment works has requested the	1831
director to implement, in whole or in part, the pretreatment	1832
program.	1833
(3) Require that a publicly owned treatment works	1834
pretreatment program be incorporated in a permit issued to a	1835
publicly owned treatment works as required by the Federal Water	1836
Pollution Control Act, require compliance by publicly owned	1837
treatment works with those programs, and require compliance by	1838
industrial users with pretreatment standards;	1839
(4) Approve and deny requests for authority to modify	1840
categorical pretreatment standards to reflect removal of	1841
pollutants achieved by publicly owned treatment works;	1842
(5) Deny and recommend approval of requests for fundamentally	1843
different factors variances submitted by industrial users;	1844
(6) Make determinations on categorization of industrial	1845
users;	1846
(7) Adopt, amend, or rescind rules and issue, modify, or	1847
revoke orders necessary for the administration and enforcement of	1848
the publicly owned treatment works pretreatment program.	1849
Any approval of a publicly owned treatment works pretreatment	1850
program may contain any terms and conditions, including schedules	1851
of compliance, that are necessary to achieve compliance with this	1852

chapter. 1853

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

section is hereby declared to be a public nuisance. 1977

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

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

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

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

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

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

state; 2008

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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